

L. A. MCNALLEY

ATTORNEY AT LAW  
MINNEAPOLIS, KANSAS

July eleven, 1945

Major Avern B. Scolnik,  
472 Federal Building,  
Detroit, 26, Michigan.

Re: Louella Apartment Stock  
Etoile B. Simons

Dear Major:

Since our conversation with Uncle Charlie, I have reviewed the above matter thoroughly. Under the petition filed in Iowa, it was alleged that Etoile B. Simons died a resident of the State of Iowa. This matter was heard and the Court granted the petition based upon residence in Iowa. Shortly before her death, Etoile B. Simons had moved a large portion of her personal belongings to Lawrence, Kansas. If she was not a resident of Iowa, she would in any event be a resident of Kansas. Since the Courts in Iowa have adjudged her a resident of that state I do not believe any other state could question this judgment. If such question were raised and sustained, her legal residence would in any event be in Kansas.

Due process was had in all matters concerning the estate in Iowa and all claims that were filed against her estate were satisfied in full. The time for filing any claims against her estate in Iowa or in Kansas has now passed. No claim, regardless of its nature, can now be established in either of these two states. Since no creditors are able to establish a claim against her estate, her undistributed property passes directly to her heirs. If claims had been filed against the estate of Etoile B. Simons, and these claims remained unpaid, then such creditors would be able to follow any undisclosed assets; but the rule is otherwise where they have failed to establish their claim.

Under these circumstances, we can assume that the endorsed certificates for stock in the above corporation are pledged as collateral to the debts of Etoile B. Simons, and pledged or mortgaged property is not affected by the administration of her estate. It seems to me that an agreement by all of her heirs to allow a distribution of this stock by the officers of the company is all that would be needed and we would not then be bothered with gift tax or other taxes under this situation and distribution. The Internal Revenue department cannot change the rights of the parties as heirs or distributees under the laws of Iowa and Kansas. I have found that the laws of Iowa and Kansas concerning creditors of an estate are the same.