

IN THE CIRCUIT COURT IN AND FOR SARASOTA COUNTY, STATE OF FLORIDA

IN RE: THE ESTATE OF:  
MURRAY B. COHEN,  
Deceased.

CASE NO. 2003-CP-1071-NC

MOTION TO COMPEL REPAIRS TO REALTY

STEVEN ESDALE, through counsel, and pursuant to order of Court dated 9/18/07, and Florida Statute 733.609(1), moves to compel the Personal Representative, Maria A. Cohen, to make necessary repairs to the realty at Commonwealth Drive in Sarasota, Florida. In support hereof, movant says that:

1.) Following a fire that occurred on the aforementioned realty in May, 2007, in connection with the Personal Representative's use of lit candles on the premises, the Court authorized the Personal Representative to make necessary repairs to the realty and to use licensed contractors and subcontractors. The Personal Representative had a fiduciary duty to protect and preserve the realty pending final distribution.

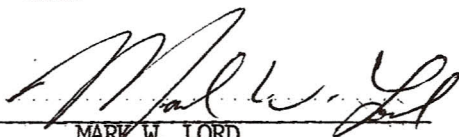
2.) From May, 2007, to date, the Personal Representative has allowed the realty to remain in disrepair willfully, and in contravention of the spirit of the referenced court order and in direct violation of her duty to the estate and beneficiaries as the personal representative.

3.) On 10/6/09, the Court awarded the remainder interest in the realty to movant and his brother, Kenneth Esdale. The value of the remainder interest has been adversely affected by the Personal Representative's continuing failure to repair fire damage to the realty caused by her own negligent or intentional conduct. The Personal Representative has failed to use all or a portion of insurance proceeds that she personally received after the fire, to repair and/or renovate the realty. Consequently, the beneficiaries' asset is in a deficient condition.

4.) The Personal Representative's failure to preserve and protect the realty is a deliberate breach of her fiduciary duty to the estate and beneficiaries. Florida Statute 733.609(1)

WHEREFORE, movant requests this Honorable Court enter its order requiring the Personal Representative to fully repair and restore the aforementioned realty, at her personal expense, for the benefit of the vested remaindermen.

I HEREBY CERTIFY that a true copy hereof has been furnished by U.S.M.A.I.C., to ALLAN F. BAILY, ESQUIRE, this 23rd of October, 2009.



MARK W. LORD  
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IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT IN AND FOR  
SARASOTA COUNTY, FLORIDA

IN RE: THE ESTATE OF

MURRAY B. COHEN,

Case No. 2003-CP1071-NC

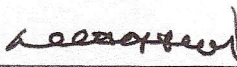
Deceased,

ORDER

This cause coming on for consideration on the Motion of STEVEN ESDALE, to  
Compel Repairs to Realty and upon consideration it is:

ORDEREED that said Motion to Compel Repairs to realty is denied.

Done and Ordered this 28th day of October, 2009, in Sarasota County, Florida.

By-   
For Thomas M. Gallen  
Senior Circuit Judge

Cc:  
Mark Lord Esq.  
Alan F. Baily Esq.  
William H. Meeks Jr., Esq.