

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

No. 1788 AP/DE of 2006

**Estate of Boris Krichmar, Deceased**

**OPINION SUR DECREE**

**Boris Krichmar died on January 31, 2005 in a fire at his residence on 9276B Jamison Avenue, Philadelphia, Pennsylvania. The only child of the decedent, Valery Krichmar, also perished in the fire. At the time his death the decedent had no known will.**

**On February 8, 2005, Daniel Krichmar (“Daniel”), brother of the decedent, renounced his right to serve as administrator of the estate and requested that the Register of Wills grant Letters of Administration to his daughter, Galina Krichmar (“Galina”), the decedent’ niece. On February 11, 2005, the Register of Wills appointed Galina Krichmar as Administratrix of the Estate of Boris Krichmar.<sup>1</sup>**

**On June 15, 2005, Anna Guettel (“Anna”), alleged wife of the Decedent, filed a petition to revoke Galina’s Letters of Administration, claiming that Anna, as the decedent’s wife, was his only true intestate heir. The Register held a**

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<sup>1</sup> A copy of the Letters of Administration appear as Exhibit G-30 in the Record in this matter.

hearing on the aforementioned petition on May 17, 2006 and allowed Stipulations on the record only on August 9, 2006. The Register was presented with the following evidence: the marriage certificate of Boris and Anna, photos of the two together and joint income tax returns, dated as late as the year 2000.

On July 20, 2005, nearly six months after the death of Boris Krichmar, Daniel and Galina Krichmar (“Krichmars”) produced a photocopy of what they claimed was the Last Will and Testament of the decedent, which they submitted to the Register of Wills, along with a petition to probate it.<sup>2</sup> Anna argued that the will was a forgery. Both Anna and the Krichmars engaged forensic examiners to inspect the document. All parties concluded that the document was in fact a “cut and paste forgery”. The Krichmars then withdrew their July 20, 2005 Petition to probate the document, claiming that at the time they filed their petition they had no knowledge that the document was a forgery.

On October 20, 2006, the Register of Wills issued a decree, which reads as follows:

**“In consideration of the Petition for Citation filed in the estate of Boris Krichmar, the Hearing of July 20, 2005, the Formal Hearings of May 17, 2006 and August 9, 2006, it is hereby ordered and decreed, Letters of Administration issued to Galina Krichmar are hereby vacated, Letters of Administration D.B.N. shall issue to Anna Guettel, Spouse of the Decedent, the Probate record is hereby amended, naming Anna Guettel, as the sole Intestate Heir, upon otherwise complying with the requirements of the Probate Code”.**

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<sup>2</sup> A copy of the purported will appears as Exhibit G-11 in the Record in this matter.

**On November 28, 2006, the Krichmars filed an appeal to this Court from the October 20<sup>th</sup> decree of the Register of Wills. In their appeal, the Krichmars argued that the Register's findings were not supported by substantial evidence and that Anna had forfeited her right to share in the decedent's estate by abandoning, deserting and failing to support him for at least one year prior to his death.**

**On December 20, 2006, Register of Wills issued Letters of Administration upon the decedent's estate to Anna. <sup>3</sup>**

**On February 21, 2007, Anna filed a Petition for Citation bearing Control Number 070368, directed to Galina and her prior counsel Jeffrey R. Solar, Esquire, to show cause why they should not be compelled to transfer Decedent's assets to Anna, as Administratrix, and account for the disbursements and assets from Galina's former administration of Decedent's estate. Galina filed an Answer to the aforementioned petition on May 17, 2007. Jeffrey Solar filed his answer on May 21, 2007.**

**On February 28, 2007, Anna filed an Answer and New Matter to the Krichmars' November 28 appeal from the Decree of the Register of Wills. In her answer, Anna contended that the Krichmars had failed to meet the burden of proof required for forfeiture under Section 2106 of the P.E.F. Code. Anna denied the Krichmars' claims of willful neglect and abandonment, and argued that the Register of Wills did not abuse his discretion in finding that she was the**

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<sup>3</sup> A copy of the Letters of Administration appear as Exhibit G-32 in the Record in this matter.

**rightful and sole heir of the estate of Boris Krichmar. The Krichmars filed a Reply to the New Matter on March 20, 2007.**

**On August 15, 2007, the Krichmars filed a Petition for Citation, bearing Control Number 071485, directed to Anna, to show cause why a Declaratory Judgment should not be entered. On October 2, 2007, the Krichmars amended their petition for Declaratory Judgment. In their amended petition, the Krichmars argued that Anna had forfeited any and all rights as a spouse and heir of the decedent's estate pursuant to 20 Pa.C.S. §2106. The Krichmars also contented that Daniel Krichmar was the sole heir of the estate of Boris Krichmar.**

**On March 4, 2008, Anna filed an Answer and New Matter to the Amended Petition for Declaratory Judgment. On March 24, 2008, the Krichmars filed a Reply to new matter, asserting that Anna was not legally divorced at the time of her marriage to Boris Krichmar, thus invalidating the marriage and depriving Anna of any right to inherit Boris' estate.**

**On April 4, 2008, the Krichmars filed a Petition for Citation directed to Anna, to show cause why this Court should not enter an order removing Anna as Administratrix of the Estate of Boris Krichmar. The Krichmars argued that Anna had refused to act on behalf of and in the best interest of the decedent by refusing to cooperate in rebuilding his home, thus decreasing the value of the property. They further alleged that Anna had failed pay insurance proceeds to Galina, as Administratrix of the Estate of Valery Krichmar, and certain claims of**

**Daniel against the estate of Boris Krichmar. On May 5, 2008, Anna filed an Answer to the Petition to Remove. In her reply, Anna asserted that the Krichmars are indebted to the Estate of Boris Krichmar for insurance proceeds received by them during their administration of the Estate. Anna denied that amounts claimed by Daniel Krichmar and the Estate of Valery Krichmar were justly due and owing. She further argued that the insurance from the premises on Jamison Avenue were maintained and paid for by Boris alone, thus any creditor claims by the Estate of Valery Krichmar are subject to distribution priorities under the laws of intestacy.**

**Beginning on January 27, 2009 and ending on February 9, 2009, hearings were held before this Court on the pleadings and petitions in this matter. At said hearings, this Court heard the testimony of Anna Guettel, Manuel Spigler, Curtis Bolt, Ryan Rossien, Marina Zilinskas, Nina Shteynberg, Svetlana Meyrzon, Galina Krichmar, Dora Notkina, Golina, Lando, Michael Royzman, Boris Bur, Alexey Tyshko, Ludmila Annable, Janna Litwinsky, Inga Azvolinsky, Anatol Starr, Daniel Krichmar, Jeffrey Solar, and Susan Kamenitz. Manuel Spigler, Esquire, offered 37 exhibits, entered into evidence as G-1 through G-34 and S1 through S3. Susan Kamenitz, Esquire, offered 21 exhibits, entered into evidence as K-1 thorough K-21. Jeffrey Solar, Esquire, offered 4 exhibits, entered into evidence as Solar-1 through Solar-4.**

**Amended Petition For Declaratory Judgment (Control No. 071485)**

In order to properly resolve the conflict between the parties, this Court must first address the following two issues: (1) at the time of the death of Boris Krichmar (decedent), was his marriage to Anna Guettel valid? (2) if the marriage was valid, did Anna nevertheless forfeit her right to inherit from Boris' estate?

Having considered all of the testimony and exhibits, this Court is convinced that a *bona fide* marriage existed between Anna Guettel and Boris Krichmar, and that the couple maintained this status until Boris Krichmar's death. Furthermore, this Court finds that despite Anna's lengthy absence from the marital home, the couple's separation was by mutual consent and therefore does not amount to desertion. Lastly, I find that the Krichmars have failed to prove that Anna willfully neglected or refused to support Boris.

**The Validity Of The Marriage**

Anna Guettel and Boris Krichmar entered into marriage on February 26, 1990. At issue is whether said marriage is void *ab initio*, thus precluding Anna's ability to take Boris' estate. The law presumes that a marriage, under the authority of a valid marriage license, will continue until the death of one of the parties or until a divorce is proven. *In re Estate of Watt*, 409 Pa. 44, 47 (1962).

**This presumption in favor of a valid marriage, however, can be defeated in certain situations. Under 23 Pa.C.S.A. § 3304(a)(1), a marriage is void “where either party at the time of such marriage had an existing spouse and the former marriage had not been annulled nor had there been a divorce.” The Krichmars argue that the marriage between Anna and Boris is void, as Anna maintained a pre-existing valid marriage at the time she exchanged vows with Boris Krichmar.**

**It is undisputed that Anna had been married prior to February 26, 1990 marriage to Boris Krichmar, as she herself testified throughout the trial to this fact. By introducing this testimony, the Krichmars satisfied their initial burden of proof, as *Estate of Watt*, supra, holds that “there is a presumption that a valid marriage, once contracted, continues until proof of divorce or death of a spouse”. However, the same case also holds that there are presumptions of the validity of a second marriage and the innocence of the spouses. These presumptions are rebuttable by direct evidence or inferences of fact. *In re Estate of D'Ippolito*, 420 Pa. 541(1966).**

**In order to determine the conflict in each case, the Pennsylvania Supreme Court has said that the presumption of the continuance of the *prior* marriage prevails, unless “facts are shown which have the effect of overcoming this presumption; and the *burden remains upon the party supporting the validity of the subsequent marriage to produce such facts as will shift the burden of proof back to the party supporting the validity of the prior marriage.*” *Id.* at 543 (emphasis added). This means that in order to overcome the presumption in favor of the continuation of Anna’s prior marriage to Heinz Guettel, Anna must**

**establish that her marriage to Heinz Guettel was legally dissolved before she was married to Boris Krichmar. Upon this showing, the burden will shift to the Krichmars to prove that Anna's prior marriage was never terminated, thus invalidating her marriage to Boris Krichmar and her rights as the sole heir of his estate.**

**Anna testified before this Court that prior to her marriage to Boris she had been married four times, to: Alexander Vargunin, Matevy Khromchenko, Nikolia Salna and Heinz Guettel. Anna also testified that she had been divorced from each of her four prior spouses, and that she was a single woman at the time of her marriage to Boris Krichmar. N.T. 1/27/09, 26:6, 47:7-9, 71:19-21, 72:6-23; N.T. 1/28/09; 47:5-48:3, 52:4-13, 53-5-55:12, 55:23-58:16, 59:3-21, 60:17-19, 61:9-12, 64:10-65:6.**

**In order to confirm that her prior marriages had been legally terminated prior to her marriage to Boris Krichmar, Anna presented to this Court specific proof of divorce from each of her former spouses. Anna introduced into evidence the divorce decrees from her marriages to Alexander Vargunin, Matevy Khromchenko and Heinz Guettel, which appear in the Record as Exhibits G-3, G-4 and K-3, respectively. Anna also produced the passport of Nikolia Salna, Exhibit G-2, as proof that the marriage was registered on August 13, 1977 and ended (by divorce) in 1978.<sup>4</sup>**

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<sup>4</sup> N.T. 1/28/09, 55-58.



Thus the burden was shifted back to the Krichmars to prove that the prior marriages, or at least the fourth marriage to Heinz Guettel, were still valid at the time of Anna's marriage to Boris. The Krichmars, having presented evidence that Anna was previously married, argued that the documents presented before this court as proof of divorce were incompetent, unauthenticated and therefore insufficient. As a result, the Krichmars claim that Anna has not met her burden of proof, and the presumption in favor of the continuation of her previous marriage to Heinz Guettel must prevail.

During the trial, however, the Krichmars did not object to the admission of these documents into evidence on the grounds that they lacked proper authentication. Instead, the Krichmars raised the issue of authentication, citing *Pa. R.E. 902*, relating to the authentication of a foreign document, for the first time in their brief, submitted after the completion of the trial. The Krichmars argue that none of the documents presented contain a certification by any foreign official in any form. It is axiomatic that an objection to the admission of evidence is waived if not timely raised at trial. *Takes v. Metropolitan Edison Company*, 548 Pa. 92, 99 (1997). As the Krichmars failed to raise an authenticity objection, or even point out this alleged defect in the documents, at any point during the trial, the objection is waived at this juncture.

Even if the objection had been properly preserved, this court finds that exhibits G-2, G-3, G-4, and K-3, were properly authenticated. *Pa.R.E. 901* sets forth the requirement of authentication or identification and provides in relevant part (emphasis added):

**“(a) *General Provision.* The requirement of authentication or identification as a *condition precedent* to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.**

**“(b) *Illustrations.* By way of illustration only, and not by way of limitation, the following are examples of authentication or identification conforming with the requirements of this rule:**

**“(1) *Testimony of Witness With Knowledge.* Testimony that a matter is what it is claimed to be.”**

**Anna introduced her own personal testimony that the documents were in fact the divorce decrees from Russia and the passport, confirming the date of divorce. N.T. 1/27/09, 47-52; 1/28/09, 53-59. The Court found this testimony to be credible. As such, the documents were properly admitted into evidence.**

**Aside from the improperly timed authentication argument, the Krichmars presented no new or persuasive evidence to this Court that would allow us to conclude that Anna was *still* married at the time of her nuptials to Boris. As the continuation of her prior marriage was not proven, we hold that her subsequent marriage to Boris Krichmar is valid.**

## Forfeiture

The controlling law, 20 Pa.C.S. § 2106(a), establishes:

**“A spouse who, for one year or upwards previous to the death of the other spouse, has willfully neglected or refused to perform the duty to support the other spouse, or who for one year or upwards has willfully and maliciously deserted the other spouse, shall have no right or interest under this chapter in the real or personal estate of the other spouse.”**

First, it should be noted, that forfeitures are not favored in the law, and the burden of proving forfeiture rests upon the heirs who assert it. *Estate of Kostick*, 514 Pa. 591, 594 (Pa. 1987). The Krichmars, have attempted to analogize this case with others that have recognized the presumption that if a spouse’s desertion is *without cause or consent*, it will be *presumed* to be *willful and malicious* within the meaning of the forfeiture statute. If the heirs prove a desertion, without cause or consent, the burden will “shift to the spouse to establish the desertion was not willful and malicious in order to obtain her intestate share.” 514 Pa. at 594. The judgment of this Court thus turns on whether the heirs have met their burdens of proving that Anna deserted Boris, and that the desertion was without cause or consent. We find that the Krichmars have not proven that Anna deserted Boris. Nor have they proven the

**alleged desertion was without cause or consent, or that she even deserted him at all.<sup>5</sup>**

**There is evidence that, despite her testimony to the contrary, Anna lived separately from Boris for the majority of the sixteen years they were married. In fact, the Krichmars have submitted an exorbitant amount of evidence that, although circumstantial, convinces this Court that Anna likely only lived at the Jamison Street residence with Boris for the first year of their marriage.<sup>6</sup> That said, the Krichmars have merely proven that Anna did not reside with Boris as she stated she did. The Krichmars did not establish that Anna deserted Boris without cause or consent.**

**The Krichmars are unable to establish that Anna deserted Boris without cause or consent because of the following: (1) Anna Guettel initially left the Jamison residence at the request of Boris Krichmar, and (2) no proof was offered that Boris ever requested that Anna return to the residence after he asked her to leave (for her own safety).**

**When Anna left the Jamison residence in 1991, it was at the request of Boris Krichmar. Boris Krichmar made this request out of necessity because his son, Valery Krichmar, could not stand having women in the house after the death of his mother. Valery's fragile mental state would result in aggressive**

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<sup>5</sup> The burden is upon the heirs to establish Anna Guettel's desertion by clear and convincing evidence. See *Mullen v. Mullen*, 206 Pa. Super 470, 474 (1965).

<sup>6</sup> Exhibits K-17, W-2 (showing that Guettel worked 1,400 hours for Brooklyn Agency in 2002); Exhibits K-12-14 (evidencing the use of Tomlinson Road address on various documents); N.T. 1/29/09, 22 (containing testimony of Marina Zilinskis where she attests to fact that Guettel moved out in the summer of 1991); N.T. 1/30/09, 25 (containing testimony of Galina Krichmar where she attests to fact that Guettel was never at Jamison home).

behavior towards women, as he would attack them and “destroy things in the house”. N.T. 1/27/09; 95. Marina Zalinis, the daughter of Anna Guettel, testified that Anna’s bedroom door had to be fitted with a lock because of her fear of Valery. N.T. 1/29/09; 18.

As such, at some point in 1991, either Boris Krichmar or Boris Burykovsky, at the request of Boris Krichmar, asked Anna Guettel to leave the Jamison residence. *See generally, Mullen v. Mullen*, 206 Pa. Super. 470, 475 (1965) (holding that “withdrawal from the home does not become willful and malicious desertion on the part of the wife where the husband consents to or encourages the separation); *Bench v. Bench*, 199 Pa. Super 405, 409 (1962) (“Where a husband orders his wife out of the house, he cannot charge her with desertion.”). It also appears from the testimony of Daniel Krichmar that, at the time she was asked to leave, Anna Guettel did not want to move out of the Jamison residence. N.T. 2/6/09; 45-6 (containing testimony of Daniel Krichmar wherein he recalls that, although Anna Guettel did not want to leave Jamison residence, Boris Burykovsky threw her out of house at Boris Krichmar’s request).

While it is clear to this Court that the Krichmars have not satisfied their burden of proving Anna Guettel’s absence from the Jamison residence was without cause or consent, there does exist a possibility that at some point this ‘separation’ turned into a ‘desertion’. A separation, like in the instant case, does not in and of itself give rise to the presumption of desertion, but a “separation without the elements of willful and malicious desertion present may

be turned into such by some *positive unequivocal act indicating an intention to desert.*” *Lodge’s Estate*, 287 Pa. 184, 187-88 (1926). The Krichmars argue that Anna’s actions indicated a clear intent to desert when she refused Boris’ request to return home, declined to offer him financial support and participated in extra martial affairs. Thus this Court must determine if such unequivocal actions were taken by Anna that would transform this separation into a desertion and thereby result in forfeiture.

As the intent to abandon need not begin at the time of separation, evidence demonstrating that Anna Guettel refused an invitation to return to the marital domicile after being asked to leave would certainly advance the Krichmars case. However, nowhere in the record made at the hearings in this matter is there any evidence that Boris Krichmar rescinded his request for Anna to leave the Jamison residence. As such, this Court is of the opinion that the initial separation was consensual, and at no time was there a refusal, on the part of Anna Guettel, to return to the Jamison residence.

Furthermore, this Court has not been presented adequate proof of any alleged extramarital affair on the part of Anna. Adultery, like a refusal to reenter the marital home, would show, “despite the amicable or reasonable character of the separation, that the adulterer intended to renounce the marriage relation,” and the separation would become a malicious desertion by him or her from the day of the act. *Lodge’s Estate*, 287 Pa. at 188. Although it is alleged that Anna had relationships with other men after she departed the Jamison residence, the

**Krichmars have failed to prove the existence of such adultery beyond mere suspicion.**

**Moreover, if this Court were to believe that Anna's adultery had been soundly proven, which it does not, this Court would certainly find that the evidence proffered relating to Boris Krichmar's relationship with Janna Litwinsky would prevent the use of such adultery as a bar to Anna's right to inherit. As indicated by Pennsylvania Statute, "in an action for divorce on the ground of adultery, it is a good defense and a perpetual bar against the action if the defendant alleges and proves, or if it appears in the evidences that the plaintiff has been guilty of like conduct." 23 Pa.C.S.A. § 3307(b)(1). As such, any alleged adultery on the part of Anna Guettel does not serve to demonstrate that she intended to renounce the marriage relation and maliciously desert Boris Krichmar.**

**Additionally, the evidence presented before this Court does not support the contention that Anna *willfully* neglected or refused to support Boris Krichmar. The Krichmars have submitted ample evidence to convince this Court that Anna did not financially support Boris for a period of upwards of a year prior to Boris' death. Yet Anna's nonsupport alone does not amount to *willful* neglect nor does it establish that she *refused* to provide for the decedent.**

**In fact, the record in this matter reflects a mutual understanding between Anna and Boris as to the terms of their financial arrangement. They apparently chose to live as they did. There is no basis whatsoever in the testimony for inferring that the arrangement was anything other than consensual. The**

**Krichmars presented no evidence that Boris ever sought financial support from Anna or that he was refused such. Daniel Krichmar admitted that Boris was capable of earning enough money to care for himself and his son Valery. N.T. 2/5/09, 50- 51.**

**The Supreme Court of Pennsylvania established the principle that willful neglect to support a spouse may not be presumed from evidence of non support alone. *In re Estate of Jury*, 381 Pa. 169 (1955). The Krichmars have only shown that Anna did not financially support Boris. In the absence of proof, it cannot be presumed that Anna's failure to support Boris was willful.**

**For all of the foregoing reasons, this Court is of the opinion that the Amended Petition for Declaratory Judgment (Control No. 069177) should be denied.**

#### **Appeal From The Decree Of The Register Of Wills**

**The Register of Wills has the exclusive jurisdiction over the grant of letters of administration, 20 Pa. C.S.A §901, and the selection of the person who is initially granted letters of administration is normally within the province of the Register. 20 Pa. C.S.A §711(12) and 901. It is commonplace that the Register of Wills acts in a judicial capacity when he grants letters of administration. *Schulz Estate*, 392 Pa. 32 (1956).**

**Where a Register's choice is disputed, that dispute may be submitted on appeal to the Orphans' Court. 20 Pa. C.S.A §908 (1); *Brokans v. Melnick*, 391 Pa.**



**Super. 21 (1989); the remedy for any person aggrieved by the Register's decision is an appeal to the Orphans' Court. 20 Pa. C.S.A §711(18). The Orphans' Court has exclusive power over appeals from actions of the county registers of wills, pursuant to 20 Pa. Cons. Stat. § 711(12), *Estate of Keefauver*, 359 Pa. Super. 336 (1986). When an appeal is taken from the register's grant of letters of administration, the authority of the Orphan's Court is limited to a review of his discretion as that of "an inferior judicial officer." *Phillip's Estate*, 293 Pa. 351 (1928).**

**It is apparent, therefore, that the matter of the appeal from the Decree of the Register of Wills is not to be tried *de novo*. Instead, the burden is on the petitioner to show an abuse of discretion by the Register. *Martin Estate*, 5 Pa. D & C. 4th at 425. See also *Simmon's -Carton Estate*, 63 Bucks L. Rep. 52, 57 (Bucks Cty. O.C. 1993)("We recognize that our scope of review is limited to an abuse of discretion"). Thus we are limited to reviewing the record before the register, and the scope of our review is whether or not the register abused his discretion. The burden is therefore upon the Krichmars to show an abuse of discretion on the part of the register when he revoked Galina's letters and directed that the letters be granted to Anna Guettel.**

**The register of wills is charged with the duty of granting Letters of Administration to the person so entitled. The Probate, Estates and Fiduciaries Code provides that letters of administration in the estate of a person dying intestate shall be granted to those persons entitled under intestate law. In the instant case, the register granted letters to the Decedent's niece, Galina, and**

later revoked those letters in favor of the Decedent's alleged surviving spouse, Anna Guettel.

The register of wills has always had the inherent power to annul or vacate letters granted to a person not so entitled. *Phillips Estate, supra*. Section 20 Pa.C.S. § 3155, "Persons entitled", controls the grant of letters of administration when a decedent dies intestate:

**"(b) LETTERS OF ADMINISTRATION-- Letters of administration shall be granted by the register, in such form as the case shall require, to one or more of those hereinafter mentioned and, except for good cause, in the following order:**

- (1) Those entitled to the residuary estate under the will.**
- (2) The surviving spouse.**
- (3) Those entitled under the intestate law as the register, in his discretion, shall judge will best administer the estate, giving preference, however, according to the sizes of the shares of those in this class.**
- (4) The principal creditors of the decedent at the time of his death.**
- (5) Other fit persons."**

According to the aforementioned 20 Pa. Cons. Stat. Ann. §3155(b), a brother is inferior to the surviving spouse under intestacy. The Krichmars argued that Anna's marriage to Boris was not valid, therefore making Daniel's claim superior to Anna's.

The register heard and determined this claim to letters on May 17, 2006 and allowed Stipulations on the record only on August 9, 2006. At the hearing before the register, he was presented with the following evidence: the marriage

**certificate of Boris and Anna, photos of the two together and joint income tax returns, dated as late as the year 2000.**

**On October 20, 2006, upon consideration of the testimony and exhibits before him, the register issued a decree, which reads as follows:**

**“In consideration of the Petition for Citation filed in the estate of Boris Krichmar, the Hearing of July 20, 2005, the Formal Hearings of May 17, 2006 and August 9, 2006, it is hereby ordered and decreed, Letters of Administration issued to Galina Krichmar are hereby vacated, Letters of Administration D.B.N. shall issue to Anna Guettel, Spouse of the Decedent, the Probate record is hereby amended, naming Anna Guettel, as the sole Intestate Heir, upon otherwise complying with the requirements of the Probate Code”.**

**The register did not file an opinion in support of his decree. Consequently, the court does not have a written justification from the register for his decision. However, the notes of testimony and the evidence offered at the hearing before the register were reviewed by this court. This court is of the opinion that the notes of testimony and the evidence offered before the register are properly before this court for its inspection.**

**This court finds nothing in the record of the proceedings before the register to indicate that the register abused his discretion or that his findings were not supported by substantial evidence, as argued by the Krichmars. In fact, the testimony and evidence before the register amply support a finding that Anna Guettel was validly married to Boris Krichmar at the time of his death, that she had not forfeited her right to inherit, and that, as the surviving spouse of the decedent she had a paramount right to the letters of administration.**

**For all of the above reasons, this court is of the opinion that the appeal from the October 20, 2006 Decree of the register should be dismissed.**

**Petition to Remove Anna Guettel as Administratrix (Control No. 080650)**

**Removal of an Administrator, while within the sound discretion of the trial court, is a drastic action that should only be taken when it is evident that the estate is actually endangered and that court intervention is necessary in order to prevent further waste and/or mismanagement of the estate assets. *See, e.g., In Re Francis Edward McGillick Foundation*, 537 Pa. 194, 200 (1994); *Matter of Estate of Velott*, 365 Pa. Super. 313, 317(1987).**

**When determining whether an Administrator should be removed from his or her duties, a trial court must consult the Decedents, Estates and Fiduciaries Code, 20 Pa.C.S.A. § 101 et seq. Specifically, the Krichmars rely on 20 Pa. C.S. §3182(1), which states that this court shall have exclusive power to remove a personal representative when he is “wasting or mismanaging the estate, is or is likely to become insolvent, or has failed to perform any duty imposed by law”.**

**Presently, the Krichmars assert that Anna Guettel has mismanaged Boris Krichmar’s estate and that she should thus be removed as Administratrix of the estate. The Krichmars claim that Anna has failed and refused to cooperate in maintaining and rebuilding the premises located at 9276B Jamison Avenue. They further claim that Anna has failed to pay insurance proceeds to Galina as Administratrix of the Estate of Valery Krichmar, Deceased, and, claims of Daniel Krichmar against the Estate of Boris Krichmar.**

**The Krichmars have presented ample evidence to show that the estate of Boris Krichmar is in disarray, but they have not proven that Anna has mismanaged the estate. Anna testified that she has paid all the bills of the estate. She has posted a required surety bond in the amount of \$309,000.00 and has paid the premiums for the bond. She disputes the claims of the Estate of Valery Krichmar and Daniel against the Estate of Boris Krichmar. She asserts that such claims are subject to set-offs, and, possible priority of other claims against the Estate of Boris Krichmar.**

**Regardless, at this time we order Anna to file an accounting of the assets of the estate. Under 20 Pa. C.S.A. §3501.1, we may direct the personal representative to file an accounting at any time.**

**This Court will not remove Anna from her office of Administratrix of the Estate of Boris Krichmar. However, I will order her to file and account so that claims of creditors against the estate may be determined at the Audit thereof.**

**Petition To Direct Galina Krichmar And Jeffrey Solar, Esquire, To Transfer Assets And File Accounts (Control No. 070368)**

**As the Administratrix and sole heir of the Estate of Boris Krichmar, Anna Guettel is entitled to see an accounting of the administration of the assets of the said estate. Accordingly, this Court will order Galina Krichmar, former Administratrix, to file an accounting.**

**I will also order Jeffrey Solar, Esquire, former counsel to Galina Krichmar, to file an account. All claims against Galina Krichmar and Jeffrey Solar, Esquire, arising out of the administration of the Estate of Boris Krichmar, Deceased, shall be determined at the Audit of their said Accounts.**

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

**Susan Kaminetz, Esquire**

**Manuel Spigler, Esquire**

**Jeffrey Solar, Esquire**