

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA            )  
  )  
          v.                                    )     Cr. No. 18-10399-DPW-1  
  )  
BRIAN R. WALSH,                        )  
      Defendant                         )

SUPPLEMENTAL SENTENCING MEMORANDUM OF THE UNITED STATES

The Court was moments away from pronouncing sentence – a non-imprisonment sentence – on the defendant Brian R. Walshe before preterminating the hearing to permit the government to investigate whether the defendant had violated the terms of his pre-sentence release. The government undertook the investigation, concluding that he did so, and submitted its results to the probation office. Probation likewise found that the defendant obstructed justice and amended the PSR.

The government submits this supplemental memorandum to appraise the Court of its findings, which were not detailed in the Amended PSR, and argue that those findings should cause the Court to reconsider the sentence that it had indicated that it would impose. At the prior hearing, the Court balanced the serious and complicated nature of the defendant’s crimes, their harm to the victims, and the need to deter other potential fraudsters, among other factors, against the defendant’s efforts at rehabilitation and the effect incarceration would have on his family. In the government’s view, the facts uncovered by its investigation cast doubt on the defendant’s rehabilitation, which in turn alters the balance noted by the Court. The government repeats its original request that the Court impose a sentence of 30 months’ imprisonment, which is the low end of the range without obstruction and now below the applicable advisory Guidelines Sentencing range.

Based on the government’s submission, the Second Amended PSR assigned an enhancement for obstruction. PSR ¶ 48. The PSR did not include the government’s allegations in the offense conduct, although the defendant did file objections to those allegations.<sup>1</sup> The defendant’s provision of materially false information to the probation office constitutes obstruction, so the enhancement is warranted. U.S.S.G. § 3C1.1, (comment.) n. 4(h). As an alternative ground for the enhancement, the defendant’s actions constitute separate crimes, which also violated the conditions of his pre-trial and pre-sentencing release. For example, the defendant made those statements under the penalty of perjury. Therefore, they also constitute false statements under 18 U.S.C. § 1001 and thus violated the conditions of his pre-sentencing release. In addition, as detailed below, the defendant took a series of actions with regard to his father’s estate which were likely crimes. The government focuses on three areas in which the defendant misled probation, noting the defendant’s objections to the draft Second Amended PSR.

*The Defendant Misled Probation Regarding the Amount of His Mother’s “Largesse”*

In the defendant’s financial forms, he listed under the category of “Gifts from Family,”: “varies (from mother).” Gov’t’s Submission, ¶ 19. In fact, from the date of his arrest through December 2021, the defendant had received \$512,289 from his mother directly or indirectly as payments to his attorneys. From June 2021 through December 2021, the defendant received \$136,000 directly from his mother. Id.

The word “varies” does not adequately capture gifts totaling hundreds of thousands of dollars. In his objection, the defendant described that as the “largesse” of his mother. PSR at 37. However, at a minimum, omitting that money misled probation – and the Court – regarding his

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<sup>1</sup> The government submits under seal, as Exhibit 11, its submission to Probation [hereinafter, “Gov’t’s Submission”].

true financial situation. That omission also puts into a different perspective the fact that he has, so far, paid only a portion of the restitution due to the victims, especially where the largesse exceeds the amount that he owes the victims.

*The Defendant Failed To Provide Information Regarding His Wife's Assets*

The defendant did not list various substantial assets possessed by his wife. The defendant responded that he “accurately believed that his wife’s assets and liabilities did not affect his net worth as he had no right to the assets and no legal obligation with respect to her debts.” PSR at 38. However, that was not Probation’s question. The forms clearly required him to list “assets and debts that he enjoyed the benefits of or made occasional contributions toward.” Gov’t’s Submission ¶ 6(c). The defendant acknowledged that his wife “pa[id] the household bills”, which household included the defendant. Accordingly, the defendant should have listed those assets.

Those assets were substantial and included:

- Two IRAs at Fidelity, including one to which the defendant contributed \$91,000, on or about May 25, 2018, Gov’t’s Submission ¶ 11;
- Two cars, a 2014 Fiat and a 2015 Maserati, which was not registered, Gov’t’s Submission ¶ 12;
- Several pieces of real estate, including from their home. Gov’t’s Submission ¶ 13.

Again, the omission of these assets misled probation – and the Court – regarding the true financial situation of the defendant and his family, which is especially relevant where the Court, as it must, weighed the potential effect of a prison sentence on his family. Moreover, it is particularly striking because the defendant’s wife benefitted from the fraud here, which took

place before they were married but were together: the defendant transferred approximately \$115,000 directly to or for the benefit of his wife, from funds provided by the victims.

*The Defendant Provided Materially False Information Regarding What He Received From His Father's Estate*

The government argued that the defendant was not entitled to \$40,000 which he received from his father's estate. Gov't's Submission ¶ 16. In his objections, the defendant explained that it was from a life insurance policy and stated that he is not aware that he owes money to his father's estate. PSR at 38.

The government was not aware of a life insurance policy, of which the defendant was the beneficiary. If so (and the government has no reason to doubt it), it explains the \$40,000 listed on the submission to probation. However, an insurance policy is just the tip of the iceberg and does not begin to explain what has transpired with respect to his father's estate, all of which he did while under the supervision of the Court. The defendant is correct that there is presently no judgment against the defendant with regard to his father's estate. That matter, however, is not yet settled, in part because the defendant has not rendered an inventory or accounting of what he did with the assets of the estate while they were under his control. And it appears that the defendant did receive money and assets from the estate, to which he was not entitled and which he did not report to Probation.

The defendant's father, Thomas Morecroft Walshe, unfortunately died on September 21, 2018, in India. In the apparent absence of a will, the defendant got himself appointed Personal Representative on December 13, 2018.<sup>2</sup> Ex. 1, Order Appointing Special Personal

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<sup>2</sup> Pursuant to M.G.L. c. 190B, § 3-706, within three months of his appointment as personal representative, the defendant was required to submit an inventory of the estate, which he never did.

Representative, at 2. However, according to the documents filed in the probate action, there had been a will, which disinherited the defendant, and the defendant destroyed it.

According to an Affidavit of Jeffrey Ornstein, filed in the probate action, sometime after the father's death, the defendant texted Ornstein, who was a close friend and had a key, to get access to his father's house. Ornstein entered the house and saw Thomas Walshe's will, which was dated May 1, 2016, and disinherited the defendant, which fact was known to Ornstein and other friends. Ornstein took cell phone pictures of the will but did not tell the defendant, for whom he felt bad. Ornstein left keys for the defendant. Ex. 2, Affidavit of Jeffrey Ornstein.

According to an affidavit submitted by Andrew W. Walshe, the defendant's cousin and Thomas Walshe's nephew and intended personal representative, the defendant destroyed the will. Ex. 3, Affidavit of Andrew W. Walshe. The defendant, despite being disinherited, had emptied the Hull house of valuable items and listed the Hull property for sale. Id. On July 17, 2019, the Probate and Family Court of Plymouth County (Lisa A. Roberts, J.) removed the defendant as the personal representative and appointed Andrew Walshe as Special Personal Representative, which was a temporary appointment. Ex. 1. Pursuant to M.G.L. c. 190B, § 3-1001, that replacement triggered an obligation for the defendant to render an account of what he did with the assets of the estate. Moreover, on September 19, 2019, the defendant appeared and objected to that appointment. Ex. 5, Notice of Appearance and Objection.

On February 10, 2020, the Probate and Family Court (Roberts, J.) admitted the "cell phone" copy of the will to probate and appointed Andrew Walshe as Personal Representative, no longer temporarily. Ex. 4, Decree and Order on Petition for Formal Adjudication. Andrew Walshe petitioned the court for an inventory and account, which were already required by statute. Ex. 6, Petition to Render. Counsel retained a constable to attempt service of the petition

at the same residence that the defendant reported to Probation. The constable believed that the defendant was aware of his attempts to serve him and intentionally avoided service. Ex. 7, Return of Service. On that basis, the Probate Court (Roberts, J.) granted an *ex parte* motion for alternate service. Ex. 8. Despite alternate service, and the government notifying probation, which should have alerted the defendant, the defendant *still* has not submitted an inventory and account to the Probate Court. Gov't's Submission ¶¶ 22-24.

Such an accounting is necessary. During his time as personal representative, the defendant liquidated assets of the estate. See Ex. 4. Those assets include:

- Over one hundred thousand dollars from bank accounts in the name of Thomas Walshe, which were withdrawn while the defendant was the Personal Representative. Ex. 9, Santander Bank statements.
- Valuable household items formerly belonging to Thomas Walshe, including: paintings by Joan Miro and Dali; oriental rugs; Merona glass; Asian art; pottery and even a car. Ex. 10, Estate Sale Listing.<sup>3</sup> The sale was scheduled for January 27, 2019, while the defendant was Personal Representative.
- At the time of his replacement, the defendant was attempting to sell his father's formal home in Hull. Ex. 3.

It thus appears that the defendant obtained cash and assets, which were converted to cash, from his father's estate. He was not legally entitled to them and thus likely committed fraud and embezzlement. And he did not report them to Probation, as he should have, thus misleading Probation, and the Court, about his true financial situation.

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<sup>3</sup> The government is attempting to get more information about what was sold and for how much.

*Conclusion*

Even if the Court does not conclude that an enhancement for obstruction applies because the defendant provided materially false information to probation or because he committed an offense while under supervision, such as false statements, fraud and embezzlement, this new information is troubling. At best, the defendant painted a misleading picture of his financial situation, which was relevant to the determination of his ability to pay a fine or orders of restitution. Even more importantly, the defendant's actions while the case was pending and he was under the Court's supervision, refute the defendant's contention that he is truly rehabilitated and therefore did not need a sentence of imprisonment. In this case, both the defendant's conviction and his actions while under supervision call for a sentence of imprisonment.

*Additional Conditions of Supervision*

Finally, the government requests that the following conditions be added to the defendant's conditions of release, either pending a reporting date or supervised release, with respect to the ongoing probate action:

1. Complete, sign, date, and file with the court an Inventory of the Estate of Thomas Morecroft Walshe; and
2. Render an Account by preparing, signing, dating, and filing with the court an accounting from the date of death (September 21, 2018) through the date of his removal as personal representative (July 17, 2019).

*The Government's Recommendation*

For the foregoing reasons, those contained in the Second Amended PSR and the government's original sentencing memorandum [Dkt. No. 104, filed September 10, 2021], and those to be presented at the sentencing hearing, the government requests the following sentence:

- 30 months' imprisonment;
- no fine;
- a term of 36 months' supervised release, with the conditions set forth in the government's memorandum and above;
- restitution;
- entry of the Orders of Forfeiture [Dkt. Nos. 97.1 and 97.2]; and
- a special assessment of \$300.

Respectfully submitted,

RACHAEL S. ROLLINS  
UNITED STATES ATTORNEY

By: s/ Timothy E. Moran  
TIMOTHY E. MORAN  
KUNAL PASRICHA  
CAROL HEAD  
Assistant U.S. Attorneys

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

s/ Timothy E. Moran  
TIMOTHY E. MORAN

Date: June 6, 2022

<b>ORDER APPOINTING SPECIAL PERSONAL REPRESENTATIVE</b>	Docket No.  <b>PL18P2434EA2</b>	<b>Commonwealth of Massachusetts The Trial Court Probate and Family Court</b>			
Estate of:  <table style="width:100%; border: none;"> <tr> <td style="text-align: center; width:33%;"><b>Thomas</b> <small>First Name</small></td> <td style="text-align: center; width:33%;"><b>Moorecroft</b> <small>Middle Name</small></td> <td style="text-align: center; width:33%;"><b>Walshe, III</b> <small>Last Name</small></td> </tr> </table>		<b>Thomas</b> <small>First Name</small>	<b>Moorecroft</b> <small>Middle Name</small>	<b>Walshe, III</b> <small>Last Name</small>	Plymouth <span style="float: right;">Division</span>
<b>Thomas</b> <small>First Name</small>	<b>Moorecroft</b> <small>Middle Name</small>	<b>Walshe, III</b> <small>Last Name</small>			
Also Known As: _____					
Date of Death: <b>September 21, 2018</b>					

After hearing on the Petition for Appointment of a Special Personal Representative,

all persons interested, having assented or having been notified in accordance with the law;

**OR**

no notice having been given and it appearing to the Court that an emergency exists;

The Court finds that appointment is necessary to preserve the estate or to secure its proper administration including its administration in circumstances where a general Personal Representative cannot or should not act.

1. The Court appoints the following person(s) as Special Personal Representative(s) (hereafter "Special Personal Representative"):

Name: Andrew W Walshe  
First Name M.I. Last Name

73 Rutland Road East Hampton NY 11937  
(Address) (Apt, Unit, No. etc.) (City/Town) (State) (Zip)

Primary Phone #: (703) 963-2459

2. The Special Personal Representative shall serve with

authority limited to conducting a search of any safe deposit box of the decedent for his or her last Will and Testament in the presence of a bank officer or other disinterested person.

authority to act pursuant to G.L. c. 190B, §§ 3-614, 3-617, 3-715 et seq. and 3-715(b), as follows:

The Special Personal Representative has the duty to collect and manage the assets of the estate, to preserve them, to account for them and to deliver them to the Personal Representative upon qualification by the Court. The Special Personal Representative has the power of a Personal Representative necessary to perform these duties.



Estate of: <u>          <b>Thomas</b>          </u> <u>          <b>Moorecroft</b>          </u> <u>          <b>Walshe, III</b>          </u> <div style="display: flex; justify-content: space-between; font-size: small;"> <span>First Name</span> <span>Middle Name</span> <span>Last Name</span> </div>	Docket No. <b>PL18P2434EA2</b>
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3. The Special Personal Representative shall serve:

- Without a surety on the bond because:
  - Language in the Will waives the requirement of a surety bond.
  - All of the heirs or all of the devisees have filed a written waiver of sureties on the bond.
  - The Personal Representative is a bank or trust company.
  - The Court concludes that sureties are not in the best interest of the estate.
- with  personal  corporate sureties on the bond.
- A Demand for Sureties (MPC 360) has been filed.

**NO LETTERS OF SPECIAL PERSONAL REPRESENTATIVE SHALL ISSUE  
UNTIL THE BOND IS FILED AND APPROVED**

4.  Additional powers granted, if any, as follows:

5.  Additional restrictions, if any, as follows:

6.  The Special Personal Representative shall file an Account, for approval, with the Court on or by \_\_\_\_\_  
(date)

7. The appointment shall expire on:           **October 16, 2019**            
(date)

8.  The authority of           **Brian**                     **R**                     **Walshe**           appointed  
First Name Middle Name Last Name  
 as Personal Representative on           **December 13, 2018**           is hereby suspended during the pendency of this  
(date)  
 appointment. and the suspension shall be endorsed on his Letters.

Date           **July 17, 2019**          

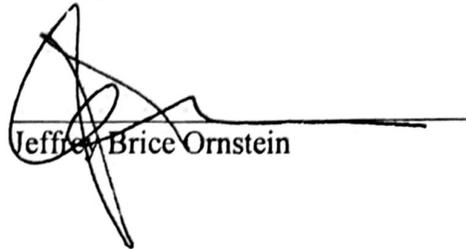
*Linda Roberts*  
 \_\_\_\_\_  
 Justice of the Probate and Family Court



8. In addition to being one of my closest friends, Tom and I worked together several times in a professional capacity, most recently when Tom hired J/Brice in 2016 to renovate the home he purchased located at 909 Nantasket Avenue, Hull, Massachusetts, 02045 (the "Hull House").
9. As the designer of the Hull House and as Tom's best friend, I was given keys for the residence.
10. To my shock and deep dismay, Tom died suddenly in on or about September 21, 2018 while traveling in India.
11. At the time of Tom's death, Brian texted me and asked if I had keys or access to the Hull House, as he needed some paperwork that he said the Embassy requested and which was necessary to transport Tom's remains home from India.
12. I travel between homes frequently and did not have the Hull House key immediately available.
13. I contacted my contractor to see if he had a key and we went to the Hull House.
14. We entered the Hull House with the intent of locating the documentation or information Brian had requested along with an extra set of keys for Brian.
15. While in Tom's office, my contractor noticed some papers sitting in plain view on top of a cabinet next to Tom's desk, labelled Will of Thomas M. Walshe, III (the "Will"), which was dated May 1, 2016.
16. I reviewed the Will and left it where we found it, however, I took some pictures of the Will with my cell phone, which are time stamped and place dated via the cell phone camera roll as Hull - Windermere September 23, 2018 Nantasket Ave and Fitzpatrick Way.
17. In reviewing the Will, I noticed a list of beneficiaries, but as Tom had told me many times over the years, he had expressly disinherited Brian, his only child, in the Will.
18. Although the Will reflected Tom's wishes, which were known not just to me, but many of Tom's friends, I still felt bad, so when I texted Brian later that day to tell him that I had left him a set of keys under the mat, I did not tell him about being disinherited.
19. Thereafter, I tried to locate Tom's nephew, Andrew Walshe, who was named as an executor and who I had met more than I once over the years, but when I called the phone number for Andrew Walshe that I located on the internet (and which appeared to have other correct connecting information), the Andrew Walshe who answered the call said that he did not have an uncle Tom Walshe.

- 20. I did not know any of the other beneficiaries listed in the Will, so I did not try to locate anyone else other than Dr. Fred Pescatore ("Fred"), another mutual friend of mine and close friend of Tom's, who was listed as a beneficiary in the Will..
- 21. After I spoke with Fred to inform him that he was named in the Will, I sent Fred the pictures of the Will that I had taken.

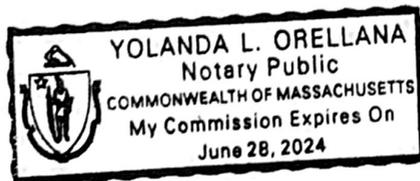
Signed under the pains and penalties of perjury this 9<sup>th</sup> day of April, 2019.

  
 Jeffrey Brice Ornstein

**COMMONWEALTH OF MASSACHUSETTS**

Suffolk, SS.

On this 9<sup>th</sup> day of April, 2019, personally appeared before me Jeffrey Brice Ornstein, who proved to me through satisfactory evidence of identification, to wit, NY DL to be the signer of the foregoing document, and acknowledged to me that he signed same voluntarily for its stated purpose.



  
 Yolanda Orellana  
 Notary Public

My Commission Expires: June 28, 2024

COMMONWEALTH OF MASSACHUSETTS  
PLYMOUTH, SS PROBATE AND FAMILY  
COURT

DOCKET NO. PL18P2434

ESTATE O F THOMAS MOORECROFT WALSH, III

**AFFIDAVIT OF ANDREW W. WALSH**

I, Andrew W. Walsh under oath depose and state as follows:

1. My name is Andrew Walsh and I reside at [REDACTED], East Hampton, NY 11937.
2. I am the nephew and legal Personal Representative (per his Will) to the estate of the late Dr. Thomas Moorecroft Walsh III.
3. I was asked directly by my Uncle, Dr. Thomas Walsh on a phone call during the winter of 2009-2010 if I would be willing to be named as the executor of his estate, to which I agreed.
4. At that juncture, I understood, as was also common knowledge amongst Dr. Thomas Walsh's friends and family members, his son, Brian R Walsh had absconded with almost one million dollars from Dr. Thomas Walsh in prior years.
5. The theft from his only son was tragic, not only in that it occurred, but also that Brian R Walsh essentially disappeared from his father's life purposefully.
6. Dr. Thomas Walsh was left unable to contact his son, Brian R Walsh, who had stolen and turned his back on his father, who had provided a comfortable life for his son.
7. The theft caused an irreparable rift in their relationship and caused not only mental hardship for Dr. Thomas Walsh, but also required Dr. Thomas Walsh to continue working past the age at which he had wished to retire, as a significant amount of his savings were stolen and never returned.
8. Dr. Thomas Walsh was a generous man to his friends and family and my wife and I during his lifetime.
9. Upon moving to New York in 2009, Dr. Thomas Walsh extended very generous hospitality to myself and my wife, having us out to his house in East Hampton at which time he shared with his friend Jeffrey Ornstein.

PROBATE & FAMILY COURT
FILED 12/02/19
PLYMOUTH DIVISION

12/2/19

WALSHE-007340

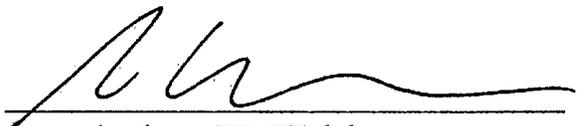
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10. During those years, we also had Thanksgiving dinner with Dr. Thomas Walshe and his other close friend Dr. Fred Pescatore.
11. Additionally, we were in regular contact via e-mail and telephone between 2009 to 2018.
12. Our last physical meeting was shortly after Dr. Thomas Walshe just got out of a follow up surgery on January 27, 2017. Our correspondence for that visit is in Exhibit A.
13. Dr. Thomas Walshe while frail in body was still of sound mind and judgement during our visit and all correspondence.
14. The rationale for the bequeathing of Dr. Thomas Walshe's estate is not complicated. He left what he owned to those he either had a deep personal relationship with or those he felt needed his help.
15. I was named as the executor, as in not only my Uncle's vantage but other family, friends and co-workers I am viewed as honest, trustworthy and of high moral character and am a Walshe.
16. I am currently not under indictment by any local or federal authorities.
17. I act as a fiduciary in my daily work capacities and attended and graduated from the same college as my Uncle, Dr. Thomas Walshe, Hampden-Sydney College, which has a strong code of ethics engrained to all its alumni.
18. Dr. Thomas Walshe bequeathed a significant portion of his estate to his only sister Barbara Walshe. Very similarly to Dr. Thomas Walshe's son, Brian R Walshe, he specifically excluded his two brothers David E. Walshe "Ed" and William Walshe "Bill".
19. His sister Barbara was included in the estate, as she is the most needing of his assistance. Barbara resides in subsidized housing in a remote part of Florida having spent much of her younger years caring for others, unmotivated by money.
20. The impact of her brother's estate will meaningful enhance her final years of life, so long as we the rightful heirs to the estate are able to access its value.
21. Barbara's children of sound physical and mental state were also included, as Dr. Thomas Walshe shared a connection with them too.
22. Brian R Walshe never contacted any of Dr. Thomas Walshe's brothers, sister, nieces, nephews or cousins of the Walshe family to inform them of Dr. Thomas Walshe's passing. Consequently, none of the family was aware of Dr. Thomas Walshe's passing until I began informing individuals in early May of 2019.

23. Brian R Walshe had estranged himself from all Walshe family members due to their knowledge of the theft he had committed to his father, Dr. Thomas Walshe. Had any members of the Walshe family been informed, questions would have been raised much earlier regarding the estate.
24. Dr. Thomas Walshe has always been generous to myself and my siblings. Myself and my siblings did not grow up with great wealth although we always had food, clothing and shelter well provided for.
25. When I was a child, Dr. Thomas Walshe would send Christmas gifts to myself and my four siblings. I believe he felt compelled through his goodness to share his bounty with those in the family less fortunate.
26. I personally, have been fortunate in my career endeavors and am simply a beneficiary to this estate to assist ensuring my late Uncle's legally documented wishes are followed through with.
27. I have personally funded the Estate's legal representation to date on behalf of the Walshe family. I have not asked for any family members to assist, as I know the Will is true and valid and will ultimately be affirmed time and time again.
28. Additionally, the family members named in the Will are not of means to fund any form of litigation, hence much of the reason why they were named in the Will.
29. Brian R Walshe currently has taken all known liquid assets associated with the Estate and controls such assets to fund his objection.
30. My siblings do not have any significant net worth and like my Aunt Barbara would benefit from Dr. Thomas Walshe's generosity in a meaningful way to improve their lives.
31. In order to allow for an efficient distribution of the estate's assets I have been waiting patiently for this case to have full clarity prior to attempting to access title to the assets named in the Will.
32. Unfortunately, each day that passes without clarity, Brian R Walshe may have liquidated items of value to the other beneficiaries for which value can not be recovered.
33. Assets unnamed in the will of which I am personally familiar due to visiting my Uncle's Boston residence in 2017 such as art and other personal effects may not be recovered, which unfortunately at the detriment of those most deserving of the recovery, Dr. Thomas Walshe's sister, nieces and nephews.
34. Dr. Thomas Walshe and I were in personal contact approximately quarterly over the last several years of his life both via phone and e-mail.

35. Our final written correspondence was in June 2018. Exhibit B.
36. Never in any of our correspondence verbal or written did the topic of a reconciliation with his son Brian R Walshe occur.
37. The only legally binding documentation instructing us all of Dr. Thomas Walshe's last wishes is the Will of which we are fortunate a copy was made and recovered.
38. The witnesses to the Will are disinterested parties, who have and are willing to attest to the document being that of Dr. Thomas Walshe.
39. After September 2018, I made several attempts via e-mail and phone calls to contact my Uncle. For reasons we now know those attempts were unsuccessful.
40. In early spring, specifically May 2019, at my wife's urging I reached out to several of Dr. Thomas Walshe's friends, Jeff Ornstein and Fred Pescatore.
41. It was at that time, I discovered Dr. Thomas Walshe had passed.
42. Those friends had tried to get in contact with me but had an incorrect phone number and all historical correspondence had been through Dr. Thomas Walshe.
43. Unfortunately, in the intervening months, the lack of clarity surrounding the estate has allowed for much of its value to likely have deteriorated.
44. Brian R Walshe's affidavit is a fantastic story, if it were true. However, it is a work of half-truths and fiction, of which much can be disproven.
45. Factually, there is a Will in place that has been verified by two disinterested witnesses. Additionally, the time to file any objection had seemingly passed.
46. The current objection again strains the ability to properly administer the estate, while only putting at risk the ability to efficiently and effectively follow through on the will. This has adverse consequences for many parties while only benefiting, Brian R Walshe.

Signed under the pains and penalties of perjury this 2 day of December, 2019.

  
\_\_\_\_\_  
Andrew W. Walshe

**Exhibit A**

**Re: Visit**

You replied on Fri 2/3/2017 5:49 PM

?

You replied on Fri 2/3/2017 5:49 PM

?

?

?

?

Thomas Walshe <thomaswalshemd@gmail.com>

Fri 2/3/2017 3:47 PM

• You

I finished the procedure without any major trouble they seem to think the heart will respond favorably to the changes in the valve and all's well I will probably go home tomorrow or the next day unless something changes it was nice to see you over the weekend I'm sorry I was not in my first level of activity at the time but maybe now I will be able to keep up with with youth and excitement I hope to see you soon tom

Sent from my iPhone

On Jan 27, 2017, at 3:57 PM, Andrew Walshe <[andrew08@hotmail.com](mailto:andrew08@hotmail.com)> wrote:

Happy to hear the good news and sounds like a great plan. I anticipate we will get into town early afternoon, if all goes to plan.

Best  
Andrew

Get Outlook for Android

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**From:** Thomas Walshe <[thomaswalshemd@gmail.com](mailto:thomaswalshemd@gmail.com)>

**Sent:** Friday, January 27, 2017 12:53:33 PM

**To:** Andrew Walshe

**Subject:** Re: Visit

I've completed my cardiac calf so far so good no major complications I'm going to have to spend the night here just to get my medicines balanced again but I should be at my house by the time you get to Boston tomorrow so I'm I'll be probably downtown tomorrow am I'm due to be discharged tomorrow morning sometime but in the hospital that takes longer than most other places anyway us is Saturday and Sunday I'll be me at home that'll be much more pleasant than actually spending the time in the hospital I'll see you see you tomorrow just give me a call and I'll let you know exactly where I am but I plan to meet me at my house in the afternoon thanks Tom

Sent from my iPhone

On Jan 25, 2017, at 2:04 PM, Andrew Walshe <[andrew08@hotmail.com](mailto:andrew08@hotmail.com)> wrote:

Uncle Tom

I can confirm I have the message. Which hospital are you at, so we can plan to find something between your hospital and apartment for accommodations.

Thanks

Andrew

Get Outlook for Android

**From:** Thomas Walshe

**Sent:** Wednesday, January 25, 12:26 PM

**Subject:** Visit

**To:** Andrew Walshe

Sent from my iPhone Dear Andrew I think we're going to visit on the weekend however I have a been in the hospital because of my heart and will need a cardiac calf on Friday so I'm not sure where I will be on Saturday maybe you should just give me a call on my cell phone number or on 857 307 2916 Which is directly to my hospital room I'm hoping to get out Friday but we'll see let me know yeah either by email or by phone hi and I hope we can actually get together talk to you soon thank you very much bye-bye tom

**Exhibit B**

**RE: Welcome to summer**



?

?

Reply all

?

?

Andrew Walshe  
Tue 6/12/2018 12:50 PM

• Thomas Walshe

□  
Uncle Tom

Very good to hear from you and happy that your health is holding up well. My Dad had a bit of a heart arrythmia several weeks ago, but seems to be on the mend.

The winter went by quickly and we took a few trips to get out of the cold, going to Marfa, TX to see Donald Judd's work, LA to visit a friend and then I went to Denver with a few buddies. We are just getting back into the Hamptons swing of things and joined a CSA (Community Supported Agriculture). We enjoyed going out in the field this past weekend and picking the vegetables ourselves.

We will have to try and set a date, perhaps in October to come up for a visit. It would be great to see the new place in Hull. Please do not hesitate to come down Hamptons way should you get an urge.

All the best  
Andrew

-----Original Message-----

From: Thomas Walshe <thomaswalshemd@gmail.com>  
Sent: Friday, June 1, 2018 1:48 PM  
To: andrew08@hotmail.com  
Subject: Welcome to summer

Hello Andrew.

I hope you've been doing well over the winter I have been rather quiet but I am now finishing my sixth month in Montserrat.

I have been doing quite well here and was able to escape the winter weather. I'll be coming back to

Hull on Tuesday and will stay there until November. So far my health has been stable as far as I know. I will hear more when I see my doctors in Boston.

I hope you've enjoyed your winter and have been able to spend much of it in East Hampton. Let me know if you have any time to travel to New England. I will be there most of the time although I am planning to go to India in September.

All the best wishes.

Tom

Sent from my iPhone



<b>Estate of:</b>	Thomas <small>First Name</small>	Moorecraft <small>Middle Name</small>	Walshe III <small>Last Name/</small>	Docket No. PL18PJ434EAD
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--OR--

- C)  An authenticated copy of the will and of the decree admitting it to probate in the Decedent's state or county of domicile at the death is filed. The authenticated copy is dated \_\_\_\_\_ . The dates of all codicils are \_\_\_\_\_ . The authenticated copy of the will and any codicils are referred to as the will.

**Based on a preponderance of credible evidence presented, the court is satisfied that:**

The will was duly admitted to probate by the state or country of \_\_\_\_\_ , the Decedent's domicile at death.

--OR--

- D)  The will is not a valid will.
8. At the time of death, the Decedent's heirs at law were:  
 identical to those persons stated in the  original  amended MPC 162 Surviving Spouse, Children, Heirs at Law dated: July 16, 2019 .

--OR--

the following named persons (each and every heir at law must be named):

NAME	RELATIONSHIP TO DECEDENT

9.  The following person is qualified to serve as Personal Representative pursuant to G. L. c. 190B, § 3-203:

Andrew <small>First Name</small>	W, <small>M.I</small>	Walshe <small>Last Name</small>			
<small>(Address)</small>		<small>(Apt, Unit, No. etc.)</small>	<small>(Address)</small>		<small>(Apt, Unit, No. etc.)</small>
East Hampton	NY	11937			
<small>(City/Town)</small>	<small>(State)</small>	<small>(Zip)</small>	<small>(City/Town)</small>	<small>(State)</small>	<small>(Zip)</small>
Primary Phone #: (703) 963-2459			Primary Phone #: _____		

Any will to which the requested appointment relates is being or has been probated.

**THE COURT DECREES AND ORDERS** (select only that requested on the Petition):

**TESTACY DETERMINATION**

1.  The Decedent died intestate.  
 The will has not previously been admitted to probate and is hereby admitted to formal probate.

<b>Estate of:</b>	Thomas <small>First Name</small>	Moorecroft <small>Middle Name</small>	Walshe III <small>Last Name</small>	Docket No. PL18PJ4349A2
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The will is not admitted to formal probate. The Petition is dismissed with prejudice as to that instrument.

**DETERMINATION OF HEIRS**

2. The Decedent's heirs at law as of date of death are as found above.

**APPOINTMENT OF PERSONAL REPRESENTATIVE**

3. The aforementioned person is appointed or confirmed as Personal Representative.

4. The Personal Representative shall serve in a(n):

- Unsupervised Administration.
- Supervised Administration described as follows:

without a surety on the bond because:

- The will waives the requirement of a surety bond.
- All of the heirs or all of the devisees have filed a written waiver of sureties on the bond.
- The Personal Representative is a bank or trust company.
- The court finds that sureties are not in the best interest of the estate.

- with  personal  corporate sureties on the bond in the penal sum amount of \$ \_\_\_\_\_
- A Demand for Sureties (MPC 360) has been filed.
- The Personal Representative's prior bond is re-examined and approved.

5. Letters of Authority shall issue; or

previously issued Letters of Authority for the Personal Representative are confirmed.

6. The court further orders:

Date 2/10/20

  
 Justice  Magistrate

<b>NOTICE OF APPEARANCE</b> <input checked="" type="checkbox"/> <b>AND OBJECTION</b>	Docket No. PL18P2434EA2	Commonwealth of Massachusetts The Trial Court Probate and Family Court
Case Name: Estate of Thomas Moorecroft Walshe III		Plymouth Division
Petition for: <b>Formal Probate of Will with Appointment of Personal Representative</b>		
Filed on: <u>8.21.19</u>		

Enter my appearance:  for myself, an interested person.  
 as attorney for the following interested person:

Brian R. Walshe  
First Name M.I. Last Name  
 \_\_\_\_\_  
 \_\_\_\_\_  
(Address) (Apt. Unit, No. etc.) (City/Town) (State) (Zip)  
 Marblehead MA 01945  
(City/Town) (State) (Zip)  
 Primary Phone #: \_\_\_\_\_

This appearance  is NOT an objection.  
 IS an objection.

A written affidavit of objections signed by the above-named person, stating the specific facts and grounds upon which the objections are based  is filed with this Appearance and Objection  will be filed within 30 days after the return date.

Date: 9.19.19

Signature of Attorney or Interested Person, if pro se  
**Brian R. Walshe**  
Print name of Attorney  
 \_\_\_\_\_  
 \_\_\_\_\_  
(Apt. Unit, No. etc.)  
 Marblehead MA 01945  
(City/Town) (State) (Zip)  
 Primary Phone #: \_\_\_\_\_  
 BBO #: \_\_\_\_\_

ANY PERSON FILING A PLEADING SHALL SEND A COPY TO THE PERSON WHO SIGNED THIS APPEARANCE TOGETHER WITH NOTICE OF ANY HEARING SCHEDULED BEFORE THE COURT ON THE PLEADING. A COPY OF THIS FORM MUST BE MAILED TO PETITIONER'S ATTORNEY OR, IF NONE, TO PETITIONER.



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## SIGNED UNDER THE PENALTIES OF PERJURY

I certify under the penalties of perjury that the foregoing statements are true to the best of my knowledge and belief.

Date September 15, 2020

  
Signature of Petitioner

Date \_\_\_\_\_

Signature of Co-Petitioner (if applicable)

---

---

Information on Attorney for Petitioner

  
Signature of Attorney

Janet M Wallace

(Print name)

310 Court Street, Suite 103

(Address)

Suite 103

(Apt, Unit, No. etc)

Plymouth

(City/Town)

MA

(State)

02360

(Zip)

Primary Phone #: (508) 747-0332

B.B.O. # 550361

Email: jmw@jmw Wallaceatty.com

**COMMONWEALTH OF MASSACHUSETTS  
THE TRIAL COURT  
PLYMOUTH PROBATE AND FAMILY COURT  
52 Obery Street, Suite 1130  
Plymouth, Ma. 02360**

PLYMOUTH, S.S.

Docket No: PL18P2434EA

Estate Of: Thomas Moorecroft Walshe, III

Date Of Death: 09/21/2018

**RETURN OF SERVICE**

ESSEX, S.S.

Marblehead, Ma.

By virtue of this **Citation On Petition To Render; Petition To Render Inventory & Account**, I made due and diligent search for Brian R. Walshe. The said search was conducted at [REDACTED], Marblehead, Ma. in said Essex County. I have been unable to locate Brian R. Walshe and/or agents of Brian R. Walshe. Therefore, I have been unable to make service of the within Citation.

In search for Brian R. Walshe, I attempted service 10/14/2020 @ 11:35am, I received no answer at the door, I left my business card for Brian R. Walshe requesting he return a call to my office. On 10/15/2020 @ 11:16am I received a call from Samuel Greenberg, Esq. (attorney of record for Brian R. Walshe) inquiring as to why I wanted to speak with Brian R. Walshe. I informed him that I had documents from the Plymouth Probate & Family Court, no other details provided. The attorney informed me that he would have Brian R. Walshe call me to make arrangements to receive the documents. No call was received. On 10/16/2020 I called the attorney back and informed him that I received no call from Brian R. Walshe. On 10/18/2020 I attempted service at the home at 9:30am, there was no answer and my business card was gone. On 10/19/2020 I call the phone number [REDACTED]. I was informed this was an active number for Brian R. Walshe. A unidentified man answered the phone, when I identified myself the man hung up the phone ending the call. There has been no response at that number since the original call. I am certain that Brian R. Walshe is aware that I have documents for him, and he is intentionally avoiding service.

  
Mark Ianuzzi, Constable  
Disinterested Person

WALSHE-007534

✓ 7-16-21

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

PROBAT AND FAMILY COURT  
DOCKET NO. PL18P2434EA

ESTATE OF THOMAS MOORECROFT WALSH, III

**EX PARTE MOTION FOR ALTERNATE SERVICE**

NOW COMES, the Personal Representative, Andrew Walshe and moves this Honorable Court to allow him to serve the Respondent, Brian Walshe in the Petition to Render Account dated September 15, 2020, by publication in a newspaper, leaving at his last and usual address of [REDACTED] Marblehead, MA and to his last known attorney, Samuel Greenberg. As grounds thereon the Personal Representative pleads as follows:

1. The Personal Representative, Andrew Walshe filed a Petition to Render Inventory Account and Petition for Allowance of Account against the previous Personal Representative, Brian Walshe under a Petition for Informal Probate with no Will.
2. The Personal Representative, Andrew Walshe discovered during his investigation into assets that the previous Personal Representative, Brian Walshe under a Petition for Informal Probate with no Will had withdrawn significant funds from bank accounts in the name of the decedent during his term in office and has not accounted for those funds.
3. This Honorable Court issued a Citation dated October 6, 2020, with a Return Date of November 6, 2020, at 10:00 a.m.
4. The Personal Representative retained a constable to serve the Citation on the Respondent, Brian Walshe who was the previous Personal Representative under a Petition for Informal Probate with no Will. Despite diligent action the Constable was unable to serve Brian Walshe in person and it was clear Brian Walshe was ducking service.
5. Counsel for the Personal Representative, Andrew Walshe repeatedly attempted to contact the attorney for Brian Walshe, Samuel Greenberg, Esquire receiving no responses.

**FILED**

JUL 16 2021

WALSHE-007532

PROBATE & FAMILY COURT

- 6. The Constable has prepared a Return of Service outlining his actions in trying to serve Brian Walshe which shows that further attempts to locate and serve Brian Walshe will be fruitless. The Personal Representative attempted to serve Brian Walshe through the FBI who was investigating and litigating criminal charges against Brian Walshe who was under a court order to comply with all obligations of any Court of law which we represent he has violated by not filing the required Inventory and Accounts. The FBI was unable to secure service upon Brian Walshe.
- 7. There are significant funds missing from the Estate and the Personal Representative is duty bound to prosecute any thefts of estate funds.
- 8. The only way to secure notice to Brian Walshe is for service to be by publication, last and usual and through his last counsel of record.

Respectfully Submitted,  
 Andrew W. Walshe  
 By his attorney,

Date: July 1, 2021

*Janet M. Wallace*

Janet M. Wallace, Esquire  
 Sherman Building  
 310 Court Street  
 Suite 103  
 Plymouth, MA 02360  
 (508) 747-0332  
 BBO #550361  
 jmw@jmwallaceatty.com



Plymouth, ss

Probate Court

7/14 2021

The within motion is hereby ~~allowed~~ **denied**.

*Laura Roberts*  
 Judge of Probate Court

*provided, however, that service is made by mailing, registered mail, to the Respondent at his last known address and publication in a newspaper of general circulation in the area of his last known address.*

Statement Period 12/07/18 TO 01/06/19  
**SANTANDER PREMIER CHECKING**

For your convenience our Customer Service Center is available from 6 am – 10 pm EST, 7 days a week.  
 Call us at 1-877-768-2265.  
 Hearing impaired may call 1-800-428-9121 (TTY/TTD).  
[www.santanderbank.com](http://www.santanderbank.com)

**THOMAS M WALSH**

**HULL MA 02045**

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 7 0 06

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**Financial Summary** **Statement Period 12/07/18 - 01/06/19**

THOMAS M WALSH

Deposit Accounts	Account Number	Average Daily Balance	Current Balance
SANTANDER PREMIER CHECKING	0334	\$5,971.89	\$0.00
PREMIER MONEY MARKET - STANDARD	4663	\$64,147.00	\$0.00
<b>Total Deposits</b>			<b>\$0.00</b>

Loan Accounts	Account Number	As Of Date	Current Balance*
LINE OF CREDIT	5892	01/06/2019	\$0.00
<b>Total</b>			<b>\$0.00</b>

\* Current Balance is principal only-not a payoff balance

**SANTANDER PREMIER CHECKING** **Statement Period 12/07/18 - 01/06/19**

THOMAS M WALSH

Account # 0334

Your account is at zero balance. Please deposit funds into this account quickly to ensure continued use of your account. For your convenience you can check your account balance using Santander Online Banking at [santanderbank.com](http://santanderbank.com), at any Santander ATM or by calling our Customer Contact Center at 1.877.768.2265. If this account is not meeting your needs, please call your branch or come in to see us for a complimentary financial review. We will assist you in making sure that you have the right products and services to meet your banking needs.

**Balances**

Beginning Balance	\$7,523.58	Current Balance	\$0.00
Deposits/Credits	+\$0.00	Average Daily Balance	\$5,971.89
Withdrawals/Debits	-\$7,523.58		



**Interest**

Paid this Period *	\$0.00	Annual Percentage Yield Earned	0.01%
Earned this Period	\$0.05	Paid Last Year	\$1.92
Paid Year-To-Date	\$0.00		

\* The interest earned and the interest paid may differ depending on when interest is credited to your account.

**Account Activity**

Date	Description	Additions	Subtractions	Balance
12-07	<b>Beginning Balance</b>			\$7,523.58
12-18	CAPITAL ONE CRCARDPMT 181216		\$12.99	\$7,510.59
12-28	BRANCH TRANSACTION AT SWAMPSCOTT - VINNIN SQUARE - PAYMENT TO ACCOUNT *4166		\$2,057.93	\$5,452.66
01-02	CLOSING TRANSACTION - WITHDRAWAL		\$5,452.66	\$0.00
01-06	<b>Ending Balance</b>			\$0.00

**PREMIER MONEY MARKET - STANDARD**

Statement Period 12/07/18 - 01/06/19

THOMAS M WALSH

Account # [REDACTED] 1663

Your account is at zero balance. Please deposit funds into this account quickly to ensure continued use of your account. For your convenience you can check your account balance using Santander Online Banking at santanderbank.com, at any Santander ATM or by calling our Customer Contact Center at 1.877.768.2265. If this account is not meeting your needs, please call your branch or come in to see us for a complimentary financial review. We will assist you in making sure that you have the right products and services to meet your banking needs.

**Balances**

Beginning Balance	\$76,481.75	Current Balance	\$0.00
Deposits/Credits	+\$6.29	Average Daily Balance	\$64,147.00
Withdrawals/Debits	-\$76,488.04		

**Interest**

Paid this Period *	\$6.29	Annual Percentage Yield Earned	0.10%
Earned this Period	\$5.45	Paid Last Year	\$233.90
Paid Year-To-Date	\$0.00		

\* The interest earned and the interest paid may differ depending on when interest is credited to your account.

**Account Activity**

Date	Description	Additions	Subtractions	Balance
12-07	<b>Beginning Balance</b>			\$76,481.75
12-28	INTEREST CREDIT FROM 11/29/2018 THROUGH 12/28/2018	\$6.29		\$76,488.04
01-02	CLOSING TRANSACTION - WITHDRAWAL		\$76,488.04	\$0.00
01-06	<b>Ending Balance</b>			\$0.00



### What You Need to Know About Overdrafts and Overdraft Fees

#### Overview

An overdraft occurs when you do not have enough money in your account to cover a transaction, but we pay it anyway. We can cover your overdrafts in two different ways:

1. We have **standard overdraft practices** that come with your account.
2. We also offer an **overdraft protection plan** which allows you to link other accounts, such as a savings account or an Overdraft Line of Credit, to cover overdrafts in your checking account. This plan may be less expensive than our standard overdraft practices. To learn more, ask us about this plan.

This notice explains our **standard overdraft practices**.

#### What are the **standard overdraft practices** that come with my account?

We **do** authorize and pay overdrafts for the following types of transactions:

- Checks and other transactions made using your checking account number
- Automatic bill payments
- Recurring debit card transactions
- Online Banking payments and transfers

We **do not** authorize and pay overdrafts for the following types of transactions unless you ask us to (see below):

- ATM transactions
- One-time Debit Card purchases

We pay overdrafts at our discretion, which means we do not guarantee that we will always authorize and pay any type of transaction. If we do not authorize and pay an overdraft, your transaction will be declined.

#### What fees will I be charged if Santander pays an overdraft?

Under our standard overdraft practices:

- We will charge you a fee of up to **\$35** each time we pay an overdraft (maximum of six (6) per business day) and
- An additional one-time fee of **\$35** will be charged on the sixth (6th) business day after your account has been overdrawn for five (5) consecutive business days. This charge generally applies to checking, savings and money market savings accounts. See the Fee Schedule for details.

#### What if I want Santander to authorize and pay overdrafts on my ATM and one-time debit card transactions?

If you want us to authorize and pay overdrafts on ATM and one-time debit card transactions, visit a Santander branch or call our Customer Service Center at 877-768-2265.

#### Can I change my mind later?

If you tell us that we are permitted to pay any overdrafts caused by ATM or one-time debit transactions, you can always change your mind and tell us you no longer want us to do this. **You can visit any Santander branch or call us at 877-768-2265 to tell us you no longer want us to pay these types of overdrafts.**

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**IN CASE OF ERRORS OR QUESTIONS ABOUT YOUR ELECTRONIC TRANSFERS  
CALL YOUR CUSTOMER SERVICE CENTER AT THE NUMBER SHOWN ON THE TOP OF YOUR STATEMENT OR WRITE TO THE BANK**

FOR DEBIT CARD ISSUES:  
Santander Bank  
Attn: Card Disputes Team  
MAI MB3 02 05  
P.O. Box 831002  
Boston, MA 02283-1002

FOR ALL OTHER ELECTRONIC TRANSFER ISSUES:  
Santander Bank  
Attn: Client Relations  
10-421-CR1  
P.O. Box 12646  
Reading, PA 19612-2646

Please contact us if you think information about an electronic transfer on your statement or receipt is wrong or if you need additional information about an electronic transfer on the statement or receipt. We must hear from you no later than 60 days after we sent you the FIRST statement on which the error appeared.

- Tell us your name and account number.
- Tell us the dollar amount of the suspected error.
- Describe the electronic transfer error or the electronic transfer that you are unsure about and explain as clearly as you can why you believe there is an error or why you need further information.

If you tell us orally, we may require you to send your complaint or question in writing within 10 business days.

We will promptly investigate the matter and call or write to you with an answer within 10 business days. If we need more time, we may take up to 45 days to investigate your complaint or question. If we do, we will credit your account within this 10-day period for the amount you think is in error, so you will have the use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing and we do not receive it within 10 business days, we may choose not to credit your account.

For errors involving new accounts, point of sale purchases or foreign transactions, we may take up to 90 days to investigate your complaint or question. For new accounts, we may take up to 20 business days to credit your account for the amount you think is in error.

We will tell you the results of our investigation within 3 business days after completing our investigation. If we decide there was no error, we will send you a written explanation. You may ask for copies of the documents we used in our investigation.

**IN CASE OF ERRORS OR QUESTIONS ABOUT OTHER TRANSACTIONS ON YOUR STATEMENT**

You must contact us within thirty (30) days after you receive your statement if you think a transaction, other than an electronic transfer, shown on your statement is wrong or if you need more information about the transaction.

You may contact your nearest branch or our Customer Contact Center at 1-877-768-2265. Customers with hearing impairments may call 1-800-428-9121 (TTY/TDD). We will investigate your dispute and tell you the results of that investigation.

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## Address

The address for this sale in Hull, MA 02045 will no longer be shown since it has already ended.

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Sun

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2019

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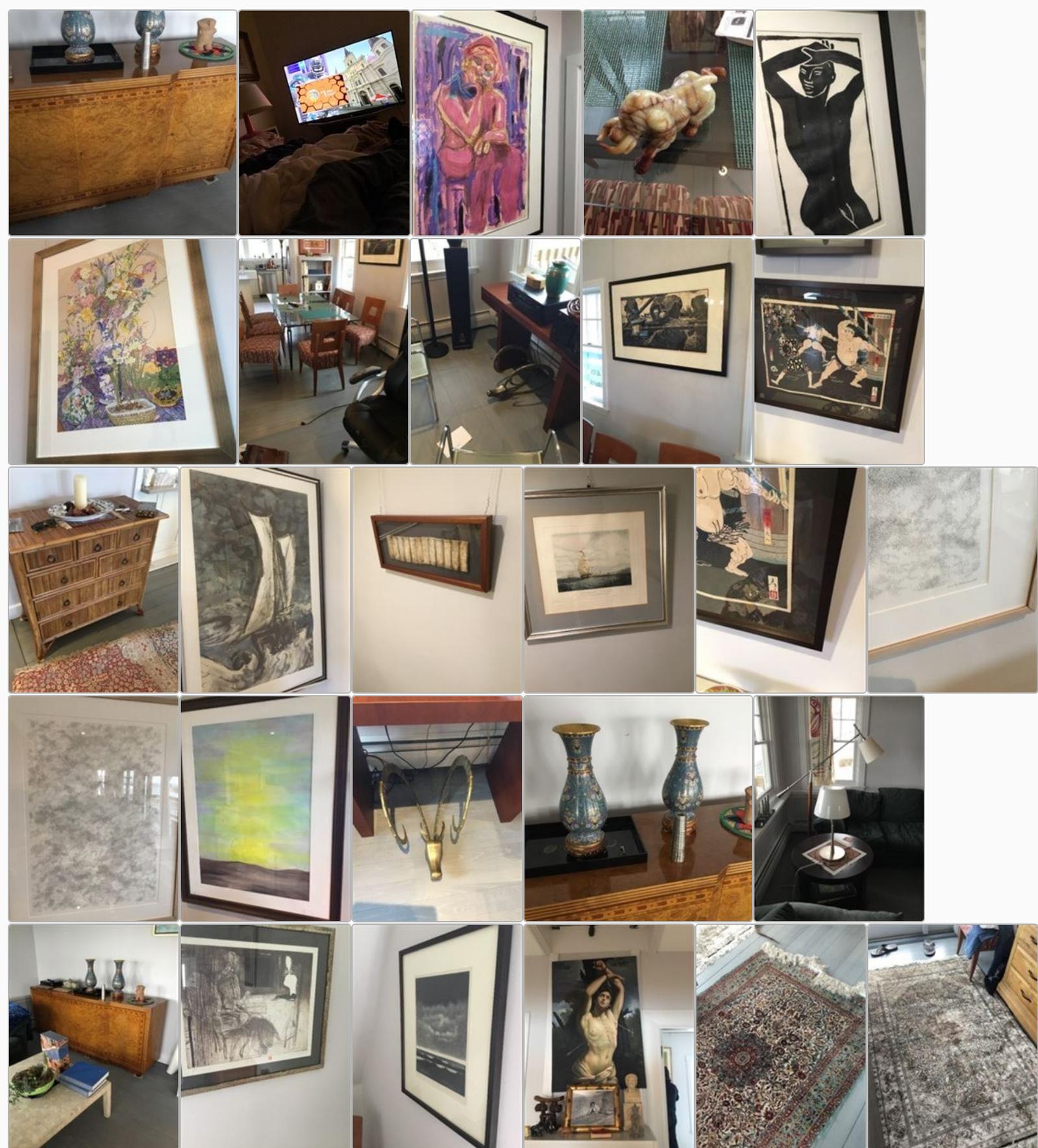
## Description & Details

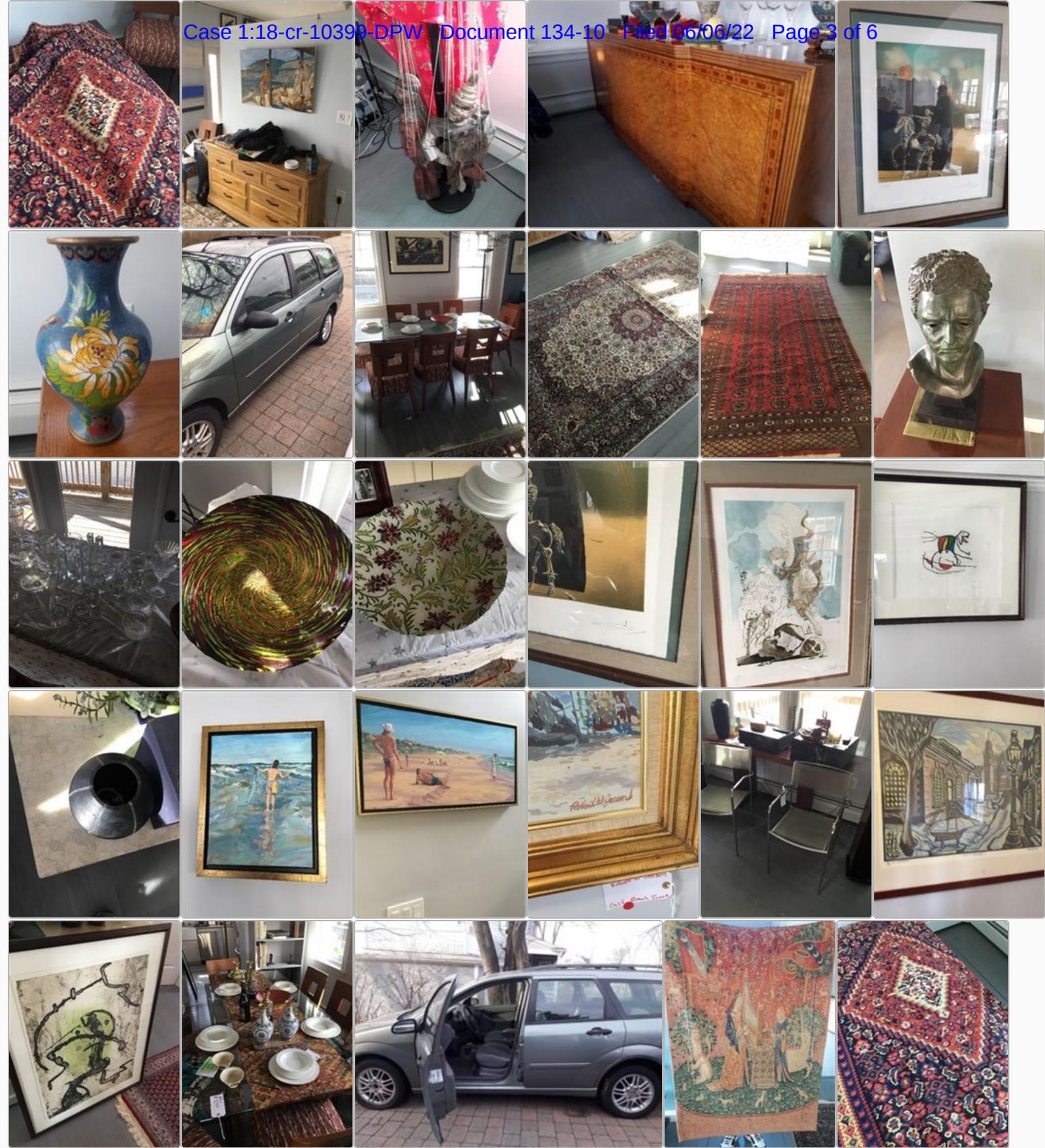
Oceanfront Estate Sale , Art Deco diningroom set, paintings by Joan Miro, Dali, and many other listed artists. Painting supplies, large collection of oriental rugs including Persian bought directly in Iran, silk oriental pieces, Merona glass, antique style puppets, Art Deco platform beds and bedroom sets, custom computers, large collection of books, outdoor items, China sets, pottery, Asian art and older pieces, more pictures to follow. **BONUS CAR FOR SALE** Large amount of jewelry just discovered will post pictures soon!!!!!!!!!!!!!!!!!!!!!!

Always show the full sale description by default

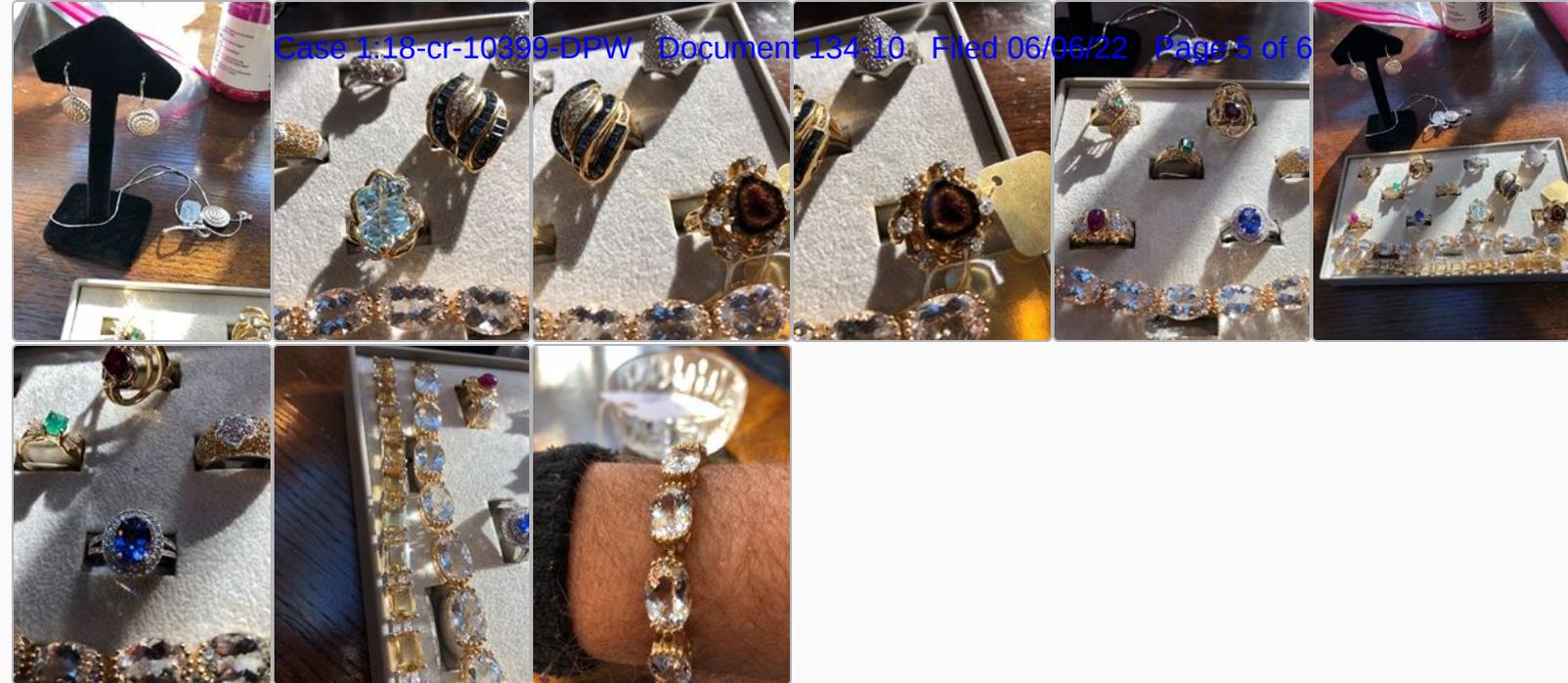


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Many people like to find several liquidation sales to go to when they are out and about. Here are some pages that might help:

- [Estate Sales Near Hull, MA 02045](#)
- [Sales in the Boston area](#)