



By Order of the Court, Judge Joseph N. Camacho

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**IN THE SUPERIOR COURT
FOR THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

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|-----------------------------|---|------------------------------------|
| ESTATE OF |) | CIVIL ACTION NO. 08-0227 |
| JOHN DELEON GUERRERO |) | |
| PANGELINAN, |) | |
| |) | ORDER DENYING ESTATE’S |
| |) | OPPOSITION TO COMMONWEALTH |
| |) | DEVELOPMENT AUTHORITY’S |
| Deceased. |) | CREDITOR CLAIM AS THE CLAIM |
| |) | WAS TIMELY FILED |
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THIS MATTER came before the Court on July 20, 2017 on the Estate’s Opposition to Creditor Claims of the Commonwealth Development Authority and CDA’s Objection to Inventory and Request for a Hearing. Administratrix Christie L. Sablan (“Administratrix”) was present with her brother, Jay M. Pangelinan,¹ who both appeared pro se.² Mr. Pangelinan appeared via Skype. Attorney Rene Holmes appeared on behalf of the Commonwealth Development Authority (“CDA”).

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¹ The Decedent is the father of Administratrix Christie L. Sablan and Jay M. Pangelinan.
² Attorney Mark S. Smith filed the Estate’s Opposition to the Creditor Claims of the Commonwealth Development Authority on behalf of the Administratrix on December 12, 2016. Mr. Smith later withdrew representation on May 25, 2017.

1 After a careful review of the filings on record, the applicable laws, and arguments of
2 counsels, the Court **DENIES** Estate’s Opposition to Creditor Claims of the Commonwealth
3 Development Authority. CDA’s Objection to Inventory will be addressed in a separate order.

4 **I. BACKGROUND**

5 The Decedent passed away on February 5, 2008. The Decedent has three loans with CDA:
6 Loan No. CD 33194,³ Loan No. MD 70187, and Loan No. ML 70180. On August 22, 2008, the
7 Estate filed its Notice of Hearing and Notice to Creditors. On August 29, 2008, the Estate filed a
8 Declaration of Publication, signed by Laila Younis-Boyer, affirming that the Notice of Hearing and
9 Notice to Creditors was published in the Marianas Variety Newspaper on August 27, 2008. The
10 executor, Edward Flores, was appointed on September 12, 2008.

11 According to Jay Pangelinan, the Decedent’s son, he saw a debt owed to CDA while going
12 through the Decedent’s mail, and he “personally made contact with CDA officials on three
13 different occasions in this regard.” Decl. of Jay Pangelinan at 2. Jay Pangelinan states that he spoke
14 with Greg Calvo, CDA’s Commercial Lending Officer, to tell him that Edward Flores was
15 appointed as Administrator. *Id.* Jay Pangelinan claims that the “CDA official” he spoke with “knew
16 of Edward Flores’ appointment as Administrator, and that the probate of [the Decedent’s] estate
17 had been opened and that the CDA has a claim against the Estate.” *Id.* Jay Pangelinan claims that
18 he notified CDA multiple times about the Decedent’s probate case. *Id.* The Estate argues that CDA
19 has notice of the Decedent’s passing because of conversations between Jay Pangelinan and Greg
20 Calvo. Resp. to Cred. Resp. to Opp. at 6.

21 On May 21, 2010, the Estate filed an Affidavit of Mailing, showing that notice of the
22 probate case had been sent to CDA and the Commonwealth Health Center (“CHC”) on April 16,
23 2010. The Estate sent a letter dated April 9, 2010 to CDA, informing CDA that it had “up to sixty

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³ Loan CD 33194 is a loan issued to Bobbie’s Amusement Co., Inc. but personally guaranteed by Decedent.

1 (60) days from the date of receiving this notice to file any claims against the Estate and that any
2 claims not presented within such time shall be forever barred.” Ex. B. The letter was stamped as
3 received by CDA on April 21, 2010. CDA then filed its Creditor CDA’s Notice of Claims on June
4 16, 2010. On September 2, 2016, Christie Sablan, a new Administratrix for the Estate, filed an
5 Inventory of the Estate claiming that CDA’s claim was barred as untimely since it was not filed
6 within 60 days of the publication notice to the creditors.

7 The Estate filed its Opposition to Creditor’s Claims of the Commonwealth Development
8 Authority on December 12, 2016. The Estate claims that it gave proper notice to the creditors and
9 that CDA’s Notice of Claims is untimely. CDA filed its Response to Opposition to Creditor’s
10 Claim of the Commonwealth Development Authority on December 30, 2016. The Estate filed its
11 Response to Opposition to Creditor’s Claim of the Commonwealth Development Authority;
12 Request to Set Aside Default and Default Judgment Due to Creditor’s Failure to Provide Notice;
13 Request for New Hearing on the Merits of Creditor’s Claim on June 29, 2017.

14 In a separate case, the Court entered a default judgment in *Commonwealth Development*
15 *Authority v. Bobbie’s Amusement Co.* on September 13, 2011. *See Commonwealth Development*
16 *Authority v. Bobbie’s Amusement Co.*, Civ. No. 10-0360-CV (NMI Super. Ct. Sept. 13, 2011)
17 (Final Judgment) (“Bobbie’s Amusement”). *Bobbie’s Amusement* case dealt with Loan CD 33194,
18 which was personally guaranteed by the Decedent. The Estate argues that the Court should set aside
19 the default judgment in *Bobbie’s Amusement*. Resp. to Creditor’s Resp. to Opp. at 1. The Estate
20 argues that it was not given proper notice about *Bobbie’s Amusement*, and that Greg Calvo, the
21 CDA Commercial Lending Officer, told Jay Pangelinan that ““the loans were in good order and
22 they were not in default.”” *Id.* at 2.

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1 **II. DISCUSSION**

2 **A. The Default Judgment in *Bobbie’s Amusement* Cannot Be Set Aside, As that Case is**
3 **not Presently Before the Court**

4 Before getting to the core of the Estate’s opposition to CDA’s claim, the Court will address
5 whether the default judgment in *Bobbie’s Amusement* should be set aside. The Estate argues that
6 the Court should set aside the default judgment in *Bobbie’s Amusement*, because the Court was
7 “misled by [CDA] to enter a default judgment (‘Improper Judgment’) against the Estate.” Resp. to
8 Creditor’s Resp. to Opp. at 1. The Estate argues that it was not given proper notice about the
9 *Bobbie’s Amusement* case, and that Greg Calvo, the CDA Commercial Lending Officer, told Jay
10 Pangelinan that ““the loans were in good order and they were not in default.”” *Id.* at 2.

11 The Court notes that *Bobbie’s Amusement* is not the case currently before the Court, and
12 there is nothing on the record in the present case showing that any motions to set aside default
13 judgment have been filed in *Bobbie’s Amusement*. The Estate did not raise the issue of setting aside
14 the default in *Bobbie’s Amusement* until its Response to Creditor’s Response to Opposition to
15 Creditor’s Claim of the Commonwealth Development Authority. There have been no arguments
16 made to the Court as to whether the Court should allow a collateral attack on the default judgment
17 in *Bobbie’s Amusement*, nor have any arguments been made pursuant to Commonwealth Rules of
18 Civil Procedure Rules 55(c) or 60(b).⁴ Thus, without more, the Estate may not use this probate
19 proceeding to collaterally attack the default judgment in *Bobbie’s Amusement*.

20 **B. CDA’S Creditor Claims Against the Estate is not Barred**

21 CDA claims that the Estate did not give proper notice of the Decedent’s death until 2010
22 and that CDA subsequently made a timely claim upon the Estate. The Estate opposes CDA’s

23 ⁴ “For good cause shown the court may set aside an entry of default and, if a judgment by default has been entered,
24 may likewise set it aside in accordance with Rule 60(b).” NMI R. Civ. P. 55(c). Rule 60(b) allows for final judgments
to be set aside in a variety of situations.

1 creditor claims, arguing that CDA failed to timely file its claims on the Decedent’s estate with the
2 Court, and that the Estate provided timely notice to CDA of the Decedent’s passing in 2008. Opp.
3 to CDA’s Claims at 7.

4 Pursuant to Title 8, Section 2924, claims against an estate are barred unless:

5 Within 60 days after the date of the first publication of notice to creditors if notice is
6 given in compliance with the Commonwealth Trial Court Rules of Probate
7 Procedure; provided, claims barred by the nonclaim [sic] statute at the decedent’s
8 domicile before the first publication for claims in the Commonwealth of the
9 Northern Mariana Islands are also barred in the Commonwealth.

8 CMC § 2924(a)(1) (“Section 2924”). In other words, if the Estate properly provides notice to
9 creditors pursuant to the Commonwealth Rules of Probate Procedure, any creditor claims filed
10 more than 60 days after proper notice was provided are barred.

11 Before a claim is barred, Section 2924 requires the Estate to provide proper notice to
12 creditors. Section 2924 then must be read together with the Commonwealth Rules of Probate
13 Procedure. *Estate of Roberto*, 2002 MP 23 ¶ 23. “The plain language of section 2924(a), read in
14 conjunction with Rules 6 and 11, clearly conditions entitlement to the sixty-day limitations period
15 upon publication, at least five days prior to the probate hearing, of sufficient notice to creditors.”
16 *Roberto*, 2002 MP 2 ¶ 24.

17 Rules 6 and 11 of the Commonwealth Rules of Probate Procedure outline the procedure for
18 noticing creditor claims. Rule 6 outlines a number of requirements for providing notice of a new
19 probate case—in particular, requiring that the petitioner “[c]ause the notice of hearing to be served
20 personally upon or mailed to the heirs of the testator” and also “[c]ause the notice of the hearing to
21 be published in a newspaper published in the Commonwealth at least once, said publication to be at
22 least five days before the hearing.” NMI R. Prob. P. 6(2)-6(3).

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1 Rule 11 describes in detail the procedures to be followed regarding creditor claims on an
2 estate. Rule 11 imposes three requirements on the executor⁵ of an estate to provide adequate notice
3 to creditors. First, the executor of an estate must provide notice in a newspaper pursuant to Rule
4 6(3), notifying creditors that “they must file their claims with the Clerk of Court within 60 days of
5 the first publication of said notice.” NMI R. Prob. P. 11. Second, “the executor shall, within 20
6 days of the executor’s appointment, give notice by personal delivery, or by mail to the last known
7 address, to each creditor,” and any personally delivered or mailed notice “shall advise the creditor
8 that claims must be filed no later than 60 days after the date of first publication as above provided,
9 and that any claims not presented within such times shall be forever barred.” *Id.* Third, Rule 11
10 requires that the “executor shall file a certificate of delivery or mailing in accordance with this
11 section, together with Post Office Receipts if available provided that notice shall be considered
12 complete notwithstanding the notice may have been returned undeliverable . . . by the Post Office
13 or the receipt shall have been signed by a person other than the creditor.” *Id.* If proper notice is
14 given to creditors pursuant to Rules 6 and 11, any creditor claims that were not timely filed are
15 barred. NMI R. Prob. P. 6, 11.

16 The key issues therefore are: 1) whether the Estate properly gave notice to CDA of the
17 probate case pursuant to Rules 6 and 11 of the Commonwealth Rules of Probate Procedure, and 2)
18 whether the CDA’s claims were timely filed based on when CDA was given proper notice pursuant
19 to Rules 6 and 11 of the Commonwealth Rules of Probate Procedure.

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23 ⁵ An executor is “[a] person named by a testator to carry out the provisions in the testator’s will.” *Executor*, BLACK’S
24 LAW DICTIONARY (Abr. 9th Ed. 2010). An administrator is “[a] person appointed by the court to manage the assets and
liabilities of an intestate decedent.” *Administrator*, BLACK’S LAW DICTIONARY (Abr. 9th Ed. 2010). The duties of an
executor and administrator are functionally the same.

1 **1. The Estate Did Not Give CDA Proper Notice Until April 21, 2010**

2 The Court will first turn to whether the notice requirements in Rules 6 and 11 were followed
3 by the Estate and, if so, when filing deadline for creditor claims occurred. Edward Flores was
4 appointed as executor on September 12, 2008. Thus, the Estate had 20 days from September 12,
5 2008, until October 2, 2008, to provide “notice by personal delivery, or by mail to the last known
6 address, to each creditor,” and any personally delivered or mailed notice “shall advise the creditor
7 that claims must be filed no later than 60 days after the date of first publication as above provided,
8 and that any claims not presented within such times shall be forever barred.” NMI R. Prob. P. 11.

9 On August 22, 2008, the Estate filed its Notice of Hearing and Notice to Creditors. On
10 August 29, 2008, the Estate filed a Declaration of Publication, signed by Laila Younis-Boyer,
11 affirming that the Notice of Hearing and Notice to Creditors was published in the Marianas Variety
12 Newspaper on August 27, 2008.

13 The Estate did not file its Affidavit of Mailing until May 21, 2010, stating that a notice had
14 been mailed to creditors CDA and Commonwealth Health Center (“CHC”) on April 16, 2010. The
15 letters were sent to CDA and CHC on April 16, 2010. The letter to CDA was stamped as received
16 on April 21, 2010. The Estate’s letter included the required language that the creditors must make
17 their claims within 60 days of receiving the notice, informing CDA that it had “up to sixty (60)
18 days from the date of receiving this notice to file any claims against the Estate and that any claims
19 not presented within such time shall be forever barred.” Ex. B. CDA and CHC were not provided
20 with proper notice by mail until a year and a half after the initial notice by publication in 2008.

21 The Estate argues that not only has it complied with the notice requirements outlined in
22 Rules 6 and 11, but that “the Estate actually went over and beyond what is required of constructive
23 notice” in the Rules. Opp. to CDA’s Claims at 6. The Estate claims that notice was given to CDA
24 since Jay Pangelinan and Edward Flores had personal discussions with some employees of CDA

1 about the Decedent's passing and about the Decedent's loans from CDA. Jay Pangelinan, for
2 example, claims that he spoke with a "CDA official" who knew that an Administrator had been
3 appointed in the Decedent's probate, and that he spoke with a CDA employee, Greg Calvo, about
4 the Decedent's death. Decl. of Jay Pangelinan at 2. In the Response to Creditor's Response to
5 Opposition to Creditor's Claim of the Commonwealth Development Authority, filed by Jay
6 Pangelinan on behalf of the Estate, the Estate argued that notice was given to CDA on multiple
7 occasions when Jay Pangelinan spoke with Greg Calvo and that notice was given in person by
8 Edward Flores. CDA, on the other hand, argues that the Estate did not fully comply with Rules 6
9 and 11, and thus their creditor claims were timely filed.

10 The Commonwealth Rules of Probate Procedure provides several requirements for
11 providing notice to creditors, including requiring that notice be given both by publication *and* "by
12 personal delivery, or by mail." NMI R. Prob. P. 11. There is nothing on the record indicating that
13 any of these personal contacts with CDA involved a personal delivery of a notice advising "the
14 creditor that claims must be filed no later than 60 days after the date of first publication as
15 provided." *Id.* Both Jay Pangelinan and Edward Flores knew that CDA was a creditor of the
16 Decedent, and both failed to provide the required notice to CDA through their personal discussions
17 with employees of CDA.

18 Based on the requirements in Rules 6 and 11, the Estate did not provide proper notice to
19 CDA until 2010. Although the Estate provided notice by publication in 2008, the Estate did not
20 provide notice to CDA advising CDA of the sixty day deadline until April 2010. The Estate drafted
21 a letter to CDA dated April 9, 2010 and sent the letter on April 16, 2010. The Estate's letter
22 informed CDA that it had "up to sixty (60) days from the date of receiving this notice to file any
23 claims against the Estate and that any claims not presented within such time shall be forever
24

1 barred.” Ex. B. The letter was stamped as received by CDA on April 21, 2010, so the date CDA
2 received proper notice is April 21, 2010.

3 **2. CDA Timely Filed Its Claim After Receiving Proper Notice**

4 CDA received proper notice on April 21, 2010. The Court must now determine whether
5 CDA’s claim was timely filed in accordance with the Commonwealth Rules of Probate Procedure.
6 CDA had 60 days from April 21, 2010 to file a claim pursuant to Rule 11. CDA filed its notice of
7 claim on June 16, 2010. The letter sent to CDA did not refer back to the publication date, but
8 instead notified CDA that it had sixty days from the *receipt* of the notice to file a claim. CDA then
9 filed its claim 56 days later, on June 16, 2010. CDA’s claim then was timely filed.

10 Since the Estate did not provide proper notice to CDA until April 2010, and since CDA
11 timely filed its claim upon receiving notice, CDA’s claim is not time barred. Accordingly, the
12 Estate’s Opposition to Creditor Claims of the Commonwealth Development Authority is denied.

13 **III. CONCLUSION**

14 Based on the abovementioned reasons, the Court **DENIES** the Estate’s Opposition to
15 Creditor Claims of the Commonwealth Development Authority. Since CDA is a creditor of the
16 Estate, it is a proper party to this case.⁶

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18 **IT IS SO ORDERED** this 26th day of January, 2018.

19
20 /s/
21 JOSEPH N. CAMACHO
22 ASSOCIATE JUDGE

23 _____
24 ⁶ CDA’s Objection to Inventory will be addressed in a separate order.