

ANALYSIS OF THE SETTLEMENT OF THE ESTATE OF ADAM CHERRY, DEC.
as shown by the accounts of L. J. Cherry, admin.,
and what it fails to show.

In going through the various settlements made by the administrator and checking with a list of the deposits over the entire period of the administration, the said list of deposits, giving the dates thereof, we find where hogs were shipped to the market and the hauling paid, which checks except in certain instances.

On February 2, 1932, the administrator paid Will Cherry for hauling hogs in the amount of \$1.25. The nearest date of a deposit that might be from the proceeds from these hogs is on February 24, 1932 in the sum of \$43.70. The administrator should be able to explain this item.

On December 3, 1932, the administrator paid Will Cherry and Arch Young \$6.50 for hauling hogs. The nearest date of a deposit that might account for these hogs is on November 3, 1932. Our information is that there were 32 hogs sold at this time and the deposit is in the amount of \$144.68. This is a small return for that number of hogs, and since the dates of hauling and deposits are widely separated, this item should likewise be explained by the administrator.

On April 21, 1934, Will Cherry was paid \$6.50 for hauling hogs; yet there is no deposit at all in that range of time signifying that the estate ever received anything for them.

On June 13, 1935, Will Cherry was paid \$3.00 for hauling hogs, yet there is no deposit in that range of time indicating that the estate received the proceeds.

On April 27, 1937, J. D. Cherry was paid \$7.37 for hauling hogs and for wallpaper; yet there is no deposit in this range of time indicating that the estate received any proceeds from that sale.

On September 5, 1937, Will Cherry was paid \$2.00 for hauling and there is no deposit showing the estate received any proceeds from that sale.

The items mentioned in the last four paragraphs should certainly be explained by the administrator. It may be possible that he cashed the checks and paid out the money on legitimate expenses, or a bookkeeper in the bank may have made a mistake and placed the money to the individual credit of L. J. Cherry. An error of that kind is not unusual. At least the administrator can check into this and should make an explanation.

The following discrepancies in the aforesaid settlements are apparent on the face of the settlements.

6-19-1930 Mrs. Martin check returned	29.35
6-27-1930 C. Gohard check returned	75.28
7-27-1930 Hogs-J. B. Young (paid in corn)	<u>10.00</u>
	114.63

The above items are not proper charges against the estate.

Commission charged on same by Admr.	4.72
2-2-1932 loan to Upton & Young \$169.80	8.48
Commission improperly charged on same	<u>10.14</u>
Interest collected on said loan not listed	
5-4-1932 Hogs bought, L. A. Young, \$100.00	5.00
Admr. Commission improperly charged	
4-7-1932 hogs bought, E. E. Flora \$12.50	.62
Admr. Comm. improperly charged	
4-8-1932 J. D. Cherry bal. hogs 15.00	.25
Admr. Comm. improperly charged	
6-7-1932 calf bought, J. B. Young 8.32	.41
Comm. improperly charged	
7-10-1934 cows bought, H. B. Basham, Admr. \$59.50	2.97
Admr. Comm. improperly charged	
7-19-1934 J. D. Miller, cow and calf \$22.50	1.12
Admr. Comm. improperly charged	
10-1-1934 J. D. Miller, calf \$1.75	.08
Admr. Comm. improperly charged	
	<u>128.29</u>

The Administrator received commissions as follows:

1-26-1928	3321.99
3-27-1931	129.39
4-27-1934	72.30
11-24-1937	68.08
7-11-1938	<u>202.50</u>
	3800.36

Commission improperly charged on said amount \$40.00

The Admr. was distributee in the following amounts

1-26-1928	252.45
7-11-1929	206.63
3-27-1931	<u>109.42</u>
	568.90

Comm. improperly charged on said amount 28.44

The administrator paid himself commissions in the sum of \$800.26. The total amount paid out by him as shown by his settlements aggregate \$16068.99 and the commission at 5 per cent on said amount is \$802.94, showing that he failed to collect \$1.68 in commission that was due him.

SUMMARY OF IMPROPER CHARGES

Returned checks and improper commission, page 2	\$128.29
Commission improperly charged as distributee	261.44
Commission improperly charged on commission	<u>40.00</u>
	166.73

The above represents the amount due the estate from the administrator as shown by the items listed heretofore.

PRODUCE OF FARM NOT ACCOUNTED FOR BY ADMN.

1931 L. J. Cherry received	13 bales of hay	13 bales hay
1932 "	12 1/2 bu. corn	12 1/2 bu. corn
5-9-1932 "	4 bales of hay	4 bales hay
1933 "	12 1/2 bu. corn	12 1/2 bu. corn
1932 "	12 1/2 "	12 1/2 "
1932 "	12 1/2 "	12 1/2 "
1932 "	12 1/2 "	12 1/2 "
10-14-1932 "	2 bales hay	2 bales hay
11-4-1932 "	12 1/2 bu. corn	12 1/2 bu. corn
11-15-1932 "	12 1/2 bu. corn	12 1/2 bu. corn
11-30-1932 "	18 "	18 "
1934 "	1 stack hay	1 stack hay
1935 "	12 1/2 bu. corn	12 1/2 bu. corn
1935 "	12 1/2 bu. corn	12 1/2 bu. corn
1935 "	12 1/2 "	12 1/2 "
1935 "	10 "	10 "
1935 "	12 1/2 "	12 1/2 "
1936 "	12 "	12 "
1937 "	12 1/2 "	12 1/2 "

8 Barns 30 60
Corn

1 hay - 1500
1935

Total corn	202 1/2 bu.	2 pigs
Total hay	19 bales	2 hogs
Loose hay	1 stack	1 hog
1936 L. J. Cherry received	2 pigs	2 pigs
1936 "	2 hogs, 175 lbs. each	2 hogs
1936 "	1 hog 200 lbs.	1 hog
1934 "	2 hogs, 200 lbs each, net	2 hogs
Total hogs	5 hogs	
Pigs	2 pigs	

1938 Pasture not listed, Bud Shepherd
1938 " " Clyde Upton

67.00
4.00
11.00

1938 the estate fed for L. J. Cherry 2 mules
into the spring of 1938, approximately 4 mo. there
is no accounting for this item.

Not listed as assets of the estate and the date of
which we are uninformed, Harry Cherry delivered to
L. J. Cherry 4 five barrel loads of corn or 100 bu.

The items listed in each of the paragraphs on page 1
should be satisfactorily explained and accounted for.

On page 2 the Adm. could not charge back to the estate
the checks listed, as he sold the property and received nothing
for it, he could be allowed no commission on the items. The
other commission charges listed on page 2 under the second
heading are not proper charges, because when this money was
returned to the estate, he received his commissions on paying
out same, otherwise to allow these items would consist of
double commission thereon.

On page 3 is shown \$40.00 charge on commissions received
by him. On the basis of his settlements as to the total amount
the \$400.00 is included, he cannot under the law, charge com-
mission on his commission.

Again on page 3 is shown his distributable part paid to
himself, which with other items, goes to make up the aggregate
amount on which he is charged commissions. He cannot charge
commission on amounts paid to him as to his distributable share.

Summarizing this whole attempt to analyze and arrive at a
just and fair accounting of the matters of the estate and of the
personal property of the estate received by L. J. Cherry, we find
two questionable deposits in connection with hogs hauled on page
1. The remainder of items on page 1 show the apparent hauling of
hogs to market and no deposits to correspond.

To the total of improper charges as shown on page 2, should
be added \$11.00 for pasture, making a total of \$207.73, but to
make an accurate accounting from this this item should be deducted
\$1.88 cents which represents the balance of the commission as
shown by his settlements, leaving a net amount of \$206.05.

The fees for the mules for 4 months, the corn, hay and hogs
should be figured at the value at the dates received and accounted
for by the administrator, and when this is done, if we are correct,
in our tabulation, he will owe the estate several hundred dollars.

In conclusion we would say that we think the errors and
mistakes in these settlements are brought about by the administrator's
failure to keep any detailed books as such over a long period of
time; predisposing a haphazard accounting, rather than any dishonesty
on his part and this analysis is made with those things in view with-
out any intention of reflecting upon his integrity.