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March 8, 2007

Senator Andrew McDonald
Judiciary Committee (Chairman)
Legislative Office Building
Room 2500
Hartford, CT 06106-1591

Representative Mike Lawlor
Judiciary Committee (Chairman)
Legislative Office Building
Room 2500
Hartford, CT 06106-1591

RE: Raised **H.B. No. 6675**
An Act Concerning the Sale or Mortgage of Specifically Devised Real Property
In Solvent and Insolvent Estates

Response to:

Testimony by Judge James J. Lawlor, Probate Court Administrator,
February 16, 2007
And
Testimony by Judge Dianne E. Yamin, President of the Connecticut Probate
Assembly, February 16, 2007

Dear Sirs:

The undersigned wish to point out certain misstatements in the public testimony
of the above Probate Judges:

In his lead paragraph, Judge Lawlor states, "Under the common law, specifically
devised property may be taken for the payment of debts and expenses of the estate..."
This is nonsense, there is no such principle of common law. In fact, real estate
becomes the property of the heirs or devisee, as the case may be, immediately upon

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the death of the decedent. Judge Lawlor knows that no authority or case law supports his statement.

Probate is not a court of general jurisdiction. It is a lower court and derives its authority from statute and not from common law.

Under the common law, as brought here from England, when a man died, his debts died with him. This is the opposite of that stated by Judge Lawlor. However, Legislators since colonial times have replaced the common law by charging debts against the estate.

C.G.S. Sec. 368 Liability of Beneficiaries provides that the devisees are liable for debts not paid out of assets held by the fiduciary to the extent of the market value of the specifically devised property at the time of the decedent's death. Note that fiduciaries hold only personal property. Real property is owned by the devisee. The statute is clearly intended to make the market value of specifically devised property available after the personal property has been exhausted without interfering with the devisee's rights of ownership..

Judge Lawlor carries his erroneous concept to an absurdity when he suggests that section **C.G.S. Sec. 45a-428** actually protects the devisee.

Once Judge Lawlor's invention of the common law is debunked, the rest of his comments make no sense.

Judge Yamin appears to be of the opinion that **C.G.S. Sec. 45a-428(a)** involves "(1) personal notice of the pendency of the sale or mortgage of certain real property..." (Emphasis added). The statute reads "the Court shall order personal notice of the pendency of the application for the decree..." (Emphasis added). There is a considerable difference between the pendency of the sale and the pendency of the application for a decree.

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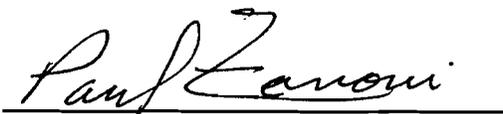
C.G.S. Sec. 45a-428(b) does not apply to insolvent estates as stated by Judge Yamin. Furthermore, due process will be served when the beneficiary is presented with an unpaid claim by the creditor.

C.G.S. Sec. 45a-368 confirms that the Legislature intended to establish a policy conforming to the common law and insuring there would be no interference with the Testator's choice to devise his real property. This statute provides a process for the payment of any remaining claims and permits the devisee to pay the claim, compromise, or dispute claims considered invalid.

C.G.S. Sec. 45a-428 serves no purpose other than to cause confusion and delay the settlement of estates. Should a devisee elect to sell his property, he can do so more advantageously through conventional means.

The undersigned request that the judiciary committee repeal **C.G.S. Sec. 45a-428** and affirm the intent of setting public policy for the best interest of the beneficiaries and creditors of an estate.

Sincerely,

A handwritten signature in cursive script that reads "Paul Zanoni". The signature is written in black ink and is positioned above a solid horizontal line.

Paul Zanoni

A handwritten signature in cursive script that reads "Rosalie Benny Zanoni". The signature is written in black ink and is positioned above a solid horizontal line.

Rosalie Benny Zanoni