

## ORPHANS' COURT DIVISION RULE 12.7

### **RULE 12.7 RESIGNATION AND DISCHARGE OF LIVING FIDUCIARIES**

When a fiduciary has not completed the administration of the estate, the fiduciary's petition for leave to resign and be discharged shall set forth:

- (a) The nature of the fiduciary capacity;
- (b) The date and a reference to the record of the fiduciary's appointment and the names of the fiduciary's sureties, if any;
- (c) The kind and value of the property remaining in the estate;
- (d) Whether an account has been or will be filed; and
- (e) The reason for the fiduciary's resignation.

The prayer shall be (i) for the acceptance of the resignation and an order directing payment and transfer of the remainder of the property in the fiduciary's hands to the fiduciary's successor; and (ii) for the discharge of the fiduciary and the fiduciary's sureties, if any, upon confirmation of the fiduciary's account.

The Court, with or without notice to the parties and with or without a hearing, may accept the fiduciary's resignation and direct the fiduciary to make payment and transfer of the assets of the estate to the fiduciary's successor and may require the fiduciary to state and file an account.

The proposed successor fiduciary and the representatives of persons not *sui juris*, if appointed, and any other interested person, may examine the assets of the estate and any account filed, and, when necessary, file objections. Upon consideration thereof and after audit and confirmation of the account, if filed, and proof that all taxes assessed have been paid or that provision has been made for their payment, the Court will decree a discharge of the accounting fiduciary and the fiduciary's sureties, if any, upon payment and transfer of the assets remaining in the hands of the fiduciary to the fiduciary's successor or as otherwise directed by the Court.