

IN THE ESTATE OF

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DECEASED

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IN THE PROBATE COURT

NO. 3

BEXAR COUNTY, TEXAS

**COURT INSTRUCTIONS OF THE INDEPENDENT EXECUTOR**

As the duly appointed Independent Executor of this estate, you are hereby advised by the Court that you must comply with the following statutory requirements:

1. **File your Oath or Declaration within 20 days after the date of the order** granting Letters Testamentary. *This is a mandatory requirement. § 305.052, Estates Code.*
2. If ordered by the Court, **file the Bond within 20 days after the date of the order** granting Letters Testamentary. *This is a mandatory requirement in those cases where a bond has been ordered by the Court. § 305.101, Estates Code.*
3. **Issue Notice to Creditors as follows (these are mandatory requirements):**
  - a. **Notice to unsecured creditors is required within 1 month after receiving Letters Testamentary.** Notice is given by publishing the notice one time in a newspaper of general circulation in the county where the letters are issued. Publisher’s affidavit showing date of publication shall be filed with the clerk. *§ 308.051, Estates Code.*
  - b. **Notice to secured creditors is required within 2 months after receiving Letters Testamentary.** Notice is given by qualified delivery method, as defined by Estates Code, § 22.0295, at the creditors’ last known address. The Executor’s Affidavit of Notice to Secured Creditors, along with copies of each notice sent with proof of delivery attached, shall be filed with the clerk. *§ 308.053, Estates Code.*
  - c. **Notice to Comptroller of Public Accounts** by qualified delivery method is required if decedent paid or owed taxes administered by the Comptroller. Copy of notice with proof of delivery attached shall be filed with the clerk. *§ 308.051, Estates Code.*
4. **Issue Notice to Beneficiaries named in the Will within 60 days after the date of the Order admitting the will to probate.** This is a mandatory requirement, except where it applies to those beneficiaries who have made an appearance in the probate proceeding before the will is admitted to probate, or who have received a copy of the will and have filed a waiver of notice. *§ 308.002, Estates Code.*
5. **File a Sworn Affidavit or Certificate of Notice within 90 days after the date of the Order admitting the will to probate.** See #4 in these instructions; proof of notice and filing waivers of notice must be filed with the clerk. This is a mandatory requirement, even if the Executor is the sole beneficiary and no additional notice is required or necessary; the court cannot waive the filing of the affidavit/certificate. *§ 308.004, Estates Code.*
6. **File an Inventory, Appraisal and List of Claims of the Estate within 90 days of qualification date** as required in § 309.051 of the Texas Estates Code. **This is a mandatory requirement. Failure to file an inventory, appraisal and list of claims within 90 days of qualification or any extension granted by the Court may result in an Order to Show Cause and/or revocation of letters, removal as executor, and a fine not to exceed \$1,000.00.** *§ 309.057, Estates Code.*
7. When assets have been distributed to the beneficiaries, you may, if you wish, file a Closing Notice or Report to Close the Estate, attaching receipts from the beneficiaries, if all estate business has been completed and six months has elapsed since the estate was opened, or an action for Declaratory Judgment under Chap. 37, Civil Practice & Remedies Code. *Chap. 405, Estates Code.*

8. Consult with your attorney on any matter regarding this estate you do not understand. *Failure to comply with the mandatory requirements of the Texas Estates Code may result in penalties up to and including revocation of letters of appointment or other penalties as provided by statute.*



\_\_\_\_\_  
**Judge Barbie Scharf-Zeldes**  
Probate Court No. 3  
Bexar County, Texas

I, \_\_\_\_\_, the duly appointed Independent Executor of the above referenced estate, hereby attest that I have read the above and understand its contents.

\_\_\_\_\_  
Date

Signature \_\_\_\_\_  
Independent Executor

**NOTICE TO THE EXECUTOR:** These Instructions from the Court are intended to inform you of your duties and responsibilities under the Estates Code and under the orders of this Court, in order to facilitate your compliance. Your attorney should explain these instructions to you and ensure that a copy is provided to you. If you have any questions or there is any part of these instructions that you do not understand, consult your attorney. You are required to sign a copy of these Instructions and file it with the clerk. By signing this form, you are acknowledging that you have received these Instructions from the Court.

## **DIRECTIONS FOR FIDUCIARY**

As the INDEPENDENT EXECUTOR of this estate, you are a FIDUCIARY, entrusted with the care of the property of the estate and the shares of the estate that may be due to the Decedent's heirs at law until final distribution is made.

The following DO's and DON'T's are basic rules which you should follow to properly and conveniently perform your administrative and accounting duties:

### **DO**

1. Open a designated estate checking account that is SEPARATE from your own personal bank account. You must not mix estate funds with your own personal funds. This is for proper accounting of transactions relating to estate property and for tax considerations.
2. Use the estate checking account for all money paid out. The cancelled checks and bank statements are a reliable record of how you have spent the estate funds for administrative costs and distribution to the persons entitled to a share of the funds.
3. Keep an accurate record of all receipts and all disbursements. Use a spreadsheet or accounting software to track all estate-related expenses and income. An accounting tracking form is attached for your convenience.
4. Consult your attorney regarding any questions you may have. Your attorney will prepare the Inventory, Appraisal, and List of Claims required under Estates Code, § 309.051 using the information you have provided regarding the estate property at the time of Decedent's death, and will prepare an Annual Accounting if required under Estates Code, § 359.001, using the information you provide in the estate accounting records.
5. Manage the assets of the estate as a prudent person would, exercising reasonable care, skill and caution, and in agreement with the court's direction or approval. Many fiduciaries consult with professional advisors such as a Certified Public Accountant (CPA), especially for larger estates.
6. Pay the bond premium(s) when due, if applicable – failure to maintain your bond could result in your removal as the Executor of this estate.

### **DO NOT**

1. Do not treat the property as your own, even if you are an heir or a relative. It is not yours until and unless the Court and the law determine that it is. Keep the estate property separate from your own property. **NOT DOING SO COULD BE A CRIMINAL OFFENSE.**
2. Do not delay in reporting to the Court when required. Follow your attorney's directions on signing papers and filing them with the Court.

## **BOND RESPONSIBILITIES**

If the Court has required you to file a bond:

- Your bond remains in effect until a final discharge is issued by the Court and is delivered to the surety. You must provide a copy of an order closing the estate and discharging the sureties on the bond to the person or company that signed as surety on your bond.
- Your bond must be in the amount ordered by the Court. The court must order all increases and decreases to the bond amount.
- The bond premium, including renewal premiums, must be timely paid and are a legitimate expense to the estate for which you are personally responsible for paying each year when due.

