

IN THE ESTATE OF

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IN THE PROBATE COURT

NO. 3

BEXAR COUNTY, TEXAS

**Instructions for a Dependent Administrator/Executor**

As soon as you have qualified as Dependent Administrator or Dependent Executor, you will be a “fiduciary” – someone who has a legal responsibility to act for the benefit of another. As a fiduciary, you are expected to act with the utmost care and in the best interests of the estate, while also considering the interest of others who have a stake in or claim to the estate assets. At times, this may mean acting in a manner contrary to your own interests. Because being a fiduciary gives rise to certain legal obligations and responsibilities that require legal expertise, Texas law requires that you continue to be represented by an attorney who will assist you in representing those for whom you are responsible.

As the duly appointed Dependent Administrator or Dependent Executor, you are advised by the Court that you **must** do all of the following:

1. Consult with your Attorney (not the Court) on any matter regarding this estate that you do not understand.
2. Notify the Court (and your Attorney) of any change in your mailing address.
3. File your Oath or Declaration and Bond within 20 days. You are “qualified” as soon as your Oath has been filed and your Bond has been approved. Your “qualification date” is the date the second of those events happens. You can get Letters of Administration once you are qualified.
4. Required Notices to Creditors of the Estate:
  - a. Within 30 days, publish your notice to creditors of the estate in a newspaper of general circulation in this county, advising all creditors of your appointment. An affidavit from the publisher showing the date of publication and content of the notice must be filed with the Court.
  - b. Within two months, you must send notice, by qualified delivery method as defined in the Estates Code, § 22.0295, to each secured creditor of the estate. Copies of each notice sent, with proof of delivery attached, must be filed with the Court. You must also file an affidavit stating that the notices were sent as required by law and the name of each person to whom notice was sent, if names are not shown on the notice or proof of delivery.
  - c. You may also want to send permissive notice to other creditors of the estate.

The handling of claims in dependent administrations is a complex undertaking, and, like other facets of your appointment, will require the assistance of your Attorney.

5. If decedent had a will, you must give a statutorily required notice to the beneficiaries named in the will within 60 days of the date the will is probated. You must also file an affidavit or certificate within 90 days of the date the will is probated showing each beneficiary that was given the notice, each beneficiary who was not required to be given the notice, each beneficiary whose identity or address was not available for giving the notice, and any other information to explain why you were not able to give notice to any beneficiary.
6. File your Inventory, Appraisal and List of Claims within 90 days.
7. If the estate is not closed within the first year, you must file an annual account not later than the 60th day after the first anniversary of your qualification date (see #3 above).

Until the estate is ready to be closed, you must continue filing annual accounts not later than the 60th day after each anniversary of your qualification date.

***Talk to your attorney now about what will be required to prepare for your annual and final accounts. Understanding what information needs to be included and what records need to be kept as back-up will make the process much easier.***

8. Separate estate business from your personal business. That is, DO NOT commingle funds or conduct your operations in such a manner that estate business gets confused with personal business.
9. Place all estate funds in insured accounts *in the name of the estate*. Retain in a checking account only enough funds as are reasonably necessary to pay the debts of the Decedent and the expenses of administering this estate. Place all additional funds in interest-bearing accounts at the highest interest rate then available.
10. Obtain a written order of the Court authorizing any expenditure of estate funds *before* any such expenditures are made unless the Estates Code expressly authorizes payment without Court order.
11. Maintain an accurate record of all expenditures and receipts of estate funds.
12. Preserve, protect, and insure (if insurable) all non-cash assets of the estate.
13. Obtain a written order of this Court *before* attempting to sell, lease, transfer, or otherwise dispose of any non-cash assets of the estate.
14. File your Final Accounting by the third anniversary of your qualification date, or earlier if the estate is ready to be closed, and seek the order of the Court authorizing the distribution of the estate in accordance with Court order or with the terms of the will when the estate has been finally administered. If the estate cannot be closed by the third anniversary of your qualification date, you must petition the Court for an extension and show sufficient cause as to why it should remain open.
15. You must obtain Court permission to move to another state or be absent from the state for more than three months.

***Failure to abide by the law set out in the Estates Code is cause for your removal from your fiduciary position. Any damage and costs incurred by the estate as a result of these failures will subject you to liability on your bond.***



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

I swear or affirm that I have read all pages of this document (entitled Court-Ordered Instructions for a Dependent Administrator/Executor) and that I understand its contents.

\_\_\_\_\_  
 Signature of person who seeks to be appointed  
 dependent administrator or executor

\_\_\_\_\_  
 Date

STATE OF TEXAS                    §  
 COUNTY OF BEXAR                §

This instrument was sworn or affirmed before me on \_\_\_\_\_ by

\_\_\_\_\_.

\_\_\_\_\_  
 Notary Public, State of Texas  
 Notary's Name Printed:

By my signature, I – the attorney for the person who is seeking to be appointed dependent administrator or dependent executor of this estate – certify that I have discussed with my client the responsibilities of a dependent administrator or dependent executor.

Attorney: \_\_\_\_\_ (signature) State Bar of Texas No. \_\_\_\_\_

## **DIRECTIONS FOR FIDUCIARY**

As the DEPENDENT ADMINISTRATOR 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, Appraisement, 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 administrator 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 spend or distribute ANY property or funds without first obtaining Court approval, except to:
  - a. Pay calls and assessments on Decedent's investments;
  - b. Insure the estate against liability, if appropriate;
  - c. Insure estate property against fire, theft, and other hazards; and
  - d. Pay taxes, court costs, and bond premiums.
3. 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**

1. 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.
2. Your bond must be in the amount ordered by the Court. The court must order all increases and decreases to the bond amount.
3. 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.

