

# Basics of Trust Administration

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Special Needs Lawyers, PA

# The Trust

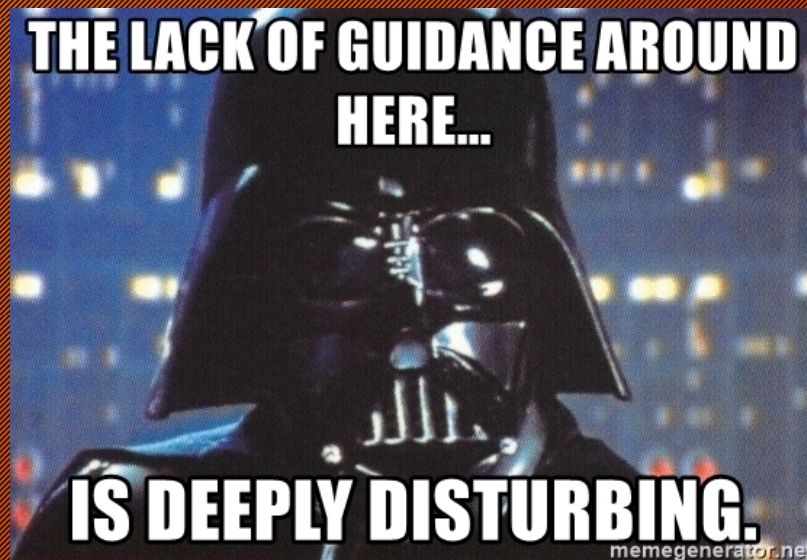
- An Agreement between a Settlor and Trustee in which the Settlor agrees to transfer ownership of assets to the Trustee to be held for the benefit of named beneficiary(ies) pursuant to specific terms.
- Types of Trust:
  - Revocable
  - Irrevocable
  - Special Needs
  - Charitable
  - Gun
  - Pet

# Parties to a Trust

- Settlor/Grantor/Trustor: Person who creates or contributes property to a trust.
- Trustee: Person or Entity that is responsible for fulfilling the terms of the trust.
- Beneficiary: Person who has a present or future beneficial interest in a trust.
- Qualified Beneficiary: Beneficiary who:
  - Is entitled to trust income or principal
  - Would be entitled to trust income or principal if the beneficiary dies, but trust does not terminate
  - Would be entitled to trust income or principal if trust terminated in accordance with its terms

# Let the Trust Code Guide You

- Chapter 736 Florida Statutes
  - Uniform Trust Code State



# Trust Administration

- Trust administration in Florida is the set of duties and procedures by which a successor trustee of a living trust carries out the terms of the trust document. ... The trustee has a legal duty to the trust beneficiaries that include proper administration of trust assets.

# You have been named Trustee, now what?

- Locate and review the document(s).
  - Do you want to Serve? Can you serve?
- You can Accept or Decline. § 736.0701
- Accepting -
  - Accepting by complying with the method of acceptance provided in the terms of the trust
  - Accepting delivery of the trust property, exercising powers or performing duties of Trustee
- Declining -
  - Formally decline
  - Do nothing...

### Acceptance of Trustee

#### Recitals:

- On July 27, 1998, \_\_\_\_\_ entered into \_\_\_\_\_ Trust, as Grantor and Trustee.
- Article VII, paragraph E, of said trust agreement provides that in the event that the Grantor is no longer willing or able to act as Trustee then \_\_\_\_\_ will serve as Successor Trustee.
- \_\_\_\_\_ resigned as Trustee on \_\_\_\_\_, 2020.

#### Therefore:

- I, \_\_\_\_\_, hereby accept the Trusteeship of \_\_\_\_\_ Trust dated July 27, 1998.

Signed on \_\_\_\_\_, 2020.

\_\_\_\_\_

*Witnesses:*

\_\_\_\_\_

Print Name: \_\_\_\_\_

\_\_\_\_\_

Print Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF PINELLAS

I hereby certify that the above referenced acceptance was acknowledged before me on \_\_\_\_\_, 2020, by \_\_\_\_\_ who personally appeared before me at the time of notarization and who executed the foregoing document, and who \_\_\_\_\_ is personally known to me or who produced \_\_\_\_\_ as proper identification.

NOTARY PUBLIC:

\_\_\_\_\_  
NOTARY PUBLIC  
Print Name: \_\_\_\_\_  
Commission Expiration Date: \_\_\_\_\_  
Commission Number: \_\_\_\_\_

Acceptance of Trustee of The \_\_\_\_\_ Trust dated July 27, 1998

# You have accepted to serve

- Get organized.
- Obtain/Gather all documents showing you are authorized to serve.
  - Need this to marshal trust assets from financial institutions, etc.
  - What to gather:
    - Original signed Trust document (copies can work) and all amendments
    - Death Certificate or Resignation of Grantor or previous Trustee
    - Your signed Acceptance document
    - Any other documents required by the provisions of the Trust document

# Make any required filings

- If you are in possession of the decedent's last will and testament, must be filed with Probate Court within 10 days of death.
  - § 732.901
- If decedent or trust owned real property, record the death certificate in the county where the property is.
- Obtain Tax ID number for the Trust. IRS Form SS-4 or online.
- File Notice of Trust in Probate Court
  - § 736.05055 - Notice of Trust
  - § 733.707(3) - Which trust are required to file Notice of Trust

IN THE CIRCUIT COURT FOR PINELLAS COUNTY,  
FLORIDA

PROBATE DIVISION

IN RE: ESTATE OF

File No. \_\_\_\_\_

Division Probate

JOHN DECEDENT,

Deceased.

NOTICE OF TRUST

JOHN DECEDENT, a resident of Pinellas County, Florida, who died on January 01, 2021, was the settlor of a trust entitled: DECEDENT TRUST AGREEMENT, dated January 1, 2014, which is a trust described in Florida Statutes Section 733.707(3) and is liable for the expenses of the administration of the decedent's estate and enforceable claims of the decedent's creditors to the extent the decedent's estate is insufficient to pay them, as provided in Florida Statutes Section 733.607(2).

The name and address of the trustee are set forth below.

The clerk shall file and index this notice of trust in the same manner as a caveat, unless there exists a probate proceeding for the grantor's estate in which case this notice of trust must be filed in the probate proceeding and the clerk shall send a copy to the personal representative.

Signed on this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
John Decedent  
Trustee  
123 Main Street  
Clearwater, FL 12345

Copy mailed to attorney for the Personal  
Representative on \_\_\_\_\_, 2021.

CLERK OF THE CIRCUIT COURT

By: \_\_\_\_\_

# Identify!

- All Qualified Beneficiaries
- Trust assets
  - Or assets that may come into the Trust
- Debts/Bills
  - Determine validity
  - Contest, pay, obtain receipt of satisfaction

# Notify!

- § 736.0813
  - Within 60 days of acceptance trustee shall:
    - Give notice to all qualified beneficiaries of
      1. The acceptance of the trust
      2. The full name, address of the trustee
      3. There fiduciary lawyer-client privilege applies to the trustee and the trustee's attorney
  - Within 60 days of the date trustee acquires knowledge of creation of an irrevocable trust, shall give notice to all qualified beneficiaries of:
    - The trust's existence, identity of settlor(s), that they have a right to request a copy of the trust instrument, the right to accountings, and the lawyer/client privilege.

# GUARDIAN TRUST

EST. 2002

December 16, 2020

Re: Supplemental Needs Trust for \_\_\_\_\_ u/a/d \_\_\_\_\_.

Dear \_\_\_\_\_:

In accordance with F.S. § 736.0813, the Guardian Trust Foundation, Inc., as successor Trustee of the above named trust, is notifying you, as qualified beneficiary, of the following:

- A trust exists. You are a qualified beneficiary of the trust. The name the trust is the Supplemental Needs Trust for \_\_\_\_\_ u/a/d \_\_\_\_\_. The trust was created by \_\_\_\_\_ within the Revocable Living Trust of \_\_\_\_\_ u/a/d \_\_\_\_\_.
- The Guardian Trust Foundation, Inc. was named as successor Trustee of the above named trust pursuant to Court Order dated October 29, 2019. (See attached Court Order)
- The Guardian Trust Foundation, Inc. accepted trusteeship on October 29, 2019 by executing an Acceptance By Successor Trustee. (See attached Acceptance)
- The full name and address of the Trustee is as follows: Guardian Trust Foundation, Inc., 901 Chestnut Street, Suite C, Clearwater, FL 33756.
- A fiduciary lawyer-client privilege in F.S. § 90.5021 applies with respect to the trustee and any attorney employed by the trustee.
- You have a right to request a copy of the trust instrument.
- You have a right to accountings of the trust.

Should you have any questions, do not hesitate to contact our office.

Very Truly Yours,

Travis D. Finchum or Kole J. Long, Co-Trustees  
Guardian Trust Foundation, Inc.

901 CHESTNUT STREET, SUITE C, CLEARWATER, FL 33756 | (727) 210-1185

WWW.GUARDIANTRUSTS.ORG

# Notify!

- Upon reasonable request trustee shall provide to Qualified Beneficiary:
  - Copy of Trust
  - Trust accounting
  - Relevant information about the assets and liabilities of trust

# Notify!

- Post Office
- Social Security
- Pension
- Utilities/Phone Services
- Insurance company
- Credit Card companies

# Assemble!

- Schedule of Assets
  - Take possession of assets
- Gather financial documents such as financial statements, deeds, stock certificates, insurance policies, tax documents, etc.
- Change trustee on existing accounts
  - Easier said than done
- Open new accounts
- Determine date of death values



# Assemble!

- File any claims for insurance, SSA or the VA
- Prepare a trust inventory of assets:
  - Use date of death values
  - Send to qualified beneficiaries
- Estimate cash needs for taxes, fees, or other expenses of administration

# Administer!

- Review Trust document to determine plan of distribution
- Collect all income, receivables, or other moneys due decedent or trust estate
  - Could be coming from a probate
- Preservice, protect, and invest assets of trust estate
  - Subject to § 518.
- Manage Real Property
- Insure trust property when appropriate
- Keep Records!

# Account!

- At least annually
- On termination of trust
- Change of trustee
- Trust accountings:
  - From date of last accounting or, in none, from the date on which trustee became accountable.



# Account!

- Contents of Account: § 736.08135
  - Reasonably understandable
  - Begin with statement identifying the trust, the trustee who is accounting, and the time period covered in the accounting
  - All transactions during the period
    - Gains/loss during the period
    - Compensation paid to the trustee
    - All receipts and disbursements
  - Value of trust assets on hand at close of period
  - Allocate between income and principal
  - With final accountings, plan of distribution.

TRUST AGREEMENT OF \_\_\_\_\_  
Under Agreement dated January 29, 1996

SECOND ACCOUNTING OF TRUSTEE

June 1, 2020 through October 31, 2020

The purpose of this accounting is to acquaint all interested persons with the transactions that have occurred during the period covered by the accounting and the assets that remain on hand. It consists of a SUMMARY sheet and Schedule A showing all Receipts, Schedule B showing all Disbursements, Schedule C showing all Distributions, Schedule D showing all Capital Transactions and Adjustments (the effect of which are also reflected in other schedules, if appropriate), and Schedule E showing assets on hand at the end of the accounting period.

It is important that this accounting be carefully examined. Requests for additional information and any questions should be addressed to the Trustee or the attorneys for the Trustee, the names and addresses of whom are set forth below.

Under penalties of perjury, the undersigned Trustee declares that I have read and examined this accounting and that the facts and figures set forth in the Summary and the attached Schedules are true, to the best of my knowledge and belief, and that it is a complete report of all cash and property transactions and of all receipts and disbursements by me as Trustee of the TRUST AGREEMENT OF \_\_\_\_\_

Signed on this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Attorney for Trustee:

Trustee:

Kole J. Long  
Kole@specialneedslawyers.com  
Florida Bar No. 99851  
SPECIAL NEEDS LAWYERS, PA  
901 Chestnut Street, Suite C  
Clearwater, FL 33756  
Telephone: (727) 443-7898

TRUST AGREEMENT OF \_\_\_\_\_  
Under Agreement dated  
January 29, 1996

SECOND ACCOUNTING OF TRUSTEE

June 1, 2020 through October 31, 2020

SCHEDULE A Receipts During Period

Date	Brief Description of Items	Income	Principal
Bank Savings Account			
06/15/2020	Refund from Credit Card		\$61.96
06/30/2020	Interest on Savings Account	\$104.10	
07/31/2020	Interest on Savings Account	\$72.83	
08/03/2020	stock dividend	\$189.05	
08/31/2020	Interest on Savings Account	53.22	
09/30/2020	Interest on Savings Account	\$51.54	
10/30/2020	Interest on Savings Account	\$53.29	
TOTAL INCOME		\$524.03	
TOTAL PRINCIPAL			\$61.96
TOTAL RECEIPTS		\$585.99	

NOTE: Schedule A should reflect only those items received during administration that are not shown on the inventory. Classification of items as income or principal is to be in accordance with the provisions of the Florida Uniform Principal and Income Act, Chapter 738, Florida Statutes. Entries involving the sale of assets or other adjustments to the carrying values of assets are to be shown on Schedule D, and not on Schedule A.

TRUST AGREEMENT OF \_\_\_\_\_  
Under Agreement dated January 29, 1996

SECOND ACCOUNTING OF TRUSTEE

June 1, 2020 through October 31, 2020

SCHEDULE B Disbursements			
Date	Brief Description of Items	Income	Principal
Bank Checking Account 06/12/2020			
06/22/2020	Check # 995 - Pinellas County Utilities		(\$116.71)
	Check # 997 - Trustee (Reimbursement of out of pocket expenses)		(\$11,316.55)
06/26/2020	Check # 996 - Duke Energy		(\$177.45)
07/31/2020	Check # 998 - United States Treasury		(\$65,929.00)
08/14/2020	Check # 999 - Duke Energy		(\$204.68)
09/03/2020	Check # 1000 - Pinellas County Utilities		(\$105.60)
09/09/2020	Check # 1003 - Attorney		(\$588.00)
09/28/2020	Check # 1001 - Duke Energy		(\$199.25)
10/08/2020	Check # 1004 - Duke Energy		(\$229.98)
10/21/2020	Check # 1005 - Pinellas County Utilities		(\$105.60)
10/22/2020	Check # 1007 - Accountant		(\$1,500.00)
	Check # 1006 - United States Treasury		(20,000.00)
TOTAL INCOME			
TOTAL PRINCIPAL		(\$0.00)	
TOTAL DISBURSEMENTS			(\$100,472.82)

NOTE: Schedule B should reflect only those items paid out during the accounting period. Classification of disbursements as income or principal is to be in accordance with the provisions of the Florida Uniform Principal and Income Act, Chapter 738, Florida Statutes. Entries involving the purchase of assets or adjustments to the carrying values of assets are to be shown on Schedule D, and not on Schedule B.

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Under Agreement dated January 29, 1996

SECOND ACCOUNTING OF TRUSTEE

June 1, 2020 through October 31, 2020

SCHEDULE C Distributions			
Date	Brief Description of Items	Income	Principal
07/13/2020	Distributed HOME to Beneficiary		(\$456,000.00)
10/31/2020	Distribution to Beneficiary		(\$3,844,171.72)
10/31/2020	Distribution to Beneficiary		(\$1,922,085.86)
10/31/2020	Distribution to Beneficiary		(\$1,922,085.86)
TOTAL INCOME		\$0.00	
TOTAL PRINCIPAL			(\$8,144,343.44)
TOTAL DISTRIBUTIONS		(\$8,144,343.44)	

NOTE: Schedule C should reflect only those items or amounts distributed to beneficiaries during the accounting period. Assets distributed should be shown at their inventory or adjusted carrying values. Classification of distributions as income or principal is to be in accordance with the provisions of the Florida Uniform Principal and Income Act, Chapter 738, Florida Statutes. Entries involving adjustments to the carrying values of assets are to be shown on Schedule D, and not on Schedule C.

TRUST AGREEMENT OF \_\_\_\_\_  
Under Agreement dated January 29, 1996

SECOND ACCOUNTING OF TRUSTEE

June 1, 2020 through October 31, 2020

SCHEDULE D Capital Transactions and Adjustments			
Date	Brief Description of Transactions	Net Gain	Net Loss
08/07/2020	Stock Transferred to Brokerage Account		(\$130,370.90)
08/31/2020	Transferred to TD Ameritrade Account		(\$52,630.09)
10/31/2020	Change in Account Value	\$337,711.57	
10/31/2020	Change in Account Value	\$370,767.68	
	NET GAIN	\$708,479.25	
	NET LOSS		(\$183,000.99)
	TOTAL NET GAIN OR LOSS	\$525,478.26	

NOTE: Schedule D should reflect all purchases and sales of assets and any adjustments to the carrying values of any assets. Entries reflecting sales should show the inventory or adjusted carrying values, the costs and expenses of the sale, and the net proceeds received. The net gain or loss should be extended in the appropriate column on the right side of Schedule D. Entries reflecting purchases should reflect the purchase price, any expenses of purchase or other adjustments to the purchase price, and the total amount paid. Presumably no gain or loss would be shown for purchases. Entries reflecting adjustments in capital assets should explain the change (such as a stock split) and the net gain or loss should be shown in the appropriate column on the right side of Schedule D. The NET gain or loss should be entered in the Principal column of the Summary.

TRUST AGREEMENT OF \_\_\_\_\_  
Under Agreement dated January 29, 1996

SECOND ACCOUNTING OF TRUSTEE

June 1, 2020 through October 31, 2020

SCHEDULE E Assets on Hand at Close of Accounting Period		
(Indicate where held and legal description, certificate numbers, or other identification.)		
	Estimated Current Value	Current Value
Bank		
10/31/2020 Account number 123 – Checking Account		\$24,633.25
10/31/2020 Account number 456 – Savings Account		\$104,592.53
Brokerage		
10/31/2020 Account number 789 – Stocks		\$0.00
Brokerage		
10/31/2020 Account number 1111 – Stocks		\$0.00
TOTAL ASSETS	\$129,225.78	
(must agree with the Total for Item VI on Summary)		

NOTE: Schedule E should be a complete list of all assets on hand reflecting inventory values for each item, adjusted in accord with any appropriate entries on Schedule D. Current market values for any assets that are known to be different from the inventory or carrying values as of the close of the accounting period should be shown in the column marked "Current Value." The total inventory or adjusted carrying value (not Current Value) must agree with the Total for Item VI on Summary.

TRUST AGREEMENT OF \_\_\_\_\_  
Under Agreement dated January 29, 1996

SECOND ACCOUNTING OF TRUSTEE

June 1, 2020 through October 31, 2020

SUMMARY			
	<u>Income</u>	<u>Principal</u>	<u>Totals</u>
I. <u>Starting Balance</u>			
Assets per Inventory or on Hand	\$0.00	\$7,847,977.79	\$7,847,977.79
At Close of Last Accounting Period			
II. <u>Receipts</u>	\$524.03	\$61.96	\$585.99
Schedule A:			
III. <u>Disbursements</u>	(\$0.00)	(\$100,472.82)	(\$100,472.82)
Schedule B:			
IV. <u>Distributions</u>	(\$0.00)	(\$8,144,343.44)	(\$8,144,343.44)
Schedule C:			
V. <u>Capital Transactions and</u>		\$525,478.26	\$525,478.26
<u>Adjustments</u>			
Schedule D: Net Gain or (Loss)			
VI. <u>Assets on Hand at Close of Accounting</u>			\$129,225.78
<u>Period</u>			
Schedule E: Cash and Other Assets			

NOTE:

The Summary and Schedules A, B, C, D and E are to constitute the full accounting. Every transaction occurring during the accounting period should be reflected on the Schedules.

All purchases and sales, all adjustments to the inventory or carrying value of any asset, and any other changes in the assets (such as stock splits) should be described on Schedule D.

The amount in the "Total" column for Item VI must agree with the total inventory or adjusted carrying value of all assets on hand at the close of the accounting period on Schedule E.

# Account!

- Send Accountings Certified with Return Receipt or
- Get signed approval of accounting
- If making distributions, get signed consent from all beneficiaries before making distributions or wait 6 months
  - § 736.1008

# Distribute!

- Taxes?
  - File all relevant taxes. Make sure to withhold enough to cover any final taxes or expenses of administration
- Read and Fully understand the distribution provisions of trust
  - Make distributions after all other expenses/debts are satisfied
- Make distributions
  - Get receipts from beneficiaries
  - Keep records

# Terminate!

- Close trust accounts
- Send final letter to beneficiaries that the trust administration is done
- Store records
  - How long?

## Misc. Duties

- To Administer
- Loyalty
- Impartiality
- Prudent
- Incur on reasonable expenses
- Use special skills
- Delegate
- Control and Collect property of trust
- Keep records
- Enforce/Defend claims
- Distribute


# Compensation of Trustee

- If terms do not specify, trustee is entitled to compensation reasonable under the circumstances
- Attorney serving as trustee is not entitled to compensation if they prepared or supervised execution of the document where they are named as trustee, unless proper disclosures are made to settlor before the document is executed. § 736.0708(4)



# Trustee's Attorney Compensation

- Agreement between Trustee and Attorney
- Attorney who intends to charge fee based on schedule in statute must make written disclosure under § 736.1007(1)(b)
- § 736.1007(2):
  - Unless otherwise agreed to: compensation based on value of trust assets at a rate of 75% of schedule found under § 733.6171(3) is presumed reasonable for ordinary services of attorney

- 
- (a) One thousand five hundred dollars for estates having a value of \$40,000 or less.
  - (b) An additional \$750 for estates having a value of more than \$40,000 and not exceeding \$70,000.
  - (c) An additional \$750 for estates having a value of more than \$70,000 and not exceeding \$100,000.
  - (d) For estates having a value in excess of \$100,000, at the rate of 3 percent on the next \$900,000.
  - (e) At the rate of 2.5 percent for all above \$1 million and not exceeding \$3 million.
  - (f) At the rate of 2 percent for all above \$3 million and not exceeding \$5 million.
  - (g) At the rate of 1.5 percent for all above \$5 million and not exceeding \$10 million.
  - (h) At the rate of 1 percent for all above \$10 million.

Thank you!