

RECORDING REQUESTED BY:

DOC # 0687993
11/03/2006 04:25 PM Deputy: GB
OFFICIAL RECORD
Requested By:
ROWE & HALES

WHEN RECORDED RETURN TO:

✓ Pearl D. Roberts
c/o Stanley J. Roberts
1185 Sierra View Drive
Gardnerville, NV 89410

Douglas County - NV
Werner Christen - Recorder
Page: 1 Of 12 Fee: 25.00
BK-1106 PG- 1676 RPTT: 0.00



SPACE ABOVE THIS LINE FOR RECORDER'S USE

UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Probate Code Section 4401)

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT (CALIFORNIA PROBATE CODE SECTIONS 4400-4465, INCLUSIVE). IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

I, **PEARL D. ROBERTS** (also known as PEARL DOUGHER ROBERTS and PEARL MARGARET ROBERTS), currently residing at Clarion Commons Assisted Living, 5300 East Los Angeles Avenue, Room 119, Simi Valley, CA 93063 (your name and address), appoint my son, **STANLEY J. ROBERTS** (also known as STANLEY JAMES ROBERTS), 1848 Rocking Horse Dr., Simi Valley, CA 93065 (name and address of the person appointed, or of each person appointed if you want to designate more than one), as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL

- ____ (A) Real property transactions.
- ____ (B) Tangible personal property transactions.
- ____ (C) Stock and bond transactions.
- ____ (D) Commodity and option transactions.
- ____ (E) Banking and other financial institution transactions.
- ____ (F) Business operating transactions.
- ____ (G) Insurance and annuity transactions.

PDR

- ____ (H) Estate, trust, and other beneficiary transactions.
- ____ (I) Claims and litigation.
- ____ (J) Personal and family maintenance.
- ____ (K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.
- ____ (L) Retirement plan transactions.
- ____ (M) Tax matters.

PDR (N) ALL OF THE POWERS LISTED ABOVE.

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

COPIES OF PROBATE CODE SECTIONS 4450 THROUGH 4465 setting forth the above specific provisions are attached to this Uniform Statutory Form Power of Attorney.

SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT:

1. **If STANLEY J. ROBERTS dies or is incapacitated or unwilling to act as my agent (attorney-in-fact), then I hereby appoint my son, MICHAEL L. ROBERTS (also known as MICHAEL LEE ROBERTS), currently residing at 8522 Glenoaks Blvd., #212, Sun Valley, CA 91352 (name and address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) for me, in my name, place and stead, and for my use and benefit.**

If both STANLEY J. ROBERTS and MICHAEL L. ROBERTS die and/or are incapacitated and/or unwilling to act as my agent (attorney-in-fact), then I hereby appoint my daughter, PATRICE DARLENE ROBERTS, currently residing at #2 Inwood Ave., Monroe Township, NJ 08831 (name and address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) for me, in my name, place and stead, and for my use and benefit.

Incapacity may be established if the person has been so declared by a court of competent jurisdiction, a guardian, conservator or other fiduciary of the person or estate, or both, of the person has been appointed by a court of competent jurisdiction, or two (2) medical doctors have certified in writing that the person is unable to manage his/her financial affairs.

By accepting the position of agent, each person acting as agent, hereby expressly authorizes any physician or other health care provider or agency or entity to release information regarding his/her physical and mental condition required under this Uniform Statutory Form Durable Power of Attorney and may execute a declaration of said agent's "inability to handle his/her financial affairs." Each such agent expressly consents to any such physician or other health care provider or agency or entity communicating with any named successor agent and providing any of the above information to such successor agent of this power of attorney.

IN ADDITION to the powers set forth above, my agent shall have the powers hereinafter set forth. Subject to Paragraph 17 below, it is intended that my agent have the maximum powers permitted. If the following powers are in any way deemed less than those set forth above, my agent shall have the following powers AND the powers set forth above (i.e. except as provided in Paragraph 17, the following powers are to in no way limit the above powers granted to my agent).

2. **To invest and reinvest my funds in every kind of property, real, personal, or mixed, and every kind of investment, specifically including, but not limited to, corporate obligations of every kind; preferred or common stocks; shares of investment trusts, investment companies, and mutual funds; and mortgage participations.**

PDR

3. To demand, sue for, and collect all sums of money, debts, accounts, legacies, bequests, interest, dividends, annuities, and demands that are now, or may later become, due or payable me, including any benefits payable by any governmental body or agency (such as Supplemental Social Security (SSI), Medi-Cal, Medicare, and Social Security Disability Insurance (SSDI); for purposes of receiving Social Security benefits, my agent is hereby appointed as my Representative Payee), and to take all lawful means to recover such assets, and to compromise claims for such assets and grant discharges for such assets in my name.

4. To borrow such sums as my agent determines to be necessary for the proper management of my property, including but not limited to tax and estate planning matters; and to mortgage, convey by deed of trust, grant security interests in, or otherwise encumber, any real or personal property now or hereafter owned by me, whether acquired by my or my agent.

5. To establish one or more Individual Retirement Accounts (IRAs) and employee benefits plans (including a plan for a self-employed individual) on my behalf, to contribute to any IRA or plan held in my name, to roll over or direct transfers of plan benefits into other retirement plans or IRA accounts at the same company or at another company, to manage the accounts, to withdraw from any account without limitation, to select or change payment options and to apply for and make any elections under any IRA or employee benefit plan in which I am a participant, including elections required for payment of any and all types of employee benefits to which I may be entitled, to take possession of all such benefits, and to distribute such benefits to or for my benefit.

6. To prepare and file all income and other federal and state tax returns that I am required to file; to sign my name on tax returns, including Forms including, but not by way of limitation, IRS 1040, FTB 540; to hire preparers and advisers and pay for their services; and to do whatever is necessary to protect my assets from assessments for income taxes. My agent is specifically authorized to receive confidential information; to receive checks in payment of any refund of taxes, penalties, or interest; to execute waivers (including offers of waivers) of restrictions on assessment or collection of tax deficiencies and waivers of notice of disallowance of claims for credit or refund; to execute consents extending the statutory period for assessment or collection of taxes; to execute closing agreements under Internal Revenue Code section 7121 or any successor statute; and to delegate authority or substitute another representative concerning all the above matters.

7. To make gifts on my behalf to a class composed of my children, any of their issue, or both to the full extent of the federal annual gift tax exclusion under Internal Revenue Code section 2503(b) or any successor statute.

In addition, to make gifts so as to enhance my or my beneficiaries' ability to receive public benefits if deemed appropriate by my agent.

I hereby waive any conflict of interest my agent may have in making gifts and any such gifts made in good faith shall not be considered a breach of my attorney in fact's fiduciary obligations.

Notwithstanding the foregoing, my agent may not make gifts to himself/herself, his/her creditors, his/her estate or the creditors of his/her estate to any extent greater than already provided in my estate planning documents, except that my agent may make gifts to himself/herself as provided in the first paragraph of this Paragraph 7 (i.e. federal annual gifts which are exempt under Internal Revenue Code section 2503(b), or any successor section).

My agent shall not have any obligation to make such gifts, but may make such gifts if my agent deems same to be appropriate.

My agent may remove my assets from any grantor revocable trust of which I am a grantor and to make charitable contributions or other gifts on my behalf.

8. To transfer assets to and remove assets from any and all revocable living trusts of which I am or become a settlor.

9. To make direct payments to the provider for tuition and medical care for persons in the class composed of my issue or my spouse (even if my spouse is my agent) under Internal Revenue Code section 2503(e) or any successor statute that excludes such payments from gift tax liability.

10. To execute and deliver disclaimers on my behalf under Internal Revenue Code section 2518 and California Probate Code sections 260 through 295 or any successor statute.

11. To execute documents of transfer or conveyance or marital property agreements that convert the character of property in which I have an interest from joint tenancy to community property with my (if I am married at such time) for the purpose of obtaining a step-up in basis on the entire value of such property under Internal Revenue Code section 1014, as amended from time to time, if my agent deems such transaction to be in my best interests or the best interests of the beneficiaries of my estate.



12. To employ and discharge any accountants, attorneys, investment counsel, real estate brokers, property managers, bookkeepers, consultants, custodians, auditors, appraisers, or any other professionals that my agent deems reasonably necessary for the proper management and protection of my affairs, for the maintenance of proper accounts and records, and for advice in carrying out my agent's duties and responsibilities under this instrument. Without limiting the foregoing, my agent is authorized to employ investment managers, investment agents, or other investment specialists as my agent deems necessary or desirable. Specifically, my agent is authorized to appoint an investment manager to manage all or any part of my assets and to delegate to such manager investment discretion that is not inconsistent with my agent's duties under this instrument or applicable law. Such appointment may include the power to acquire and dispose of assets without first obtaining my agent's consent. My agent may pay reasonable compensation to any such professionals hired by my agent from my assets. Any compensation paid to such professionals may be taken into consideration in determining the reasonableness of any compensation taken or requested by my agent. The foregoing provisions are not intended to relieve my agent of the duty to exercise reasonable care and prudence in selecting, employing, and supervising any such professionals.

13. To seek appropriate court orders mandating acts that my agent deems appropriate if a third party refuses to comply with actions taken by my agent that are authorized by this instrument or enjoining acts by third parties that my agent has not authorized. In addition, my agent may sue a third party who fails to comply with actions I have authorized my agent to take and may demand damages, including punitive damages, on my behalf for such noncompliance.

14. To instruct and advise the trustee of any trust wherein I am or may be Settlor or beneficiary. My agent may not do so in any way that benefits himself, his creditors, his estate or the creditors of his estate in any way other than I have already provided for my agent on my own in the absence of the exercise of this durable power of attorney and other than as provided in paragraph 7 of this durable power of attorney.

15. To do, execute, and perform any other act, deed, matter, or thing, that in the opinion of my agent ought to be done, executed, or performed in conjunction with this power of attorney, of every kind and nature, as fully and effectively as I could do if personally present. The enumeration of specific items, acts, rights, or powers in this instrument does not limit or restrict, and is not to be construed or interpreted as limiting or restricting, the general powers granted to my agent except where powers are expressly restricted.

16. My agent is authorized to commence enforcement proceedings, at my expense, against any bank, financial institution, or other person or entity that fails or refuses to honor this durable power of attorney.

17. **Regardless of any other possible language to the contrary in this document, my agent is specifically NOT granted the following powers:**

- (a) To use the principal's assets for my agent's own legal obligations, including but not limited to support of my agent's dependents;
- (b) To exercise any trustee powers under an irrevocable trust of which my agent is a settlor and I am a trustee; or
- (c) To exercise incidents of ownership over any life insurance policies that I own on my agent's life.
- (d) To make my agent a beneficiary of any life insurance contract, annuity contract, retirement benefit or other asset except to the extent that my agent was named as a beneficiary under such contract or plan by me before executing the power of attorney.

18. My agent's signature under the authority granted in this power of attorney may be accepted by any third party or organization with the same force and effect as if I were personally present and acting on my behalf. No person or organization that relies on my agent's authority shall incur any liability to me, the my estate, heirs, successors, or assigns, because of reliance on this instrument. My estate, heirs, successors, and assigns shall be bound by my agent's acts under this power of attorney.

19. No successor agent shall be liable for any act, omission, or default of a prior agent. Unless requested in writing within sixty (60) days after appointment by me or an adult beneficiary of mine, no successor agent shall have any duty to investigate or review any action of a prior agent. The successor agent may accept the accounting records of the prior agent showing assets on hand without further investigation and without incurring any liability to any person claiming or having an interest in the principal's assets.

PDR

20. Any third party from whom my agent under this power of attorney may request information, records, or other documents regarding my personal affairs may release and deliver all such information, records, or documents to my agent without liability to me, my estate, heirs, successors, or assigns for release or delivery of such information, records, or other documents to my agent. I hereby waive any privilege that may apply to release of such information, records, or other documents, but only to the extent necessary to authorize such release.

21. No person who relies on any representation my agent may make regarding (a) the fact that the powers of my agent are then in effect, (b) the scope of my agent's authority under this instrument, (c) my competency at the time this instrument is executed, (d) the fact that this instrument has not been amended, terminated, or revoked, or (e) the fact that my agent continues to serve as my agent, shall incur any liability to me, my estate, or my heirs, successors, or assigns for permitting my agent to exercise any power granted in this instrument, nor shall any person who deals with my agent be responsible to determine or ensure the proper application of funds or property.

22. On the appointment of a conservator of my estate, this power of attorney shall terminate and my agent shall deliver the assets of mine under my agent's control as directed by the conservator of my estate. In such event, the creation or amendment of a Trust of mine may occur through an appropriate proceeding (e.g. a California Probate Code Section 2580 proceeding) in the Conservatorship. If a temporary conservatorship is established for the principal and thereafter is dismissed, then, absent an order in the conservatorship proceeding to the contrary, this power of attorney shall revive.

23. Only one original of this instrument has been executed. My agent is authorized to make photocopies of this instrument and any attached documents (such as certificates of incapacity) as frequently and in such quantities as my agent deems appropriate. Each photocopy shall have the same force and effect as the original, and all parties dealing with my agent are authorized to rely fully on any such photocopy showing my signature thereon.

24. To transfer any of my assets to any trust created by the principal.

25. **I ADVISE ANY PERSON OR ENTITY DEALING WITH MY AGENT UNDER THIS UNIFORM STATUTORY FORM DURABLE POWER OF ATTORNEY OF THE PROVISIONS OF PROBATE CODE SECTION 4406 which states as follows:**

(a) **If a third person to whom a properly executed statutory form power of attorney under this part is presented refuses to honor the agent's authority under the power of attorney within a reasonable time, the third person may be compelled to honor the agent's authority under the power of attorney in an action brought against the third person for this purpose, except that the third person may not be compelled to honor the agent's authority if the principal could not compel the third person to act in the same circumstances.**

(b) **If an action is brought under this section, the court shall award attorney's fees to the agent if the court finds that the third person acted unreasonably in refusing to accept the agent's authority under the statutory form power of attorney.**

(c) **For the purpose of subdivision (b), and without limiting any other grounds that may constitute a reasonable refusal to accept an agent's authority under a statutory form power of attorney, a third person shall not be deemed to have acted unreasonably in refusing to accept an agent's authority if the refusal is authorized or required by state or federal statute or regulation.**

(d) **Notwithstanding subdivision (c), a third person's refusal to accept an agent's authority under a statutory form power of attorney under this part shall be deemed unreasonable if the only reason for the refusal is that the power of attorney is not on a form prescribed by the third person to whom the power of attorney is presented.**

(e) **The remedy provided in this section is cumulative and nonexclusive.**

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

THIS POWER OF ATTORNEY WILL CONTINUE TO BE EFFECTIVE EVEN THOUGH I BECOME INCAPACITATED.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

EXERCISE OF POWER OF ATTORNEY WHERE

MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, my agents are to act _____.

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY," THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 13th day of January, 2005.

Pearl D Roberts (your signature)

562 - 09 - 8847 (your Social Security number)

State of California

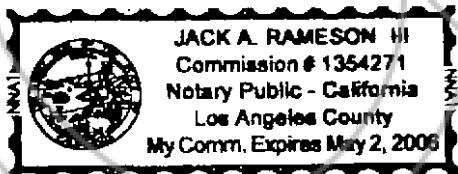
County of Los Angeles

CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.

On January 13, 2005, before me, JACK A. RAMESON III, Notary Public, personally appeared PEARL D. ROBERTS (also known as PEARL DOUGHER ROBERTS and PEARL MARGARET ROBERTS), personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument, the person or the entity upon behalf of which she acted executed the instrument.

WITNESS my hand and official seal.



Jack A. Rameson III
Notary Public

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, MY AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

PDR

CALIFORNIA PROBATE CODE

Section 16000. On acceptance of the trust, the trustee has a duty to administer the trust according to the trust instrument and, except to the extent the trust instrument provides otherwise, according to this division.

Section 16001. (a) Except as provided in subdivision (b), the trustee of a revocable trust shall follow any written direction acceptable to the trustee given from time to time (1) by the person then having the power to revoke the trust or the part thereof with respect to which the direction is given or (2) by the person to whom the settlor delegates the right to direct the trustee.

(b) If a written direction given under subdivision (a) would have the effect of modifying the trust, the trustee has no duty to follow the direction unless it complies with the requirements for modifying the trust.

Section 16002. (a) The trustee has a duty to administer the trust solely in the interest of the beneficiaries.

(b) It is not a violation of the duty provided in subdivision (a) for a trustee who administers two trusts to sell, exchange, or participate in the sale or exchange of trust property between the trusts, if both of the following requirements are met: (1) The sale or exchange is fair and reasonable with respect to the beneficiaries of both trusts. (2) The trustee gives to the beneficiaries of both trusts notice of all material facts related to the sale or exchange that the trustee knows or should know.

Section 16003. If a trust has two or more beneficiaries, the trustee has a duty to deal impartially with them and shall act impartially in investing and managing the trust property, taking into account any differing interests of the beneficiaries.

Section 16004. (a) The trustee has a duty not to use or deal with trust property for the trustee's own profit or for any other purpose unconnected with the trust, nor to take part in any transaction in which the trustee has an interest adverse to the beneficiary.

(b) The trustee may not enforce any claim against the trust property that the trustee purchased after or in contemplation of appointment as trustee, but the court may allow the trustee to be reimbursed from trust property the amount that the trustee paid in good faith for the claim.

(c) A transaction between the trustee and a beneficiary which occurs during the existence of the trust or while the trustee's influence with the beneficiary remains and by which the trustee obtains an advantage from the beneficiary is presumed to be a violation of the trustee's fiduciary duties. This presumption is a presumption affecting the burden of proof. This subdivision does not apply to the provisions of an agreement between a trustee and a beneficiary relating to the hiring or compensation of the trustee.

Section 16005. The trustee of one trust has a duty not to knowingly become a trustee of another trust adverse in its nature to the interest of the beneficiary of the first trust, and a duty to eliminate the conflict or resign as trustee when the conflict is discovered.

Section 16006. The trustee has a duty to take reasonable steps under the circumstances to take and keep control of and to preserve the trust property.

Section 16007. The trustee has a duty to make the trust property productive under the circumstances and in furtherance of the purposes of the trust.

Section 16009. The trustee has a duty to do the following:

- (a) To keep the trust property separate from other property not subject to the trust.
- (b) To see that the trust property is designated as property of the trust.

Section 16010. The trustee has a duty to take reasonable steps to enforce claims that are part of the trust property.

Section 16011. The trustee has a duty to take reasonable steps to defend actions that may result in a loss to the trust.

Section 16012. (a) The trustee has a duty not to delegate to others the performance of acts that the trustee can reasonably be required personally to perform and may not transfer the office of trustee to another person nor delegate the entire administration of the trust to a cotrustee or other person.

(b) In a case where a trustee has properly delegated a matter to an agent, cotrustee, or other person, the trustee has a duty to exercise general supervision over the person performing the delegated matter.

(c) This section does not apply to investment and management functions under Section 16052.

Section 16013. If a trust has more than one trustee, each trustee has a duty to do the following:

(a) To participate in the administration of the trust.

(b) To take reasonable steps to prevent a cotrustee from committing a breach of trust or to compel a cotrustee to redress a breach of trust.

Section 16014. (a) The trustee has a duty to apply the full extent of the trustee's skills.

(b) If the settlor, in selecting the trustee, has relied on the trustee's representation of having special skills, the trustee is held to the standard of the skills represented.

Section 16015. The provision of services for compensation by a regulated financial institution or its affiliates in the ordinary course of business either to a trust of which it also acts as trustee or to a person dealing with the trust is not a violation of the duty provided in Section 16002 or 16004. For the purposes of this section, "affiliate" means a corporation that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another domestic or foreign corporation.

Section 16060. The trustee has a duty to keep the beneficiaries of the trust reasonably informed of the trust and its administration.

Section 16060.5. As used in this article, "terms of the trust" means the written trust instrument of an irrevocable trust or those provisions of a written trust instrument in effect at the settlor's death that describe or affect that portion of a trust that has become irrevocable at the death of the settlor. In addition, "terms of the trust" includes, but is not limited to, signatures, amendments, disclaimers, and any directions or instructions to the trustee that affect the disposition of the trust. "Terms of the trust" does not include documents which were intended to affect disposition only while the trust was revocable. If a trust has been completely restated, "terms of the trust" does not include trust instruments or amendments which are superseded by the last restatement before the settlor's death, but it does include amendments executed after the restatement. "Terms of the trust" also includes any document irrevocably exercising a power of appointment over the trust or over any portion of the trust which has become irrevocable.

Section 16061. Except as provided in Section 16064, on reasonable request by a beneficiary, the trustee shall provide the beneficiary with a report of information about the assets, liabilities, receipts, and disbursements of the trust, the acts of the trustee, and the particulars relating to the administration of the trust relevant to the beneficiary's interest, including the terms of the trust.

Section 16061.5. (a) When a revocable trust or any portion of a revocable trust becomes irrevocable because of the death of one or more of the settlors of the trust, or because, by the express terms of the trust, the trust becomes irrevocable within one year of the death of a settlor because of a contingency related to the death of one or more of the settlors of the trust, the trustee shall provide a true and complete copy of the terms of the irrevocable trust, or irrevocable portion of the trust, to any beneficiary of the trust who requests it and to any heir of a deceased settlor who requests it.

(b) The trustee shall, for purposes of this section, rely upon any final judicial determination of heirship. However, the trustee shall have discretion to make a good faith determination by



any reasonable means of the heirs of a deceased settlor in the absence of a final judicial determination of heirship known to the trustee.

Section 16061.7. (a) A trustee shall serve a notification by the trustee as described in this section in the following events: (1) When a revocable trust or any portion thereof becomes irrevocable because of the death of one or more of the settlors of the trust, or because, by the express terms of the trust, the trust becomes irrevocable within one year of the death of a settlor because of a contingency related to the death of one or more of the settlors of the trust. (2) Whenever there is a change of trustee of an irrevocable trust. The duty to serve the notification by the trustee is the duty of the continuing or successor trustee, and any one cotrustee may serve the notification.

(b) The notification by the trustee required by subdivision (a) shall be served on each of the following: (1) Each beneficiary of the irrevocable trust or irrevocable portion of the trust, subject to the limitations of Section 15804. (2) Each heir of the deceased settlor, if the event that requires notification is the death of a settlor or irrevocability within one year of the death of the settlor of the trust by the express terms of the trust because of a contingency related to the death of a settlor. (3) If the trust is a charitable trust subject to the supervision of the Attorney General, to the Attorney General.

(c) A trustee shall, for purposes of this section, rely upon any final judicial determination of heirship, known to the trustee, but the trustee shall have discretion to make a good faith determination by any reasonable means of the heirs of a deceased settlor in the absence of a final judicial determination of heirship known to the trustee.

(d) The trustee need not provide a copy of the notification by trustee to any beneficiary or heir (1) known to the trustee but who cannot be located by the trustee after reasonable diligence or (2) unknown to the trustee.

(e) The notification by trustee shall be served by mail to the last known address, pursuant to Section 1215, or by personal delivery.

(f) The notification by trustee shall be served not later than 60 days following the occurrence of the event requiring service of the notification by trustee, or 60 days after the trustee became aware of the existence of a person entitled to receive notification by trustee, if that person was not known to the trustee on the occurrence of the event requiring service of the notification. If there is a vacancy in the office of the trustee on the date of the occurrence of the event requiring service of the notification by trustee, or if that event causes a vacancy, then the 60-day period for service of the notification by trustee commences on the date the new trustee commences to serve as trustee.

(g) The notification by trustee shall contain the following information: (1) The identity of the settlor or settlors of the trust and the date of execution of the trust instrument. (2) The name, mailing address and telephone number of each trustee of the trust. (3) The address of the physical location where the principal place of administration of the trust is located, pursuant to Section 17002. (4) Any additional information that may be expressly required by the terms of the trust instrument. (5) A notification that the recipient is entitled, upon reasonable request to the trustee, to receive from the trustee a true and complete copy of the terms of the trust.

(h) If the notification by the trustee is served because a revocable trust or any portion of it has become irrevocable because of the death of one or more settlors of the trust, or because, by the express terms of the trust, the trust becomes irrevocable within one year of the death of a settlor because of a contingency related to the death of one or more of the settlors of the trust, the notification by the trustee shall also include a warning, set out in a separate paragraph in not less than 10-point boldface type, or a reasonable equivalent thereof, that states as follows: "You may not bring an action to contest the trust more than 120 days from the date this notification by the trustee is served upon you or 60 days from the date on which a copy of the terms of the trust is mailed or personally delivered to you during that 120-day period, whichever is later." (i) Any waiver by a settlor of the requirement of serving the notification by trustee required by this section is against public policy and shall be void.

(j) A trustee may serve a notification by trustee in the form required by this section on any person in addition to those on whom the notification by trustee is required to be served. A trustee is not liable to any person for serving or for not serving the notice on any person in addition to those on whom the notice is required to be served. A trustee is not required to serve a notification by trustee if the event that otherwise requires service of the notification by trustee occurs before January 1, 1998.



BK- 1106
PG- 1684

PDR

Section 16061.8. No person upon whom the notification by the trustee is served pursuant to this chapter may bring an action to contest the trust more than 120 days from the date the notification by the trustee is served upon him or her, or 60 days from the day on which a copy of the terms of the trust is mailed or personally delivered to him or her during that 120-day period, whichever is later.

Section 16061.9. (a) A trustee who fails to serve the notification by trustee as required by Section 16061.7 on a beneficiary shall be responsible for all damages, attorney's fees, and costs caused by the failure unless the trustee makes a reasonably diligent effort to comply with that section.

(b) A trustee who fails to serve the notification by trustee as required by Section 16061.7 on an heir who is not a beneficiary and whose identity is known to the trustee shall be responsible for all damages caused to the heir by the failure unless the trustee shows that the trustee made a reasonably diligent effort to comply with that section. For purposes of this subdivision, "reasonably diligent effort" means that the trustee has sent notice by first-class mail to the heir at the heir's last mailing address actually known to the trustee.

(c) A trustee, in exercising discretion with respect to the timing and nature of distributions of trust assets, may consider the fact that the period in which a beneficiary or heir could bring an action to contest the trust has not expired.

Section 16062. (a) Except as otherwise provided in this section and in Section 16064, the trustee shall account at least annually, at the termination of the trust, and upon a change of trustee, to each beneficiary to whom income or principal is required or authorized in the trustee's discretion to be currently distributed.

(b) A trustee of a living trust created by an instrument executed before July 1, 1987, is not subject to the duty to account provided by subdivision (a).

(c) A trustee of a trust created by a will executed before July 1, 1987, is not subject to the duty to account provided by subdivision (a), except that if the trust is removed from continuing court jurisdiction pursuant to Article 2 (commencing with Section 17350) of Chapter 4 of Part 5, the duty to account provided by subdivision (a) applies to the trustee.

(d) Except as provided in Section 16064, the duty of a trustee to account pursuant to former Section 1120.1a of the Probate Code (as repealed by Chapter 820 of the Statutes of 1986), under a trust created by a will executed before July 1, 1977, which has been removed from continuing court jurisdiction pursuant to former Section 1120.1a, continues to apply after July 1, 1987. The duty to account under former Section 1120.1a may be satisfied by furnishing an account that satisfies the requirements of Section 16063.

(e) Any limitation or waiver in a trust instrument of the obligation to account is against public policy and shall be void as to any sole trustee who is a disqualified person as defined in Section 21350.5.

Section 16063. (a) An account furnished pursuant to Section 16062 shall contain the following information: (1) A statement of receipts and disbursements of principal and income that have occurred during the last complete fiscal year of the trust or since the last account. (2) A statement of the assets and liabilities of the trust as of the end of the last complete fiscal year of the trust or as of the end of the period covered by the account. (3) The trustee's compensation for the last complete fiscal year of the trust or since the last account. (4) The agents hired by the trustee, their relationship to the trustee, if any, and their compensation, for the last complete fiscal year of the trust or since the last account. (5) A statement that the recipient of the account may petition the court pursuant to Section 17200 to obtain a court review of the account and of the acts of the trustee. (6) A statement that claims against the trustee for breach of trust may not be made after the expiration of three years from the date the beneficiary receives an account or report disclosing facts giving rise to the claim.

(b) All accounts filed to be approved by a court shall be presented in the manner provided in Chapter 4 (commencing with Section 1060) of Part 1 of Division 3.

Section 16064. The trustee is not required to report information or account to a beneficiary in any of the following circumstances:

(a) To the extent the trust instrument waives the report or account, except that no waiver described in subdivision (e) of Section 16062 shall be valid or enforceable. Regardless of a waiver



BK- 1106
PG- 1685

PDR

of accounting in the trust instrument, upon a showing that it is reasonably likely that a material breach of the trust has occurred, the court may compel the trustee to report information about the trust and to account.

(b) In the case of a beneficiary of a revocable trust, as provided in Section 15800, for the period when the trust may be revoked.

(c) As to a beneficiary who has waived in writing the right to a report or account. A waiver of rights under this subdivision may be withdrawn in writing at any time as to the most recent account and future accounts. A waiver has no effect on the beneficiary's right to petition for a report or account pursuant to Section 17200.

(d) Where the beneficiary and the trustee are the same person.

Section 16080. Except as provided in Section 16081, a discretionary power conferred upon a trustee is not left to the trustee's arbitrary discretion, but shall be exercised reasonably.

Section 16081. (a) Subject to the additional requirements of subdivisions (b), (c), and (d), if a trust instrument confers "absolute," "sole," or "uncontrolled" discretion on a trustee, the trustee shall act in accordance with fiduciary principles and shall not act in bad faith or in disregard of the purposes of the trust.

(b) Notwithstanding the use of terms like "absolute," "sole," or "uncontrolled" by a settlor or a testator, a person who is a beneficiary of a trust that permits the person, either individually or as trustee or cotrustee, to make discretionary distributions of income or principal to or for the benefit of himself or herself pursuant to a standard, shall exercise that power reasonably and in accordance with the standard.

(c) Unless a settlor or a testator clearly indicates that a broader power is intended by express reference to this subdivision, a person who is a beneficiary of a trust that permits the person, as trustee or cotrustee, to make discretionary distributions of income or principal to or for the benefit of himself or herself may exercise that power in his or her favor only for his or her health, education, support, or maintenance within the meaning of Sections 2041 and 2514 of the Internal Revenue Code. Notwithstanding the foregoing and the provisions of Section 15620, if a power to make discretionary distributions of income or principal is conferred upon two or more trustees, the power may be exercised by any trustee who is not a current permissible beneficiary of that power, and provided further that if there is no trustee who is not a current permissible beneficiary of that power, any party in interest may apply to a court of competent jurisdiction to appoint a trustee who is not a current permissible beneficiary of that power, and the power may be exercised by the trustee appointed by the court.

(d) Subdivision (c) does not apply to either of the following: (1) Any power held by the settlor of a revocable or amendable trust. (2) Any power held by a settlor's spouse or a testator's spouse who is the trustee of a trust for which a marital deduction, as defined in Section 21520, has been allowed.

(e) Subdivision (c) applies to any of the following: (1) Any trust executed on or after January 1, 1997. (2) Any testamentary trust created under a will executed on or after January 1, 1997. (3) Any irrevocable trust created under a document executed before January 1, 1997, or any revocable trust executed before that date if the settlor was incapacitated as of that date, unless all parties in interest elect affirmatively not to be subject to the application of subdivision (c) through a written instrument delivered to the trustee. That election shall be made on or before the latest of January 1, 1998, three years after the date on which the trust became irrevocable, or, in the case of a revocable trust where the settlor was incapacitated, three years after the date on which the settlor became incapacitated.

(f) Notwithstanding the foregoing, the provisions of subdivision (c) neither create a new cause of action nor impair an existing cause of action that, in either case, relates to any power limited by subdivision (c) that was exercised before January 1, 1997.

(g) For purposes of this section, the term "party in interest" means any of the following persons: (1) If the trust is revocable and the settlor is incapacitated, the settlor's legal representative under applicable law, or the settlor's attorney-in-fact under a durable power of attorney that is sufficient to grant the authority required under subdivision (c) or (e), as applicable. (2) If the trust is irrevocable, each trustee, each beneficiary then entitled or authorized to receive income distributions from the trust, or each remainder beneficiary who would be entitled to receive notice of a trust proceeding under Section 15804. Any beneficiary who lacks legal capacity may be represented by the beneficiary's legal representative, attorney-in-fact under a durable power of attorney that is sufficient to grant the authority

required under subdivision (c) or (e), as applicable, or in the absence of a legal representative or attorney-in-fact, a guardian ad litem appointed for that purpose.

Section 16082. Except as otherwise specifically provided in the trust instrument, a person who holds a power to appoint or distribute income or principal to or for the benefit of others, either as an individual or as trustee, may not use the power to discharge the legal obligations of the person holding the power.

Section 16200. A trustee has the following powers without the need to obtain court authorization:
(a) The powers conferred by the trust instrument.
(b) Except as limited in the trust instrument, the powers conferred by statute.
(c) Except as limited in the trust instrument, the power to perform any act that a trustee would perform for the purposes of the trust under the standard of care provided in Section 16040 or 16047.

Section 16201. This chapter does not affect the power of a court to relieve a trustee from restrictions on the exercise of powers under the trust instrument.

Section 16202. The grant of a power to a trustee, whether by the trust instrument, by statute, or by the court, does not in itself require or permit the exercise of the power. The exercise of a power by a trustee is subject to the trustee's fiduciary duties.

Section 16203. An instrument that incorporates the powers provided in former Section 1120.2 (repealed by Chapter 820 of the Statutes of 1986) shall be deemed to refer to the powers provided in Article 2 (commencing with Section 16220). For this purpose, the trustee's powers under former Section 1120.2 are not diminished and the trustee is not required to obtain court approval for exercise of a power for which court approval was not required by former law.