

INSTRUCTIONS TO PERSONAL REPRESENTATIVE IN AN UNSUPERVISED ESTATE

Now that you have been appointed personal representative of the estate by the Court, you have certain fiduciary responsibilities and duties you must perform for which the Court will hold you responsible. Listed below are some of your duties, but not all of them. As your attorney, I will file all legal pleadings with the Court on your behalf. However, since you are proceeding under Unsupervised Administration, many pleadings are not filed with the Court, but are required to be prepared and copies given directly to the beneficiaries. In order for me to effectively assist you, I must have your current contact information on file in my office throughout this matter.

As Personal Representative of an Unsupervised Estate you are required to:

- **Locate, collect, secure and maintain all property owned by the decedent.** You are now responsible for all of the estate property, and must be sure it is properly maintained until the time it is distributed to those specified in the will. You should immediately fill out a change of address form with the post office to have the decedent's mail forwarded to you.
- **An itemized inventory of the decedent's estate assets must be prepared within 60 days** of your appointment with the court. As your attorney, I will prepare this for you once you have provided me with the information. I request that the necessary information be provided to my office within 45 days of the date the estate is opened.
- **Locate and secure all stocks, bonds, mutual funds, annuities, certificates of deposit, and bank accounts** and provide these documents to my office as soon as possible. These funds will be those used to open the estate account and pay the debts of the estate. **You will establish an estate checking account** in a banking institution where you get back your canceled or facsimile checks, as these will be needed to verify estate expenditures in the event a beneficiary questions any payments or distributions. All estate expenses are to be paid by check. The estate account is to be titled as follows: "*[personal representative's name]* AS PERSONAL REPRESENTATIVE OF THE ESTATE OF "*[name of decedent]*". The account will carry a federal identification number, not the decedent's or your social security number. My office will prepare the form to secure this tax identification number for you.
- **Have all real estate holdings appraised** as well as household goods and automobiles and provide those values to my office for preparation of the estate's inventory.

- **Keep all of the assets of the decedent's estate separate from your own.** Estate funds should never be co-mingled with personal funds. You are to use estate funds ONLY to pay the decedent's legal debts and obligations. Any other use of these funds would be a breach of your fiduciary duty, reason for your removal, and can make you personally liable.
- **Determine all legal debts that the decedent owed.** You should review the decedent's check book and business records. Consult with my office as to the payment of debts, costs of administration, bond premiums, funeral bills and other debts and obligations of the decedent. Some debts may be unenforceable. Some obligations may have legal priority over others.
- **You are required to file the decedent's final income tax returns** both on a federal and state level, as well as any income tax returns for prior years if required. You are also required to file all fiduciary income tax returns. My office can help you find someone to file these for you if needed, but you need to provide us with the information for their preparation.
- You are required to file a Federal Estate Tax Return in the event the estate asset value is above \$5,250,000. Indiana Inheritance Tax has been repealed so there is no state return to be filed. My office will assist in preparation of the Federal Estate Tax return for you, if required.
- **Do not make any distributions to any heir, legatee, or devisee without consulting with me.** This includes the Personal Representative fee you are entitled to for your services to the estate. Partial distributions of estate assets are not permitted under the Indiana Code until the claim period expires, and the Personal Representative fee is typically provided once we are ready to close the estate. Prior to making **any** distributions, measures must be taken to insure there will be a sufficient amount remaining to satisfy any final expenses.
- **Do not use estate funds for anything other than payment of the decedent's legal debts and obligations. Do not self-deal in any manner.** Do not borrow any money from the estate or provide any professional services to the estate without consultation with my office **prior** to providing those services. Unauthorized use of estate funds and actions of this nature may be grounds for your removal as personal representative and may also result in personal liability for you.
- At the end of the estate, **you will be required to provide an accounting of the estate assets to each heir.** This includes all assets, debts and distributions of the estate. My office will assist you in the preparation of this document, but you **MUST** keep adequate records.

- **You are entitled to a reasonable fee for your services as personal representative.** However, you must keep an accurate ledger of the time you spend on the estate in order to be compensated, as well as receipts for your out-of-pocket expenses. Remember, all expenses for the estate should be paid from the estate account if at all possible. **No fees are to be taken by you as personal representative until the estate administration is ready to be finalized and you have discussed the payment with my office.**
- You are required by law to attempt to finalize the administration of the estate within 1 year. If you are unable to accomplish this within that time frame, then you will need to advise the court of the reason for the delay.
- Make sure all real estate holdings and motor vehicles are adequately insured.
- If the decedent's estate has stock or bond holdings or other investments, you may wish to consult a professional for investment advice, as you will be responsible for the supervision of the portfolio and required to maintain prudent investments. In addition, you will be required to ascertain if the beneficiaries want to take their respective distribution in kind or in cash.
- After all expenses have been paid and all distributions have been made, we will file the closing statement with the Court. My office will prepare this document, but it is very important that you maintain adequate records. This document can be filed at least 6 months after the estate was opened by the court, then the estate will be officially closed 3 months after the closing statement is filed.
- **Notify my office of any change in your address or telephone number, or any address change of any of the heirs to the estate.**

If any questions arise during the administration of the estate as to your responsibilities or actions that you should or should not take, please consult with my office, so that we can advise you accordingly.