

**COURT OF COMMON PLEAS OF PHILADELPHIA  
ORPHANS' COURT DIVISION**

**Control No. 075547**

**1 September 2007**

**No. 1637 DE of 2005**

**Estate of CHARLES W. GRAHAM, Deceased**

**Sur account entitled First and Final Account of Betty Jean Graham,  
Personal Representative**

**Before O'KEEFE, ADM. J.**

**This account was called for audit**

**September 10, 2007  
November 6, 2007**

**Counsel appeared as follows:**

**MURRAY B. DOLFMAN, ESQ. - for Accountant**

**JEANNA L. LAM, ESQ., and AMANDA K. GORMLEY, ESQ.,  
of LAW OFFICES OF PETER L. KLENK, ESQ.  
- for Arleta Graham, Objectant**

**Charles W. Graham died May 15, 2005 at the age of 75. He was not married  
at time of his death.**

**The decedent's daughter, Betty Jean Graham, was given Letters of  
Administration by the Register of Wills of Philadelphia County on June 3, 2005.  
On January 2, 2008 the Register of Wills revoked the Letters of Administration  
and admitted a document dated April 23, 1985 to probate as the Last Will and  
Testament of Charles W. Graham. The Register of Wills, on January 2, 2008, then**

granted Letters of Administration C.T.A. to the decedent's daughter Betty Jean Graham.

Under the terms of the will, dated April 23, 1985, the decedent gave his entire estate to his wife, Jeannette Graham, who predeceased him. In the event that his wife should not survive him, the following provisions were made under the will: the home located at 5707 Wyndale Avenue, Philadelphia, Pennsylvania is given to his son, Clarence, and the home located at 35 South Redfield Street, Philadelphia, Pennsylvania is given to his daughter Betty Jean. All the securities, cash, savings accounts or other items of cash or savings are to be given in equal shares to son Clarence, daughter Betty Jean and step-son Herman Borden.

The payment of transfer inheritance tax in amount of \$2,918.85 on December 5, 2007, was duly vouched. Lawrence Barth, Senior Deputy Attorney General for Commonwealth of Pennsylvania entered an appearance claiming such Pennsylvania transfer inheritance tax as may be due and assessed, "without prejudice to the right of Commonwealth to pass on debts and deductions" and the awards herein contained will accordingly be made subject thereto.

It is stated that notice of the audit has been given to all parties having a possible interest in the estate.

At the time of his death, Charles W. Graham was insured under a Group Life insurance policy. The policy was issued by MetLife in connection with his service as an employee of Philadelphia Gas Works. The death benefit due under the policy is in the amount of \$16,500.00. The death benefit has not been paid however as it is the subject of competing claims.

**Betty Jean Graham, as Administratrix of the Estate of Charles W. Graham, Deceased, claims the death benefit as an asset of the decedent's estate. Arleta Graham, friend of the deceased, also claims the death benefit as her name is listed as the Primary Beneficiary on the Designation of Beneficiary Form allegedly signed by the decedent on April 20, 2005.**

**In Audit Papers and Notices of Audit, Betty Jean Graham, as Administratrix C.T.A. takes the position that the signature "Charles W. Graham" on the Designation of Beneficiary Form is a forgery and it is not the signature of the decedent. Betty Jean thus claims that the death benefit of \$16,500.00 is property of the decedent's estate.**

**In the First and Final account, Betty Jean has treated the death benefit as an asset of the estate. She charges herself with Receipts of principal total value of \$105,340.38 which includes: the house located at 5707 Wyndale Street, Philadelphia, valued at \$56,200.00, the house located at 35 South Redfield Street, Philadelphia, valued at \$13,200.00, cash in a Citizens Bank account totaling \$18,940.38, miscellaneous property valued at \$500 and the disputed death benefit in the amount of \$16,500.00.**

**In the First and Final account as Administratrix, Betty Jean has treated all disbursements having been paid in full. She claims credit for having made \$24,215.35 in disbursements including attorney fees in the amount of \$5,970.00 and her Executrix commission in the amount of \$5,220.00. The Account does not include the dates of the abovementioned payments.**

**In her First and Final Account as Administratrix, Betty Jean shows a combined remaining balance of \$81,125.03, which consists of the two premises in Philadelphia and cash in the amount of \$11,725.03.**

**Arleta Graham has filed an Objection to the Account in which she objects to the inclusion of the disputed death benefit in the Account on the ground that the signature “Charles W. Graham” on the Designation of Beneficiary Form dated April 20, 2005, is genuine, that is, it is the signature of the decedent.**

**If the disputed death benefit is not treated as an asset of the decedent’s estate and all the disbursements have been made in full, the First and Final Account would show a combined balance remaining of \$64,625.03 which would consist of the two premises located in Philadelphia with a total value of \$69,400.00 and a cash deficit in the amount of \$4,774.97.**

**Betty Jean offered the testimony of five witnesses including J. Wright Leonard, Betty Jean Graham, Clarence Graham, Herman Borden and Beatrice Phillip and entered one exhibit, labeled “P-1”, in support of her allegation of forgery. Arleta Graham offered the testimony of five witnesses including Carolyn Kurtz, Deacon Raymond Jones, Deacon John Crawford, Charles Edward Graham and Arleta Graham and entered two exhibits, labeled “O-1” and “O-2”, in opposition to the allegation of forgery.**

**The two natural children of the decedent, Betty Jean Graham and Clarence Graham, both testified that they had seen their father sign his name on several occasions and that the signature in question was not his signature. Herman Borden, the step-son of the decedent, also testified that he had seen his step-**

father sign his name before and this was not his signature. On the other hand, Arleta Graham testified that she too had seen the decedent sign his name several times and this was his genuine signature.

J. Wright Leonard, a Forensic Document Examiner, was called as a witness by Betty Jean. Ms. Leonard testified that she examined the questioned signature “Charles W. Graham” on the original Designation of Beneficiary Form, dated April 20, 2005, a copy of which Form was entered and received as Exhibit P-1. Ms. Leonard gave her expert opinion that the questioned signature was not the authentic or genuine signature of the decedent stating “the questioned signature is full of cheap signs of forgery.” NT 22

Ms. Leonard compared several authentic samples of the decedent’s signature including the signature on his Last Will and Testament, U.S. Army discharge certificate, Pennsylvania driver’s license and two cancelled checks. Ms. Leonard also compared the most recent signatures of the decedent, while he was ill and hospitalized shortly before his death. These documents, from March 13 – 15, 2005, included discharge instructions form, hospital financing agreement forms, consent to hospital care forms, special release form, valuables statements, and consent to release special records form. In comparing the signatures, Ms. Leonard used a number of testing styles. She performed a side-by-side comparison, light testing, magnification and microscopic testing. Ms. Leonard found that “His writing was quite illegible in the time period that we are speaking of. But suddenly in the questioned signature, you can read the name Charles, which is full, incidentally of microscopic breaks.” NT 21

Carolyn Kurtz, a Forensic Document Examiner, was called as a witness by Arleta Graham. Ms. Kurtz testified that she too examined the questioned signature “Charles W. Graham” on the original designation of Beneficiary Form. Ms. Kurtz compared the same documents that Ms. Leonard used and she performed the same tests to draw her conclusions. Ms. Kurtz believes that “When somebody is ill or aged, they can’t write well.” NT 31 Thus she concluded that the questioned signature was the authentic or genuine signature of the decedent.

Both parties have cited *Cline Will*, 433 Pa. 543 (1969), in their briefs. In *Cline Will*, it is stated that “one who relies upon forgery to challenge the validity of a will has the burden of proving such forgery in a clear, direct, precise, and convincing manner.” 433 Pa. 543 at 547. However, the Court is not considering a will contest here. Rather, the questioned signature appears on a life insurance beneficiary form. Thus, the appropriate standard is found in *Baugher Estate* 6 Fiduc.Rep. 143. In the case, the authenticity of the decedent’s signature was called into question not on the will, rather it was on a promissory note. 6 Fiduc.Rep 143. The court stated, “This contest must be decided upon the preponderance of the evidence.” *Id* at 148.

We have four individuals who have all seen the decedent’s signature on multiple occasions, with three disputing its authenticity and one who does not. Given the lack of expertise on behalf of these individuals as well as their bias as beneficiaries, the Court must focus on the testimony of the experts. Just as in the *Baugher Estate*, the Court is faced with the challenge of dueling experts. 6

**Fiduc. Rep. 143. As such, the Court must apply the correct standard stated above and weigh evidence to find which side holds the most probative value.**

**Given the testimony by both experts, I believe that the greater weight of evidence falls on the side of forgery. Ms. Leonard testified that**

**“The signature identified in my report as Q-1 is certainly not an authentic signature. It has numerous unnatural breaks, at least ten or twelve unnatural breaks...It had very extreme pressure of the pen on the paper it was so intense that it embedded itself on the other side and made an impression...And considering Mr. Graham’s health at that time, you would not expect him to be able to apply such force to the paper.” NT 14**

**Ms. Leonard considered the stopping or pen lifts as well as the imprint on the back of the paper to be indicative of forgery. The pen lifts indicate that the signature was not natural, rather it was forced. The pressure, found on the back page of the document, was unusual to other signatures. Ms. Leonard admits that when one is ill there can be a variation from their signature, but not in this style, it would generally be weaker or erratic, which is completely inconsistent with the evidence of pressure shown here. On the other hand, Ms. Kurtz attributes the variations in the signature to the fact that the decedent was in a weakened physical condition. She believes that the pressure can be attributed to the difficulties he may have had in signing it and that the lifts indicate that the decedent was ill and weak. As counsel for Arleta Graham argued, this evidence shows that the decedent was struggling to sign his name. However, Ms. Leonard attributed the unnatural breaks in the writing strokes and the pen lifts up and**

down to indicate that the signature was drawn rather than naturally signed. As such, this cannot be the genuine signature of the decedent.

As counsel for Betty Jean argued in his brief, Ms. Kurtz had formed her opinion as to the authenticity of the signature before she even began reviewing the evidence and performing the tests. Therefore, Ms. Leonard's testimony was more credible in that she approached her task with an open mind and came to sound conclusion based on her many tests. In fact, Ms. Kurtz admitted that she did observe signs of forgery, but failed to include this in her final opinion. As such, the Court favors Ms. Leonard's findings here. Her detailed and conclusive testing process and convincing argument lead the Court to its finding.

On the Record made by the parties, I hold that the signature "Charles W. Graham" on the original Designation of Beneficiary Form, dated April 20, 2005, is not the authentic or genuine signature of the decedent. The Objection of Arleta Graham is hereby Dismissed. The Account will be confirmed as it is stated.

The sole objection having been addressed and dismissed, the First and Final Account of Betty Jean Graham, as Administratrix C.T.A. of the Estate of Charles W. Graham, Deceased, shows a combined balance of principal, personal property of \$11,725.03 which consists of the disputed death benefit, and, is awarded, in equal shares, to Clarence Graham, Betty Jean Graham and Herman Borden.

The account shows a balance of unconverted real estate valued at \$56,200 being premises 5707 Wyndale Avenue, Philadelphia, Pennsylvania, which is awarded to Clarence Graham.



The account shows a balance of unconverted real estate valued at \$13,200.00 being premises at 35 South Redfield Street, Philadelphia, Pennsylvania, which is awarded to Betty Jean Graham.

All of the above awards are made subject to payment of such Pennsylvania transfer inheritance tax as may be found to be due and assessed.

Leave is hereby granted to the accountant to make all transfers and assignments necessary to effect distribution in accordance with this adjudication.

A schedule of distribution, containing all certifications required by Phila. O.C. Div. Rule 6.11.A (2) and in conformity with this adjudication, shall be filed with the Clerk within ninety (90) days of absolute confirmation of the account.

AND NOW, \_\_\_\_\_, the Account of the Administratrix C.T.A. is confirmed absolutely.

Exceptions to this Adjudication may be filed within twenty (20) days from the date of issuance of the Adjudication. An Appeal from this Adjudication may be taken to the appropriate Appellate Court, within thirty (30) days from the date of issuance of the Adjudication. (See Phila. O.C. Rule 7.1.A and Pa. O.C. Rule 7.1 as amended and Pa.R.A.P. 902 and 903)

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O'KEEFE, ADM. J.