

**Matter of DeLuca (Suchard)**

2016 NY Slip Op 30626(U)

March 28, 2016

Surrogate's Court, Nassau County

Docket Number: 2012-369177A

Judge: Margaret C. Reilly

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**SURROGATE’S COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU**

**Accounting of Jeffrey E. DeLuca, as Administrator of the  
Estate of**

**LEON SUCHARD a/k/a LEON SUHAR  
a/k/a LIONEL SUHAR,**

**Deceased.**

**DECISION**

**File No. 2012-369177A  
Dec. No. 31433**

**PRESENT: HON. MARGARET C. REILLY**

The following papers were considered in the preparation of this decision:

The Account and Petition on Accounting.....	1
Report and Amendment of Report of Guardian Ad Litem. ....	2
Objections.....	3
Verified Objections of the Estate of Steven Abramovici.....	4
Transcripts of Hearings dated January 15, 2015, March 26, 2015 and June 16, 2015.....	5
Maternal Exhibits 1through 29.....	6
Paternal Exhibits 1 through 27 and 1through 7.....	7
Affidavits of Dennis Langel, dated October 21, 2015 and November 17, 2015.....	8
Affidavit of John H. Yatteau, dated March 30, 2015.....	9

Submitted for review is an accounting filed by the Public Administrator in the estate of Leon Suchard. The court must also address the outcome of the hearings on kinship. The Public Administrator seeks approval of commissions, attorneys’ fees and accountant’s fees, authorization to distribute the net estate to the New York State Comptroller on account of unknown kin of the decedent, and a release and discharge of the surety. As the proof is incomplete in the kinship matter, the approval of the account will be held in abeyance pending completion of the determination of kinship.

The decedent, Leon Suchard, died a resident of Nassau County on December 8, 2011. Letters of administration were issued to the Public Administrator on March 22, 2012. This accounting is the first and final accounting. The summary statement shows charges to the accounting party of \$814,093.72 and credits in the total amount of \$152,463.38 leaving a balance of \$661,630.34.

Objections to the accounting were filed by Ron Segev, Lupo Goldstein, Friederich Cojocar, Vivian Yatteau, Sorel Flis and the Estate of Steve Abramovici. Also appearing in the proceeding as alleged distributees are the following: Daniela-Maria Flis, Miguel Justo Flis and Lyonell Flis.

All parties at the hearing stipulated to waive the report of the referee and to allow kinship issues to be decided by the court based upon the transcript of the hearing, the documentary evidence and the arguments made by the claimants and the guardian ad litem representing the interests of unknown distributees.

The following people testified at the hearing: Laura Anderson, Ron Segev, Ildiko Kis and Lyonell Flis.

In order to establish their rights as distributees, claimants in a kinship proceeding must prove: (1) their relationship to the decedent; (2) the absence of any person with a closer degree of consanguinity to the decedent; and (3) the number of persons having the same degree of consanguinity to the decedent or to the common ancestor through whom they take (*Matter of Morrow*, NYLJ, April 12, 2001 at 23, col 1 [Sur Ct, Bronx County]; 2 Harris, *New York Estates*, 27:3 [6th ed 2014]). Claimants who allege to be distributees of the decedent have the burden of proof on each of these elements (*Matter of Cruz*, NYLJ, Jan. 7, 2002, at 29, col 4 [Sur Ct, Kings County]). The quantum of proof required to prove kinship is a fair preponderance of the credible evidence (*Matter of Jennings*, 6 AD3d 867 [3d Dept 2004]; *Matter of Whelan*, 93 AD2d 891 [2d Dept 1983], *affd* 62 NY2d 657 [1984]).

Based upon the evidence presented before the court attorney/referee, the court

makes the following findings of facts and conclusions of law:

1. The decedent, Leon Suchard, died intestate on December 8, 2011, and letters of administration were issued to the Public Administrator on March 22, 2012.

2. The decedent, Leon Suchard, was never married and did not have any issue, adopted or otherwise.

3. The decedent's parents were Naiman Suhar and Tirla Flis. The decedent's parents predeceased him. Naiman Suhar and Tirla Flis Suhar had two children, the decedent and Vivian Victor Suchar. Vivian Victor Suchar predeceased the decedent and had no issue.

4. The decedent's maternal grandparents were Leon/Leiba Flis and Beila Rosner/Rozner. They predeceased the decedent and had six children: Isac Flis; Zlata Flis Iancu; Lupu Flis; Tirla Flis Suhar, the decedent's mother; Haia Leia/Lea/Leah Flis Abramovici and David Flis.

5. The first child, Isac Flis, whose name at his birth was Avram Itic and then changed to Isac Flis in 1936, predeceased the decedent and was survived by one child, Sorel Flis, a claimant herein.

6. The second child, Zlata Flis Iancu, predeceased the decedent without issue.

7. The third child, Lupu Flis, predeceased the decedent. He was survived by one child, Lyonell Flis, a claimant herein.

8. The fourth child, Tirla Flis Suhar, the decedent's mother, predeceased the decedent as discussed previously.

9. The fifth child, Haia Leia/Lea/Leah Abramovici, predeceased the decedent. She had one child, Steve Abramovici, who survived the decedent but subsequently died. His estate is a claimant herein.

10. The sixth child, David Flis, predeceased the decedent. He had two children, Michael Justin/Miguel Justo Flis and Daniela Maria Flis, who both survived the decedent and are claimants herein.

11. Thus, on the maternal side, the decedent was survived by five first cousins: Sorel Flis, Lyonell Flis, Steve Abramovici (post-deceased), Michael Justin/Miguel Justo Flis and Daniela Maria Flis.

12. The decedent's paternal grandparents were Lupu Suhar and Maria Neuschatz. They predeceased the decedent and had nine children: Naiman Suhar (the decedent's father); Moritz/Maurice Suhar/Suhars; George Suhar/Suchards; Benjamin Suhar; Tony/Tonea Suhar Cojocar; Janeta/Netty Suhar Goldstein; Iancu Suhar; Pauline Suhar; and Shoshana/Suzanna Suhar Moise (they are not listed in order of birth).

13. Naiman Suhar was the decedent's father and he predeceased the decedent as set forth above.

14. Moritz/Maurice Suhar/Suhars predeceased the decedent. His first marriage was to Jennifer Glantzstein and they had one child, Vivian N. Suhars. Vivian's half brother, Ron Segev, testified that at some point in 1950 or 1951 Vivian was adopted by non-family members and changed his name to Ronald Heller. Supporting documentation of the status of Ronald Heller was to be submitted to the court, but there is nothing in the record with regard to him. Moritz/Maurice Suhars/Suhar remarried to Deborah/Dvora Zaltzman and they had one son, Ron S. Segev, who survived the decedent and is a claimant herein.

15. George Suhar/Suchards predeceased the decedent. He had one child, Vivian Suchards Yatteau, who post-deceased the decedent.

16. Benjamin Suhar is believed to have predeceased the decedent and would have been more than 100 years of age at the time of the decedent's death. Although lacking in

documentary proof, the testimony of Ron Segev and the affidavit of the genealogist, Dennis Langel, show that Benjamin was born in Romania and remained in Romania. He reportedly died at some point in January or February of 1941 in the Holocaust. The genealogist averred that he preformed exhaustive searches but was unable to produce any documents with regard to Benjamin. Ron Segev testified that his father and other relatives reported that Benjamin died without children in 1941. Based on the testimony and the presumption that Benjamin did not live to age 100 (Warren's Heaton on Surrogate's Court Practice, §74.17 [2] [b] [viii] 7th ed.), the court finds that Benjamin Suhar predeceased the decedent without issue.

17. Tony/Tonea Suhar Cojocaru predeceased the decedent. She allegedly had three children: Friederich Cojocaru, who survived the decedent and is a claimant herein; Lupu Cojocaru a/k/a Zeev Razon, who predeceased the decedent; and Ella Cojocaru Bitman. With regard to Ella Cojocaru Bitman, there is no documentary evidence. The court is unable at this time to determine her status.

18. Janeta/Netty Suhar Goldstein predeceased the decedent. She had one child, Lupu Goldstein, who survived the decedent and is a claimant herein.

19. Iancu Suhar predeceased the decedent without issue.

20. Pauline Suhar is alleged to have predeceased the decedent with no issue. As with Benjamin Suhar, there is little documentary proof regarding Pauline. Ron Segev testified that Pauline was born in Romania prior to 1900 and that she came to the United States at some time around 1910. She is shown as a lodger in the census records for that time period. According to Mr. Segev, who bases his knowledge on conversations with his father and other family members, Pauline returned to Romania where she died without issue. Dennis Langel, in an affidavit filed with the court, explained the search that was undertaken to locate any documents regarding Pauline and his conclusion that she

predeceased the decedent without issue. The court finds the testimony credible and is satisfied that Pauline Suhar predeceased the decedent without issue.

21. Shoshana/Suzanna Suhar Moise predeceased the decedent and had one child Lupu Moise, who also predeceased the decedent.

With regard to the paternal side of the family, the court cannot determine with certainty the number of distributees who survived the decedent. Information regarding Vivian Suhar a/k/a Ronald Holler and Ella Cojocaru Bitman is missing. The attorney for the paternal side of the family is directed to provide the court with the missing documentation not later than April 21, 2016, on which date the mater will be resubmitted for decision. Failure to do so will result in the distribution of the paternal share of the estate to the New York State Comptroller. The maternal side having been established, the decree should provide for one-half of the net estate to be distributed to the maternal distributees by representation (EPTL §4-1.1 [a] [6]).

This constitutes the decision and order of the court.

Dated: March 28, 2016  
Mineola, New York

**E N T E R:**

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**HON. MARGARET C. REILLY**  
**Judge of the Surrogate's Court**

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