§ 1001. Order of priority for granting letters of administration

1. Letters of administration must be granted to the persons who are distributees of an intestate and who are eligible and qualify, in the following order:

(a) the surviving spouse,

(b) the children,

(c) the grandchildren,

(d) either parent,

(e) the brothers or sisters,

(f) any other persons who are distributees and who are eligible and qualify, preference being given to the person entitled to the largest share in the estate, except as hereinafter provided:

(i) Where there are eligible distributees equally entitled to administer the court may grant letters of administration to one or more of such persons.

(ii) If the distributees are issue of grandparents, other than aunts or uncles, on only one side, then letters of administration shall issue to the public administrator or chief financial officer of the county.

2. If the sole distributee has died or is an infant, incompetent or conservatee, his fiduciary, committee or conservator, if he is eligible and qualifies shall be granted letters of administration. The court may deny letters to a guardian or committee of the person only.

3. (a) Where all the distributees have died or are infants, incompetents or conservatees the court may grant letters of administration to a fiduciary, committee or conservator of a deceased distributee or infant, incompetent or conservatee distributee, if he is eligible and qualifies. If the court exercises its discretion preference shall be given to the fiduciary, committee or conservator of the distributee entitled to the largest share in the estate.

(b) Where all such distributees are equally entitled to share in the estate the court may grant letters of administration to one or more of their fiduciaries, committees or conservators, if they are eligible and qualify.

4. (a) Where a distributee who has died or is an infant, incompetent or conservatee would have had a prior right to letters of administration except for his death or disability the court may grant letters to his fiduciary, committee or conservator, if he is eligible and qualifies.

(b) Where no eligible distributee having a prior or equal right to letters of administration will accept the same and there are distributees who have died or are infants, incompetents or conservatees the court may grant letters to a fiduciary, committee or conservator of a deceased distributee, infant, incompetent or conservatee distributee, if he is eligible and qualifies. If the court exercises its discretion preference shall be given to the fiduciary, committee or conservator of the distributee entitled to the largest share in the estate.

(c) Where all such distributees who have died or are infants, incompetents or conservatees in the circumstances of subdivision 4 (b) are equally entitled to share in the estate the court may grant letters of administration to one or more of their fiduciaries, committees or conservators, if they are eligible and qualify.

5. Upon the petition of a distributee having a prior or equal right to letters of administration the court may grant letters jointly to an eligible distributee or distributees and to one or more eligible persons whether distributees or not, including a trust company or other corporation authorized to act as fiduciary. Such joint fiduciaries shall be entitled to commissions as authorized by 2307.

6. Letters of administration may be granted to an eligible distributee or to an eligible person who is not a distributee upon the acknowledged and filed consents of all eligible distributees, or if there are no eligible distributees, then on the consents of all distributees, except that the guardian of the property of an infant distributee, the committee of the property of an incompetent distributee or the conservator of property of a conservatee appointed within the State of New York may so consent on behalf of his ward. For purposes of this subdivision, a distributee is eligible if letters of administration could be issued to him or her alone or acting together with the person or persons so nominated.

7. Letters of administration may be granted to a trust company or other corporation authorized to act as fiduciary upon the acknowledged and filed consents of all eligible distributees, or if there are no eligible distributees, then on consents of all distributees, except that the guardian of the property of an infant distributee, the committee of the property of an incompetent distributee or the conservator of property of a conservatee appointed within the state of New York may so consent on behalf of his ward. For purposes of this subdivision, a distributee is eligible if letters of administration could be issued to him or her alone or acting together with the trust company or other corporation so nominated.

8. When letters are not granted under the foregoing provisions and an appointment is not made by consent as hereinbefore provided then letters of administration shall be granted in the following order:

(a) to the public administrator, or the chief fiscal officer of the county, or

(b) to the petitioner, in the discretion of the court, or

(c) to any other person or persons.

9. Letters of administration may be granted by the court in any case in which a paper writing purporting to be a will has been filed in the court and proceedings for its probate have not been instituted within a reasonable time or have not been diligently prosecuted.