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SELECTING AN INDIVIDUAL OR CORPORATE FIDUCIARY

If you have established or intend to establish a living trust, on your disability or death, one or more Successor Trustees will need to be appointed to either care for your trust property while you are alive, or else handle the administration and distribution of your trust property after your death.

If you have established or intend to establish an irrevocable trust such as a life insurance trust, supplemental needs trust for a special needs relative or friend, IRA Retirement Trust to handle the distribution of your retirement plans after your death, or other trusts, you will also need to have one or more Trustees appointed to handle the assets in those trusts.

If you have non-trust assets such as retirement plans and stock options, and you need someone to handle your investments, file tax returns, deal with government agencies such as the IRS, Franchise Tax Board, Social Security, Veterans Administration, etc., you will need to appoint one or more Financial Agents (“Attorneys-in-Fact”) to handle things for you.

Additionally, if you have prepared an Advance Health Care Directive and do not have anyone to name to make medical and health care decisions for you, you need to appoint one or more Health Care Agents to handle those issues for you if you become incapacitated.

Many people select adult children, relatives, or friends to serve as Successor Trustees, Agents (financial), and Health Care Agents. Others choose professional fiduciaries such as banks, trust companies, CPAs, attorneys, and individual private fiduciaries that are licensed by the State. Some choose both to serve together.

Whoever you choose, it is important that your Successor Trustees, Financial Agents, and Health Care Agents trustworthy. For Successor Trustee and Financial Agents, If they cannot handle distribution questions, investment management, accounting, tax reporting and tax filings, they need to be willing to hire qualified professionals who can assist them with those requirements.

Advantages and Disadvantages of Professional Trustees: Selecting a professional trustee such as a bank or trust company to act as a Successor Trustee and/or Financial Agent has a number of advantages and disadvantages.

Advantages include the following:

1. Expertise in handling the day-to-day administration of trusts, including custody of trust property, investment management, distributions, accounting, tax reporting and tax filings;
2. Reasonable fees to handle all of the above jobs, which usually are less than the management fees for a stock mutual fund;
3. “Deep pockets” to reimburse a trust for any losses or errors made by the bank or trust company in administration that cause losses to the trust property.

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Disadvantages include the following: Banks and trust companies don't have the time or interest to tend to the day-to-day needs of trust beneficiaries, including you if you are the beneficiaries because you are incapacitated. They will generally not initiate contact with beneficiaries or their caregivers, and will wait until a need is brought to their attention before acting. For this reason, you may want to consider pairing a professional trustee with one or more individual trustees such as children, friends, or other relatives, so that the latter can concentrate on identifying your needs on a regular basis to communicate with the professional trustee.

It may be necessary to put special language into your living trust agreement that is required by the professional trustee. If you are planning to use a professional trustee, please contact my office as soon as possible so that we may find out any special language that is needed.

Using an Individual Professional Fiduciary: The State of California also licenses individuals and smaller trust companies to act as fiduciaries for trusts, and to handle a person's financial matters as a Financial Agent. Fees for these fiduciaries tend to be lower, as they generally bill on an hourly basis for the services rendered instead of a percentage of property being managed. However, they may or may not offer investment management, accounting, tax reporting or tax filing services, or if they do, additional fees will be incurred. If they don't then outside professionals will need to be hired for those services. Overall cost could be more or less than a bank or trust company depending on what services are provided.

CONTACT INFORMATION FOR FIDUCIARIES SERVING SANTA CLARA COUNTY

IF YOU WISH TO NAME A BANK, TRUST COMPANY, OR INDIVIDUAL PROFESSIONAL FIDUCIARY YOU SHOULD INTERVIEW SEVERAL BEFORE MAKING A SELECTION.

A LIST OF LOCAL INDIVIDUAL AND CORPORATE FIDUCIARIES IN ON THE FOLLOWS. IT IS NOT AN EXCLUSIVE LIST, AND NO REPRESENTATION IS BEING MADE AS TO THE QUALIFICATIONS OR APPROPRIATENESS OF ANY PARTICULAR FIDUCIARY FOR YOUR SITUATION.

KEY: CLPF – California License Professional Fiduciary
NCG – National Certified Guardian

INDIVIDUAL FIDUCIARIES

Norris Financial Services
Nancy Norris, CLPF, NCG
PO Box 111501
San Jose, CA 95011-1501
408-249-5390 (office)
408-294-5379 (fax)
nancy@norrisfinancial.net
www.norrisfinancial.net

Livia Argano, CLPF, NCG
6017 Snell Avenue, #435
San Jose, CA 95123
408-802-7569
largano@gmail.com
www.liviaarganofiduciary.com

Michael Dragomir
Dragomir Trust and Estate Services
901 Campsis Way, Suite 330
Campbell, CA 95008
408-978-8101 (office)
408-978-8044 (fax)
md@dfstrust.com
www.dragomirfiduciary.com

Russell H. Marshall, CLPF, NCG
577 Salmar Avenue, 2nd Floor
Campbell, CA 95008
408-874-0999 (office)
408-874-0993 (fax)
www.marshallfiduciary.com/
russ@marshallfiduciary.com

John Rowden Davis, CLPF
50 Jordan Place
Palo Alto, CA 94303
650-324-2261 (office)
650-324-1438 (fax)
www.pfac-pro.org
rowddavis@datatamers.com

Richard H. Lambie, CLPF, NCG
367 South Baywood Avenue
San Jose, CA 95128
408-551-2122 (office)
408-551-0212 (fax)
www.rhlambie.com/services

Bonnie Burdett, CLPF
Joyce Anthony, CLPF
Prime Fiduciary Services
350 Second Street, Suite 2
Los Altos, CA 94022
650-383-5313 (office)
650-383-5314 (fax)
www.primefiduciary.com
bonnie@primefiduciary.com
joyce@primefiduciary.com

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CORPORATE FIDUCIARIES

Greg Finn, Business Development
Fremont Bank Trust Department
160 W. Santa Clara St., #100
San Jose, CA 95113
(408) 834-1008
greg.finn@fremontbank.com

Kathy Gallagher CIMA®
Private Client Advisor, Senior Vice President
U.S. Trust, Bank of America Private Wealth
Management
NMLS ID Number: 652748
125 South Market Street, Suite 500
San Jose, CA 95113
P. 408.938.0218
F. 415.835.2971
Kathleen.Gallagher@ustrust.com

Borel Private Bank & Trust Company
235 Lytton Avenue, #175, Palo Alto, CA
650-378-3720 (Jeanne Barrett, Trust Officer)
www.borel.com/wealth-management/trust-estate-services

Comerica Bank Personal Trust Department
250 Lytton Avenue, Palo Alto, CA
650-462-6019

Enterprise Trust & Investment Company
15425 Los Gatos Boulevard, Suite 150
Los Gatos, CA 95032
408 358-5811