§ 2310. Payment on account of commissions

1. At any time during the administration of an estate and irrespective of the pendency of a particular proceeding a fiduciary may present to the court from which his letters issued a petition praying that he be permitted to receive a sum on account of the commissions to which he would be entitled if he were then filing his account and it were judicially settled, which must show the facts upon which the application is founded.

2. If the application be entertained process shall issue to all persons whose rights or interests would be affected by the payment applied for, citing them to show cause why the relief requested be not granted.

3. Upon the return of process the court may award a sum on account of commissions or make such other order or decree, if any, as justice shall require. The payment on account shall not exceed the receiving commissions due the fiduciary, except that the court may award a greater sum where all persons whose rights or interests are affected by the payment are persons under no legal disability and by acknowledged instrument consent thereto.

4. The total expenses of the application shall be borne by the person or persons to whom an award of commissions may be made, or if the application be denied, by the petitioner personally.

5. The order or decree authorizing the payment on account shall require the fiduciary to file a bond in the amount of the payment securing its return if and to the extent the payment is disallowed, except that no such bond shall be required where the fiduciary has already filed a bond pursuant to law or is a corporate fiduciary or where all persons whose rights or interests would be affected by the payment are persons under no legal disability and by acknowledged instrument consent to waive a bond or where the will specifically dispenses with such a bond.