

In the Matter of the Closing of the Estate of

File No. _____

AFFIRMATION BY ATTORNEY

_____, Deceased.

STATE OF NEW YORK

COUNTY OF _____ ss.:

_____, an attorney admitted to practice in the courts of this state, affirms pursuant to CPLR Section 2106 as follows:

1. I am the attorney (a member of the firm of _____) representing the fiduciary or fiduciaries of the above estate.
2. I am familiar with the facts and circumstances concerning the administration of the above-captioned case.
3. Letters were issued by the Court on _____.
4. The value of the gross probate/intestate estate is \$_____. The total probate/administration filing fee paid was \$_____. All filing fees have been paid in full. A list of assets (inventory) has been filed with the Court or is attached hereto.
5. An investigation has been made into all taxable transfers made by the deceased and the value of the assets in which the deceased had an interest. (Check appropriate statement below)
 - [] Tax proceedings or returns were filed, all taxes assessed were paid and a tax receipt or discharge from liability is on file with the Court.
 - [] No estate tax proceeding or return will be filed. The total value of the estate property reportable on the NYS Estate Tax Return is less than the threshold amount required for making and filing such return, and an inventory of estate assets is on file or is filed herewith.
6. All debts, claims, funeral and administration expenses have been paid and a final distribution of all estate assets has been made to the persons or parties entitled thereto.
7. Receipts from all non-residuary legatees and releases from all residuary legatees, distributees (in cases of intestacy) and all other interested persons (other than executor or administrator) have been filed, are filed herewith, or are not filed for the following reasons:
8. To my knowledge all matters involving the estate have been completed and the fiduciary for this Estate does not contemplate a formal discharge nor intends to file any accounting or additional proceedings herein, except upon further Order of the Surrogate Court of Herkimer County, New York.
9. I have complied with the requirements of this Court for the filing of this Affirmation. [See reverse for requirements for filing Affirmation].

DATED: _____

Signature of Attorney

Firm Name _____

Address & Tel No _____

**INFORMAL CLOSING OF ESTATE – ATTORNEY’S AFFIRMATION
SCPA SECTIONS 2202, 2404**

REQUIREMENTS FOR FILING OF AFFIRMATION

An Attorney’s Affirmation – see reverse – for the simplified settlement and closing of an estate will be accepted and filed by the Court only if all of the following requirements are met:

1. More than seven months have elapsed since letters were first issued.
2. All parties entitled to a share of the residuary estate are adult and competent.
3. If a religious, charitable, educational or benevolent organization is entitled to a share of the residuary estate, a written consent or waiver from the New York Attorney General approving of the disposition to each such organization is filed with the Court.
4. a. For persons dying before May 26, 1990, either a Resident Affidavit (TT102) has been filed with the New York State Tax Commission and a copy thereof plus a copy of the Closing Letter are filed with the Court, or an Estate Tax Petition (TT86.5), a Tax Order and the Final Receipt for Payment or an Order of Exemption is on file with the Court.

b. For persons dying after May 25, 1990, and if required by law, a New York State Tax Return (ET-90) was filed with the Commissioner of Taxation, a copy thereof has been filed with the Court, and a New York Estate Tax Discharge from Liability letter was filed with the Court or is attached to the Affidavit.

c. If no tax forms were necessary, an Inventory of Assets is on file or is attached to the Affidavit establishing that the filing of a tax return was not required by law.
5. Disclosure has been made to all parties sharing in the residuary estate of the total amounts paid or to be paid for fiduciary commissions, legal services and disbursements. You must use Full Release of Fiduciary for this purpose.
6. If a Will was probated, a Receipt for Full Payment of each general cash or specific legacy and/or a Full Release of Fiduciary for each residuary legatee is filed for each legatee named in the Will (other than the Executor). If the decedent died intestate, a Full Release of Fiduciary is filed for each distribute (other than the Administrator) named in the Petition for Letters of Administration.

Please note: The foregoing requirements are consistent with SCPA provisions and the Uniform Rules. Compliance is necessary and important for the protection of the fiduciary from subsequent criticism or claims.