SURROGATE'S COURT: COUNTY OF _____

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In the Matter of the Petition of the Bank:
and Individual, for a Payment on Account
of Commissions to The Bank and
Individual, respectively, as Executors
of the Last Will and Testament of

[Decedent],

Deceased,

Pursuant to SCPA 2311.

File No. _____

PETITION FOR PAYMENT
ON ACCOUNT OF
COMMISSIONS

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TO THE SURROGATE'S COURT OF _____ COUNTY:

The Petition of the Bank, having its principal place of business at [Address], and Individual, residing at [Address] (the "petitioners"), respectfully shows to this Court and alleges upon information and belief:

1. _____, deceased, (the "decedent"), died on [date], a resident of the State of New York, leaving a will dated _____, ____, that was duly admitted to probate as the decedent's last will and testament (the "will") by a decree of this Court filed [date], and letters testamentary were duly issued thereon, on [date], to the Bank and Individual, the executors named in the decedent's will. Since their appointment as executors of the will of the decedent, the Bank and Individual have been acting and continue to act as such executors.

2. Your petitioners have filed a United States Estate Tax Return (Form 706) for the estate of _____. The United States Estate Tax Return shows a gross estate valued, as of the decedent's date of death, in the amount of $_____.

3. The decedent specifically bequeathed all of his tangible personal property valued in the United States Estate Tax Return in the aggregate amount of $_____.

4. The executors have collected intangible personal property having a net value of $_____. This sum does not include (1) any property specifically bequeathed; (2) the value of property placed as security at the decedent's death except that value which is in excess of the amount of the loan for which it is secured; (3) any uncollected notes or claims; or (4) any income.

5. A single receiving commission on the principal aforesaid would amount to the sum of $_____, computed as follows:

Sample
Sample

FIRST:	$100,000.00	x	.05	x	.5	=	$ 2,500.00
NEXT:	200,000.00	x	.040	x	.5	=	4,000.00
NEXT:	700,000.00	x	.030	x	.5	=	10,500.00
REMAINING:	2,416,536.52	x	.025	x	.5	=	30,206.71
	$3,416,536.52						$47,206.71

6. Individual and the Bank, in accordance with the provisions of SCPA 2311, are each desirous of receiving the sum of $_____ on account of the commissions to which they would be entitled if they now were filing the executor's account and it were judicially settled.

7. All claims of creditors have been satisfied or sufficient sums have been set aside for the satisfaction of such claims.

8. It will be of substantial benefit to Individual and the Bank for their respective commissions to be spread over more than one year due to their respective federal and state income tax rates.

9. No previous application for the relief prayed for herein has been made.

WHEREFORE, your Petitioners pray:

(1) That the Court entertain this application pursuant to Section 2311 of the SCPA;

(2) That an Order be entered herein without notice (a) permitting Individual to receive the sum of $_____ on account of his commissions, as an executor of the decedent's will, and permitting the Bank to receive the sum of $_____ on account of its commissions, as an executor of the decedent's will to which they would be entitled if they were now filing the executors' account and it were judicially settled, and (b) directing that the total expenses in connection with this application shall be borne by Individual and The Bank.

Dated: _____, New York
_____, _____

The Bank
as an executor of decedent's Will

By:_____

[Name of Individual]
as an executor of decedent's Will

_____

Sample

STATE OF NEW YORK)
) ss.:
COUNTY OF _____)

_____, being duly sworn, deposes and says that she is a [position / title] of The Bank, a Petitioner in the foregoing Petition, that she has read said Petition and knows the contents thereof, and that the same is true to her own knowledge except as to the matters stated therein to be alleged on information and belief and as to those matters she believes it to be true.

_____

Sworn to before me
this ___ day of _____, _____

_____
Notary Public

STATE OF NEW YORK)
) ss.:
COUNTY OF _____)

_____, being duly sworn, deposes and says that he is an executor of the will of _____, deceased, and in such capacity is a petitioner in the foregoing petition; that he has read said petition and knows the contents thereof, and that the same is true to his own knowledge except as to the matters therein stated to be alleged on information and belief and that as to those matters he believes it to be true.

_____

Sworn to before me
this ___ day of _____, _____

_____
Notary Public

Sample