BEING A TRUSTEE

PROFESSIONAL FIDUCIARY SERVICES

It’s Your Estate - Fall 2025

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Fiduciary Roles

- Living Trust - Successor Trustee
- Pour over Will - Executor
- Power of Attorney - Finance - Agent
- Advance Health Care Directive - Medical - Agent
- Legal Authority to Act in the Best Interest
- Fiduciary Duties and Liabilities

Advance Health Care Directive

- Provide, withhold, or withdraw artificial nutrition and hydration and cardiopulmonary resuscitation and other forms of health care.
- Selection and discharge of health care providers and institutions
- Approval or disapproval of diagnostic tests, surgical procedures and programs of medication
- Dignified Death - communicate with agent
- “Your Way” booklet www.help4srs.org
- POLST - Physician Orders for Life Sustaining Treatment
- Funeral Plans - burial, cremation, ceremony event

Advance Health Care Directive - Advocate

Power of Attorney for Finance

- Effective during lifetime and during incapacity
- Usually requires note of incapacity from doctor to activate - springing
- Legal authority of “personal” financial assets - bank accounts, investment accounts, retirement accounts - IRA’s and 401(k)’s, automobiles
- Agent has no authority of Trust assets

LANGUAGE TERMS AND DEFINITION

- Trustor, Settlor, Grantor - owner of the Trust
- Trustee, Successor Trustee - managing, controlling trust property, holds legal title
- Beneficiary - entitled to receive income and/or principal - Settlor, Grantor, Trustor
- Remainder Beneficiary - distribution of trust assets after passing of Settlors
- Specific Bequest vs Percentage Beneficiary - priority to specific bequest

Duties of Trustee

- List of Duties from Probate Code(PC 16000’s) of California
  - Duty to Administer Trust According to its Terms
  - Duty to Follow Written Directions from Trustor
  - Duty of Loyalty to Beneficiaries
  - Duty of Impartiality to multiple beneficiaries
  - No Self-Dealing

Duties of Trustee(cont.)

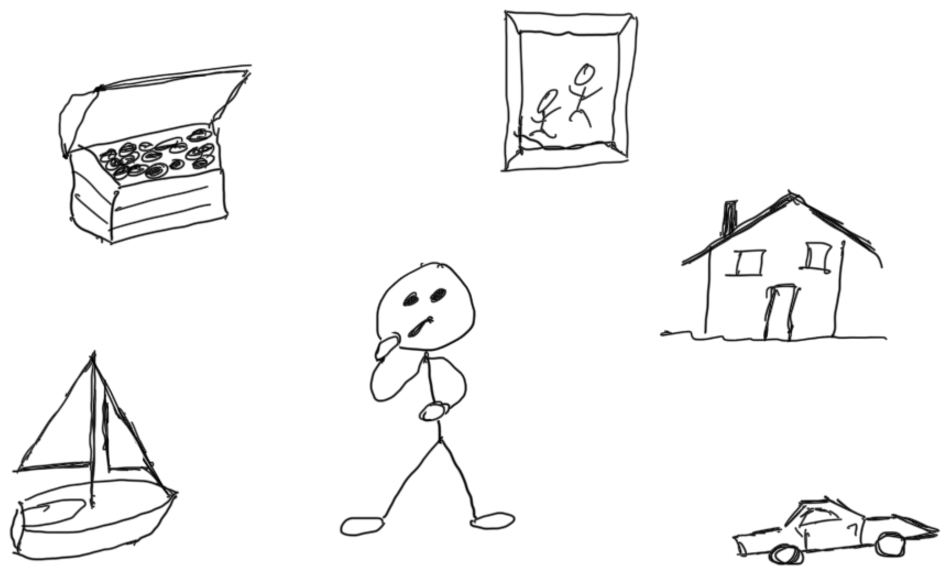
- Duty to Take Control of and Preserve Trust Property.   Make Productive
- Duty to Keep Trust Property Separate and Identified
- Duty to Enforce Claims and Defend Actions
- Duty to Apply Full Extent of Trustee’s Skills
- Trustee’s Duty to Report Information and Account to Beneficiaries

Death of the Trustor - pulling the strings

Trustee Administration Process

- Triggering Event; either Incapacity or Death
- Successor Trustee takes over control for Trustor and/or Trustee.
- Read the Trust and read it again.   New language, rules, powers, directions
- Successor Trustee is not the Owner/Settlor, but assumes the responsibility
- Trust outlines the duties, authorities, distributions, powers, provisions
- Trust outlines and creates Special Needs Trusts, SubTrust, AB Trust, etc.

Know the Assets - Title



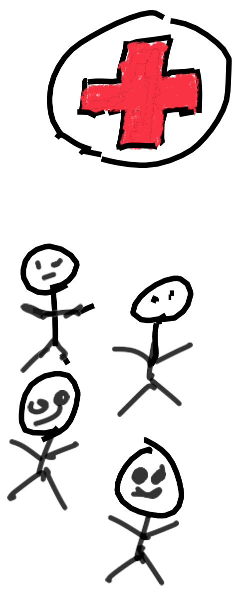
Trustee Administration Process(cont)

- AB Trust outlines HEMS: Health, Education, Maintenance, and Support - very broad discretion for distribution by Trustee
- Marshal financial accounts - Death Certificate or doctors note for incapacity Present Drivers License and copy of Trust to follow institutions steps
- Change of Address
- Marshal Properties, Utilities, Taxing Authority, Insurance, etc.
- Request Tax EIN number from IRS for Irrevocable Trust
- Select CPA, Trust Tax Returns and Tax Preparation

Trustee Administration Process(cont)

- Create Trust Records of Assets in Trust, showing Liabilities, Cost Basis, Values
- Select Accountant/Bookkeeper with competency for Trust accounting and reporting, administration of expense, and software(Quickbooks)
- Review Assets, Insurance policies
- Distributions of Income and Principal and the Trust rules
- Distributions of SubTrust, SNT, and Beneficiaries
- Separation of Community Property and Separate Property of Spouses
- Separation of AB Trust to Survivor Trust and Bypass Trust

Types of Beneficiaries



Trustee Administration Issues

- Do not Commingle the Trust Funds with your funds.
- Do not Sell Real Property without MLS offering, No handshake deals
- Use Property Managers, use Business Managers, use Financial Managers, use Bookkeeping and Tax Professionals
- Communicate with Beneficiaries to include on decisions, plans, timeline
- Distribution of Income and Principal
- Trustee's Compensation - .5% to 2% value of trust assets - reasonable

Benefits of Professional Fiduciary

- Neutral third party, no family history, no emotional attachment
- Vast experience in trust administration with knowledge of probate codes and trustee duties
- Quality network of professional services; CPA, financial advisor, property manager, care manager, etc.
- Serve in the incapacity fiduciary positions - Power of Attorney for Finance and Advance Health Care Directive
- Family beneficiaries could be less likely to fight
- Fees - approximately 1% annually during incapacity, 2% after death of surviving spouse - based on value of trust assets

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