
Hughes Hubbard & Reed

Hughes Hubbard Secures Financial Relief for Long-Standing Nonprofit

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Hughes Hubbard won a petition to modify a use restriction on a \$1 million charitable gift for Riverside Language Program, a long-standing New York nonprofit that has provided free English language classes and support services to immigrants and refugees for over 30 years.

The gift came from the estate of the late Manhattan philanthropist Marie Markus. Markus, a refugee from Nazi Europe, was Riverside's largest donor, providing up to \$50,000 each year for a decade prior to her death. In her will, Markus empowered her executor to continue to make gifts to charity in accordance with her instructions.

In 2006 Markus's executor gave Riverside an unrestricted \$1 million gift. In 2007, in response to a request from Riverside for support to purchase new space to house their programs, Markus's executor gave Riverside a second \$1 million gift earmarked specifically for that purpose. Unfortunately, other funding for the space purchase fell through.

Meanwhile, Riverside was facing a severe financial crisis brought on by steep cuts in public funding, which reduced the organization's program budget by more than half.

Considering these changed circumstances, Riverside reached out to Markus's executor to request a release of the restriction on the 2007 gift, only to learn that he had died. So Riverside turned to Hughes Hubbard, which asked Judge Mella to issue a cy pres order, modifying the restriction.

Hughes Hubbard sought emergency relief for Riverside in a petition filed Feb. 28, 2014, having worked closely with the Attorney General's office and secured its support. The Court granted Riverside's petition just 13 days later, on the papers and without a hearing.

In granting cy pres relief, the Court held, "Despite continuing recognition that [Riverside] is an important community resource, its revenues have steeply declined in recent years. . . In the present case, it is clear that the donation in question cannot as a practical matter be put to the narrow use for which it was originally earmarked.

It is also clear that the modification sought would be consistent with the testator's broad charitable intent as expressed in the will and would as nearly as possible promote her objectives for [Riverside] as her executor understood them."

As a result, Riverside's doors stay open, its staff can keep their jobs, and the organization continues to provide critical services to New York City's immigrants and refugees.

Neil Oxford, Meredith Stead, Susan Vignola and Sara Echenique represented Riverside in this matter.

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