

§ 72.20 Prohibition against performing legal services or employing counsel.

A consular officer may not act as an attorney or agent for the estate of a deceased United States citizen or non-citizen national overseas or employ counsel at the expense of the United States Government in taking possession and disposing of the personal estate of a United States citizen or non-citizen national who dies abroad, unless specifically authorized in writing by the Department. If the legal representative or other interested person wishes to obtain legal counsel, the consular officer may furnish a list of attorneys.

§ 72.21 Consular officer may not assume financial responsibility for the estate.

A consular officer is not authorized to assume any financial responsibility or to incur any expense on behalf of the United States Government in collecting and disposing of the personal estate of a United States citizen or national who dies abroad. A consular officer may incur expenses on behalf of the estate only to the extent that there are funds available in the estate or from other sources (such as the next of kin).

§ 72.22 Release of personal estate to legal representative.

(a) If a person or entity claiming to be a legal representative comes forward at any time prior to transmission of the decedent's personal estate to the Secretary of State under 22 CFR 72.25, the consular officer may release the personal estate in his or her custody to the legal representative provided that:

(1) The legal representative presents satisfactory evidence of the legal representative's right to receive the estate;

(2) The legal representative pays any fees prescribed for consular services provided in connection with the disposition of remains or protection of the estate (see 22 CFR 22.1);

(3) The legal representative executes a release in the form prescribed by the Department; and

(4) The Department approves the release of the personal estate.

(b) Satisfactory evidence of the right to receive the estate may include:

(1) In the case of an executor, a certified copy of letters testamentary or other evidence of legal capacity to act as executor;

(2) In the case of an administrator, a certified copy of letters of administration or other evidence of legal capacity to act as administrator;

(3) In the case of the agent of an executor or administrator, a power of attorney or other document evidencing agency (in addition to evidence of the executor's or administrator's legal capacity to act).

§ 72.23 Affidavit of next of kin.

If the United States citizen or non-citizen national who has died abroad did not leave a will that applies locally, and the personal estate in the consular district consists only of clothing and other personal effects that the consular officer concludes in his or her discretion is worth less than \$2000 and/or cash of a value equal to or less than \$2000, the consular officer may decide in his or her discretion to accept an affidavit from the decedent's next of kin as satisfactory evidence of the next of kin's right to take possession of the personal estate. The Department must approve any release based on an affidavit of next of kin where the consular officer concludes that the personal estate effects are worth more than \$2000 and/or the cash involved is of a value more than \$2000 and generally will consider approving such releases only in cases where state law prohibits the appointment of executors or administrators for estates that are valued at less than a specified amount and the law of the foreign country where the personal property is located would not prohibit such a release.

§ 72.24 Conflicting claims.

Neither the consular officer nor the Department of State has the authority or responsibility to mediate or determine the validity or order of contending claims to the personal estate of a deceased United States citizen or non-citizen national. If rival claimants, executors or administrators demand the personal estate in the consular officer's possession, the officer should not release the estate to any

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claimant until a legally binding agreement in writing has been reached or until the dispute is settled by a court of competent jurisdiction, and/or the Department has approved the release.

§ 72.25 Transfer of personal estate to Department of State.

(a) If no claimant with a legal right to the personal estate comes forward, or if conflicting claims are not resolved, within one year of the date of death, the consular officer should sell or dispose of the personal estate (except for financial instruments, jewelry, heirlooms, and other articles of obvious sentimental value) in the same manner as United States Government-owned foreign excess property under Title IV of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 511 *et seq.*). If, however, a reasonable amount of additional time is likely to permit final settlement of the estate, the consular officer may in his or her discretion postpone the sale for that period of additional time.

(b) The consular officer should send to the custody of the Department the proceeds of any sale, together with all financial instruments (including bonds, shares of stock and notes of indebtedness), jewelry, heirlooms and other articles of obvious sentimental value, to be held in trust for the legal claimant(s).

(c) After receipt of a personal estate, the Department may seek payment of all outstanding debts to the estate as they become due, may receive any balances due on such estate, may endorse all checks, bills of exchange, promissory notes, and other instruments of indebtedness payable to the estate for the benefit thereof, and may take such other action as is reasonably necessary for the conservation of the estate.

§ 72.26 Vesting of personal estate in United States.

(a) If no claimant with a legal right to the personal estate comes forward within the period of five fiscal years beginning on October 1 after the consular officer took possession of the personal estate, title to the personal estate shall be conveyed to the United States, the property in the estate shall be under the custody of the Depart-

ment, and the Department may dispose of the estate under as if it were surplus United States Government-owned property under title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 4811 *et seq.*) or by such means as may be appropriate as determined by Department in its discretion in light of the nature and value of the property involved. The expenses of sales shall be paid from the estate, and any lawful claim received thereafter shall be payable to the extent of the value of the net proceeds of the estate as a refund from the appropriate Treasury appropriations account.

(b) The net cash estate shall be transferred to the miscellaneous receipts account of the Treasury of the United States.

§ 72.27 Export of cultural property; handling other property when export, possession, or import may be illegal.

(a) A consular officer should not ship, or assist in the shipping, of any archeological, ethnological, or cultural property, as defined in 19 U.S.C. 2601, that the consular officer is aware is part of the personal estate of a United States citizen or non-citizen national to the United States in order to avoid conflict with laws prohibiting or conditioning such export.

(b) A consular officer may refuse to ship, or assist in the shipping, of any property that is part of the personal estate of a United States citizen or non-citizen national if the consular officer has reason to believe that possession or shipment of the property would be illegal.

§ 72.28 Claims for lost, stolen, or destroyed personal estate.

(a) The legal representative of the estate of a deceased United States citizen or national may submit a claim to the Secretary of State for any personal property of the estate with respect to which a consular officer acted as provisional conservator, and that was lost, stolen, or destroyed while in the custody of officers or employees of the Department of State. Any such claim should be submitted to the Office of Legal Adviser, Department of State, in the manner prescribed by 28 CFR part