

1                   **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2       IN THE MATTER OF: THE  
3       BEATRICE B. DAVIS FAMILY  
4       HERITAGE TRUST, DATED JULY  
5       28, 2000, AS AMENDED ON  
6       FEBRUARY 24, 2014.

**Supreme Court No. 79080**

District Court Case No. P095867

Electronically Filed  
Jan 13 2020 11:40 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

7       CHRISTOPHER D. DAVIS,

8       Appellant,

9       vs.

10      CAROLINE DAVIS; AND DUNHAM  
11      TRUST COMPANY,

12      Respondents.

13  
14                   **VOLUME I**  
15                   **RESPONDENT'S APPENDIX TO ANSWERING BRIEF**

16                   This Appendix is provided in accordance with NRAP 30 (b)(3).

17                   **LEE, HERNANDEZ, LANDRUM**  
18                   **& CARLSON, APC**

19                   CHARLENE N. RENWICK, ESQ.

20                   Nevada Bar No. 10165

21                   7575 Vegas Drive, Suite 150

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25       ///

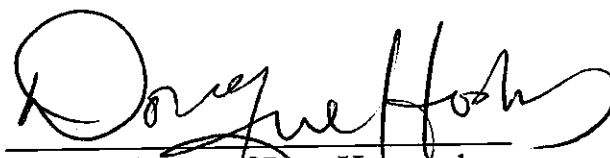
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I	Email from C. Ablahani to Appellant with attachment (Corres. to W. Keenan fr. C. Renwick)	APP000117-126
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## CERTIFICATE OF SERVICE

On the 13<sup>th</sup> day of January, 2020, the undersigned, an employee of Lee, Hernandez, Landrum & Carlson, APC, hereby served a true copy of **VOLUME I RESPONDENT'S APPENDIX TO ANSWERING BRIEF**, to the parties listed below via the electronic service through the Nevada Supreme Court's website (or, if necessary, by U.S. Mail, first class, postage pre-paid):

Chris Davis 514 West 26th Street, #3E Kansas City, MO 64108	Chris Davis 2934 1/2 North Beverly Glen Circle, Apt. 506 Los Angeles, CA 90077
Caroline D. Davis 2501 Nob Hill Place North Seattle, WA 98109 Phone: (206) 284-0837 <a href="mailto:Cddavis1@comcast.net">Cddavis1@comcast.net</a>	Honorable Gloria Sturman District Court Judge, Dept XXVI Eighth Judicial District Court 200 Lewis Ave. Las Vegas, NV 89155



An Employee of Lee, Hernandez,  
Landrum & Carlson, APC



DAVIS

Ms. Shanna Coressel  
Dunham Trust Company  
241 Ridge Street, Suite 100  
Reno, Nevada  
89501

Dear Shanna,

**Re: Ashley Cooper Life Policy # 1105-8007**

Further to your recent request to transfer the ownership of policy ACLI 1105-8007PC, please be advised that this life insurance policy has outstanding loans totaling \$2,164,744.68.

We require confirmation that the new owner is aware of the responsibility to repay these loans and that the policy has been pledged as collateral for these loans. Would you kindly arrange for an authorised signatory of the FHT Holdings LLC to sign below as acknowledgement of the loans?

Yours sincerely

Paul Fordham  
Client Services Manager

Confirming acknowledgement of the outstanding policy loans:

Signature:

Authorised Signatory, FHT Holdings LLC,

Date:

4-11-14

**Ashley Cooper Life International Insurer, SPC**

Administration Offices: 5<sup>th</sup> Floor Windward 3, Regatta Office Park, West Bay Road, P.O. Box 2185  
Grand Cayman KY1-1105, Cayman Islands  
Tel: (345) 949 1509, Fax: (345) 949 0520; Email: [info@casualty.com.ky](mailto:info@casualty.com.ky)

Registered Office: Fildor Gonzalez & Rodriguez P.S.C.  
BBVA Tower, 254 Muñoz Rivera Avenue, 6<sup>th</sup> Floor, Hato Rey, Puerto Rico 00918

CD-000151

**APP000001**

**Ashely Cooper Life International Insurer SPC**  
**Policy Loan Schedule**

<b>Policy</b>	<b>ACLI 1105-8007 PC</b>
<b>Insured</b>	<b>Cheryl L Davis</b>
<b>Loan to</b>	<b>Beatrice Davis Family Heritage Trust</b>

Loan Date	USD Amount	Original Currency Amount
18-Mar-04	\$2,500,000.00	\$2,500,000.00
2-May-05	-\$1,569,385.00	-\$1,569,385.00
	\$930,615.00	\$930,615.00
Interest to 31 Dec 2007	\$205,707.46	\$205,707.46
	\$1,136,322.46	\$1,136,322.46
Interest to 31 Dec 2008	\$47,700.30	\$47,700.30
	\$1,184,022.76	\$1,184,022.76
Interest to 31 Dec 2009	\$49,629.94	\$49,629.94
	\$1,233,652.70	\$1,233,652.70
Interest to 30 June 2010	\$25,402.98	\$25,402.98
	\$1,259,055.68	\$1,259,055.68
Repayment in Kind 12 Jul 2010	-\$1,100,000.00	-\$1,100,000.00
New Loan 3 Aug 2010	\$600,000.00	\$600,000.00
1035 Exchange - 2011	-\$759,055.68	-\$759,055.68

CD-000152

**APP000002**

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**Original currency**

USD

USD

USD

USD

USD

USD

USD

USD

USD

USD

USD

USD

USD

USD

CD-000153

**APP000003**

Ashely Cooper Life International Insurer SPC  
Policy Loan Schedule

Policy ACU 1105-8007 PC  
Insured Cheryl L Davis  
Loan to Beatrice Davis Family Heritage Trust

Loan Date	Description	USD Amount	Original Currency Amount	Total	Original Currency
9-May-11	Transfer of Loan From Advantage Life & Annuity Policy # ALIP 0008-1031	\$759,055.68	\$759,055.68	\$759,055.68	USD
Total Outstanding				\$759,055.68	USD

Policy Loan Revolving Line of Credit Interest rate (p.a.) 3.86%

Loan Date	Description	USD Amount	Withdrawal	Total	Original Currency
2-Sep-11	Policy Loan Revolving Line of Credit	\$4,000,000.00		\$4,000,000.00	USD
2-Sep-11	Withdrawal		-\$170,000.00	\$3,830,000.00	USD
15-Dec-11	Withdrawal		-\$18,000.00	\$3,812,000.00	USD
7-Feb-12	Withdrawal		-\$75,000.00	\$3,737,000.00	USD
30-Mar-12	Withdrawal		-\$100,000.00	\$3,637,000.00	USD
5-Mar-13	Withdrawal		-\$50,000.00	\$3,587,000.00	USD
14-Mar-13	Withdrawal		-\$53,000.00	\$3,534,000.00	USD
25-Mar-13	Withdrawal		-\$94,239.00	\$3,439,761.00	USD
28-Mar-13	Withdrawal		-\$70,000.00	\$3,369,761.00	USD
9-May-13	Withdrawal		-\$150,000.00	\$3,219,761.00	USD
25-Jun-13	Withdrawal		-\$157,500.00	\$3,062,261.00	USD
25-Jun-13	Withdrawal		-\$133,200.00	\$2,929,061.00	USD
17-Sep-13	Withdrawal		-\$134,000.00	\$2,795,061.00	USD
7-Oct-13	Withdrawal		-\$200,750.00	\$2,594,311.00	USD
				-\$2,164,744.68	

\* Please note total revolving line of credit approved for \$4,000,000  
\* Unpaid balances will be deducted from any death benefit proceeds

CD-000154

APP000004

Days	3.86%		4.20%	
	Cumulative loan interest on 1035 loans	Cumulative loan interest on 1035 loans	Cumulative loan interest on 1035 loans	Cumulative loan interest on 1035 loans
116	\$0.00	-\$759,055.68	-\$10,131.83	
104	-\$170,000.00	-\$1,869.72	-\$769,187.51	-\$9,204.96
54	-\$189,869.72	-\$1,084.29	-\$778,392.48	-\$4,836.70
51	-\$265,954.01	-\$1,434.40	-\$783,229.17	-\$4,596.38
340	-\$367,388.41	-\$13,209.88	-\$787,825.55	-\$30,822.33
9	-\$430,598.29	-\$409.84	-\$818,647.87	-\$847.81
11	-\$484,008.12	-\$563.04	-\$819,495.68	-\$1,037.28
3	-\$578,810.16	-\$183.63	-\$820,532.96	-\$283.25
42	-\$648,993.80	-\$2,882.60	-\$820,816.21	-\$3,966.90
47	-\$801,876.40	-\$3,985.66	-\$824,783.11	-\$4,460.61
0	-\$963,362.05	\$0.00	-\$829,243.72	\$0.00
84	-\$1,096,562.05	-\$9,741.08	-\$829,243.72	-\$8,015.27
20	-\$1,240,303.13	-\$2,623.33	-\$837,258.99	-\$1,926.84
	-\$1,443,676.45	-\$12,977.27	-\$839,185.83	-\$8,207.93
		-\$50,964.72		-\$88,338.08

at 31/12/13

85

-\$1,456,653.72

-\$927,523.90

-\$2,384,177.63

CD-000155

APP000005



*Steven D. Grierson*

1 Mark A. Solomon, Esq., Bar No. 418  
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2 Joshua M. Hood, Esq., Bar No. 12777  
jhood@sdfnlaw.com  
3 SOLOMON DWIGGINS & FREER, LTD.  
9060 West Cheyenne Avenue  
4 Las Vegas, Nevada 89129  
Telephone: 702.853.5483  
5 Facsimile: 702.853.5485

6 *Attorneys for Caroline Davis, Petitioner*

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 In the Matter of:

Case No.: P-15-083867-T  
Dept.: Probate (26)

10 The BEATRICE B. DAVIS FAMILY  
HERITAGE TRUST, dated July 28, 2000, as  
11 amended on February 24, 2014

Hearing Date: August 23, 2018  
Hearing Time: 9:30 A.M.

12  
13 **CAROLINE D. DAVIS'S JOINDER TO PETITION FOR INSTRUCTIONS REGARDING**  
14 **SURRENDER OF ASSETS, TERMINATION OF TRUST AND DISTRIBUTION ON**  
15 **ORDER SHORTENING TIME**

16 Caroline D. Davis ("Caroline"), as beneficiary of the Beatrice B. Davis Family Heritage  
17 Trust, dated July 28, 2000, as amended on February 24, 2014 (the "Trust"), by and through her  
18 counsel, Mark A. Solomon, Esq. and Joshua M. Hood, Esq., of the law firm of Solomon  
19 Dwiggins & Freer, Ltd., here by submits her Joinder to Petition for Instructions Regarding  
20 Surrender of Assets, Termination of Trust and Distribution on Order Shortening Time.

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9060 WEST CHEYENNE AVENUE  
LAS VEGAS, NEVADA 89129  
TELEPHONE (702) 853-5483  
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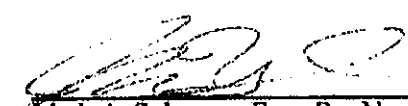
SOLOMON  
DWIGGINS & FREER  
TRUST AND ESTATE ATTORNEYS



1 Attached hereto as **Exhibit A** is a document, entitled "Joinder," executed by Caroline  
2 Davis evidencing the same.

3 Dated this 16<sup>th</sup> day of January, 2019.

4 SOLOMON DWIGGINS & FREER, LTD.

5  
6   
7 Mark A. Solomon, Esq., Bar No. 418  
msolomon@sdfnlaw.com  
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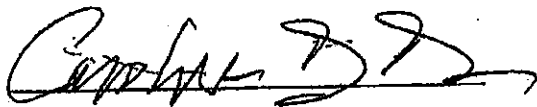
11 *Attorneys for Caroline Davis, Petitioner*

12  
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Joinder

I, Caroline D. Davis, join in and support the Petition for Instructions filed by Dunham regarding the Beatrice Davis Family Heritage Trust. I understand this matter is set for hearing on 1/31/19.

January 15, 2019

A handwritten signature in black ink, appearing to read 'Caroline D. Davis', with a horizontal line drawn through the middle of the signature.

Caroline D. Davis

**APP000008**

*Steven D. Grierson*

1 **COMJD**

2 **STEVEN B. WOLFSON, ESQ.**

3 Nevada Bar No. 1565

4 District Attorney

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6 Las Vegas, NV 89101

7 Tel.: 702-671-2700

8 Email: [steven.wolfson@clarkcountynvda.com](mailto:steven.wolfson@clarkcountynvda.com)

9 **ROBERT T. EGLET, ESQ.**

10 Nevada Bar No. 3402

11 **ROBERT M. ADAMS, ESQ.**

12 Nevada Bar No. 6551

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16 Tel.: (702) 450-5400

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18 E-Mail: [eservice@egletlaw.com](mailto:eservice@egletlaw.com)

19 Attorneys for Plaintiff, Clark County

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

17 **CLARK COUNTY,**

18 Plaintiff,

20 v.

21 **PURDUE PHARMA, L.P.; PURDUE**  
22 **PHARMA, INC.; THE PURDUE**  
23 **FREDERICK COMPANY, INC. d/b/a THE**  
24 **PURDUE FREDERICK COMPANY, INC.;**  
25 **PURDUE PHARMACEUTICALS, L.P.;**  
26 **TEVA PHARMACEUTICALS USA, INC.;**  
27 **CEPHALON, INC.; JOHNSON & JOHNSON;**  
28 **JANSSEN PHARMACEUTICALS, INC.;**  
**JANSSEN PHARMACEUTICA, INC. n/k/a**  
**JANSSEN PHARMACEUTICALS, INC.;**  
**ORTHO-MCNEIL-JANSSEN**  
**PHARMACEUTICALS, INC. n/k/a JANSSEN**  
**PHARMACEUTICALS, INC.; ENDO**  
**HEALTH SOLUTIONS INC.; ENDO**

) Case No.:

) Dept No.:

A-17-765828-C

Department 16

**COMPLAINT**

**AND DEMAND FOR JURY TRIAL**

1 PHARMACEUTICALS, INC.; ALLERGAN )  
2 PLC f/k/a ACTAVIS PLC; ACTAVIS, INC. )  
3 f/k/a WATSON PHARMACEUTICALS, )  
4 INC.; WATSON LABORATORIES, INC.; )  
5 ACTAVIS LLC; AND ACTAVIS PHARMA, )  
6 INC. f/k/a WATSON PHARMA, INC.; )  
7 AMERISOURCEBERGEN DRUG )  
8 CORPORATION; CARDINAL HEALTH, )  
9 INC.; McKESSON CORPORATION; )  
10 MASTERS PHARMACEUTICAL, LLC f/k/a )  
11 MASTERS PHARMACEUTICAL, INC.; C & )  
12 R PHARMACY d/b/a KEN'S PHARMACY )  
13 f/k/a LAM'S PHARMACY, INC.; DOES 1 )  
14 through 100; ROE CORPORATIONS 1 )  
15 through 100 and ZOE PHARMACIES 1 )  
16 through 100, inclusive,

17 Defendants.

18 Plaintiff Clark County, by and through the undersigned attorneys, files this Complaint  
19 against the named Defendants seeking to recover its damages as a result of the opioid epidemic  
20 Defendants caused, and alleges as follows:

### 21 INTRODUCTION

22 1. Opioid addiction and overdose in the United States as a result of prescription  
23 opioid use has reached epidemic levels over the past decade.

24 2. While Americans represent only 4.6% of the world's population, they consume  
25 over 80% of the world's opioids.

26 3. Since 1999, the amount of prescription opioids sold in the U.S. has nearly  
27 quadrupled. In 2010, 254 million prescriptions were filled in the U.S. – enough to medicate  
28 every adult in America around the clock for a month. In that year, 20% of all doctors' visits  
resulted in the prescription of an opioid (nearly double the rate in 2000).

4. By 2014, nearly two million Americans either abused or were dependent upon  
opioids.

5. On March 22, 2016, the Food and Drug Administration (FDA) recognized opioid  
abuse as a "public health crisis" that has a "profound impact on individuals, families and  
communities across our country."

1           6.     The Centers for Disease Control (CDC) reports that overdoses from prescription  
2 opioids are a driving factor in the 15-year increase in opioid overdose deaths.

3           7.     From 2000 to 2015, more than half a million people died from drug overdoses  
4 (including prescription opioids and heroin). The most recent figures from the CDC suggest that  
5 175 Americans die everyday from an opioid overdose (prescription and heroin).

6           8.     Many addicts, finding painkillers too expensive or too difficult to obtain, have  
7 turned to heroin. According to the American Society of Addiction Medicine, four out of five  
8 people who try heroin today started with prescription painkillers.

9           9.     County and city governments and the services they provide their citizens have  
10 been strained to the breaking point by this public health crisis.

11          10.    The dramatic increase in prescription opioid use over the last two decades, and  
12 the resultant public-health crisis, is no accident.

13          11.    The crisis was precipitated by Defendants, who, through deceptive means, and  
14 using one of the biggest pharmaceutical marketing campaigns in history, carefully engineered  
15 and continue to support a dramatic shift in the culture of prescribing opioids by falsely  
16 portraying both the risks of addiction and abuse and the safety and benefits of long-term use.

17          12.    Defendant drug companies named herein, manufacture, market, and sell  
18 prescription opioids (hereinafter "opioids"), including brand-name drugs like Oxycontin,  
19 Vicodin and Percocet, as well as generics like oxycodone and hydrodone, which are powerful  
20 narcotic painkillers.

21          13.    Historically, because they were considered too addictive and debilitating for the  
22 treatment of chronic pain (like back pain, migraines and arthritis), opioids were used only to  
23 treat short-term acute pain or for palliative (end-of-life) care.

24          14.    Defendants' goal was simple: to dramatically increase sales by convincing  
25 doctors that it was safe and efficacious to prescribe opioids to treat not only the kind of severe  
26 and short-term pain associated with surgery or cancer, but also for a seemingly unlimited array  
27 of less severe, longer-term pain, such as back pain, headaches and arthritis.

28          15.    Defendants knew that their opioid products were addictive, subject to abuse, and  
not safe or efficacious for long-term use.

1           16. Defendants' nefarious plan worked and they dramatically increased their sales  
2 and reaped billions upon billions of dollars of profit at the expense of millions of people who  
3 are now addicted and the thousands who have died as a result.

4           17. Defendant drug companies should never place their desire for profits above the  
5 health and well being of their customers or the communities where those customers live,  
6 because they know prescribing doctors and other health-care providers rely on their statements  
7 in making treatment decisions, and drug companies must tell the truth when marketing their  
8 drugs and ensure that their marketing claims are supported by science and medical evidence.

9           18. Defendants broke these simple rules and helped unleash a healthcare crisis that  
10 has had far-reaching financial, social, and deadly consequences in Clark County and throughout  
11 Nevada.

12           19. Defendants falsely touted the benefits of long-term opioid use, including the  
13 supposed ability of opioids to improve function and quality of life, even though there was no  
14 "good evidence" to support their claims.

15           20. Defendants disseminated these common messages to reverse the popular and  
16 medical understanding of opioids.

17           21. As a result of the drug companies' marketing campaign, opioids are now the  
18 most prescribed class of drugs generating \$11 billion in revenue for drug companies in 2014  
19 alone.

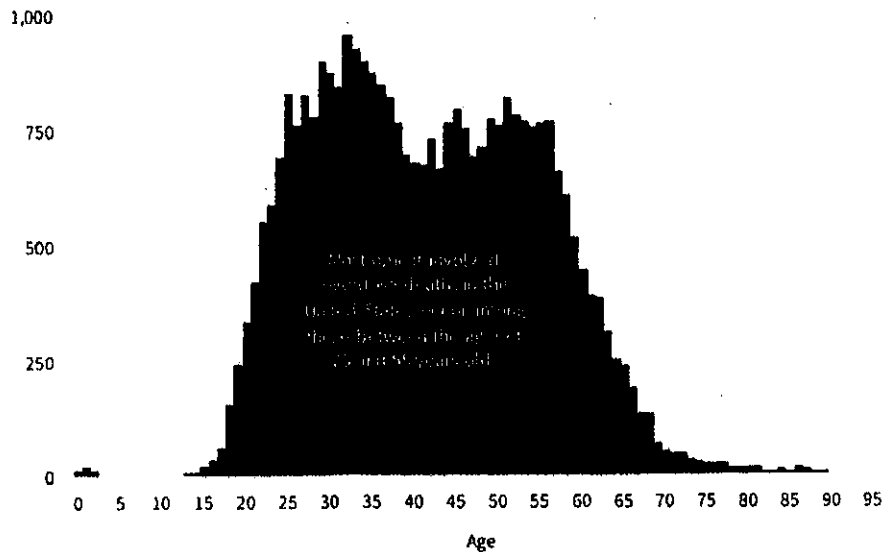
20           22. As a result of the drug companies' marketing campaign, the fatalities continued  
21 to mount while the living continue to suffer.

22           23. In 2015, over 33,000 Americans died of a drug overdose involving opioids with  
23 studies suggesting that these fatalities are statistically underreported. In 2015, the estimated  
24 economic impact of the opioid crisis was \$504.0 billion, or 2.8 % of our U.S.'s gross domestic  
25 product that same year. Previous estimates of the economic cost of the opioid crisis greatly  
26 understate it by undervaluing the most important component of the loss—fatalities resulting  
27 from overdoses.

28           24. Most opioid related deaths occur among those between the ages of approximately  
25 and 55 years old. Studies have shown that the overall fatality rate was 10.3 deaths per

1 100,000 population, and in the 25 to 55 year old age group, fatality rates were much higher,  
 2 ranging from 16.1 to 22.0 deaths per 100,000 population.

3  
 4 **Figure 2. Opioid-involved Overdose Deaths by Age in 2015**  
 (Number of deaths)



Source: CDC Wonder database, multiple cause of death files

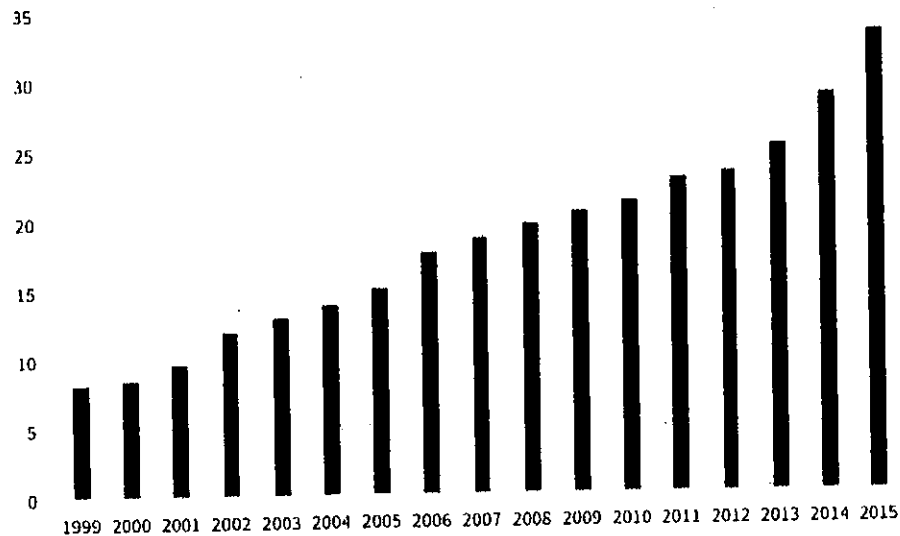
25. In addition to the cost of fatalities each year, opioid misuse among the living  
 imposes important costs as well. It is estimated that prescription opioid misuse increases  
 healthcare and substance abuse treatment costs in the United States by \$29.4 billion, increases  
 criminal justice costs by \$7.8 billion, and reduces productivity among those who do not die of  
 overdose by \$20.8 billion (in 2015 \$). The total nonfatal cost of \$58.0 billion divided by the 1.9  
 million individuals with a prescription opioid disorder in 2013 results in an average cost of  
 approximately \$30,000.<sup>1</sup> And when patients can no longer afford or legitimately obtain opioids,  
 they often turn to the street to buy prescription opioids or even heroin, fueling the secondary  
 drug market.

<sup>1</sup> Florence, C., Zhou, C., Luo, F. and Xu, L. 2016. "The Economic Burden of Prescription Opioid Overdose, Abuse, and Dependence in the United States, 2013." *Medical Care*, 54(10): 901-906.



26. Further compounding issues is that this problem is worsening at an alarming rate. According to a report published by the White House Council of Economic Advisors (CEA), opioid-involved overdose deaths have doubled in the past ten years and quadrupled in the past sixteen.

**Figure 1. Opioid-involved Overdose Deaths, 1999-2015**  
(Thousands of Deaths)



Source: CDC Wonder database, multiple cause of death files

27. The crisis that Defendants caused has directly impacted Clark County as it bears the financial brunt of this epidemic as it unfolds in our community.

28. Apart from the toll on human life, the crisis has financially strained the services Clark County provides its residents and employees. Human services, social services, court services, law enforcement services, the office of the coroner/medical examiner and health services, including hospital, emergency and ambulatory services, have all been severely impacted by the crisis. For example, as a direct and foreseeable consequence of Defendants' egregious conduct, Clark County paid, and continues to pay, a significant amount for health care costs that stem from prescription opioid dependency. These costs include unnecessary and excessive opioid prescriptions, substance abuse treatment services, ambulatory services, emergency department services, and inpatient hospital services, among others. Defendants'

1 conduct also caused Clark County to incur substantial economic, administrative and social costs  
2 relating to opioid addiction and abuse, including criminal justice costs, victimization costs, child  
3 protective services costs, lost productivity costs, and education and prevention program costs  
4 among others.

5 29. After creating a public health crisis, Defendants have not pulled their opioid  
6 products from the market, acknowledged the very real dangers of addiction and abuse even if  
7 the opioids are taken as prescribed, or acknowledged that opioids are inappropriate for long-  
8 term pain management. Instead, Defendants have taken the position that their opioid products  
9 are not dangerous and continue to sell these dangerous and addictive drugs, thereby continuing  
10 to fuel the crisis.

11 30. As a result, physicians, pharmacists and patients are not able to appropriately and  
12 adequately evaluate the relevant risks associated with opioids use, particularly the risks to  
13 patients who have been and are being exposed to, unnecessarily, including but not limited to the  
14 risk of severe and disabling addiction, actual addiction, the consequences of addiction, and other  
15 adverse medical conditions. Additionally, the rising numbers of persons addicted to opioids  
16 have led to a dramatic increase of social problems, including drug abuse and diversion and the  
17 commission of criminal acts to obtain opioids. Consequently, public health and safety have been  
18 significantly and negatively impacted due to the misrepresentations and omissions by  
19 Defendants regarding the appropriate uses and risks of opioids, ultimately leading to widespread  
20 inappropriate use of the drug.

21 31. As a result of Defendants' misconduct, physicians, pharmacists and patients have  
22 not been provided with accurate information about the appropriate uses, risks and safety of these  
23 drugs, thus causing the crisis before us as well as giving rise to this lawsuit.

24 32. Plaintiff files this Complaint naming the drug companies herein as Defendants  
25 and placing the industry on notice that Clark County is taking action to abate the public  
26 nuisance that plagues our community.

27 33. By its Complaint, Clark County seeks to recover from Defendants its damages as  
28 a result of the opioid public-health crisis Defendants caused. Namely, this action is brought by

1 this Plaintiff pursuant to constitutional, statutory, common law and/or equitable authority for  
2 purposes of, *inter alia*:

- 3 a. recovering restitution and reimbursement for all the costs Clark County  
4 has incurred in paying excessive and unnecessary prescription costs  
5 related to opioids;
- 6 b. recovering restitution and reimbursement for all the costs expended by  
7 Clark County for health care services and programs associated with the  
8 diagnosis and treatment of adverse health consequences of opioids use,  
9 including but not limited to, addiction;
- 10 c. recovering restitution and reimbursement for all the costs consumers have  
11 incurred in excessive and unnecessary prescription costs related to  
12 opioids;
- 13 d. disgorgement;
- 14 e. recovering damages for all costs incurred and likely to be incurred in an  
15 effort to combat the abuse and diversion of opioids in Clark County;
- 16 f. recovering damages incurred as costs associated with the harm done to  
17 the public health and safety.

18 34. However, Plaintiff does not bring claims, as part of this action, for products  
19 liability nor does the County seek compensatory damages for death, physical injury to person,  
20 emotional distress, or physical damage to property.

#### 21 PARTIES AND JURISDICTION

##### 22 **A. Plaintiff, Clark County.**

23 35. Plaintiff, Clark County ("CLARK COUNTY" or "Plaintiff"), is an  
24 unincorporated county organized under the laws of the State of Nevada.

25 36. Plaintiff provides a wide range of services on behalf of its residents, including  
26 services for families and children, public health, public assistance, law enforcement, and  
27 emergency care.

28 37. Plaintiff has all the powers possible for a county to have under the constitution of  
the State of Nevada, and the laws of the State of Nevada.

1           38. Plaintiff has standing to bring this litigation to provide for the orderly  
2 government of Clark County and to address matters of local concern including the public health,  
3 safety, prosperity, security, comfort, convenience and general welfare of its citizens.

4           39. Clark County declares that the unlawful distribution of prescription opiates, by  
5 the Defendants named herein, has created a serious public health crisis of opioid abuse,  
6 addiction, morbidity and mortality and is a public nuisance.

7           40. Plaintiff is authorized by law to abate any nuisance and prosecute in any court of  
8 competent jurisdiction, any person who creates, continues, contributes to, or suffers such  
9 nuisance to exist and prevent injury and annoyance from such nuisance.

10           **B. Defendants, Drug Manufacturers.**

11           41. Defendant PURDUE PHARMA L.P. is a limited partnership organized under the  
12 laws of Delaware. PURDUE PHARMA INC. is a Delaware corporation with its principal place  
13 of business in Stamford, Connecticut, and THE PURDUE FREDERICK COMPANY, INC. is a  
14 Delaware corporation with its principal place of business in Stamford, Connecticut. Defendant  
15 PURDUE PHARMACEUTICALS, L.P., ("Purdue Pharmaceuticals") is and was a limited  
16 partnership organized under the laws of the State of Nevada. At all times relevant hereto,  
17 Purdue Pharmaceuticals is and was authorized to do business in the State of Nevada. Purdue  
18 Pharmaceuticals is and was in the business of designing, testing, manufacturing, labeling,  
19 advertising, promoting, marketing, selling and/or distributing OxyContin. (collectively,  
20 "Purdue").

21           42. Defendant TEVA PHARMACEUTICALS USA, INC., is a Delaware corporation  
22 with its principal place of business located in North Wales, Pennsylvania. Teva USA is a  
23 wholly owned subsidiary of Teva Pharmaceutical Industries, Ltd. ("Teva Ltd."), an Israeli  
24 corporation.

25           43. Defendant CEPHALON, INC., is Delaware corporation with its principal place  
26 of business located in Frazer, Pennsylvania. In 2011, Teva Ltd. acquired CEPHALON, INC.

27           44. JANSSEN PHARMACEUTICALS, INC., is a Pennsylvania corporation with its  
28 principal place of business in Titusville, New Jersey, and is a wholly owned subsidiary of  
JOHNSON & JOHNSON, a New Jersey corporation with its principal place of business in New

1 Brunswick, New Jersey. JANSSEN PHARMACEUTICALS, INC., was formerly known as  
2 ORTHO-MCNEIL-JANSSEN PHARMACEUTICALS, INC., which in turn was formerly  
3 known as Janssen Pharmaceutica Inc. Defendant ORTHO-MCNEIL-JANSSEN  
4 PHARMACEUTICALS, INC., now known as JANSSEN PHARMACEUTICALS, INC., is a  
5 Pennsylvania corporation with its principal place of business in Titusville, New Jersey. Janssen  
6 Pharmaceutica, Inc., now known as JANSSEN PHARMACEUTICALS, INC., is a  
7 Pennsylvania corporation with its principal place of business in Titusville, New Jersey. Johnson  
8 & Johnson is the only company that owns more than 10% of Janssen Pharmaceuticals, Inc.'s  
9 stock, and it corresponds with the FDA regarding Janssen's products.

10 45. Upon information and belief, Johnson & Johnson controls the sale and  
11 development of Janssen Pharmaceutical's drugs, and Janssen Pharmaceuticals, Inc.'s profits  
12 inure to JOHNSON & JOHNSON's benefit. (JANSSEN PHARMACEUTICALS, INC.,  
13 ORTHO-MCNEIL-JANSSEN PHARMACEUTICALS, INC., JANSSEN PHARMACEUTICA,  
14 INC., AND JOHNSON & JOHNSON collectively are referred to herein as "Janssen.")

15 46. Defendant ENDO HEALTH SOLUTIONS INC., is a Delaware corporation with  
16 its principal place of business located in Malvern, Pennsylvania. ENDO  
17 PHARMACEUTICALS, INC., is a wholly-owned subsidiary of Endo Health Solutions Inc., and  
18 is a Delaware corporation with its principal place of business in Malvern, Pennsylvania. (Endo  
19 Health Solutions Inc., and Endo Pharmaceuticals, Inc., collectively are referred to herein as  
20 "Endo.").

21 47. ALLERGAN PLC is a public limited company incorporated in Ireland with its  
22 principal place of business in Dublin, Ireland formerly known as ACTAVIS PLC. Prior to that,  
23 WATSON PHARMACEUTICALS, INC., acquired ACTAVIS, INC. in October 2012; the  
24 combined company changed its name to ACTAVIS, INC., in January 2013 and then to  
25 ACTAVIS PLC in October 2013.

26 48. WATSON LABORATORIES, INC. is, and was at all times relevant herein, a  
27 Nevada corporation with its principal place of business in Corona, California, and is a wholly  
28 owned subsidiary of ALLERGAN PLC (f/k/a ACTAVIS, INC., f/k/a WATSON  
PHARMACEUTICALS, INC.). ACTAVIS PHARMA, INC. (f/k/a ACTAVIS, INC.), is a

1 Delaware corporation with its principal place of business in New Jersey, and was formerly  
2 known as WATSON PHARMA, INC. ACTAVIS LLC is a Delaware limited liability company  
3 with its principal place of business in Parsippany, New Jersey.

4 49. That at all times relevant herein, PURDUE PHARMA, L.P.; PURDUE  
5 PHARMA, INC.; THE PURDUE FREDERICK COMPANY, INC. dba THE PURDUE  
6 FREDERICK COMPANY, INC.; PURDUE PHARMACEUTICALS, L.P.; TEVA  
7 PHARMACEUTICALS USA, INC.; CEPHALON, INC.; JOHNSON & JOHNSON; JANSSEN  
8 PHARMACEUTICALS, INC.; JANSSEN PHARMACEUTICA, INC. n/k/a JANSSEN  
9 PHARMACEUTICALS, INC.; ORTHO-MCNEIL-JANSSEN PHARMACEUTICALS, INC.  
10 n/k/a JANSSEN PHARMACEUTICALS, INC.; ENDO HEALTH SOLUTIONS INC.; ENDO  
11 PHARMACEUTICALS, INC.; ALLERGAN PLC f/k/a ACTAVIS PLC; ACTAVIS, INC. f/k/a  
12 WATSON PHARMACEUTICALS, INC.; WATSON LABORATORIES, INC.; ACTAVIS  
13 LLC; and ACTAVIS PHARMA, INC. f/k/a WATSON PHARMA, INC. (collectively  
14 "Defendant Manufacturers" or "Defendants") are, and currently are, regularly engaged in  
15 business in Clark County. More specifically, Defendants were, and currently are, in the  
16 business of designing, testing, manufacturing, labeling, advertising, promoting, marketing,  
17 and/or selling opioids throughout Clark County.

18 **C. Defendants, Wholesale Distributors.**

19 50. Defendant, AMERISOURCEBERGEN DRUG CORPORATION, is, and at all  
20 times pertinent hereto, was, a foreign corporation authorized to do business in the County of  
21 Clark, State of Nevada. Upon information and belief, and at all times relevant hereto,  
22 AMERISOURCEBERGEN DRUG CORPORATION's principal place of business is located in  
23 Chesterbrook, Pennsylvania, operating distribution centers in Ohio.

24 51. Defendant, CARDINAL HEALTH, INC. is, and at all times pertinent hereto,  
25 was, a foreign corporation authorized to do business in the County of Clark, State of Nevada.  
26 Upon information and belief, and at all times relevant hereto, CARDINAL HEALTH, INC.'s  
27 principal office is located in Dublin, Ohio, operating, distribution centers in Ohio.

28 52. Defendant, McKESSON CORPORATION, is, and at all times pertinent hereto,  
was, foreign corporation authorized to do business in the County of Clark, State of Nevada.

1 Upon information and belief, and at all times relevant hereto, McKESSON CORPORATION's  
2 principal place of business is located in San Francisco, California, operating distribution centers  
3 in Ohio.

4 53. Defendant, MASTERS PHARMACEUTICAL, LLC f/k/a MASTERS  
5 PHARMACEUTICAL, INC., is, and at all times pertinent hereto, was, foreign corporation  
6 authorized to do business in the County of Clark, State of Nevada. Upon information and  
7 belief, and at all times relevant hereto, MASTERS PHARMACEUTICAL, LLC f/k/a  
8 MASTERS PHARMACEUTICAL, INC.'s, operates distribution centers in Ohio.

9 54. AMERISOURCEBERGEN DRUG CORPORATION, CARDINAL HEALTH,  
10 INC., McKESSON CORPORATION, and MASTERS PHARMACEUTICAL, LLC f/k/a  
11 MASTERS PHARMACEUTICAL, INC. (collectively "Defendant Distributors" or  
12 "Defendants") distributed opioids into Clark County.

13 55. Defendant Distributors purchased opioids from manufacturers, such as the  
14 named Defendants herein, and sold them to pharmacies throughout Clark County.

15 56. Defendant Distributors played an integral role in the chain of opioids being  
16 distributed throughout Clark County.

17 **Defendants, Pharmacies.**

18 57. Defendant C & R PHARMACY d/b/a KEN'S PHARMACY f/k/a LAM'S  
19 PHARMACY, INC. ("LAM'S PHARMACY") is and was at all times pertinent hereto a  
20 domestic corporation authorized to do business in the County of Clark, State of Nevada. Upon  
21 information and belief, and at all times relevant hereto, KEN'S PHARMACY f/k/a LAM'S  
22 PHARMACY, INC.'s principal place of business was in Las Vegas, Nevada.

23 58. Defendant LAM'S PHARMACY and other pharmacies (collectively "Defendant  
24 Pharmacies" or "Defendants") sold opioids to residents of Clark County giving rise to the  
25 opioid crisis.

26 59. Defendant Pharmacies played an integral role in the chain of opioids being sold  
27 throughout Clark County.

28

1 related to opioids;

2 8. For such other and further extraordinary equitable, declaratory and/or injunctive  
3 relief as permitted by law as necessary to assure that the Plaintiffs have an  
4 effective remedy and to stop Defendants' promotion and marketing of opioids for  
5 inappropriate uses in Nevada, currently and in the future;

6 9. For disgorgement;

7 10. Costs of suit, reasonable attorney fees, interest incurred herein; and

8 11. For such other and further relief as is just and proper.

9 DATED this 6<sup>th</sup> day of December, 2017.

10 CLARK COUNTY

11  
12  
13   
STEVEN B. WOLFSON, ESQ.

Nevada Bar No. 1565

District Attorney

200 E. Lewis Ave

Las Vegas, NV 89101

16 Tel.: 702-671-2700

17 Email: [steven.wolfson@clarkcountynvda.com](mailto:steven.wolfson@clarkcountynvda.com)

18 EGLET PRINCE

19  
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E-Mail [eservice@egletlaw.com](mailto:eservice@egletlaw.com)

26 Attorneys for Plaintiff, Clark County  
27  
28



# Advantage Insurance

September 20, 2019

VIA EMAIL: [ann.rosevear@dunham.com](mailto:ann.rosevear@dunham.com)

Ann Rosevear  
Dunham Trust Company  
241 Ridge Street Suite 100  
Reno, Nevada 89501

Re: Advantage Life Puerto Rico A.I. Policy ACLI 1105-8007 PC

Dear Ms. Rosevear:

This letter is to confirm the cancellation of the life insurance policy referenced above ("Policy") effective June 27, 2019. The Policy was issued by Advantage Life Puerto Rico A.I. ("Advantage Life") and owned by the Beatrice B. Davis Family Heritage Trust dated July 28, 2000 ("Davis Trust") through FHT Holdings LLC. Please find attached the Cancellation Endorsement for your records.

Upon cancellation, Advantage Life has initiated the return of all Policy assets to the ultimate owner, Dunham Trust Company ("Dunham"). As discussed, we have returned most of the cash held in the Policy to Dunham Trust Company. As of today, the total cash balance remaining is approximately \$45,000, of which approximately \$15,000 will be needed to pay direct costs and expenses to complete the liquidation and wind-up of the complex investment structure held by the Policy. The remaining \$30,000 is available to be distributed to you.

The Policy held numerous non-cash assets that we are seeking to liquidate in the near term. Some of the assets are illiquid, or appear to have no value. The following is a summary of the remaining illiquid assets that will take some time to be liquidated and/or transferred in-kind to the Davis Trust:

## **Private Equity Investments**

The Policy holds three private equity investments, two of which appear to have value and one that is worthless. The largest investment by value is a 95% interest in PharmService, LLC. We

## **Advantage Life Puerto Rico A.I.**

American International Plaza  
250 Muñoz Rivera Avenue, Suite 710  
San Juan, Puerto Rico 00918

Phone: +1 (787) 705 2900  
[www.advantagelife.com](http://www.advantagelife.com)

**APP000022**

have engaged a business broker, Frontier Investment Banking of Kansas City, to sell this investment and hope to have a buyer identified before year-end. This is a regulated business and will take some time to complete a sale transaction. We hope to have liquid proceeds in hand in early 2020. The amount will likely be within a range of \$1 to \$2 million, depending on market conditions and the performance of the business. Please note that PharmService, LLC has significant debt due to Bank of Kansas City and is operating under a forbearance agreement with BOKC.

The second PE investment held by the Policy is 565 common shares of Blue Ridge Bancshares, Inc., parent company of Blue Ridge Bank & Trust Co. of Independence, MO. We believe these shares have significant value, perhaps as much as \$500,000, and have contacted the bank management to determine if they know of any market for the shares. The issuer is profitable and has positive tangible book value, and is currently paying a dividend.

The third PE investment is a long-bankrupt company, Eleos Inc. We do not believe these shares hold any value, and may have been cancelled in 2010. We are researching them further to determine if there is any successor entity or any chance of realizing value.

#### **Real Property**

The Policy notionally owned works of art, jewelry and a rare book that had been collected by Mrs. Beatrice Davis and held for safekeeping by The Davis Family Office, LLC in Kansas City and overseen by Mr. Terry Watts. This real property, which is identified on the attached inventory list, is missing and presumed lost. We have made numerous attempts to collect the property and store it with a qualified custodian in Kansas City. The Davis Family Office has been closed and we are unable to locate Mr. Watts, or the missing property.

We expect to deliver to you a claim to recover the missing property, which we will need to have drafted by legal counsel in Kansas City. Please advise us if you do not want to have the legal work done, as it will be at the expense of the Policy and is included in the \$15,000 reserve amount for wind-up costs.

#### **Promissory Notes**

The Policy holds approximately six (6) promissory notes totaling approximately \$5 million of face value. We are not certain of the exact face amount at this time, as there were a number of amendments and extensions made over the years that need to be traced and confirmed. The obligors of these notes are all Davis family entities and one individual family member, Chris Davis. We do not believe these promissory notes are collectable, and the terms of the notes vary as to the ability of the lender to compel repayment from the obligor. We have engaged a Certified Public Accountant to compile a complete inventory of the promissory notes and

calculate the accrued interest due. We expect to deliver these promissory notes to you in-kind, when the inventory and accrued interest calculations are completed.

**Policy Loan**

There is an outstanding policy loan to the owner in the amount of \$2,998,602, plus interest. As this amount is payable by the owner to the Policy, it is offset against the cash surrender amount and no cash will change hands to settle this loan.

Finally, we should point out that there are tax implications to the cancellation of indebtedness related to the promissory notes. We are consulting tax counsel as to our obligations to make any tax filings with respect to the promissory notes, and will share with you any relevant information we have prior to delivering the promissory notes to you.

As always, we are pleased to help you with any information we can provide about the Policy, its remaining assets and the timing of delivery of these assets to you. Please contact us any time by email or telephone if we can be of service.

Kind regards,

A handwritten signature in black ink, appearing to read "Walter C. Keenan", with a stylized, flowing script.

Walter C. Keenan  
Director

# Advantage Insurance

## Endorsement No. 5

Forming part of and attached to policy ACLI 1105-8007 PC issued to:

FHT Holdings LLC c/o Dunham Trust Company

### CANCELLATION OF POLICY

Further to the instructions received from the Policy Owner dated 27<sup>th</sup> June 2019, with effect from midnight on the 27<sup>st</sup> June 2019, the above-referenced policy is hereby cancelled.



Director

### Advantage Life Puerto Rico A.I.

American International Plaza  
250 Muñoz Rivera Avenue, Suite 710  
San Juan, Puerto Rico 00918

Phone: +1 (787) 705 2900  
[www.advantagelife.com](http://www.advantagelife.com)

**APP000025**

# SCHEDULE A

## (A) Assets held by Norfolk City Investment Ltd (and contributed to North American Fund on its dissolution)

Artwork	Per Financial Statements (1) US\$	Value per Appraisal (2) US\$	Value Per Insurance Policy (3) US\$
Adam Brehm, Wood Carving - 14" x 50", French Style	1,162.00	-	1,162.00
Antique Chest of Drawers - French, 19th Century, Marble Top, 4 Drawers	863.00	-	863.00
Giorgio de Chirico, <i>Il poeta solitario</i> , Sculpture - 20.5" High - Bronze with Silver Plating	126,048.00	115,000.00	115,000.00
Chinese Ancestor Portrait	1,000.00	-	1,277.00
Terracotta Olinochoe Figurine of a Woman's Face - 15.5" High - 350 B.C.	11,508.00	19,000.00	19,000.00
Glass Panel # 69 from Ship Normandie	25,058.00	-	25,000.00
18th Century French Fauteuil	1,897.00	-	2,422.00
Book - <i>Description de l'Egypte ou Recueil des Observations</i>	41,753.00	80,000.00	80,000.00
Eishi, Four Beautiful Women, One with umbrella, Japanese Print	4,100.00	-	5,232.00
Paley, Floor Lamp	17,036.00	40,000.00	40,000.00
Chihuly, <i>Red Orcre</i> , Chandelier	79,856.00	185,000.00	185,000.00
Serrier, <i>Le Monde d'Amour</i> , Oil Painting	5,800.00	-	5,800.00
Hasui, <i>Tree in Moonlight</i> , Japanese Wood Block Print, (Brookside Antiques)	800.00	-	1,021.00
Choki, <i>Courtesans &amp; Trees</i> , Japanese Wood Block Print, (Brookside Antiques)	2,150.00	-	2,746.00
Charlecote, Painting, Mid 19th Century French Painting, Gilt Frame	1,045.00	-	1,335.00
Steinberg, Carpet - 7' x 9'	31,596.00	7,000.00	7,000.00
Belzoni, <i>Exterior View of the Two Temples at Ybsambul</i> , Egyptian Print	500.00	-	638.00
Csaky, <i>Tete Or et Argent</i> , 1924, Bronze Fonte Blanchet	49,000.00	50,000.00	50,000.00
Marc Chagall, <i>Derriere le Miroir</i> - Lithographs	1,472.00	-	1,472.00
Pablo Picasso, <i>Plaque</i> , 1959, LinoGravure original	46,013.00	60,000.00	60,000.00
Henri Matisse, <i>Odalisque Debout Au Plateau de Fruits</i>	31,356.00	35,000.00	35,000.00
Antique Oushak 14.7 x 10.4 (Reference is 10.4 x 13.6)	45,000.00	25,000.00	25,000.00
Antique Oushak 5.8 x 8.8	9,000.00	-	9,000.00
Antique Karabagh 4.4 x 7.11	6,200.00	-	6,200.00
Anatolian Kilim 8 x 10.7	7,200.00	-	7,200.00
Antique Oushak 9.5 x 12.5	26,623.00	7,000.00	7,000.00
GIACOMO BALLA (1871-1958) <i>Linea-forza del pugno di Boccioni II</i> - Sculpture	-	90,000.00	90,000.00
China Napoleon Figure	500.00	-	-
Marble Head of a Lady of Classical Period - Sold 12-06-14	35,956.00	-	-
Noide Meer mit Qualmenden Dampf, 1946 Watercolor	70,000.00	-	-
	<b>490,462.00</b>	<b>713,000.00</b>	<b>784,368.00</b>

(1) Value carried on Financial Statements - based upon original value on assumption

(2) Larger value items appraised in 2015

(3) Value for insurance purposes as arranged by Davis Family Office

APP000026

**(B) Assets held by The North American Fund Ltd**

Artwork	Per Financial Statements (1)	Assumption Value (2)
	US\$	CAD\$
Albert Payley, Chrysalis Vessel, Sculpture 1994	22,798.00	22,725.75
Antique Chest of Drawers – American Victorian Walnut – Three Drawers	574.00	572.18
Antique Syrian Table with Inlaid Ivory	2,000.00	1,993.66
Antique Vienna Art Deco Style Chairs from Christie's	1,980.00	1,973.73
Art Deco 1930's Style Armchair	2,000.00	1,993.66
Arthur & Bond Japanese Meiji Sterling Silver Repousse Tea Set	12,000.00	11,961.97
Belzoni, Tableau, Egyptian Print, Plate 3	460.00	458.54
Brandt, Railing	16,000.00	15,949.30
Bruce Wolfe – IWD Maquette	4,740.00	4,724.98
Canosan Terracotta Statute of a Muse – Greek – 3rd century B.C.	18,000.00	17,942.96
Copies of Vienna Art Deco Style Chairs - laquered arm chairs by Jules Leleu 900€	1,216.00	1,212.15
Dubowski, Dresser	17,811.00	17,754.56
Dubowski, Peonies, Free standing magnesium plate sculpture – 27 x 42.5	17,000.00	16,946.13
Edgar Brandt, His Highness, 1924, Painted wrought iron & marble occasional table	175,000.00	174,445.43
Egyptian Print, from "Description de l'Egypte" Vol. 4 Plate 12	1,500.00	1,495.25
F. Leger, Decorated Plates – 9.5" Diameter	1,500.00	1,495.25
Façade Denderah, from "Description de l'Egypte", Approx 32" x 17.5"	450.00	448.57
Fernand Leger print, Tete de Femme	3,750.00	3,738.12
Gustav Klimt, Beethoven Frieze Fragments, colliotype prints + framing	10,620.00	10,586.35
Gustav Klimt, Judith I, Color Colliotypes, 1918	35,000.00	34,889.09
Gustav Klimt, Pallas Athena, 1918 – Portfolio Number 11 of 230	17,500.00	17,444.54
Gustav Klimt, Rooser Parade, Multicolor colliotype prints + framing	10,000.00	9,968.31
Gustav Klimt, Studies of the Frieze at Palais Stoclet, four colliotype prints	6,000.00	5,980.99
Herman Max Pechstein, Head of a Fisherman, Woodcut (Kopf eines Seemannes)	3,500.00	3,488.91
Iznik Flask	9,000.00	8,971.48
Japanese Paper Mache Figures	2,500.00	2,492.08
Jean Cocteau, Ceramic Plate – 5.75" diameter -1960	5,000.00	4,984.16
Jean Fautrier, La Boite en Fer Blanche, 1950 – Print	6,071.00	6,051.76
Kikugawa Eizan, Five Holidays of a Green House, Japanese Print	10,240.00	10,207.55
Kitagawa Shikimaro, Poetess Series, Courtesan Karuta of Chojiya, c. 1817	8,960.00	8,931.61
Kitagawa Utamaro, (1754-1867) drinking Sake from the series: Eight views of things we are fond of	9,000.00	8,971.48
Lighton, Orange Zinnia, clay, China Paint, Soda Glaze, 2008	3,800.00	3,787.96
Marini, From Color to Form X, Lithograph 1969	9,000.00	8,971.48
Max Bill Serigraphs	1,500.00	1,495.25
Mother of Pearl Commode from Syria, 46w x 21d x 48.5" h, from Leon Amar Inc	35,000.00	34,889.09
Pair of Turkish tabouret tables, late 18th Century, 17.25" diam by 16" high	16,000.00	15,949.30
Perrault, Palaces of the Kings, Colored Engraving of Paris – 29" x 19"	2,000.00	1,993.66
Pierre le Faguys, Woman in stylized African style, bronze, 1925 1600€	3,200.00	3,189.86
Pilleau, Koum Ombou, 1845 Lithograph 10.75" x 16.75"	450.00	448.57
Pilleau, Ruins at Luxor, 1845, Lithograph – 10.75" x 16.75"	450.00	448.57
Richard Brown, Photographs – C Prints (Color) – 20" x 30"	3,198.00	3,187.87
Richard Brown, Photographs – Silver Gelatins (B&W) – 20" x 30"	3,198.00	3,187.87
Roberts, Approach to the Fortress of Ibrim, Nubia, Pub. 1847. Tintstone Lithograph – 14.75" x 19"	1,580.00	1,574.99
Roberts, Descent Upon the Valley of the Jordan, Pub 1841, Tintstone Lithograph – 14" x 19"	850.00	847.31
Roberts, Entrance to the Temple of Amun, Thebes, Pub. 1844, Tintstone Lithograph – 14.75" x 16.75"	1,200.00	1,196.20
Roberts, Entrance to the Tombs of the Kings of Thebes, Pub. 1848, Tintstone Lithograph – 14" x 19"	1,000.00	996.83
Roberts, Fragments of the Great Colossi at the Mennonian, Pub 1847. Tintstone Lithograph – 14.75" x 20"	1,100.00	1,096.51
Roberts, Interior of the Mosque of the Meltways, Pub. 1848, Tintstone Lithograph – 20.5" x 14"	2,800.00	2,791.13
Roberts, Interior of the Mosque of the Sultan El Ghoree, Pub. 1848, Tintstone Lithograph – 13.5" x 19"	2,800.00	2,791.13
Roberts, Medinet Abou Thebes, Pub. 1847, Tintstone Lithograph – 14" x 19"	1,780.00	1,774.36
Roberts, Mosque of Sultan Hassan, Cairo, Pub 1848, Tintstone Lithograph – 14.5" x 20"	2,800.00	2,791.13
Roberts, Mount Cavalry, Pub. 1841, Tintstone Lithograph – 14" x 19"	1,200.00	1,196.20
Roberts, Sabaste Ancient Samaria, Pub 1847, Tintstone Lithograph, 14.75" x 16.75"	1,000.00	996.83
Roberts, Tombs of the Callphs, Cairo. Pub. 1849, Tintstone Lithograph – 9.75" x 13.75"	500.00	498.42
Suzuki Harunobu, Parading Courtesan from Yoshiwara, c. 1768, Japanese Print	11,200.00	11,164.51

**APP000027**

Syrian tabouret table from Damascus, mid 18th Century, 15.5" diam by 19.5" tall	14,000.00	13,955.63
Utagawa Yoshitora, ca. Bijin 1862, Pillar Print of two joined pages	5,280.00	5,269.27
Valdes Manolo - Untitled Prints - graphite on tracing paper mounted	9,000.00	8,971.48
Van Millet, Landscape	1,500.00	1,495.25
Venetian Bombay Chest with Chinoiserie Painted Decoration and Trompe l'oeil Marble Top	4,313.00	4,299.33
Voice - 1996 Multi Media	1,500.00	1,495.25
Wilbur Niewald, Swope Park I - 39 7/16 x 50 3/16 - 1963	9,662.00	9,631.38
Wilbur Niewald, Trees, 34 1/4 x 43 11/16 - 1962	8,588.00	8,560.78
Zsolnay - Small Bowl w Red Lilies	16,000.00	15,949.30
Subtotal	<u>609,519.00</u>	<u>607,687.12</u>

In addition, following assets assigned from Norfolk City Investments in period 2014 to 2016

Archipenko, Bronze Statuette ( Statue on a Triangular Base ) 30" High - Signed & Dated Provenance- Weintraub	- to confirm valuation
Archipenko, <i>Torso</i> , 1914, Bronze Sculpture with Silver Plating - 14.5" High	- to confirm valuation
Oskar Schlemmer, Groteske	- to confirm valuation
William Wauer, Harwarth Walden	- to confirm valuation

**APP000028**

**Jewelry**

One Pair of 18K Y/G Heart Motif Earrings with Scalloped Edges
18K Y/G Five Petal Flower Brooch with Double Stem
Fabricated Cluster Ring: 18K Y/G Split wire Shank with Fingermate Hinged shank and
Platinum Wire Gallery with a Golden Sapphire Weighing 22.74CTS with 40 Round Cut
Diamonds
18K Y/G Rolex Gentlemen's Watch SN 8524976
18K W/G 5 Petal Flower Brooch with 5 Carved Peridot Pedals
18K Y/G Zinna Motif Earrings with Omega Clip Backs and Frosted Finish
18K Y/G Earrings with Omega Clip/Posts Designated by Henry Dunay
18K Y/G Black-Eyed Susan Brooch, Designed by Jean Vitau
18K Y/G Twin Lion's Head Bypass Style Ring
18K Yellow, White, and Pink Flexible Cuff Bracelet, Designed by Gregg Ruth
18K Y/G Black-Eyed Susan Motif Earrings with Clip Backs by Jean Vitau
18K Y/G Mabe Pearl and Diamond Ring designed by Kurt Guam
18K Y/G Doomed Fashion Ring (Paloma Picasso 1981 Tiffany & Co) with Amethyst & Citrine
Jewels
Total

Per Financial Statements (1)	Assumption Value (2)
US\$	CAD\$
10,900.00	10,865.46
26,400.00	26,316.34
66,500.00	66,289.26
24,600.00	24,522.04
21,900.00	21,830.60
6,300.00	6,280.04
6,000.00	5,980.99
19,500.00	19,438.20
2,700.00	2,691.44
24,300.00	24,222.99
11,400.00	11,363.87
4,400.00	4,386.06
4,800.00	4,784.79
<b>228,700.00</b>	<b>228,972.08</b>

**Rare Book**

Belzoni, Giovanni Battista. *Narrative of the Operations and Recent Discoveries within the Pyramids, Temples, Tombs and Excavations in Egypt & Nubia*, Book - 1820

Per Financial Statements (1)
US\$
17,550.00
<b>17,550.00</b>

- (1) Value carried on Financial Statements - based upon original value on assumption  
(2) Artwork and Jewelry also assigned a CAD\$ equivalent value on assumption

**APP000029**



**DISTRICT COURT  
CLARK COUNTY, NEVEDA**

**In the Matter of**

**The Beatrice B. Davis Family**

**Heritage Trust**

X  
X  
X  
X  
X  
X  
X  
X

**CASE NO P-15-083867-T**

**Dept No 26**

**RE: Petition for Instructions  
Regarding Surrender of Trust  
& Distribution Order**

I, Christopher D. Davis, Respondent, declare the following to be true.

I, Christopher D. Davis plead with the court and Honorable Judge hearing the above stated case to please take into consideration not only my health & medical urgency, but more importantly, my dire straight financial conditions. Due to not having the financial means to afford travel or legal representation and due to the medical conditions from my Parkinson's, it is impossible for me to travel and attend the proceeding in person March 15, 2019; however, I will make myself available via video and/or audio conference call. I have attached a medical letter from my physician stating my inability to travel and medical conditions (**See Exhibit 1 - Medical Report**)

It is not my decision to surrender my rights as a beneficiary and/or Surrender my right of the Trust and its Distribution of The Beatrice B. Davis Family Heritage Trust in distribution of the assets. I also think there needs to be more time granted to properly go over & substantiate the facts outlined in the FHT for her two primary beneficiaries, Caroline D. Davis and myself, Christopher D. Davis in the event financial hardship and/or medical illness were at stake. It was never my mother's wishes for me (or any of her beneficiaries) to suffer without financial means; more importantly, during an illness which I have no control over. (**See Exhibit 2 – Statement of Facts Stating Primary Beneficiaries, Page 5**)

I am in opposition of The Beatrice B. Davis Family Heritage Trust being liquidated if the assets are not equally divided between Caroline D. Davis and myself, Christopher D. Davis, as equal primary beneficiaries of this trust, as Caroline D. Davis and myself are 50/50 sole beneficiaries of this trust – Decedents & Spouse(s) are only discretionary beneficiaries. (**See Exhibit 2 - Stating Primary Beneficiaries, Page 5**)

I also plead with the court to please take into account my current medical & financial conditions to release a temporary modest amount of monthly income from the trust until this case can be settled which can be deducted from my portion at the end of this litigation if need be; however, based on the medical stipulations & considering the need of the Primary Beneficiary of the FHT, distributions for the benefit of primary

**APP000030**

beneficiary, spouse of the primary beneficiary or the descendants of the primary beneficiary should be charged to the trust and not against the beneficiaries ultimate share. It was never the wishes of my mother for any of us to suffer and stated in her trust that monies be allocated for the purposes of financial hardship and/or due to medical needs. It is evident and proven, I qualify for both. **(See Exhibit 3 - Stipulation of FHT RE: Beneficiaries Lifestyle & Medical Allowance, Page 8.3 b; Exhibit 4 - Allocated Distribution Allowance for Primary Beneficiary, Page 8.4 & 8.5 d)**

I am in the process of being evicted, our auto insurance has expired, and other major bills based solely on bare minimal living expenses can't be paid. To add, I don't have the monies to even hire movers to pack up my belongings, move me and unpack my belongings to a new residence. I have no money to hire legal representation to adequately defend me in this litigation or to pay for all my on-going medical/living expenses. Additionally, I will have to come up with a deposit for a new place to live, which again, I do not have. So, I plead with the court & Honorable Judge to please render some source of financial means allocated to me in the interim of this on-going litigation & per my mother's wishes stipulated in her trust. We can all agree there are enough funds at hand that cannot & will not affect my sister's rights to her portion of the trust or this litigation outcome. **(See Exhibit No 3 & 4; Exhibit 5 - Payment to Guardian, Page 8.7; Exhibit No 6 - Pay or Quit from Landlord; Exhibit 7; Utilities Service Disconnection Letter)**

Furthermore, the Trust Company filing this petition, Dunham Trust Company, had their authority revoked on February 18, 2018; therefore, does not hold the legal right to sell, liquate and/or make any decisions nor actions or proceedings on behalf of The Beatrice B. Davis Family Heritage Trust. **(See Exhibit 8 - February 18, 2018 Letter Revoking Dunham Trust Company & Resignation & Release of Dunham Trust)**

There is no denying that I, Christopher D. Davis, suffer from Parkinson's having had a rapid decline in health in the last three years and the inability to walk, speak clearly and simply move around & function on a daily basis. Due to my disability, I am also unable to work. My spouse has also acted as my caretaker to also minimize expenses. I am not asking for anything unfair or unjust, simply for all parties and Your Honor to sympathize with my current health and medical conditions and grant me access to a court appointed monthly stipend for living & medical expenses; again, as per my mother's wishes clearly stated in her trust.

Pursuant to many areas of The Beatrice B. Davis Family Heritage Trust, health, medical and living needs supersede the overall 50/50 split of the trust and take precedent and should be allocated from the Trust separately, not against the 50/50 allocated split of primary beneficiaries.

To add, due to my medical conditions, I respectfully ask for fair legal representation to be provided to me in these foregoing & ongoing proceedings.

I plead with the court to exercise my rights as a Beneficiary of this Trust in retaining my rights in distributions made from this Trust and not allow the sell or mishandling of denying me any monies from this trust or that the Trust be liquated unfairly.

Please see attached Table of Contents of Exhibits attached and exhibits noted in the paragraphs within this Declaration (Exhibits 1 – 8). In addition, all the financial documents & distribution reports requested from me based on our last audio hearing (Exhibits 9 – 14)

I, Christopher D. Davis declare under penalty and perjury, pursuant to the laws of the State of California, the foregoing is true and correct. Executed in Los Angeles, California



Christopher D. Davis

03-11-2019

Dated

APP000032

## **LIST OF EXHIBITS**

### **NOTED WITHIN DECLARATION**

1. Medical Report
2. Statement of Fact (Re: Primary Beneficiaries)
3. Beneficiaries' Lifestyle & Medical Needs
4. Allocated Distributions for Primary Beneficiaries
5. Stipulations of FHT – Monies to be Allocated Medical and Living
6. Landlord Pay or Quit Email
7. Utilities – Notice to Service Disconnection
8. Signed Revoking & Resignation Letter of Dunham Trust – February 18, 2018

### **FINANCIAL DOCUMENTS**

9. FHT Dispute Expenses Incurred – Unreimbursed Legal Defense
10. Draws from PPVUL 2014 – 2017
  - a. W, Tripp Case Requests
11. WRP – Recap of Business Development Reimbursement
  - a. Breakdown of Distributions thru 2017
  - b. DFO – LLC % Allocations – W Tripp Case Requests
12. Cashflow Analysis of WRP Addbacks
  - a. Operating Expenses 2018
13. WRP New Cashflow thru 2018
14. Fees Study – Costs to Maintain Entire Structure

**Daniel A. S. Hoffman, A Medical Corporation**

**INTERNAL MEDICINE** board certified

Daniel A. S. Hoffman, D.O., F.A.C.O.I.

150 North Robertson Blvd. Suite 115

Beverly Hills, California 90211

Tel (310)657-9200 Fax (310)657-9210

2/8/2019

To: Whom It May Concern

Re: Davis, Christopher DOB 05/26/1951, and Tarya Wainwright

Mr. Davis suffers from a neurodegenerative illness known as Parkinson's Disease. In the past year, he has deteriorated significantly. He frequently visits his team of neurologists at Cedars-Sinai Medical Center, in Los Angeles.

At this time, Mr. Davis is completely disabled, and dependent on care-givers for all activities of daily living, including dressing and eating. His primary caregiver is his wife, Tarya Wainwright.

Please note that neither Mr. Davis nor Tarya are able to attend legal meetings (including court or trials) outside of their home. At the time, this restriction is expected to be permanent, but will be evaluated periodically, as needed.

This note is being written with the permission of both Mr. Davis and Tarya.

Kindly,



Dr. Daniel Adam Scott Hoffman, D.O., F.A.C.O.I. - Internal Medicine  
Cedars-Sinai Medical Center Staff Member & Cedars-Sinai Health Associates  
Clinical Assistant Professor of Internal Medicine, Western University of Health Sciences  
The Robertson Diagnostic Center at 150 North Robertson Boulevard Beverly Hills, California 90211

EXHIBIT  
1101

**APP000034**

LEE HERNANDEZ, LANDRUM & CARLSON, APC  
7575 VEGAS DRIVE, SUITE 150  
LAS VEGAS, NV 89128  
(702) 880-9750

## MEMORANDUM OF POINTS AND AUTHORITIES

### I.

#### STATEMENT OF FACTS

As this Court is aware, Beatrice B. Davis ("Grantor"), a Missouri resident, created the Beatrice B. Davis Family Heritage Trust, dated July 28, 2000 ("Trust"). Pursuant to the terms of said trust, Grantor's children, Christopher Davis and Caroline Davis, are the named beneficiaries of the Trust, and their respective spouses and descendants are also included as discretionary beneficiaries of the Trust.<sup>1</sup> Further, per Grantor's appointment, Stephen Lehnardt was appointed as the Trust Protector and Alaska Trust Company was named as the initial Trustee of the Trust.<sup>2</sup> On or about August 2, 2011, Mr. Lehnardt removed Alaska Trust Company as Trustee and replaced the same with Alaska USA Trust Company.

Subsequently, Mr. Lehnardt, acting as Trust Protector of the Trust, changed the Trust situs from Alaska to Nevada, by way of the First Amendment to the Beatrice B. Davis Family Heritage Trust, dated February 24, 2014 ("Amendment").<sup>3</sup> Under the Amendment, Alaska USA Trust Company was replaced as trustee by Dunham Trust Company ("DTC").<sup>4</sup> Specifically, DTC was appointed as the Directed Trustee. Under the Amendment, Mr. Lehnardt also appointed Christopher Davis as the Investment Trust Advisor, and appointed himself as the Distribution Trust Advisor.<sup>5</sup>

As this Court will recall, the primary asset of the Trust is a life insurance policy, number ACLI 11058007 (ALIP 00081031) (the "policy"). The policy is currently administered by Advantage Insurance, and it insures the life of Christopher Davis' ex-wife, Cheryl Davis, with a \$35,000,000 death benefit, and a \$4,000,000 revolving line of credit ("LOC"). Pursuant to the most recent accounting provided by Advantage, based on various loans taken against the policy

<sup>1</sup> Exhibit 1, *Beatrice B. Davis Family Heritage Trust*, dated July 28, 2000, page 8-1, Article Eight, Section 1 and page 8-4, Article 8, Section 3.d. (July 28, 2000).

<sup>2</sup> *Id.* at page 1-1, Article One, Section 1.

<sup>3</sup> Exhibit 2, *First Amendment to Beatrice B. Davis Family Heritage Trust*, dated February 24, 2014 (February 24, 2014).

<sup>4</sup> *Id.* at page 2.

<sup>5</sup> *Id.* at pages 2 and 3.

EXHIBIT  
FILE

b. **Provide for My Beneficiaries' Lifestyle Needs**

I desire that my Trustee provide the respective beneficiary of each such share with funds (paid to, or for the benefit of, such Primary Beneficiary) sufficient to provide for the beneficiary's [REDACTED] and to provide the beneficiary with sufficient funds to maintain a modest, conservative lifestyle. I also desire that my Trustee give assistance to the respective beneficiary of each such share for:

The purchase of a residence which is modest and commensurate with the Primary Beneficiary's lifestyle.

The purchase or establishment of a business or professional practice.

Any other extraordinary opportunity or expense deemed by my Trustee to be in the best interests of the beneficiary.

I have previously made significant gifts to my children, and those gifts are fully available to them to use in any way they choose. My purpose in creating this trust is to provide a financial resource base that will support and protect my family for generations to come. While my children or their descendants may choose to make charitable contributions from their independent resources (including those resources which they received as gifts from me) I do not regard this trust as an appropriate source for charitable giving. Accordingly, my Trustee shall not make distributions to any beneficiary from this trust if my Trustee believes or suspects that the distributed funds will be used to make any kind of charitable contribution. I envision that these resources will be maintained to provide for the specific needs of my children and their descendants. Accordingly, in making discretionary distributions to a beneficiary, my Trustee shall be mindful of, and take into consideration to the extent it deems necessary, any additional sources of income and principal available to the beneficiary which arise outside of this agreement and are known to my Trustee. It is also my express desire that my Trustee take into consideration the future probable needs of a beneficiary prior to making any discretionary distributions hereunder.

However, during any period when the Primary Beneficiary of a trust share serves as the sole trustee of his or her trust share, distributions to or for the benefit of such Primary Beneficiary (or to satisfy any support obligation of such Primary Beneficiary) shall be limited to distributions which satisfy the ascertainable standards of health care, education, maintenance, and support for the Primary Beneficiary except to the extent otherwise authorized by the provisions below concerning the Powers of an Interested Trustee.

c. Provisions Relating to the Payment of Debts of a Beneficiary

I do not desire that my Trustee use its discretion to pay debts incurred by a beneficiary (except debts incurred in the ordinary course of living for matters related to, and consistent with, the ascertainable standard referred to above and the principles of this section). Further, I do not desire that such discretion be used in a manner which enables the respective beneficiary to provide for persons other than the beneficiary's descendants or then living spouse, or which would cause the beneficiary's share to be included in the taxable estate of the beneficiary.

d. Distributions to a Primary Beneficiary's Spouse and Descendants

My Trustee may make distributions from the trust share of a Primary Beneficiary to or for the health, education, maintenance and support of the spouse of the Primary Beneficiary if the spouse is living with the Primary Beneficiary. My Trustee shall have the discretion to determine whether a spouse is living with the Primary Beneficiary at the time a distribution is made.

My Trustee may also make distributions from the trust share of a Primary Beneficiary to or for the benefit of a descendant of the Primary Beneficiary for the health, education, maintenance and support of such descendant.

Distributions shall only be made by my Trustee to a spouse or a descendant of the Primary Beneficiary after considering the needs of the Primary Beneficiary of the trust share. Distributions made pursuant to this provision may be made to the complete exclusion of the other beneficiaries of the trust share. These distributions may be

EXHIBIT  
NO 4



made to the Primary Beneficiary, the spouse of the Primary Beneficiary or the descendants of the Primary Beneficiary in equal or unequal amounts according to their respective needs. A distribution to or for the benefit of a beneficiary's needs shall be charged to the trust rather than against the beneficiary's ultimate share or the shares of those persons taking through such beneficiary upon the termination of the trust. However, a distribution for the purchase of a residence, the purchase or establishment of a business or professional practice, or for any other extraordinary opportunity or expense shall be charged to the beneficiary's ultimate share or the share of those persons taking through such beneficiary upon the termination of the trust.

**e. Distributions Should Encourage Beneficiaries to Live Meaningful Lives**

Until the Primary Beneficiary of a trust share attains the age of 35, I desire that distributions of property from the Primary Beneficiary's share be limited in such a manner as to encourage the Primary Beneficiary to fill a meaningful role in society and to conserve a reasonable amount of principal in order to provide security for the Primary Beneficiary's retirement. I do not desire that my Trustee use discretion so liberally as to remove any incentive for the Primary Beneficiary to fill a meaningful role in society.

To clarify my intent in this provision, when I use the phrase "a meaningful role in society", I would include any of the following activities conducted on a substantially full-time basis (full-time either individually, or in the combination in which they are pursued by the Primary Beneficiary): (i) paid employment; (ii) efforts to start, manage or operate a business; (iii) creation of literary works, works of art or craft work if the Primary Beneficiary shows a talent for such creation and such works appear to have sufficient commercial value or potential to earn funds to support at least a subsistence lifestyle for the Primary Beneficiary; (iv) education; (v) organized research; (vi) volunteer work for a bona fide charitable organization; (vii) public office; (viii) parenting; (ix) competitive athletics or sport; (x) artistic performance (such as dance, music, theater, *et cetera*); and (xi) any other activity that my Trustee concludes, in its sole discretion, furthers the Primary Beneficiary's self-esteem and sense of accomplishment.

**g. Payment to Guardians**

If any Primary Beneficiary is a minor or incapacitated and placed in the home of a relative or guardian, my Trustee shall furnish from the share for such Primary Beneficiary those trust funds which my Trustee deems, in its sole and absolute discretion, to be necessary or advisable to assist the guardian or relative in providing adequate care and housing for the Primary Beneficiary.

My Trustee may make funds available to any such guardian or relative who is caring for a Primary Beneficiary in order to:

Improve the guardian's or the relative's home;

Purchase a more suitable home for the guardian or the relative

Purchase personal property, appliances, or any other appurtenances needed to provide adequate care and housing for the beneficiaries.

Notwithstanding anything in this agreement to the contrary, if a guardian is also serving as a Trustee under this agreement and a corporate fiduciary is not acting as a Co-Trustee, then no payments to or for the benefit of that guardian shall be made pursuant to this Section unless approved by a Co-Trustee who meets the requirements to be a Independent Special Trustee in relation to the guardian, and the guardian may, if no such person is serving as a Co-Trustee, appoint a person to serve as the Independent Special Trustee with regard thereto. In lieu of providing funds to the guardian for the purposes specified above, my Trustee may make property acquired by this Trust available for use by the guardian to meet the purposes of these provisions.

**h. Provisions Governing When One Beneficiary Causes the Death of Another Beneficiary**

Any beneficiary who intentionally causes the death of another beneficiary shall forfeit all rights and benefits whatsoever to any interest in this Trust if:

EXHIBIT  
11/10/10

From: Ray Kolahi raykolahi@gmail.com  
Subject: Re: January and February rents  
Date: February 13, 2019 at 9:26 AM  
To: Chris Davis <cdavis@URSglobal.com>, Tarja Wainwright tarjain@gmail.com  
Cc: Sohella Kolahi sohella.kolahi@gmail.com

Dear Tarja and Chris,

As I mentioned in my previous email, we are behind our financial obligations. Since we haven't heard from you about depositing both Jan and Feb rents by Friday February 15th, we are assuming that we have no other choice but to proceed with the previous notice, unless we got the confirmation that both Jan and Feb rents will be deposited by February 15th or at the latest by Monday February 18th.

Sincerely and respectfully,  
Ray and Sohella Kolahi

On Fri, Feb 8, 2019, 8:23 AM Ray Kolahi <raykolahi@gmail.com> wrote:

Dear Chris and Tarja,

We are very sorry to hear that you are going through difficult time. We are also very much affected by being behind our financial obligations!

Since the February rent is also due by next week, if both January and February rents are not deposited by next week we will have no other choice but to proceed with the eviction process.

We are hoping that by next week you can resolve this and we don't have to go through this against our will.

Sincerely and respectfully,  
Ray and Sohella Kolahi

EXHIBIT  
No 5

APP000040



A Sempra Energy utility

## NOTICE OF SERVICE DISCONNECTION

FEB 01, 2019

### Dear Occupant:

The gas service to the address listed below will be disconnected in approximately 15 days due to non-payment, unless payment of the full amount is received immediately from the Landlord.

### WHAT YOU CAN DO TO AVOID GAS SHUT-OFF

Per the California Public Utilities Code Section 777, if services are billed in your landlord's name, you have the right to become a customer of the utility, without paying for the past-due amount owing at this address. Tenants also have the right to deduct payment for such service from periodic rent payments.

If you decide to become a customer of the utility, you may need to establish credit by showing proof of prompt payment of rent, phone or cable utilities or payment on other acceptable kinds of debt over the last 12 months.

### DATE SERVICE WILL BE TERMINATED:

AVERAGE MONTHLY BILL FOR THIS ACCOUNT: \$532.96

### IF YOU NEED ASSISTANCE

- Contact your local Legal Aid Office for assistance.

13327 VAN NUYS BL  
PACOIMA CA  
(800) 433-6251

Account

13901276116

- If you still have questions, please contact us at 1-800-427-2200 for assistance.

2636.1.30.4543 1 oz.



Occupant  
3045 CORDA DR  
LOS ANGELES CA 90049-1101

1352  
Feb 26 x

1154

1. \$1000  
0044 057964  
12. \$155.50  
0044 057161

48908

105-1929

371-13-  
810

APP000041

**THE PARTIES HERETO HAVE EXECUTED THIS RELEASE.**

Dated this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Caroline D. Davis, beneficiary of the  
Beatrice B. Davis Family Heritage Trust,  
As Amended

Dated this 17 day of November, 2018.

[Signature]  
Christopher D. Davis, beneficiary of the  
Beatrice B. Davis Family Heritage Trust,  
As Amended

Dated this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Winfield B. Davis, beneficiary of the  
Beatrice B. Davis Family Heritage Trust,  
As Amended

Dated this 17 day of November, 2018.

[Signature]  
Winfield B. Davis, on behalf of Ace Davis,  
a minor and beneficiary of the Beatrice B.  
Davis Family Heritage Trust, As Amended

EXHIBIT  
No 2

**FINANCIAL DOCUMENTS**  
**EXHIBIT No's 9 - 14**

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**APP000043**

# FHT DISPUTE EXPENSES INCURRED

as of December 19, 2018

	Total <u>Invoiced</u>
Lehnardt	\$ 6,230.00
Barney	\$ 229,454.56
Barton	\$ 11,700.00
Roland	\$ 188,017.02
Clear Counsel **	\$ 14,614.79
Two Nevada Trips	\$ 4,742.85
Godsell & Olsen	\$ 65,094.19
Mike Gallagher	\$ 28,105.00
Long Reimer Winegar	\$ 2,252.50
Withers Bergman	\$ 25,540.50
Toyko / LA / KC 2018 Trips	\$ 7,197.40
<b>TOTAL</b>	<b>\$ 582,948.81</b>

\*\* Invoices paid by the FHT

EXHIBIT  
NO 9

# **DRAWS FROM PPVUL**

**2014 - 2015 - 2016 - 2017**

## **SOURCES**

<u>Date</u>	<u>DFO-LLC</u>	<u>D - VI</u>	<u>D - V</u>	<u>TRSF'D FROM</u>
05/16/14	-250,000			Commodity Recovery
10/09/14	-250,000			Commodity Recovery
12/10/14	-250,000			Commodity Recovery
07/14/15	-250,000			Commodity Recovery
09/02/15	-175,000			Commodity Recovery
10/06/15	-62,500			Commodity Recovery
11/02/15		-75,000		Global Exchange
11/10/15		-50,000		Global Exchange
01/20/16		-100,000		Global Exchange
02/18/16		-125,000		Global Exchange
03/22/16		-100,000		Global Exchange
05/02/16		-125,000		Global Exchange
06/06/16		-100,000		Global Exchange
07/07/16		-125,000		Global Exchange
08/10/16		-125,000		Global Exchange
09/06/16		-150,000		Global Exchange
01/10/17		-100,000		Global Exchange
05/10/17			-100,000	TSE 300
06/07/17			-150,000	TSE 300
			-250,000	TSE 300
	<u>-1,237,500</u>	<u>-1,175,000</u>	<u>-250,000</u>	

**-2,662,500 TOTAL**

**APP0000045**

EXHIBIT  
10/10



Per W. Tripp Cash Requests

Ray James Transfers to BAC			
	CDD	LLC	WIN
05/21/14		20,125	n/a
05/22/14	53,627	5,307	n/a
06/04/14	35,791	12,198	n/a
06/25/14	25,077	17,846	n/a
07/23/14	32,935	22,745	n/a
08/04/14	44,887	15,955	n/a
08/20/14	52,629	6,374	n/a
09/08/14	37,721	14,475	n/a
10/01/15	39,559	16,642	n/a
10/20/14	42,704	8,345	n/a
11/04/14	21,447	8,943	n/a
11/18/14	43,581	3,440	n/a
12/03/14	33,289	9,967	n/a
12/29/14	57,381	13,924	n/a
01/15/15	36,899	11,027	n/a
02/03/15	33,334	17,831	n/a
02/23/15	55,099	10,746	n/a
03/18/15	35,959	9,658	n/a
03/30/15	23,824	6,241	n/a
04/20/15	28,868	13,345	n/a
05/28/15	45,119	10,061	n/a
07/01/15	48,742	10,554	n/a
07/20/15	57,156	6,769	n/a
08/04/15	40,661	6,751	n/a
08/24/15	39,475	13,466	n/a
09/08/15	59,000	0	n/a
09/15/15	21,265	8,599	n/a
09/17/15	20,000	0	n/a
09/29/15	43,692	9,921	n/a

EXHIBIT  
110 10a

10/09/15	45,000	0	n/a
10/13/15	13,555	6,508	n/a
10/30/15	36,362	15,226	n/a
11/17/15	17,589	3,715	n/a
12/11/15	41,606	15,622	n/a
12/31/15	53,247	16,199	n/a
01/20/16	11,545	6,668	9,704
02/01/16	19,688	12,969	12,006
03/01/16	36,695	14,000	13,305
03/14/16	25,865	9,000	
04/01/16	50,000	0	
04/15/16	20,105	10,000	11,895
05/01/16	60,000	19,000	
05/15/16	50,340	17,503	13,211
06/01/16	56,269	13,261	
06/15/16	19,905	7,678	19,123
07/01/16	26,527	4,538	
07/19/16	51,613	13,304	22,521
08/04/16	48,004	5,008	13,141
08/17/16	39,037	14,224	7,969
09/05/16	24,313	3,834	3,140
09/19/16	44,316	25,099	9,490
10/01/16	28,336	16,868	4,731
10/15/16	18,249	18,217	8,849
11/01/16	40,394	7,623	9,334
12/04/16	24,196	8,235	4,717
12/15/16	23,358	17,045	2,800
DRAWs	-2,412,500		
	2,035,836	612,603	165,936

# WRP ONLY - RECAP OF BUSINESS DEVELOPMENT REIMBURSEMENT - CREDIT REQUESTS

(RECLASS OF INVESTMENT EXPENDITURES)

December 31, 2017

Description	Gross Paid by:		Net Due to:		Rate	Gross Paid	Devs Family Office		Focus Fund	Devs Family Office	Focus Fund	Net Paid	Total Expense
	Devs Family Office	Focus Fund	Devs Family Office	Focus Fund			Devs Family Office	Focus Fund					
1) CDS / WRP - Frontier Investment Banking @ 100%	\$	7,510.88	\$	121,812.87	100%	\$	128,129.55	\$	7,510.88	\$	121,812.87	\$	128,129.55
2) CDS / WRP - Lehnardt & Lehnardt @ 70%	\$	23,408.04	\$	352,295.07	70%	\$	375,701.11	\$	16,384.23	\$	248,806.55	\$	375,701.11
3) WRP - J.McGannon Denver Trip @ 70%	\$	255.94	\$	-	70%	\$	255.94	\$	178.16	\$	-	\$	255.94
4) WRP - Mike Nemethick Expense @ 70%	\$	21,583.12	\$	-	70%	\$	21,583.12	\$	15,108.18	\$	-	\$	21,583.12
5) WRP - DFO Office Services Exp 2014 & 2015 @ 70%	\$	113,461.20	\$	-	70%	\$	113,461.20	\$	79,422.84	\$	-	\$	113,461.20
6) WRP - DFO Office Services Exp 2016	\$	112,258.11	\$	-		\$	112,258.11	\$	112,258.11	\$	-	\$	112,258.11
7) WRP - DFO Office Services Exp 2017	\$	264,173.72	\$	-		\$	264,173.72	\$	264,173.72	\$	-	\$	264,173.72
9) WRP - Jack M. Reda, CPA @ 70%	\$	-	\$	7,425.00	70%	\$	7,425.00	\$	-	\$	5,197.50	\$	7,425.00
10) WRP - BKD Accounting Services @ 70%	\$	-	\$	5,445.00	70%	\$	5,445.00	\$	-	\$	3,811.50	\$	5,445.00
11) WRP - Employee Benefits Incentive Program @ 100%	\$	28,599.07	\$	-	100%	\$	28,599.07	\$	28,599.07	\$	-	\$	28,599.07
12) WRP - CDD Travel Between LA & KC 2014 - 2017 @ 100%	\$	40,552.05	\$	-	70%	\$	40,552.05	\$	28,388.44	\$	-	\$	40,552.05
13) WRP - Bank of KC Fees Due at Closing @ 100%	\$	528.50	\$	17,500.00	100%	\$	18,028.50	\$	528.50	\$	17,500.00	\$	18,028.50
14) WRP - Roleneil Legal Fees @ 70%	\$	-	\$	4,217.50	70%	\$	4,217.50	\$	-	\$	2,952.25	\$	4,217.50
15) WRP - 2017 Denver Trip	\$	2,776.83	\$	-	100%	\$	2,776.83	\$	2,776.83	\$	-	\$	2,776.83
16) WRP - 2017 Kansas City Trips	\$	6,856.78	\$	-	100%	\$	6,856.78	\$	6,856.78	\$	-	\$	6,856.78
AMOUNTS TO BE REIMBURSED / CREDITED													
PAID AT CLOSING													
NET DEFICIENCY													
\$ 621,988.04 \$ 598,495.44 \$ 1,130,483.48 \$ 598,495.44 \$ 542,199.53 \$ 397,589.87 \$ 959,871.21 \$ 1,130,483.48													

8) Debit from this version, determined to be double counting

3-0-15  
APP0000048

**TOTAL DISTRIBUTIONS RECEIVED FROM WRP**  
as of **DECEMBER 21, 2017**

			OTHER	
11/04/16	\$	40,000.00	to DFO - BAC	
12/02/16	\$	20,000.00	to DFO - BAC	
01/06/17	\$	100,000.00	to DFO - BAC	
02/10/17	\$	35,000.00	to DFO - BAC	
03/02/17	\$	15,000.00	to DFO - BAC	
03/07/17	\$	15,000.00	to DFO - BAC	
03/09/17	\$	7,000.00	to DFO - BAC	
03/29/17	\$	20,000.00	to DFO - BAC	
04/10/17	\$	20,000.00	to DFO - BAC	
05/05/17	\$	20,000.00	to DFO - BAC	
06/02/17	\$	10,000.00	to DFO - BAC	
06/09/17	\$	5,000.00	to DFO - BAC	
07/31/17	\$	15,000.00	to DFO - BAC	
08/04/17	\$	35,000.00	to DFO - BAC	
08/18/17	\$	20,000.00	to DFO - BAC	
08/28/17	\$	35,000.00	to DFO - BAC	
09/07/17	\$			
09/11/17	\$	30,000.00	to DFO - BAC	
09/25/17	\$	20,000.00	to DFO - BAC	
10/04/17	\$	31,000.00	to DFO - BAC	
10/10/17	\$	41,000.00	to DFO - BAC	
10/24/17	\$	15,000.00	to DFO - BAC	
10/31/17	\$	25,000.00	to DFO - BAC	
11/07/17	\$	10,000.00	to DFO - BAC	
11/10/17	\$	30,000.00	to DFO - BAC	
11/16/17	\$	12,000.00	to DFO - BAC	
11/21/17	\$	15,000.00	to DFO - BAC	
11/30/17	\$	20,000.00	to DFO - BAC	
12/08/17	\$	35,000.00	to DFO - BAC	
12/21/17	\$	32,000.00	to DFO - BAC	

BW Pay \$ 16,242.87 to American Express

\$ 16,242.87

From: Focus Fund Reimbursements

\$ 728,000.00

\$ (531,468.05)

**Total Distributions**

Less: Net Deficiency

\$ 196,531.95

Net Due / Excess

EXHIBIT  
11/11/19

**APP0000049**

# **DFO - LLC % ALLOCATION** Based on W. Tripp's Cash Requests

	2014	2015	2016	2017
2-Jan	9,529.98	11,027.48	20-Jan	15-Jan
17-Jan	3,889.60	17,830.60	1-Feb	23-Feb
1-Feb	8,298.00	10,746.44	16-Feb	3-Mar
16-Feb	15,325.95	9,657.92	14-Mar	21-Apr
3-Mar	19,749.76	6,241.03	18-Apr	1-May
3-Apr	19,668.58	13,345.07	17-May	15-Jun
23-Apr	14,480.94	13,061.33	1-Jun	1-Jun
30-Apr	5,629.34	10,553.87	15-Jun	15-Jun
22-May	5,307.28	6,769.37	23-Jun	1-Jul
4-Jun	12,197.61	6,751.11	19-Jul	19-Jul
25-Jun	17,845.75	13,466.33	4-Aug	1-Aug
22-Jul	22,744.79	8,599.46	5-Sep	7-Sep
4-Aug	15,955.37	9,921.08	15-Sep	15-Sep
20-Aug	6,374.49	6,508.32	15-Oct	29-Sep
8-Sep	14,474.71	15,226.01	1-Nov	19-Oct
1-Oct	16,642.27	3,714.58	4-Dec	2-Nov
20-Oct	8,345.42	25,621.75	15-Dec	15-Nov
4-Nov	8,942.50	16,198.95		28-Nov
18-Nov	3,440.35			19-Dec
3-Dec	9,966.53			29-Dec
29-Dec	13,924.45			
	<u>252,733.67</u>	<u>205,240.70</u>	<u>224,516.21</u>	<u>264,173.72</u>
	x 24.77 %	x 24.77 %	x 50 %	x 100 %
	<u>62,613.69</u>	<u>50,847.51</u>	<u>112,258.11</u>	<u>264,173.72</u>

EXHIBIT  
16

2014	62,613.69
2015	50,847.51
	<u>113,461.20</u>
2017	264,173.72

WRP ADDBACKS 2016 vs 2017 vs 2018

Category	HC 09/30/16 YTD	Rx 09/30/16 YTD	WRP Oct-Dec '16	TOTALS 2016	TOTALS 2017	TOTALS 2018	Change 2018 - 2017
1 Total Sales	\$ 2,510,493	\$ 5,006,827	\$ 2,615,777	\$ 10,133,097	\$ 9,679,006	\$ 10,348,968	\$ 669,962
2 COGS	\$ 1,584,045	\$ 3,598,369	\$ 1,647,503	\$ 6,829,918	\$ 6,074,449	\$ 6,987,389	\$ 912,950
3 Gross Profit	\$ 926,448	\$ 1,408,458	\$ 968,273	\$ 3,303,179	\$ 3,604,556	\$ 3,361,569	\$ 242,988
4 Operating Expenses	\$ 280,232	\$ 790,473	\$ 743,235	\$ 1,813,940	\$ 2,800,122	\$ 2,959,832	\$ 359,510
Net Reductions	\$ (15,751)	\$ (20,484)	\$ (381,967)	\$ (418,202)	\$ (618,845)	\$ (808,305)	\$ (200,443)
EBITDA Reductions	\$ -	\$ -	\$ -	\$ -	\$ (250,000)	\$ (250,000)	\$ -
5 Net G & A	\$ 284,481	\$ 769,989	\$ 361,268	\$ 1,395,738	\$ 1,731,476	\$ 1,901,327	\$ (200,443)
6 Total EBITDA	\$ 661,967	\$ 638,469	\$ 607,006	\$ 1,907,441	\$ 2,123,080	\$ 1,710,332	\$ 412,748
7 Net Adjusted EBITDA	\$ 661,967	\$ 638,469	\$ 607,006	\$ 1,907,441	\$ 1,873,080	\$ 1,460,242	\$ 412,838

EXHIBIT  
No 12

### Operating Expense Net Reductions

**EBITDA Net Reductions**

[illegible]

EXHIBIT  
NO 12a

# NET CASH FLOW + FOCUS DISTRIBUTIONS

WRP CASES 18 Thru 21

MARCH 2018

		Yr1	Yr2	Yr3	Yr4	Yr5	Yr6	Yr7	Yr8	Yr9	Yr10
Case 18	0%	1,228,618	720,515	785,093	679,601	791,554	1,334,948	1,817,968	2,042,888	2,042,888	2,042,888
Case 21 @ 20%	0%	1,228,618	1,095,015	1,039,593	908,101	800,554	818,948	1,421,968	1,766,888	1,916,888	2,042,888
Case 21 @ 12%	0%	1,228,618	1,103,015	1,055,593	934,101	834,954	853,348	1,448,368	1,785,288	1,925,288	2,042,888
Case 19	5%	1,304,772	902,278	1,079,975	1,093,258	1,329,926	2,004,269	2,624,786	2,994,078	3,145,668	3,304,838
Case 20 @ 20%	5%	1,304,772	1,276,778	1,334,475	1,321,758	1,338,926	1,488,269	2,228,786	2,718,078	3,019,668	3,304,838
Case 20 @ 12%	5%	1,304,772	1,284,778	1,350,475	1,347,758	1,373,326	1,522,669	2,255,186	2,736,478	3,028,068	3,304,838

EXHIBIT  
No 13

APP000053



# EARNOUT REFI TABLE

## Downside

Yr1	Yr2	Yr3	Yr4	Yr5	Yr6	Yr7	Yr8	Yr9	
0	45	45	45	45	45	0	0	0	225
0	0	45	45	45	45	45	0	0	225
0	0	0	60	60	60	60	60	0	300
0	45	90	150	150	150	105	60	0	750

## Upside A

0	55	55	55	55	55	0	0	0	275
0	0	55	55	55	55	55	0	0	275
0	0	0	65	65	65	65	65	0	325
0	55	110	175	175	175	120	65	0	875

## Upside B

0	0	0	0	105	105	105	105	105	525
0	0	0	0	105	105	105	105	105	525

## TOTALS

0	100	200	325	430	430	330	230	105	2150
---	-----	-----	-----	-----	-----	-----	-----	-----	------

## 5500000ADV

WARD ROAD Pharmacy

AS OF: 03/22/18

VERSION 21 @ 12%

Growth Rate

WRP

0.0%

0.0%

0.0%

0.0%

0.0%

0.0%

0.0%

0.0%

0.0%

0.0%

TTM  
12/31/17Yr 2  
1Yr 3  
2Yr 4  
3Yr 5  
4Yr 6  
5Yr 7  
6Yr 8  
7Yr 9  
8Yr 10  
9Yr 11  
10

Revenues WRP

9,679,006

9,679,006

9,679,006

9,679,006

9,679,006

9,679,006

9,679,006

9,679,006

9,679,006

9,679,006

9,679,006

Total Revenues

9,679,006

9,679,006

9,679,006

9,679,006

9,679,006

9,679,006

9,679,006

9,679,006

9,679,006

9,679,006

9,679,006

COGS WRP

6,074,449

6,074,449

6,074,449

6,074,449

6,074,449

6,074,449

6,074,449

6,074,449

6,074,449

6,074,449

6,074,449

Gross Profit

3,604,556

3,604,556

3,604,556

3,604,556

3,604,556

3,604,556

3,604,556

3,604,556

3,604,556

3,604,556

3,604,556

Gross Profit %

37.2%

37.2%

37.2%

37.2%

37.2%

37.2%

37.2%

37.2%

37.2%

37.2%

37.2%

G&amp;A Expense - WRP

1,731,476

1,731,476

1,731,476

1,731,476

1,731,476

1,731,476

1,731,476

1,731,476

1,731,476

1,731,476

1,731,476

Total Expenses

1,731,476

1,731,476

1,731,476

1,731,476

1,731,476

1,731,476

1,731,476

1,731,476

1,731,476

1,731,476

1,731,476

Total EBITDA

2,123,080

2,123,080

2,123,080

2,123,080

2,123,080

2,123,080

2,123,080

2,123,080

2,123,080

2,123,080

2,123,080

Retention Bonuses  
Add to CH for Purchase Price

50,000

50,000

50,000

50,000

50,000

50,000

50,000

50,000

50,000

50,000

50,000

Net Adjusted EBITDA

1,873,080

1,873,080

2,043,080

2,123,080

2,123,080

2,123,080

2,123,080

2,123,080

2,123,080

2,123,080

2,123,080

Capex WRP

30,000

30,000

30,000

30,000

30,000

30,000

30,000

30,000

30,000

30,000

30,000

Working Capital WRP

600,000

-

-

-

-

-

-

-

-

-

-

WRP Term Note Interest

115,979

96,658

77,337

58,017

38,696

19,375

9,715

-

-

-

-

WRP Term Note Principal

428,400

428,400

428,400

428,400

428,400

428,400

428,400

215,400

-

-

-

WRP Bank Line Interest

8,500

8,500

8,500

8,500

8,500

8,500

8,500

8,500

8,500

8,500

8,500

WRP Seller Note Interest

50,000

46,648

90,860

69,515

45,492

18,454

-

-

-

-

-

WRP Seller Note Principal

-

180,633

170,062

191,407

215,430

242,468

-

-

-

-

-

WRP Earnout Loans Interest

-

12,000

24,000

39,000

51,600

51,600

39,600

27,608

12,600

-

-

WRP Earnout Loans Principal

-

100,000

200,000

325,000

430,000

430,000

330,000

230,000

105,000

-

-

WRP Upside Earnout A

-

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-

WRP Upside Earnout B

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-

WRP Downside Earnout

-

-

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-

-

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-

-

-

WRP Max Focus Distribution

1,089,481

1,062,030

1,124,131

1,148,282

1,172,433

1,196,584

1,801,062

2,082,455

2,082,455

2,082,455

2,082,455

Taxes

2.0%

11,482

37,225

38,328

39,141

40,008

40,935

41,497

41,692

41,692

41,692

Net Cash Flow

139,137

40,584

(68,538)

(214,181)

(337,478)

(343,236)

(352,694)

(297,167)

(157,167)

(39,567)

(39,567)

Cumulative Net Cash Flow

139,137

180,122

111,584

(102,597)

(440,076)

(783,311)

(1,136,005)

(1,433,172)

(1,590,339)

(1,629,906)

(1,629,906)

Net Cash Flow + Focus Dist.

1,228,618

1,103,015

1,055,593

934,101

834,554

833,348

1,448,368

## WARD ROAD Pharmacy

AS OF: 03/22/18

VERSION 21 @ 20%

## Growth Rate

WRP

TRM	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5	Yr 6	Yr 7	Yr 8	Yr 9	Yr 10	Yr 11
12/31/17	1	2	3	4	5	6	7	8	9	10	11
Revenue WRP	9,679,006	9,679,006	9,679,006	9,679,006	9,679,006	9,679,006	9,679,006	9,679,006	9,679,006	9,679,006	9,679,006
Total Revenues	9,679,006	9,679,006	9,679,006	9,679,006	9,679,006	9,679,006	9,679,006	9,679,006	9,679,006	9,679,006	9,679,006
COGS WRP	6,074,449	6,074,449	6,074,449	6,074,449	6,074,449	6,074,449	6,074,449	6,074,449	6,074,449	6,074,449	6,074,449
Gross Profit	3,604,556	3,604,556	3,604,556	3,604,556	3,604,556	3,604,556	3,604,556	3,604,556	3,604,556	3,604,556	3,604,556
Gross Profit %	37.2%	37.2%	37.2%	37.2%	37.2%	37.2%	37.2%	37.2%	37.2%	37.2%	37.2%
G&A Expense - WRP	1,731,476	1,731,476	1,731,476	1,731,476	1,731,476	1,731,476	1,731,476	1,731,476	1,731,476	1,731,476	1,731,476
Total Expenses	1,731,476	1,731,476	1,731,476	1,731,476	1,731,476	1,731,476	1,731,476	1,731,476	1,731,476	1,731,476	1,731,476
Total EBITDA	2,123,080	2,123,080	2,123,080	2,123,080	2,123,080	2,123,080	2,123,080	2,123,080	2,123,080	2,123,080	2,123,080
Retention Bonuses	50,000	30,000									
Add to CH for Purchase Price	200,000	50,000									
Net Adjusted EBITDA	1,873,080	2,043,080	2,123,080	2,123,080	2,123,080	2,123,080	2,123,080	2,123,080	2,123,080	2,123,080	2,123,080
CapEx WRP	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000
Working Capital WRP	600,000										
WRP Term Note Interest	115,979	96,558	77,137	58,017	38,596	19,175	9,715	-	-	-	-
WRP Term Note Principal	428,400	428,400	428,400	428,400	428,400	428,400	428,400	428,400	428,400	428,400	428,400
WRP Bank Line Interest	8,500	8,500	8,500	8,500	8,500	8,500	8,500	8,500	8,500	8,500	8,500
WRP Seller Note Interest	50,000	46,648	90,860	69,515	45,492	18,454	-	-	-	-	-
WRP Seller Note Principal	-	180,633	170,062	191,407	215,430	242,468	-	-	-	-	-
WRP Earnout Loans Interest	-	20,000	40,000	65,000	86,000	96,000	66,000	46,000	21,000	-	-
WRP Earnout Loans Principal	-	100,000	200,000	325,000	430,000	430,000	330,000	230,000	105,000	-	-
WRP Upside Earnout A	-	-	-	-	-	-	-	-	-	-	-
WRP Upside Earnout B	-	-	-	-	-	-	-	-	-	-	-
WRP Downside Earnout	-	-	-	-	-	-	-	-	-	-	-
WRP Max Focus Distribution	1,089,481	1,062,030	1,124,131	1,148,282	1,172,433	1,196,584	1,801,062	2,082,455	2,082,455	2,082,455	2,082,455
Taxes	11,492	37,225	38,328	39,141	40,008	40,935	41,897	41,692	41,692	41,692	41,692
Net Cash Flow	139,137	32,984	(84,538)	(240,181)	(371,878)	(377,636)	(379,094)	(315,567)	(185,567)	(185,567)	(39,507)
Comprehensive Net Cash Flow	139,137	172,122	87,584	(152,597)	(524,476)	(902,111)	(1,281,285)	(1,596,772)	(1,762,338)	(1,881,905)	(1,881,905)
Net Cash Flow + Focus Dist.	1,228,618	1,094,015	1,039,593	908,101	800,554	815,948	1,421,968	1,766,888	1,916,888	2,042,888	2,042,888
Com Net Cash Flow + FF	1,228,618	2,325,633	3,363,236	4,271,377	5,071,851	5,898,839	7,313,797	9,079,686	10,996,574	13,039,463	15,039,463
Net Debt Repaid - Cash + FF	1,657,018	1,804,048	1,838,055	1,852,907	1,874,384	1,919,816	1,967,368	1,996,888	2,021,888	2,042,888	2,042,888
Com Debt Repaid - Cash + FF	1,657,018	3,461,066	5,299,122	7,152,029	9,026,413	10,946,229	12,913,597	14,910,486	16,932,374	18,975,263	20,975,263

APP000056

## ANNUAL FEES CHART

2016

	1st Q	2nd Q	3rd Q	4th Q		2016 YTD
<b>CAD TRUST - COMERICA / FOCUS FUND</b>						USD
Caldwell - Invest Mgt Fees -75 Basis Pts	5,737	5,591	4,941	1,502		17,770.04
Legal Fees - Lehnardt						0.00
	5,736.95	5,590.53	4,941	1,502		17,770.04
<b>ADVANTAGE INSURANCE</b>						USD
PPVUL - Premiums (Cost Of Insurance Fees)	21,372.88	17,617.97	17,687.34	18,896.08		75,574.27
Insurance Fees	3,201.13	3,232.05	3,262.40	3,295.17		12,990.75
<b>TOTAL COST OF INSURANCE</b>	24,574.01	20,850.02	20,949.74	22,191.25		88,565.02
"Other Fees" (see LLC Detail tab)	10,853.00	1,535.00	786.00	263.00		13,437.00
<b>Focus Fund</b>						
CIMCL - "Annual Fee"	-	-	-	-		0.00
Management Fees	-	-	-	-		0.00
<b>Commodity Recovery LLC</b>						
CIMCL - "Annual Fee"	-	-	-	-		0.00
Management Fees	3,750.00	2,189.00	2,938.00	6,123.00		15,000.00
<b>Canada Index Fund LLC</b>						
CIMCL - "Annual Fee"	-	-	-	-		0.00
Management Fees	3,750.00	1,381.00	2,548.00	7,322.00		15,001.00
<b>North American Fund LLC</b>						
CIMCL - "Annual Fee"	-	-	-	-		0.00
Management Fees	7,066.00	10,602.00	10,614.00	10,635.00		38,917.00
<b>TSE 300 Fund LLC</b>						
CIMCL - "Annual Fee"	-	-	-	-		0.00
Management Fees	3,750.00	1,381.00	2,548.00	7,322.00		15,001.00
<b>Global Exchange Fund LLC</b>						
CIMCL - "Annual Fee"	-	-	-	-		0.00
Management Fees	3,750.00	3,683.00	3,683.00	3,885.00		15,001.00
	82,067.02	62,471.04	65,016.48	79,932.50		200,922.02
<b>THE GUARDIAN FUND - BV /</b>						USD
<b>FORTIS InterTrust - Netherlands</b>						
FIXED FEES					0.00	
ADMIM, ACCTG, & LEGAL					0.00	
TCI - Tax Advice					0.00	
	0.00	0.00	0.00	0.00	0.00	0.00
<b>THE GUARDIAN FUND - NV /</b>						USD
<b>FORTIS InterTrust - Curacao</b>						
FIXED FEES					0.00	0.00
ADMIM, ACCTG, & LEGAL					0.00	0.00
TCI - Tax Advice					0.00	0.00
	0.00	0.00	0.00	0.00	0.00	0.00
<b>TOTALS</b>						<b>218,692.06</b>

EX-15-17  
No 14

APP000057

2016								1st Qtr Totals	
	Focus Fund LLC	Canada Index LLC	TSE 300 LLC	Global Exchange LLC	Commodity LLC	North American LDC	PharmService LLC		
Management Fees	0	3,750	3,750	3,750	3,750	7,085		22,088	
Annual Gov't Fees						2,354		2,354	
Director Fees						3,128		3,128	
Bank Charges	137	15	15	37	15	152		371	
Company Fees	1,000	1,000	1,000	1,000	1,000			5,000	
Invest Mgt Fees - Caldwell	5,737							5,737	
Legal Fees - Lehnardt	57,114							57,114	
Consulting - Frontier Inv.	8,228							8,228	
Other Prof Fees	7,426					10,000		17,426	
	79,642	4,785	4,785	4,787	4,785	22,700	0	121,424	

2016								2nd Qtr Totals	
	Focus Fund LLC	Canada Index LLC	TSE 300 LLC	Global Exchange LLC	Commodity LLC	North American LDC	PharmService LLC		
Management Fees	0	1,381	3,871	3,683	2,189	10,602		21,726	
Annual Gov't Fees	123	15	15	37	15	40		245	
Director Fees		300	300	300	300			1,200	
Bank Charges	5,591							5,591	
Invest Mgt Fees - Caldwell									
Legal Fees - Lehnardt	54,871							54,871	
Consulting - Frontier Inv.	22,481							22,481	
Other Prof Fees	51,791							51,791	
Company Fees	80							80	
	134,948	1,698	4,186	4,020	2,604	18,642	0	197,994	

2016								3rd Qtr Totals	
	Focus Fund LLC	Canada Index LLC	TSE 300 LLC	Global Exchange LLC	Commodity LLC	North American LDC	PharmService LLC		
Management Fees	0	2,548	3,793	3,683	2,938	10,514	0	23,576	
Annual Gov't Fees								400,000	
Director Fees	311	15	15	46	15	37		441	
Bank Charges	4,841							4,841	
Invest Mgt Fees - Caldwell									
Legal Fees - Lehnardt	54,571							54,571	
Consulting - Frontier Inv.	13,430							13,430	
Other Prof Fees	1,198							1,198	
Company Fees	345							345	
	74,795	2,583	3,808	3,731	2,953	10,551	0	498,501	

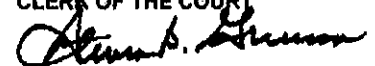
2016								1st Qtr Totals	
	Focus Fund LLC	Canada Index LLC	TSE 300 LLC	Global Exchange LLC	Commodity LLC	North American LDC	PharmService LLC		
Management Fees		7,322	3,933	3,885	8,123	10,535		31,698	
Annual Gov't Fees	148	15	15	26	15	43		263	
Director Fees								1,802	
Bank Charges	1,502							43,156	
Invest Mgt Fees - Caldwell									
Legal Fees - Lehnardt	43,156							60,085	
Consulting - Frontier Inv.									
Other Prof Fees	80,085								
Company Fees									
	124,871	7,337	3,948	3,911	8,138	10,578		156,983	

YTD	414,254	18,361	19,787	18,449	16,360	54,671		934,802	
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APP000058

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Electronically Filed  
3/21/2019 12:42 PM  
Steven D. Grierson  
CLERK OF THE COURT



**In the Matter of**

**The Beatrice B. Davis Family**

**Heritage Trust**

X  
X  
X  
X  
X  
X  
X  
X  
X

**CASE NO P-15-083867-T**

**Dept No 26**

**RE: Petition for Instructions  
Regarding Surrender of Trust  
& Distribution Order**

I, Christopher D. Davis, Respondent, declare the following to be true.

In response to the false allegations and questions from Charlene Renwick's filing March 13, 2019 and email dated March 14, 2019, please find the following to be true and correct to the best of my knowledge.

We have properly set up an account with Odyssey EFile NV for the Courts so that this Response will be properly filed. We apologize to all parties and to the Court for not filing my Declaration on March 12, 2019 through this same Efilng protocol, as we thought sending through the efilng noted online to the clerk's office was sufficient. This is all new to us and obviously representing oneself is not an easy task. Now that it has been brought to my attention from Ms. Renwick, I have taken the proper steps in registering and obtaining an eFiling account with the court system to file my responses and exhibits (hence this Declaration) going forward.

It is not my decision to surrender my rights as a beneficiary and/or Surrender my right of the Trust and its Distribution of The Beatrice B. Davis Family Heritage Trust in distribution of the assets. I also think there needs to be more time granted to properly go over & substantiate the facts outlined in the FHT for her two primary beneficiaries, Caroline D. Davis and myself, Christopher D. Davis in the event financial hardship and/or medical illness were at stake. It was never my mother's wishes for me (or any of her beneficiaries) to suffer without financial means; more importantly, during an illness which I have no control over. **(See Exhibit 1 – Statement of Facts Stating Primary Beneficiaries, Page 5 – Caroline D Davis & Christopher D Davis)**

**Distributions for Medical & Financial Hardship Quotes from FHT noted later in this Declaration. Medical & Financial Hardship take priority and supersede any and all 50/50 distributions per my mother's wishes.**

**FHT QUOTE NOTED BELOW:**

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2  
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11

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I.**

**STATEMENT OF FACTS**

As this Court is aware, Beatrice B. Davis ("Grantor"), a Missouri resident, created the Beatrice B. Davis Family Heritage Trust, dated July 28, 2000 ("Trust"). Pursuant to the terms of said trust, ~~Grantor's children, Christopher Davis and Caroline Davis, are the named beneficiaries of the Trust, and their respective spouses and descendants are also included as discretionary beneficiaries of the Trust.~~<sup>1</sup> Further, per Grantor's appointment, Stephen Lehnardt was appointed as the Trust Protector and Alaska Trust Company was named as the initial Trustee of the Trust.<sup>2</sup> On or about August 2, 2011, Mr. Lehnardt removed Alaska Trust Company as Trustee and replaced the same with Alaska USA Trust Company.

The Trust Company filing this petition, Dunham Trust Company, had their authority revoked on February 18, 2018; therefore, does not hold the legal right to sell, liquidate and/or make any decisions nor actions or proceedings on behalf of The Beatrice B. Davis Family Heritage Trust. **(See Exhibit 2 - February 18, 2018 Letter Revoking Dunham Trust Company & Resignation & Release of Dunham Trust)**

I am in opposition of The Beatrice B. Davis Family Heritage Trust being liquidated if the assets are not equally divided between Caroline D. Davis and myself, Christopher D. Davis, as equal primary beneficiaries of this trust, as Caroline D. Davis and myself are 50/50 sole beneficiaries of this trust – Decedents & Spouse(s) are only discretionary beneficiaries. **(See Exhibit 1 - Stating Primary Beneficiaries, Page 5 & excerpt from FHT above)**

Per my Declaration sent to all parties & clerk's office March 12, 2019 and in response to the Argument Response filed from Ms. Charlene Renwick March 13, 2019, I would like to reiterate facts pointed out in my original declaration and address Ms. Renwick's false allegations and argument of my declaration.

First, to clarify, Mr. Barney Given has not been and is not my counsel or representing me in any way on this matter whether formally or informally. I included his name in the response because I had sought legal advice several months ago "as a friend" on this matter in hopes for some direction since I could not afford an attorney of my own, however, he is not assisting me in any way. Doing this all on my own, I was simply hoping for guidance.

## **FINANCIAL FACTS**

To further explain the amount of money spent (\$2,035,836 which was outlined in Exhibit No 10) in more detail per financial exhibits, please note further detailed information as to how money was allocated.

As investment advisor to the Trust, I was paying legal defense as outlined in Exhibits noted below:

- **Legal Defense – Exhibit 3**
- **Office Expenses – Exhibit 4**

## **POLICY**

To add, legal defense unreimbursed to date reduces the net distributions from \$2,035,836 minus expenses \$582,948.81 is \$1,452,887 (**Outlined in Exhibit 3**) which belies the speech claim of \$4m total distributions from the Trust to me, Chris.

## **PHARMA**

**Exhibit 5**, shows gross transfers to me from Pharma to be \$728,000 of which \$531,468 was unreimbursed closing and related office expenses, leaving a net transfer to me from Pharma of \$196,531.95;

## **POLICY & PHARMA**

Therefore, the net distributions from the Policy and the Pharma is a total of \$196,531.95 from Pharma and \$1,452,887 from the Policy which total is \$1,649,419; a much lower amount of their claim of \$4m  
(**Exhibit 5a, 5b & 5c - Gross Transfer and Net Expenses**)

**Exhibit 6a & 6b** – WRP Cash Flow Analysis - which 2017 & 2018 Net Adjusted Ebitda show that Pharma can easily support combined structural expenses of both the Policy and the Trust.

While it's true that Pharma must pay the seller significant earnout payments over the next several years, these requirements can easily be refinanced & stretched out greatly reducing the burden of annual free cash flow. The attached sensitivity analysis reports in **Exhibit 7** illustrates this point under zero and 5% annual growth combined with zero, 12, 20% financing rate.

We are requesting proof that opposing counsels are claiming that the Pharma cannot cover the expenses to sustain Trust & the Policy. We believe that the Pharma is making enough to sustain the Policy, the Trust and beneficiaries. If there is opposition to this, then we request evidence that disproves & substantiates that claim.



## MEDICAL CONDITIONS

I also plead with the court to please take into account my current medical & financial conditions to release a temporary modest amount of monthly income from the trust until this case can be settled which can be deducted from my portion at the end of this litigation if need be; however, based on the medical stipulations & considering the need of the Primary Beneficiary of the FHT, distributions for the benefit of primary beneficiary, spouse of the primary beneficiary or the descendants of the primary beneficiary should be charged to the trust and not against the beneficiaries ultimate share. It was never the wishes of my mother for any of us to suffer and stated in her trust that monies be allocated for the purposes of financial hardship and/or due to medical needs. It is evident and proven, I qualify for both. (Exhibit 8 - Stipulation of FHT RE: Beneficiaries Lifestyle & Medical Allowance, Page 8.3 b; Allocated Distribution Allowance for Primary Beneficiary, Page 8.4 & 8.5 d)

### QUOTED FROM FHT

b. Provide for My Beneficiaries' Lifestyle Needs

I desire that my Trustee provide the respective beneficiary of each such share with funds (paid to, or for the benefit of, such Primary Beneficiary) sufficient to provide for the beneficiary's [REDACTED] and to provide the beneficiary with sufficient funds to maintain a modest, conservative lifestyle. I also desire that my Trustee give assistance to the respective beneficiary of each such share for:

The purchase of a residence which is modest and commensurate with the Primary Beneficiary's lifestyle.

The purchase or establishment of a business or professional practice.

Any other extraordinary opportunity or expense deemed by my Trustee to be in the best interests of the beneficiary.

### **MODEST LIVING CONDITIONS**

Ms. Renwick states in her argument dated March 13, 2019 on Page 6, the description of the property I am currently living in, which is an over exaggerated ad online from over two years ago on Trulia and other social media rental property sites – ads like this always hype up the property to get it leased. What's not stated is the age of the property, the actual current conditions of property, the many times we have had to vacate the premises due to plumbing and mold issues and all the other property issues we have had since living there, which I am happy to submit email correspondences with the owner of the property to solidify this fact if needed.

More importantly, at the time of securing this lease over two years ago, my wife was also getting a substantial amount of monthly child support. This has significantly changed and no longer the case. I was also not in the dire straight financial downfall that I am currently in. My medical conditions were also not as bad as they currently are. So a lot has notably changed in the last two and a half years.

I am in the process of being evicted, our auto insurance has expired, and other major bills based solely on bare minimal living expenses can't be paid. To add, I don't have the monies to even hire movers to pack up my belongings, move me and unpack my belongings to a new residence. I have no money to hire legal representation to adequately defend me in this litigation or to pay for all my on-going medical/living expenses. Additionally, I will have to come up with a deposit for a new place to live, which again, I do not have. So, I plead with the court & Honorable Judge to please render some source of financial means allocated to me in the interim of this on-going litigation & per my mother's wishes stipulated in her trust.

We can all agree there are enough funds at hand that cannot & will not affect my sister's rights to her portion of the trust or this litigation outcome. **(Exhibit 8 - Payment to Guardian of Primary Beneficiary, Page 8.3 & 8.4)**

## QUOTES FROM POLICY

My Trustee shall be mindful of, and take into consideration to the extent it deems necessary, any additional sources of income and principal available to the beneficiary which arise outside of this agreement and are known to my Trustee. It is also my express desire that my Trustee take into consideration the future probable needs of a beneficiary prior to making any discretionary distributions hereunder.

8-3

However, during any period when the Primary Beneficiary of a trust share serves as the sole trustee of his or her trust share, distributions to or for the benefit of such Primary Beneficiary (or to satisfy any support obligation of such Primary Beneficiary) shall be limited to distributions which satisfy the ascertainable standards of health care, education, maintenance, and support for the Primary Beneficiary except to the extent otherwise authorized by the provisions below concerning the Powers of an Interested Trustee.

I think it is extremely important to be clear that the "primary" beneficiaries are Caroline D. Davis and myself, Christopher D. Davis, which are clearly stated throughout the FBT. My son, Winfield Davis, is my descendant and is considered a "discretionary" beneficiary "not primary beneficiary," (until my death) just as any spouse of primary beneficiary is noted in FBT. The split of beneficiaries is 50/50 to primary beneficiaries, Caroline D. Davis and myself. (Exhibit 9 – 8.3d – Distributions to Primary Beneficiary's Spouse & Descendants)

Also noted below on Page 8.5; first paragraph shown below: "A distribution to or for the benefit of a beneficiary's needs shall be charged to the trust rather than against the beneficiary's ultimate share or the shares of those persons taking through such beneficiary upon the termination of trust."

Beneficiary.

d. **Distributions to a Primary Beneficiary's Spouse and Descendants**

My Trustee may make ~~distributions from the trust share of a Primary Beneficiary~~ to or for the health, education, maintenance and support of the spouse of the Primary Beneficiary if the spouse is living with the Primary Beneficiary. My Trustee shall have the discretion to determine whether a spouse is living with the Primary Beneficiary at the time a distribution is made.

My Trustee may also make distributions from the trust share of a Primary Beneficiary to or for the benefit of a descendant of the Primary Beneficiary for the health, education, maintenance and support of such descendant.

~~Distributions shall only be made by my Trustee to a spouse or a descendant of the Primary Beneficiary after considering the needs of the Primary Beneficiary of the trust share. Distributions made pursuant to this provision may be made to the complete exclusion of the other beneficiaries of the trust share. These distributions may be~~ \*

8-4

made to the Primary Beneficiary, the spouse of the Primary Beneficiary or the descendants of the Primary Beneficiary in equal or unequal amounts according to their respective needs. A distribution to or for the benefit of a beneficiary's needs shall be charged to the trust rather than against the beneficiary's ultimate share or the shares of those persons taking through such beneficiary upon the termination of the trust. However, a distribution for the purchase of a residence, the purchase or establishment of a business or professional practice, or for any other extraordinary opportunity or expense shall be charged to the beneficiary's ultimate share or the share of those persons taking through such beneficiary upon the termination of the trust.

Also noting, I have financially supported my son throughout his lifetime and who has not lived a "modest" life style. (i.e.: just this year alone has traveled to and from Japan, China, London, Paris, Italy, both coasts of the U.S. just to name a few). To add, he's not had a paying job thus far in his life and should not be considered a beneficiary until my death, as clearly stated within the Trust. He is a discretionary beneficiary and has no right under the Trust to gain from primary beneficiary share.

I am living beyond modestly, have zero income, have medical conditions/illness/expenses, trying to move to a much less property, yet to do so must be able to prove "proof of income" and put down deposits, pay for packing and moving company, transferring all utilities and everything else that comes with moving. I have zero money to do so, which is not what my mother's wishes were and stated & noted many times throughout her Trust.

### **CONCLUSION**

- 1) Noted Excerpts from the FHT – Proving Primary Beneficiaries
- 2) Financial Explanations Outlined for Policy & Pharma
- 3) Explanation & Proof of Modest Living Conditions
- 4) Explanation Excerpts of Stipulations from the FHT for monies allocated based on Medical & Financial Conditions of Primary Beneficiary

There is no denying that I, Christopher D. Davis, suffer from Parkinson's having had a rapid decline in health in the last three years and the inability to walk, speak clearly and simply move around & function on a daily basis. Due to my disability, I am also unable to work. My spouse has also acted as my caretaker to also minimize expenses. I am not asking for anything unfair or unjust, simply for all parties and Your Honor to sympathize with my current health and medical conditions and grant me access to a court appointed monthly stipend for living & medical expenses; again, as per my mother's wishes clearly stated in her trust.

Pursuant to many areas of The Beatrice B. Davis Family Heritage Trust, health, medical and living needs supersede the overall 50/50 split of the trust and take precedent and should be allocated from the Trust separately, not against the 50/50 allocated split of primary beneficiaries.

To add, due to my medical conditions, I respectfully ask for fair legal representation to be provided to me in these foregoing & ongoing proceedings.

I plead with the court to exercise my rights as a Primary Beneficiary of this Trust in retaining my rights in distributions made from this Trust and not allow the sell or mishandling of denying me any monies from this trust or that the Trust be liquidated unfairly.

I, Christopher D. Davis declare under penalty and perjury, pursuant to the laws of the State of California, the foregoing is true and correct. Executed in Los Angeles, California

  
\_\_\_\_\_  
Christopher D. Davis

3/22/2015  
\_\_\_\_\_  
Dated

MEMORANDUM OF POINTS AND AUTHORITIES

I.

STATEMENT OF FACTS

As this Court is aware, Beatrice B. Davis ("Grantor"), a Missouri resident, created the Beatrice B. Davis Family Heritage Trust, dated July 28, 2000 ("Trust"). Pursuant to the terms of said trust, Grantor's children, Christopher Davis and Caroline Davis, are the named beneficiaries of the Trust, and their respective spouses and descendants are also included as discretionary beneficiaries of the Trust.<sup>1</sup> Further, per Grantor's appointment, Stephen Lehnardt was appointed as the Trust Protector and Alaska Trust Company was named as the initial Trustee of the Trust.<sup>2</sup> On or about August 2, 2011, Mr. Lehnardt removed Alaska Trust Company as Trustee and replaced the same with Alaska USA Trust Company.

Subsequently, Mr. Lehnardt, acting as Trust Protector of the Trust, changed the Trust situs from Alaska to Nevada, by way of the First Amendment to the Beatrice B. Davis Family Heritage Trust, dated February 24, 2014 ("Amendment").<sup>3</sup> Under the Amendment, Alaska USA Trust Company was replaced as trustee by Danham Trust Company ("DTC").<sup>4</sup> Specifically, DTC was appointed as the Directed Trustee. Under the Amendment, Mr. Lehnardt also appointed Christopher Davis as the Investment Trust Advisor, and appointed himself as the Distribution Trust Advisor.<sup>5</sup>

As this Court will recall, the primary asset of the Trust is a life insurance policy, number ACLI 11058007 (ALIP 00081031) (the "policy"). The policy is currently administered by Advantage Insurance, and it insures the life of Christopher Davis' ex-wife, Cheryl Davis, with a \$35,000,000 death benefit, and a \$4,000,000 revolving line of credit ("LOC"). Pursuant to the most recent accounting provided by Advantage, based on various loans taken against the policy

<sup>1</sup> Exhibit 1, Beatrice B. Davis Family Heritage Trust, dated July 28, 2000, page 8-1, Article Eight, Section 1 and page 8-4, Article 8, Section 5.4 (July 28, 2000).

<sup>2</sup> *Id.* at page 1-1, Article One, Section 1.

<sup>3</sup> Exhibit 2, First Amendment to Beatrice B. Davis Family Heritage Trust, dated February 24, 2014 (February 24, 2014).

<sup>4</sup> *Id.* at page 2.

<sup>5</sup> *Id.* at pages 2 and 3.

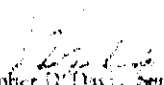
EXHIBIT  
1

THE PARTIES HERETO HAVE EXECUTED THIS RELEASE.

Dated this      day of      2018

Dated this      day of      2018

Christine D. Davis, beneficiary of the  
Beatrice B. Davis Family Heritage Trust,  
As Amended

  
Christopher D. Davis, beneficiary of the  
Beatrice B. Davis Family Heritage Trust,  
As Amended

Dated this      day of      2018

Dated this      day of      2018

Winifred B. Davis, beneficiary of the  
Beatrice B. Davis Family Heritage Trust,  
As Amended

Winifred B. Davis, on behalf of her heirs,  
successors and beneficiaries of the Beatrice B.  
Davis Family Heritage Trust, As Amended

EXHIBIT

2

6 of 4

4821 3534 0074

APP000069



# FHT DISPUTE EXPENSES INCURRED

as of December 19, 2018

	Total Invoiced
Lehnardt	\$ 6,230.00
Barney	\$ 229,464.58
Barton	\$ 11,700.00
Roland	\$ 188,017.02
Clear Counsel **	\$ 14,814.79
Two Nevada Trips	\$ 4,742.85
Godsell & Olsen	\$ 66,084.19
Mike Gallagher	\$ 28,105.00
Long Reimer Winegar	\$ 2,252.50
Withers Bergman	\$ 25,340.50
Toyko / LA / KC 2018 Trips	\$ 7,197.40
<b>TOTAL</b>	<b>\$ 582,948.81</b>

\*\* invoices paid by the FHT

EXHIBIT

3

AlamedaSierraDesign TO COURT/FHT LAWYER BILLING SUMMARY 582k as of 12-19-18.xls

APP0000070

L200000DDV

POLICY DISTRIBUTIONS

CHRS OFFICE

WINN

Per W. Tripp Cash Requests

05/21/14  
05/22/14  
06/04/14  
06/25/14  
07/23/14  
08/04/14  
08/20/14  
09/08/14  
10/01/15  
10/20/14  
11/04/14  
11/18/14  
12/03/14  
12/29/14  
01/15/15  
02/03/15  
02/23/15  
03/18/15  
03/30/15  
04/20/15  
05/28/15  
07/01/15  
07/20/15  
08/04/15  
08/24/15  
09/08/15  
09/16/15  
09/17/15  
09/28/15

Ray James Transfers to BAC		
CDD	LLC	WINN

63,827	20,125	n/a
38,791	5,307	n/a
25,077	12,198	n/a
32,935	17,846	n/a
44,887	22,748	n/a
52,629	15,868	n/a
37,721	6,374	n/a
39,588	14,475	n/a
42,704	16,542	n/a
21,447	8,346	n/a
43,581	8,943	n/a
33,289	3,440	n/a
57,361	9,967	n/a
30,899	13,924	n/a
33,334	11,027	n/a
55,099	17,831	n/a
38,959	10,746	n/a
23,824	9,858	n/a
28,868	6,241	n/a
46,118	13,348	n/a
48,742	10,061	n/a
57,156	10,554	n/a
40,681	8,769	n/a
39,475	6,751	n/a
59,000	13,466	n/a
21,265	0	n/a
20,900	8,599	n/a
43,692	0	n/a
	9,921	n/a

EXHIBIT  
4 (2 pgs)

# ZL00000PPV

10/09/15	46,000	0	n/a
10/13/15	13,585	6,508	n/a
10/30/15	38,362	15,228	n/a
11/17/15	17,889	3,716	n/a
12/11/15	41,606	15,622	n/a
12/31/15	63,247	16,199	n/a
01/20/16	11,546	6,868	9,704
02/01/16	19,898	12,969	12,906
03/01/16	36,896	14,000	13,305
03/14/16	26,865	9,700	
04/01/16	50,000	0	
04/15/16	20,106	10,000	11,895
05/01/16	60,000	19,890	
06/15/16	60,349	17,603	13,211
06/30/16	56,269	13,261	
06/15/16	19,905	7,678	19,123
07/01/16	26,827	4,538	
07/18/16	51,613	13,304	22,521
08/04/16	48,004	8,008	13,141
08/17/16	39,037	14,224	7,969
09/05/16	24,313	3,834	3,140
09/19/16	44,316	26,099	9,490
10/01/16	28,336	16,868	4,731
10/15/16	18,249	18,217	8,849
11/01/16	40,394	7,623	8,334
12/04/16	24,196	8,235	4,717
12/15/16	23,368	17,046	2,800

DRAWS -2,412,500

2,035,836 612,603 165,936

# DISTRIBUTIONS FROM PHARMA

OFFICE  
BANK ACCT

## TOTAL DISTRIBUTIONS RECEIVED FROM WRP as of DECEMBER 21, 2017

11/04/16	\$ 40,000.00	to DFO - BAC
12/02/16	\$ 20,000.00	to DFO - BAC
01/06/17	\$ 100,000.00	to DFO - BAC
02/10/17	\$ 35,000.00	to DFO - BAC
03/02/17	\$ 16,000.00	to DFO - BAC
03/07/17	\$ 15,000.00	to DFO - BAC
03/09/17	\$ 7,000.00	to DFO - BAC
03/29/17	\$ 20,000.00	to DFO - BAC
04/10/17	\$ 20,000.00	to DFO - BAC
05/05/17	\$ 20,000.00	to DFO - BAC
06/02/17	\$ 10,000.00	to DFO - BAC
06/08/17	\$ 5,000.00	to DFO - BAC
07/31/17	\$ 15,000.00	to DFO - BAC
08/04/17	\$ 35,000.00	to DFO - BAC
08/18/17	\$ 20,000.00	to DFO - BAC
08/28/17	\$ 35,000.00	to DFO - BAC
08/07/17	\$ 30,000.00	to DFO - BAC
09/11/17	\$ 20,000.00	to DFO - BAC
09/25/17	\$ 31,000.00	to DFO - BAC
10/04/17	\$ 41,000.00	to DFO - BAC
10/10/17	\$ 16,000.00	to DFO - BAC
10/24/17	\$ 25,000.00	to DFO - BAC
10/31/17	\$ 10,000.00	to DFO - BAC
11/07/17	\$ 30,000.00	to DFO - BAC
11/10/17	\$ 12,000.00	to DFO - BAC
11/16/17	\$ 15,000.00	to DFO - BAC
11/21/17	\$ 20,000.00	to DFO - BAC
11/30/17	\$ 35,000.00	to DFO - BAC
12/08/17	\$ 32,000.00	to DFO - BAC
12/21/17		

OTHER

\$\$\$ \$ 16,242.87 to American Express

UNREIMBURSED EXPENSES

Total Distributions	\$ 728,000.00
Less: Net Deficiency	\$ (531,468.05)
Net Due / Excess	\$ 196,531.95

From Focus Fund Reimbursements  
\$ 16,242.87

NET DISTRIBUTION FR PHARMA

EXHIBIT  
3



# SUMMARY OF OFFICE EXPENSES ALLOCATED TO PHARMA

## DFO-LLC % ALLOCATION Based on W. Tripp's Cash Requests

2014	2015	2016	2017
2-Jan	15-Jan	20-Jan	18-Jan
17-Jan	3-Feb	1-Feb	23-Feb
1-Feb	23-Feb	18-Feb	3-Mar
16-Feb	16-Mar	14-Mar	21-Apr
3-Mar	30-Mar	18-Apr	1-May
3-Apr	20-Apr	17-May	15-Jun
23-Apr	28-May	1-Jun	1-Jun
30-Apr	1-Jul	15-Jun	16-Jun
22-May	20-Jul	23-Jun	1-Jul
4-Jun	4-Aug	19-Jul	19-Jul
25-Jun	24-Aug	4-Aug	1-Aug
22-Jul	16-Sep	5-Sep	7-Sep
4-Aug	28-Sep	15-Sep	15-Sep
20-Aug	15-Oct	15-Oct	28-Sep
8-Sep	30-Oct	1-Nov	19-Oct
1-Oct	17-Nov	4-Dec	2-Nov
20-Oct	11-Dec	15-Dec	15-Nov
4-Nov	31-Dec		28-Nov
18-Nov			19-Dec
3-Dec			29-Dec
29-Dec			
9,520.06	11,027.48	6,668.30	11,958.43
3,889.60	17,630.60	12,969.37	30,438.00
8,298.00	10,746.44	27,956.57	18,000.29
15,325.95	9,657.92	8,612.85	19,898.08
19,749.76	8,241.03	28,493.02	21,347.72
19,688.58	13,345.07	17,502.77	14,896.82
14,480.94	13,061.33	13,260.73	8,672.09
5,629.34	10,553.87	7,678.14	6,420.64
5,307.28	6,769.37	4,538.42	10,549.56
12,197.61	8,751.11	13,304.43	18,152.94
17,845.75	13,466.33	5,008.28	10,808.45
22,744.79	8,599.46	3,833.87	6,280.79
15,955.37	9,921.08	25,099.46	10,212.63
6,374.49	6,506.32	16,687.90	18,285.81
14,474.71	15,226.01	7,623.31	11,013.21
16,842.27	3,714.58	8,235.46	11,179.67
8,345.42	25,821.75	17,044.51	7,127.21
8,942.50	16,198.95		11,847.05
3,440.35			13,183.85
9,966.53			2,100.68
13,924.45			
252,733.67	205,240.70	224,516.21	264,173.72
x 24.77 %	x 24.77 %	x 50 %	x100 %
62,613.89	50,847.51	112,258.11	264,173.72

2014	62,613.89
2015	50,847.51
	113,461.20
2017	264,173.72

EXHIBIT  
5c

APP0000075

9700000APP

# PHARMA CASH FLOW ANALYSIS

WMP ADDBACKS 2016 vs 2017 vs 2018

Category	HC 9/30/16 YTD	Rx 9/30/16 YTD	WMP 09/30/16	TOTALS 2016	TOTALS 2017	TOTALS 2018	Change 2018-2017
1 Total Sales	\$ 2,510,483	\$ 5,006,827	\$ 2,815,777	\$ 10,133,087	\$ 9,879,006	\$ 10,348,949	\$ 669,962
2 COGS	\$ 1,584,045	\$ 3,069,369	\$ 1,847,503	\$ 8,829,918	\$ 6,074,449	\$ 8,907,399	\$ 912,950
3 Gross Profit	\$ 926,438	\$ 1,409,458	\$ 968,273	\$ 3,303,179	\$ 3,804,556	\$ 1,201,569	\$ 242,968
4 Operating Expenses Net Reductions	\$ 280,232	\$ 780,473	\$ 743,236	\$ 1,813,940	\$ 2,500,122	\$ 2,968,932	\$ 388,510
EBITDA Reductions	\$ (15,751)	\$ (20,484)	\$ (387,867)	\$ (478,202)	\$ (618,846)	\$ (808,306)	\$ (200,443)
5 Net O & A	\$ 284,481	\$ 769,888	\$ 281,288	\$ 1,385,738	\$ 1,731,478	\$ 1,901,327	\$ (169,449)
6 Total EBITDA	\$ 661,967	\$ 628,469	\$ 807,005	\$ 1,907,441	\$ 2,121,680	\$ 1,710,332	\$ 412,749
7 Net Adjusted EBITDA	\$ 661,967	\$ 628,469	\$ 807,005	\$ 1,907,441	\$ 1,873,080	\$ 1,460,242	\$ 412,838

EXHIBIT  
6a

PHARMA

WRP 2016 - 2018 OPERATING EXPENSES ADDBACKS

Operating Expense Not Reductions

Category	Name	HC	RI	GRP	TOTALS	TOTALS	TOTALS	2018	Add Backs	Note
		08/2016 YTD	08/2016 YTD	08/2016 YTD	2016	2017	2018	2018	Add Backs	Note
536	Travel	\$ -	\$ -	\$ 3,076	\$ 3,076	\$ 6,672	\$ -	\$ -	\$ -	
564	Legal & Accounting	\$ 15,567	\$ 18,481	\$ 6,250	\$ 40,308	\$ 104,302	\$ 94,070	\$ 94,070	\$ (94,070)	
565	Consulting	\$ -	\$ -	\$ 68,974	\$ 68,974	\$ 210,549	\$ 369,812	\$ 369,812	\$ (199,612)	576 CH \$300,000
574	Amortization	\$ -	\$ -	\$ 308,887	\$ 308,887	\$ 468,330	\$ 472,413	\$ 472,413	\$ (472,413)	
575	Depreciation	\$ 154	\$ 1,023	\$ -	\$ 1,177	\$ 31,793	\$ 42,211	\$ 42,211	\$ (42,211)	
		\$ 16,781	\$ 20,484	\$ 381,967	\$ 618,202	\$ 1,008,305	\$ 808,305	\$ 808,305	\$ -	

EBITDA Not Reductions

Category	Name	HC	RI	GRP	TOTALS	TOTALS	TOTALS	2018	Add Backs	Note
		08/2016 YTD	08/2016 YTD	08/2016 YTD	2016	2017	2018	2018	Add Backs	Note
516	Office Salaries	\$ 464,314	\$ 169,484	\$ 222,713	\$ 856,480	\$ 1,293,205	\$ 1,300,004	\$ 1,300,004	\$ (50,000)	Retention Bonuses
556	Consulting	\$ -	\$ -	\$ 68,974	\$ 68,974	\$ 210,549	\$ 369,812	\$ 369,812	\$ (200,000)	CH Consulting
		\$ 464,314	\$ 169,484	\$ 291,687	\$ 925,454	\$ 1,503,754	\$ 1,669,816	\$ 1,669,816	\$ (250,000)	

EXHIBIT  
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8700000PPV

NET CASH FLOW + FOCUS DISTRIBUTIONS  
WRP CASES 18 THRU 21  
MARCH 2018

	Yr1	Yr2	Yr3	Yr4	Yr5	Yr6	Yr7	Yr8	Yr9	Yr10
Case 18	0%	1,228,615	720,515	765,083	679,801	781,554	1,334,946	1,817,065	2,042,866	2,042,866
Case 21 @ 20%	0%	1,228,618	1,098,016	1,039,889	908,101	800,594	618,948	1,421,068	1,768,888	1,918,888
Case 21 @ 12%	0%	1,228,618	1,103,016	1,068,993	924,101	814,954	633,346	1,448,368	1,785,268	1,925,268
Case 19	8%	1,304,772	902,278	1,078,975	1,083,288	1,328,928	2,004,269	2,624,786	2,984,076	3,145,808
Case 20 @ 30%	5%	1,304,772	1,216,776	1,334,475	1,321,766	1,306,928	1,468,269	2,228,786	2,718,076	3,018,668
Case 20 @ 12%	5%	1,304,772	1,284,776	1,350,475	1,347,758	1,370,326	1,502,699	2,255,186	2,738,476	3,026,068

EXHIBIT  
7

b. **Provide for My Beneficiaries' Lifestyle Needs**

I desire that my Trustee provide the respective beneficiary of each such share with funds (paid to, or for the benefit of, such Primary Beneficiary) sufficient to provide for the beneficiary's ~~needs~~ and to provide the beneficiary with sufficient funds to maintain a modest, conservative lifestyle. I also desire that my Trustee give assistance to the respective beneficiary of each such share for:

The purchase of a residence which is modest and commensurate with the Primary Beneficiary's lifestyle.

The purchase or establishment of a business or professional practice.

Any other extraordinary opportunity or expense deemed by my Trustee to be in the best interests of the beneficiary.

I have previously made significant gifts to my children, and those gifts are fully available to them to use in any way they choose. My purpose in creating this trust is to provide a financial resource base that will support and protect my family for generations to come. While my children or their descendants may choose to make charitable contributions from their independent resources (including those resources which they received as gifts from me) I do not regard this trust as an appropriate source for charitable giving. Accordingly, my Trustee shall not make distributions to any beneficiary from this trust if my Trustee believes or suspects that the distributed funds will be used to make any kind of charitable contribution. I envision that these resources will be maintained to provide for the specific needs of my children and their descendants. Accordingly, in making discretionary distributions to a beneficiary, my Trustee shall be mindful of, and take into consideration to the extent it deems necessary, any additional sources of income and principal available to the beneficiary which arise outside of this agreement and are known to my Trustee. It is also my express desire that my Trustee take into consideration the future probable needs of a beneficiary prior to making any discretionary distributions hereunder.

**EXHIBIT**

**8**

CD-006203

**APP000079**

However, during any period when the Primary Beneficiary of a trust share serves as the sole trustee of his or her trust share, distributions to or for the benefit of such Primary Beneficiary (or to satisfy any support obligation of such Primary Beneficiary) shall be limited to distributions which satisfy the ascertainable standards of health care, education, maintenance, and support for the Primary Beneficiary except to the extent otherwise authorized by the provisions below concerning the Powers of an Interested Trustee.

c. Provisions Relating to the Payment of Debts of a Beneficiary

I do not desire that my Trustee use its discretion to pay debts incurred by a beneficiary (except debts incurred in the ordinary course of living for matters related to, and consistent with, the ascertainable standard referred to above and the principles of this section). Further, I do not desire that such discretion be used in a manner which enables the respective beneficiary to provide for persons other than the beneficiary's descendants or then living spouse, or which would cause the beneficiary's share to be included in the taxable estate of the beneficiary.

d. Distributions to a Primary Beneficiary's Spouse and Descendants

My Trustee may make distributions from the trust share of a Primary Beneficiary to or for the health, education, maintenance and support of the spouse of the Primary Beneficiary if the spouse is living with the Primary Beneficiary. My Trustee shall have the discretion to determine whether a spouse is living with the Primary Beneficiary at the time a distribution is made.

My Trustee may also make distributions from the trust share of a Primary Beneficiary to or for the benefit of a descendant of the Primary Beneficiary for the health, education, maintenance and support of such descendant.

Distributions shall only be made by my Trustee to a spouse or a descendant of the Primary Beneficiary after considering the needs of the Primary Beneficiary of the trust share. Distributions made pursuant to this provision may be made to the complete exclusion of the other beneficiaries of the trust share. These distributions may be

made to the Primary Beneficiary, the spouse of the Primary Beneficiary or the descendants of the Primary Beneficiary in equal or unequal amounts according to their respective needs. A distribution to or for the benefit of a beneficiary's needs shall be charged to the trust rather than against the beneficiary's ultimate share or the shares of those persons taking through such beneficiary upon the termination of the trust. However, a distribution for the purchase of a residence, the purchase or establishment of a business or professional practice, or for any other extraordinary opportunity or expense shall be charged to the beneficiary's ultimate share or the share of those persons taking through such beneficiary upon the termination of the trust.



e. **Distributions Should Encourage Beneficiaries to Live Meaningful Lives**

Until the Primary Beneficiary of a trust share attains the age of 35, I desire that distributions of property from the Primary Beneficiary's share be limited in such a manner as to encourage the Primary Beneficiary to fill a meaningful role in society and to conserve a reasonable amount of principal in order to provide security for the Primary Beneficiary's retirement. I do not desire that my Trustee use discretion so liberally as to remove any incentive for the Primary Beneficiary to fill a meaningful role in society.

To clarify my intent in this provision, when I use the phrase "a meaningful role in society", I would include any of the following activities conducted on a substantially full-time basis (full-time either individually, or in the combination in which they are pursued by the Primary Beneficiary): (i) paid employment; (ii) efforts to start, manage or operate a business; (iii) creation of literary works, works of art or craft work if the Primary Beneficiary shows a talent for such creation and such works appear to have sufficient commercial value or potential to earn funds to support at least a subsistence lifestyle for the Primary Beneficiary; (iv) education; (v) organized research; (vi) volunteer work for a bona fide charitable organization; (vii) public office; (viii) parenting; (ix) competitive athletics or sport; (x) artistic performance (such as dance, music, theater, or opera); and (xi) any other activity that my Trustee concludes, in its sole discretion, furthers the Primary Beneficiary's self esteem and sense of accomplishment.



1 **RPLY**  
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8 crenwick@lee-lawfirm.com  
9 Attorney for Dunham Trust Company

7 **DISTRICT COURT**  
8 **CLARK COUNTY, NEVADA**

9 In the Matter of:

10 The BEATRICE B. DAVIS FAMILY  
11 HERITAGE TRUST, dated July 28, 2000, as  
12 amended on February 24, 2014

CASE NO.: P-15-083867-T  
DEPT. NO.: 26

**DUNHAM TRUST COMPANY'S REPLY  
BRIEF IN SUPPORT OF PETITION FOR  
INSTRUCTIONS REGARDING  
SURRENDER OF ASSETS,  
TERMINATION OF TRUST AND  
DISTRIBUTION**

Hearing Date: March 14, 2019  
Hearing Time: 9:30 a.m.

16 Petitioner, DUNHAM TRUST COMPANY, by and through its attorney Charlene N.  
17 Renwick Esq. of the law firm LEE, HERNANDEZ, LANDRUM & CARLSON, APC., hereby  
18 submits its Reply brief in support of its Petition for Instructions regarding the surrender of assets,  
19 termination of The Beatrice B. Davis Family Heritage Trust (the "Trust"), and distribution assets.

20 This Reply is based on the pleadings and papers herein, the following points and  
21 authorities, and any oral argument that this Court may entertain at the time of hearing.

22 **LEE, HERNANDEZ, LANDRUM  
& CARLSON, APC**

23 By: 

24 DAVID S. LEE, ESQ.  
25 Nevada Bar No. 6033  
26 CHARLENE N. RENWICK, ESQ.  
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## MEMORANDUM OF POINTS AND AUTHORITIES

### I.

#### INTRODUCTION

As this Court will recall, the issue at hand with respect to the instant Petition for Instructions is that maintenance of the trust is no longer economically feasible under Article 12, Section 11 of the Trust. As such, DTC's petition for instructions proposes surrender of the primary asset of the Trust, which is a life insurance policy, number ACLI 11058007 (ALIP 00081031) (the "policy"). Further, the petition seeks instruction that DTC liquidate the policy assets, terminate the trust, and distribute the proceeds from the same amongst the current beneficiaries of the trust.

This Court will further recall that the hearing on the instant Petition was set for January 31, 2019, and approximately 30 minutes prior to the same, beneficiary Christopher Davis served (not filed) an untimely affidavit opposing the Petition. Following extensive oral argument, during which Mr. Davis and his wife were given ample opportunity to be heard, this Court continued the hearing to March 14, 2019, to allow Mr. Davis additional time to present documents supporting his positions that: 1) he did not personally benefit from the \$2,862,076.04 he borrowed against the policy; and 2) the \$696,258.28 he withdrew from the pharmacy, which is the policy's largest asset, was a reimbursement for valid expenses he incurred. Further, this Court requested an explanation as to what happened to the tangible assets of the policy, which include jewelry, artwork, and furniture, with an approximate value of \$649,000.00. Mr. Davis was provided a deadline of March 1, 2019 to provide the requested supporting documentation; however, that deadline passed and no documents were timely produced. Instead, on March 12, 2019, Mr. Davis once again served (not filed) another affidavit opposing DTC's Petition, which fails to address a single issue that this Court directed him to address at the January 31, 2019 hearing. His affidavit reiterates his prior arguments of failing health and dire financial condition, but fails to provide any evidence to support his argument that he has not personally benefitted from the approximate \$4.2 million dollars in loans, withdrawals and hard assets that he has received and/or improperly retained from the Trust to date.

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1 It should be noted that following the January hearing, Mr. Davis consulted with attorney  
2 Barney Given of the law firm Loeb & Loeb LLP, and Mr. Given contacted counsel for DTC.<sup>1</sup> The  
3 Petition and the basis for the same were discussed with Mr. Given, and he indicated that Mr.  
4 Davis was not opposed to liquidation of the assets and termination of the trust, provided that some  
5 allocation was made for him.<sup>2</sup> Based on the same, if this Court is not willing to issue an  
6 instruction that distribution of the proceeds exclude Mr. Davis based on the total benefit he has  
7 already received from the Trust, DTC submits that this Court at least authorize and direct DTC to  
8 surrender the policy and liquidate its assets for the benefit of the Trust and the beneficiaries  
9 thereof. As previously submitted, continued administration of the policy will simply further  
10 deplete the value of the Trust, and reduce the ultimate distribution to the eligible beneficiaries.  
11 Following the same, DTC submits that the beneficiaries can negotiate to reach an agreement as to  
12 ultimate distribution, and if agreement cannot be reached, the respective parties can further  
13 petition this Court for instruction on distribution.

## 14 II.

### 15 ARGUMENT

#### 16 A. Mr. Davis is Not Entitled to Any Further Distribution From the Trust.

17 Mr. Davis has failed to provide any evidence in this matter that demonstrates that he did  
18 not personally benefit from the \$2,862,076.04 that he borrowed against the policy, or that his  
19 \$696,258.28 withdrawal from the assets of PharmService, LLC were an actual "reimbursement"  
20 as he claims. Further, this Court will note that Mr. Davis completely ignores the fact that he has  
21 improperly retained custody of the tangible assets owned by the policy, which include  
22 approximately \$649,000 in artwork, jewelry and furniture, despite repeated requests by  
23 Advantage Insurance that the same be turned over, as outlined in the underlying Petition. In fact,  
24 to this day, Mr. Davis has not accounted for such assets or advised as to their whereabouts.

25  
26  
27 <sup>1</sup> See Affidavit of Charlene Renwick, Esq. (March 13, 2019).

28 <sup>2</sup> Id.

1 Rather than provide any evidence to support his arguments, Mr. Davis asserts that the trust  
2 terms require that the trustee provide for his health, medical and living needs as a beneficiary, and  
3 that these provisions somehow supersede the equal share split between the beneficiaries, as set  
4 forth in Article 8 of the Trust.<sup>3</sup> Mr. Davis fails to acknowledge that the specific terms of the trust  
5 provide as follows:

6 Article Eight

7 Distribution of My Trust Property

8 Section 1. Division into Separate Shares

9 All trust property not previously distributed under the terms of my trust agreement  
10 shall be divided into equal separate shares so as to create one equal share for  
11 each of my then living children, and one equal share for each of my deceased  
12 children that has descendants then living. These separate trust shares shall also be  
13 held, administered, and distributed in accordance with the provisions of this  
14 Article and the Articles that follow.

15 ...

16 Section 3. Guidelines Applicable to Separate Trust Shares

17 Except to the extent, if any, otherwise provided by more restrictive provisions  
18 contained in subsequent sections of this Article with respect to a particular trust  
19 share, each trust share created for a beneficiary pursuant to Section 1 of this  
20 Article shall be held, administered, and distributed in accordance with the  
21 following directives. During the lifetime of the named beneficiary of any share,  
22 such named beneficiary shall be the Primary Beneficiary of such share; thereafter,  
23 if the share is subdivided into separate shares for my descendants or otherwise, the  
24 person for whom the separate share is established shall be the Primary Beneficiary  
25 thereof.

26 b. Provide for My Beneficiaries' Lifestyle Needs

27 I desire that my Trustee provide the respective beneficiary of each such  
28 share with funds (paid to, or for the benefit of, such Primary Beneficiary)  
sufficient to provide for the beneficiary's health, education, maintenance,  
support and welfare, and to provide the beneficiary with sufficient funds to  
maintain a modest, conservative lifestyle. I also desire that my Trustee give  
assistance to the respective beneficiary of each such share for:

<sup>3</sup> Exhibit 1, *Beatrice B. Davis Family Heritage Trust*, dated July 28, 2000, Article Eight, Bates Labels CD-000201-218 (July 28, 2000).



1 The purchase of a residence which is modest and commensurate  
2 with the Primary Beneficiary's lifestyle.

3 The purchase or establishment of a business or professional  
4 practice.

5 Any other extraordinary opportunity or expense deemed by my  
6 Trustee to be in the best interests of the beneficiary.

7 *I have previously made significant gifts to my children, and those gifts*  
8 *are fully available to them to use in any way they choose.* My purpose in  
9 creating this trust is to provide a financial resource base that will support  
10 and protect my family for generations to come. (Emphasis added.)<sup>4</sup>

11 Mr. Davis' arguments that considerations for his health, medical and living needs supersede the  
12 trust provisions dictating how the trust assets are to be divided are without merit. The provisions  
13 directing the trustee to make distributions to a primary beneficiary based on the standard of  
14 health, education, maintenance, support and welfare are specifically applicable to that  
15 beneficiary's share of the trust, as repeatedly stated in Article 8 as cited above.

16 DTC does not dispute that Mr. Davis has significant health issues, however, the fact  
17 remains that DTC, as the trustee of the Trust, is bound by the terms of the same. Given that Mr.  
18 Davis has already reaped the benefit of approximately \$4.2 million dollars in loans from the  
19 policy, advances against the pharmacy, and other assets owned by the policy, it is disingenuous of  
20 him to argue that he is entitled to further distributions from the Trust. As this Court will recall,  
21 Caroline Davis has not received a single distribution from the Trust to date. Based on the  
22 information provided by the current insurer, Advantage Insurance, it is DTC's understanding that  
23 the policy proceeds will be approximately \$4,000,000 upon liquidation of the policy assets, less  
24 payment of administrative expenses, including the pending awards of attorneys' fees, repayment  
25 of the PharmService, LLC loan, and write off of the tangible assets that Mr. Davis refuses to  
26 relinquish. This clearly demonstrates that the remaining value of the trust asset is less than the  
27 value of what Mr. Davis has already received to date. As such, under the terms of the Trust, his  
28 share has already been distributed.

<sup>4</sup> Id. at Article 8, Section 1, Section 3 and 3b., Bates Labels CD-000201-203.

Moreover, this Court will note that the Grantor's intent was to ensure that the trust assets were utilized in a manner that allowed her beneficiaries to maintain modest, conservative lifestyles. Mr. Davis submits to this Court that his financial condition is so strained that he is being evicted from his current rental home, located at 3045 Corda Drive, Los Angeles, CA 90049.<sup>5</sup> This is a five bedroom, 4 bath home, with approximately 3,267 square feet, according to the real estate website, Zillow.com.<sup>6</sup> The description of Mr. Davis' current rental property, from which is apparently being evicted, is as follows, per the cited website:

Romantic Mediterranean Villa situated behind gates is totally remodeled with the highest level of quality and taste. Unfurnished, with option of leasing partially or fully furnished "price will be decided." From front foyer to the beautifully landscaped gardens, this residence is filled with harmonious and authentic detailing. French doors leading to an inviting resort with mature trees, fruit trees and secluded areas for relaxation and perfect for entertaining on a large or intimate scale. This charming house incorporates a formal dining room, grand living room with beamed ceiling and fireplace, chef's kitchen with viking stove & ovens, sub-zero refrigerator, family room opens to a terrace with fire pit, fountains and outside bbq area. Sizable master, 3 additional bedrooms or "2 and an office" plus maid's suite with separate entrance. This exquisite house with cascading waterfall, pool, jacuzzi and outdoor loggia ready for dining alfresco offers the best in California.<sup>7</sup>

The accompanying photographs of the property, which are listed on the cited website, substantiate the above description, which arguably exceeds the Grantor's intent of providing her beneficiaries with a means to maintain a "moderate, conservative lifestyle." The underlying point here is that if Mr. Davis's financial condition is as dire as he claims, it would behoove him to adjust his lifestyle to live within his means.

**B. Alternatively, the Issue of Distribution May be Determined Following Surrender of the Policy and Liquidation of its Assets.**

If this Court is not currently prepared to issue an instruction precluding any further distribution to Mr. Davis, DTC submits that based on the evidence presented by DTC in its Petition, this Court may proceed with authorizing and directing DTC to surrender the policy and

<sup>5</sup> See Exhibit No. 7, "Notice of Service Disconnection," to Christopher Davis' Affidavit, dated March 11, 2019.

<sup>6</sup> See Exhibit 2, [https://www.zillow.com/homes/for\\_sale/20558318\\_zpid/34.164943-118.429356,34.09034,-118.546601\\_rect/12\\_zm/1\\_fr/?view=public](https://www.zillow.com/homes/for_sale/20558318_zpid/34.164943-118.429356,34.09034,-118.546601_rect/12_zm/1_fr/?view=public).

<sup>7</sup> Id.

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LAS VEGAS, NV 89128  
(702) 880-9750

1 liquidate the policy assets for the benefit of the Trust and the beneficiaries. This would allow the  
2 beneficiaries an opportunity to negotiate an agreement as to distribution of the remaining  
3 proceeds/assets, which if reached, can be submitted to this Court for approval. In the event that  
4 the beneficiaries cannot come to an agreement regarding distribution, the beneficiaries and/or the  
5 trustee can petition the Court for instruction on distribution, and present evidence to support their  
6 respective positions.

### 7 III.

### 8 CONCLUSION

9 As set forth in DTC's Petition, and based on the instant Reply brief, DTC requests that  
10 this Court make and enter its Orders and Decrees pursuant to NRS 164.030(1) as follows:

- 11 a) That notice of the time and place of such hearing has been given in the  
12 manner required by law;
- 13 b) That this Court authorize and direct DTC to surrender the policy and  
14 liquidate its assets for the benefit of the Trust and the beneficiaries thereof;
- 15 c) That this Court authorize and direct DTC to terminate the Trust and  
16 distribute the proceeds of the liquidated assets between Caroline Davis and  
17 Winfield Davis only, after the payment of all liabilities against policy and/or  
18 assets of the policy, and any and all administrative expenses; and
- 19 d) For any further relief as this Court deems just.
- 20  
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1 To the extent that this Court is not willing to authorize and instruct DTC on the issue of  
2 which beneficiaries the Trust assets should be distributed, to, DTC requests that this Court at  
3 least enter an Order authorizing and instructing DTC to surrender the policy and liquidate the  
4 assets of the same for the ultimate benefit of the Trust and its beneficiaries.

5 DATED this 13<sup>th</sup> day of March, 2019.

6 LEE, HERNANDEZ, LANDRUM  
7 & CARLSON, APC

8  
9 By:



10 CHARLENE N. RENWICK, ESQ.  
11 Nevada Bar No. 10165  
12 7575 Vegas Drive, Suite 150  
13 Las Vegas, NV 89128

14 Attorney for Dunham Trust Company  
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**AFFD**

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[crenwick@lee-lawfirm.com](mailto:crenwick@lee-lawfirm.com)

Attorneys for Dunham Trust Company

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of:

The BEATRICE B. DAVIS FAMILY  
HERITAGE TRUST, dated July 28, 2000, as  
amended on February 24, 2014

CASE NO.: P-15-083867-T  
DEPT. NO.: 26

**AFFIDAVIT OF CHARLENE N.  
RENWICK, ESQ. IN SUPPORT OF  
REPLY BRIEF IN SUPPORT OF  
PETITION FOR INSTRUCTIONS  
REGARDING SURRENDER OF  
ASSETS, TERMINATION OF TRUST  
AND DISTRIBUTION**

STATE OF NEVADA

COUNTY OF CLARK

} ss

I, CHARLENE N. RENWICK, ESQ., depose and state under oath as follows:

1. I am an attorney duly licensed to practice law in the State of Nevada and am an  
associate at the law firm of LEE, HERNANDEZ, LANDRUM & CARLSON, APC.

2. I am an attorney of record for Petitioner DUNHAM TRUST COMPANY, in the  
instant matter, and have personal knowledge of the facts set forth herein, except those stated upon  
information and belief, which are based upon my knowledge and belief of their veracity, and am  
competent to testify thereto.

3. On February 26, 2019 and March 1, 2019, I was contacted by Barney Given, Esq., of the law firm Loeb & Loeb LLP, in Los Angeles, CA, who represented that he was working to assist Mr. Davis in regards to the current Petition.

4. Mr. Given relayed that while Mr. Davis did not object to liquidation of the policy assets, he did object to not receiving a distribution and that Mr. Given was hoping to assist Mr. Davis in reaching a compromise with the beneficiaries regarding the same.

5. The undersigned directed Mr. Given to contact counsel for Caroline Davis to discuss any such compromise, given that DTC, as the Trustee, has no authority to make such a compromise on behalf of the beneficiaries, and takes no position on the same.

**FURTHER THIS AFFIANT SAYETH NAUGHT.**

**DATED this 13<sup>th</sup> day of March, 2019.**

**CHARLENE N. RENWICK, ESQ.**

**SUBSCRIBED AND SWORN to before  
me this 13<sup>th</sup> day of March, 2019.**

NOTARY PUBLIC in and for said  
county and state.



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**CERTIFICATE OF SERVICE**

I hereby certify that on the 13<sup>th</sup> day of March, 2019, I served a true and correct copy of the above and foregoing **DUNHAM TRUST COMPANY'S REPLY BRIEF IN SUPPORT OF PETITION FOR INSTRUCTIONS REGARDING SURRENDER OF ASSETS, TERMINATION OF TRUST AND DISTRIBUTION**, by the court's electronic filing system to all parties attached to the case and by first class U.S. mail, postage prepaid, to the following persons or entities:

ATTORNEY	PARTY	PHONE/FAX/E-MAIL
Mark A. Solomon, Esq. Joshua M. Hood, Esq. SOLOMON, DWIGGINS & FREER, LTD. 9060 W. Cheyenne Ave. Las Vegas, NV 89129	Caroline Davis	Phone: (702) 853-5483 Fax: (702) 853-5485  <a href="mailto:msolomon@sdfnvlaw.com">msolomon@sdfnvlaw.com</a> <a href="mailto:jhood@sdfnvlaw.com">jhood@sdfnvlaw.com</a>
John M. Tyner, Esq. POL SINELLI 900 W. 48 <sup>th</sup> Place, Suite 900 Kansas City, MO 64112	Caroline Davis (MO counsel)	<a href="mailto:JTynner@Polsinelli.com">JTynner@Polsinelli.com</a> 816.360.4140
Thomas Grover, Esq. Michael Olsen, Esq. BLACKROCK LEGAL, LLC 10155 W. Twain Ave., #100 Las Vegas, NV 89147	Christopher Davis	Phone: (702) 855-5658 Fax: (702) 869-8243  <a href="mailto:tom@goodsellolsen.com">tom@goodsellolsen.com</a> <a href="mailto:mike@goodsellolsen.com">mike@goodsellolsen.com</a>
Michael Gallagher, Esq. GALLAGHER & KAISER, LLP 523 Grand Blvd., #1D Kansas City, MO 64106	Counsel for Chris Davis (MO Counsel)	<a href="mailto:mgallagher@gkkclaw.com">mgallagher@gkkclaw.com</a>
Jonathan W. Barlow, Esq. CLEAR COUNSEL LAW GROUP 1671 W. Horizon Ridge Pkwy., Ste. 200 Henderson, NV 89012	Stephen Lehnardt	Phone: (702) 476-5900 Fax: (702) 924-0709  <a href="mailto:jonathan@clearcounsel.com">jonathan@clearcounsel.com</a>
Chris Davis 514 West 26 <sup>th</sup> Street, #3E Kansas City, MO 64108 And		

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1	2934 1/2 North Beverly Glen Circle, Apt. 506 Los Angeles, CA 90077		
2			
3	Tarja Davis 514 West 26 <sup>th</sup> Street, #3E Kansas City, MO 64108 And 2934 1/2 North Beverly Glen Circle, Apt. 506 Los Angeles, CA 90077		
4			
5	Winfield B. Davis 909 W. Temple St., Apt. 632 A Los Angeles, CA 90012		<u>Winsane@gmail.com</u>
6			
7	Harriet H. Roland, Esq. ROLAND LAW FIRM 2470 E. St. Rose Pkwy., Ste. 105 Henderson, NV 89074	Christopher D. Davis	Phone: (702) 452-1500 Fax: (702) 920-8903 <u>hroland@rolandlawfirm.com</u>
8			
9	Anthony L. Barney, Esq. Tiffany S. Barney, Esq. ANTHONY L. BARNEY, LTD. 3317 W. Charleston Blvd. Ste. B Las Vegas, NV 89102	Christopher D. Davis	Phone: (702) 438-7878 Fax: (702) 259-1116 <u>abarney@anthonybarney.com</u>
10			
11			
12			
13			
14			
15			

  
 An employee of LEE, HERNANDEZ, LANDRUM  
 & CARLSON



**EXHIBIT "2"**

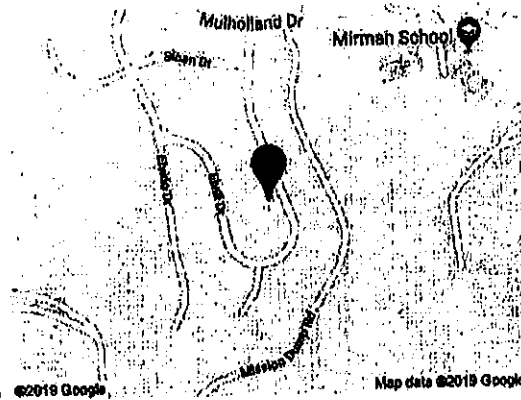
**Exhibit "2"**

SHARE

City, State, or Zip



3045 Corda Dr, Los Angeles, CA 90049



**3045 Corda Dr,  
Los Angeles, CA 90049**

5 beds · 4 baths · 3,267 sqft

OFF MARKET

Zestimate®: \$2,696,587

Rent Zestimate®: \$10,000 /mo

EST. REFI PAYMENT

Est. Refi Payment:

\$11,617/mo



Is this your rental?

Get a monthly local market report with comparable rentals in your area.

☐ I own and manage this rental

☐ I manage this rental for the owner

Enter email

Subscribe

*Note: This property is not currently for sale or for rent. The description below may be from a previous listing.*

Romantic Mediterranean Villa situated behind gates is totally remodeled with the highest level of quality and taste. Unfurnished, with option of leasing partially or fully furnished "price will be decided." From front foyer to the beautifully landscaped gardens, this residence is filled with harmonious and authentic detailing. French doors leading to an inviting resort with mature trees, fruit trees and secluded areas for relaxation and perfect for entertaining on a large or intimate scale. This charming house incorporates a formal dining room, grand living room with beamed ceiling and fireplace, chef's kitchen with viking stove & ovens, sub-zero refrigerator, family room opens to a terrace with fire pit, fountains and outside bbq area. Sizable master, 3 additional bedrooms or "2 and an office" plus maid's suite with separate entrance. This exquisite house with cascading waterfall, pool, jacuzzi and outdoor loggia ready for dining alfresco offers the best in California.

## Facts and Features

Type

Year Built

Heating

APP000095



Single Family



1965



Other



Cooling  
Central



Parking  
6 spaces



Lot  
0.35 acres

#### INTERIOR FEATURES

##### Bedrooms

Beds: 5

##### Heating and Cooling

Heating: Other

Heating: None

Cooling: Central

##### Appliances

Appliances Included: Dishwasher, Dryer, Range /  
Oven

##### Flooring

Floor size: 3,267 sqft

Flooring: Other

## Home Value

Zestimate

**\$2,696,587**

ZESTIMATE RANGE  
\$2.40M - \$3.07M

LAST 30 DAY CHANGE  
+\$62,859 (+2.4%)

ONE YEAR FORECAST  
\$2,683,643 (-0.5%)

## Owner Dashboard



Do you own this home? See your Owner Dashboard.

## Price / Tax History

DATE	EVENT	PRICE	\$/SQFT	SOURCE
------	-------	-------	---------	--------

**APP000096**

DATE	EVENT	PRICE	\$/SQFT	SOURCE
06/08/17	Listing removed	\$14,449/mo	\$4	John Aaroe Gro...
05/16/17	Listed for rent	\$14,449/mo	\$4	John Aaroe Gro...
10/29/96	Sold	\$475,000 -14.3%	\$145	
05/21/96	Sold	\$554,467	\$169	

## Neighborhood: Brentwood

MEDIAN ZESTIMATE

**\$2,617,700**

⬆ 1.1%

Past 12 months

MARKET TEMP

**Cool**

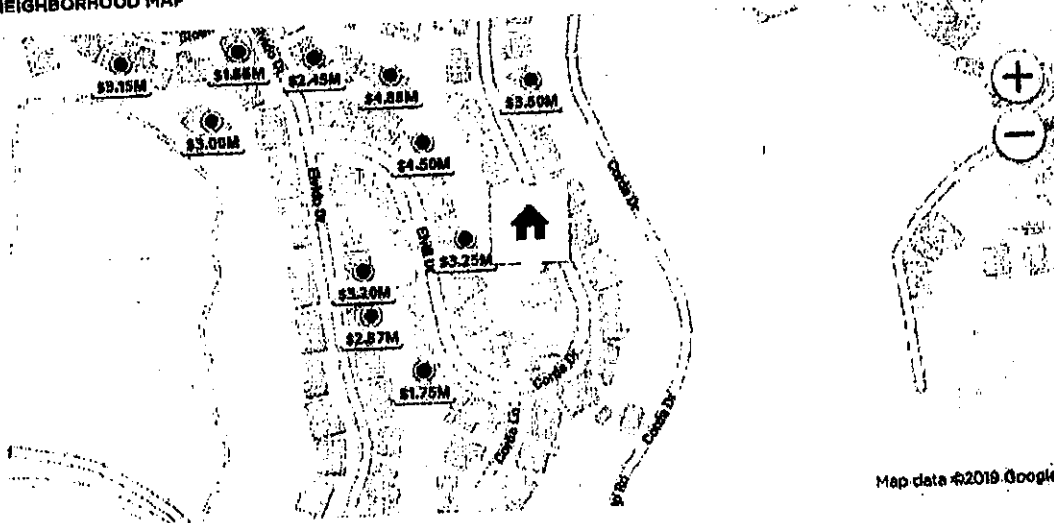
Buyers' Market

Sellers' Market

Zillow predicts will rise 0.8% next year, compared to a 2% rise for Los Angeles as a whole. Among Brentwood homes, this home is valued 12.2% more than the midpoint (median) home, but is valued 13% less per square foot.

⚡ Walk Score • 5 (Car-Dependent)    🚶 Transit Score™ 31 (Some Transit)

### NEIGHBORHOOD MAP



Map data ©2019 Google

### NEARBY HOMES

OFF MARKET: ZESTIMATE  
**\$2,733,886** 5 bds · 4 ba · 3,280 sqft  
 3029 Corda Dr, Los Angeles, CA

OFF MARKET: ZESTIMATE  
**\$2,253,773** 4 bds · 3 ba · 2,624 sqft  
 3055 Corda Dr, Los Angeles, CA

**APP000097**

## Nearby Schools in Los Angeles

GREATSCHOOLS RATING ●

GRADES DISTANCE

<b>9</b> out of 10	Roscomare Road Elementary	K-5	1.6 mi
<b>2</b> out of 10	Van Nuys Middle	6-8	3.5 mi
<b>NR</b>	Crespi Carmelite High	9-12	3.0 mi

Data by GreatSchools.org ●

**About the ratings:** Historically, GreatSchools ratings have been based solely on a comparison of standardized test results for all schools in a given state. As of September 2017, the GreatSchools ratings also incorporate additional information, when available, such as college readiness, academic progress, advanced courses, equity, discipline and attendance data. GreatSchools ratings are designed to be a starting point to help parents compare schools, and should not be the only factor used in selecting the right school for your family.

**Disclaimer:** School attendance zone boundaries are provided by a third party and subject to change. Check with the applicable school district prior to making a decision based on these boundaries.

### Similar Homes for Sale

**FOR SALE**  
**\$3,250,000**  
4 beds, 4.0 baths, 3943 s...  
3044 Elvill Dr, Los Angeles.

**FOR SALE**  
**\$3,200,000**  
4 beds, 4.0 baths, 3514 s...  
3034 Elvdo Dr, Los Angele

**FOR SALE**  
**\$2,450,000**  
4 beds, 5.0 baths, 3800 s...  
3120 Elvdo Dr, Los Angeles

**FOR SALE**  
**\$4,500,000**  
4 beds, 4.0 baths, 4000 ...  
3064 Elvill Dr, Los Angeles,

**FOR SALE**  
**\$1,895,000**  
5 beds, 3.0 baths, 3034 s...  
16137 Meadowcrest Rd, She

### Nearby Similar Sales

**SOLD: \$1,530,000**  
Sold on 3/30/2018  
3 beds, 2.0 baths, 2300 sqft  
3426 Red Rose Dr, Encino, CA 91436

**SOLD: \$1,575,000**  
Sold on 10/22/2018  
6 beds, 4.25 baths, 3456 sqft  
16521 Park Lane Cir, Los Angeles, CA 90049

**SOLD: \$1,750,000**  
Sold on 4/27/2018  
4 beds, 4.0 baths, 2877 sqft  
3215 Steven Dr, Encino, CA 91436

**SOLD: \$1,935,000**  
Sold on 2/8/2018  
4 beds, 4.0 baths, 3607 sqft  
16460 Sloan Dr, Los Angeles, CA 90049

**SOLD: \$2,275,000**  
Sold on 8/27/2018  
5 beds, 4.0 baths, 3114 sqft  
16103 Sandy Ln, Encino, CA 91436

APP000098



1 **SUPP**  
2 **CHARLENE N. RENWICK, ESQ.**  
3 Nevada Bar No. 10165  
4 **LEE, HERNANDEZ, LANDRUM**  
5 **& CARLSON, APC**  
6 7575 Vegas Drive, Suite 150  
7 Las Vegas, Nevada 89128  
8 (702) 880-9750  
9 Fax: (702) 314-1210  
10 [crenwick@lee-lawfirm.com](mailto:crenwick@lee-lawfirm.com)

11 Attorney for Dunham Trust Company

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 In the Matter of:

15 The BEATRICE B. DAVIS FAMILY  
16 HERITAGE TRUST, dated July 28, 2000, as  
17 amended on February 24, 2014

CASE NO.: P-15-083867-T  
DEPT. NO.: 26

**DUNHAM TRUST COMPANY'S  
SUPPLEMENTAL REPLY BRIEF IN  
SUPPORT OF PETITION FOR  
INSTRUCTIONS REGARDING  
SURRENDER OF ASSETS,  
TERMINATION OF TRUST AND  
DISTRIBUTION**

Hearing Date: April 11, 2019  
Hearing Time: 9:30 a.m.

18 Petitioner, DUNHAM TRUST COMPANY, by and through its attorney Charlene N.  
19 Renwick Esq. of the law firm LEE, HERNANDEZ, LANDRUM & CARLSON, APC., hereby  
20 submits its Supplemental Reply brief in support of its Petition for Instructions regarding the  
21 surrender of assets, termination of The Beatrice B. Davis Family Heritage Trust (the "Trust"), and  
22 distribution assets.

23 ///

24 ///

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1 This Supplemental brief is based on the pleadings and papers herein, the following points  
2 and authorities, and any oral argument that this Court may entertain at the time of hearing.

3 DATED this 4<sup>th</sup> day of April, 2019.

4 LEE, HERNANDEZ, LANDRUM  
5 & CARLSON, APC

6 By: 

7 DAVID S. LEE, ESQ.  
8 Nevada Bar No. 6033  
9 CHARLENE N. RENWICK, ESQ.  
10 Nevada Bar No. 10165  
11 7575 Vegas Drive, Suite 150  
12 Las Vegas, NV 89128  
13 Attorneys for Dunham Trust Company

14 **MEMORANDUM OF POINTS AND AUTHORITIES**

15 **I.**

16 **INTRODUCTION**

17 While Mr. Davis continues to inaccurately argue that DTC was removed as Trustee, he  
18 fails to inform the Court that while the terms of DTC's resignation and release were negotiated  
19 amongst the parties, a fully executed resignation and release was never provided to DTC as  
20 required by the proposed terms governing its resignation as Trustee.<sup>1</sup> Moreover, this Court will  
21 note that the beneficiaries failed to appoint a successor trustee.<sup>2</sup> As such, DTC was never removed  
22 as Trustee, as the process was not completed. Resultantly, it continues to serve in such role.

23 Turning back to the central issue of DTC's subject Petition, the fact remains that  
24 maintenance of the trust is no longer economically feasible under Article 12, Section 11 of the  
25 Trust. Mr. Davis' analysis as to the feasibility of maintaining the policy is entirely unsupported,  
26 as this Court will note that the random exhibits included in his latest Opposition, appear to be  
27 spreadsheets prepared by Mr. Davis or at the direction of Mr. Davis, and are not based on any

28 <sup>1</sup> See *Affidavit of Charlene Renwick, Esq.* (April 4, 2019).

<sup>2</sup> *Id.*

1 supporting financial data or other evidence. Conversely, DTC has obtained information from the  
2 insurer, Advantage Insurance, regarding the policy assets, and determined that the Trust and its  
3 beneficiaries will not benefit from maintaining the subject insurance Policy.<sup>3</sup> Exhibit 1 herein  
4 includes two in-force illustrations based on the current information available for the policy, and  
5 each illustration demonstrates that the policy cannot be sustained for the course of the insured's  
6 life, and will exhaust prior to the insured's death. This means that leaving the policy in place as is  
7 will ultimately leave the beneficiaries with nothing, defeating the intent of the Grantor.

8 This Court will also note that Mr. Davis' attempt to explain how he spent the loan  
9 proceeds from the policy is equally unsupported, as no evidence has been provided that he did not  
10 personally benefit from those loans. He simply provides a summary of expenses with zero  
11 evidence of what those expenses were. Moreover, his claim of reimbursement for defense costs is  
12 equally without merit given that there are currently three judgments for unpaid attorneys' fees  
13 (the Barney, Roland and Goodsell & Olsen Law Firms), which have been entered against the  
14 Trust based on his failure to pay. Moreover, this Court will note that conspicuously absent from  
15 Mr. Davis' recent Opposition is any mention of the tangible assets of the policy, which include  
16 jewelry, artwork, and furniture, with an approximate value of \$649,000.

17 During the January 31, 2019 hearing on the instant Petition, this Court specifically  
18 requested that Mr. Davis produce evidence demonstrating that: 1) he did not personally benefit  
19 from the \$2,862,076.04 he borrowed against the policy; and 2) the \$696,258.28 he withdrew from  
20 the pharmacy, which is the policy's largest asset, was a reimbursement for valid expenses he  
21 incurred. Further, this Court requested an explanation as to what happened to the tangible assets  
22 of the policy, which include jewelry, artwork, and furniture, with an approximate value of  
23 \$649,000. Mr. Davis has failed to provide this Court with any actual evidence of the above, other  
24 than his own self-serving analysis and spreadsheets, which are not supported by any actual  
25 evidence. He continues to reiterate his prior arguments of failing health and dire financial  
26 condition, but fails to provide any actual evidence to support his argument that he has not

27  
28 <sup>3</sup> Exhibit 1, *Corres. from W. Keenan, Advantage Insurance* (April 3, 2019).



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LAS VEGAS, NV 89128  
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1 personally benefitted from the approximate \$4.2 million dollars in loans, withdrawals and hard  
2 assets that he has received and/or improperly retained from the Trust to date. Based on the same,  
3 his Opposition is entirely unsupported and without merit, and the requested Petition should be  
4 granted.

5 **II.**

6 **ARGUMENT**

7 **A. Continuation of the Trust is not Economically Feasible.**

8 As set forth in the Petition, under Article 12, Section 11, DTC believes that the continued  
9 administration of the Trust is no longer economically feasible based on the information provided  
10 by the insurer, Advantage Insurance:

11 Notwithstanding any other provision of this trust, if at any time after my  
12 death, any trust created in this trust is reduced to an amount which the  
13 Trustee, in the Trustee's sole and absolute discretion, determines that the  
14 trust is no longer economically feasible (which shall not be at any time  
15 when the reasonably anticipated annual costs of operating the trust do not  
16 exceed the greater of 15 percent of anticipated annual trust income or one  
17 and one half percent of the trust's assets), the Trustee may, in the Trustee's  
18 sole discretion, either: terminate such trust and distribute the trust property  
to the person(s) then entitled to the income or to receive or to have the  
benefit of the income therefrom or to the legal representative of such  
person. If there is more than one income beneficiary, the distribution to  
such income beneficiaries shall be made in the proportion in which they  
are beneficiaries...<sup>4</sup>

19 Based on the illustrations included in Exhibit 2 herein, the annual Cost of Insurance  
20 ("COI") and insurer charges plainly exceed the estimated annual income of policy by more than  
21 15% and 1 ½ percent of the value of the trust assets.<sup>5</sup> By way of example, the illustration shows  
22 that in policy year 20, the estimated COI and insurer charges will be approximately \$229,266.00,  
23 whereas the projected investment performance (i.e. policy income) will only be \$167,377.00.  
24 Based on this example, the estimated annual costs to maintain the policy, the sole Trust asset, will  
25

26  
27 <sup>4</sup> See Exhibit 1 to Petition, *Beatrice B. Davis Family Heritage Trust*, dated July 28, 2000, pages 12-5 and 12-6, Article 12,  
Section 11 (July 28, 2000).

28 <sup>5</sup> Exhibit 1.

1 be approximately 36% of the estimated income to be derived from the same. Alternatively, using  
2 the value of the trust assets, 1 ½ percent of the trust value in year 20 will be approximately  
3 \$62,767.00, and the annual policy costs clearly exceed the same at \$229,266.00.

4 This Court will note that Mr. Davis' so-called cash flow analysis and accompanying  
5 conclusions are not supported by any supporting documents or other evidence. As such, based on  
6 the actual evidence related to the policy assets, which has been provided directly by the insurer,  
7 there can be no doubt that the Trust is no longer viable, and the same should be terminated, and  
8 the assets distributed to the eligible beneficiaries.

9 **B. Mr. Davis Has Already Received Substantial Benefit from the Trust.**

10 Mr. Davis has failed to provide any evidence in this matter that demonstrates that he did  
11 not personally benefit from the \$2,862,076.04 that he borrowed against the policy, or that his  
12 \$696,258.28 withdrawal from the assets of PharmService, LLC were an actual "reimbursement"  
13 as he claims. The documents he produces to support his position are incomprehensive, and appear  
14 to be summaries that he has prepared himself at some point, or had prepared at his direction.  
15 There are no invoices, receipts, or other documentation to support his position, or the alleged  
16 amounts listed in his summaries. Moreover, he completely ignores the issue of the approximate  
17 \$649,000 in artwork, jewelry and furniture that he has failed to turn over to Advantage Insurance.  
18 As such, there is no dispute that Mr. Davis has received a substantial benefit of approximately  
19 \$4.2 million dollars from the Trust.

20 With respect to Mr. Davis' repeated argument that he is entitled to further distributions  
21 from the trust based on his health and financial difficulties, the same is incorrect. Mr. Davis fails  
22 to read the applicable trust provisions related to beneficiary distributions in their entirety, and he  
23 insists on selecting only portions of the Trust document to focus on. He cites Article 8, Section 3  
24 (d), arguing that this section mandates that his health and financial needs take precedence over the  
25 equal share split for the beneficiaries. This interpretation is completely inaccurate based on the  
26 plain language of the Trust. Article Eight, Section 1 clearly and unequivocally states that equal  
27 shares are to be created for each living child, and that these shares are to be distributed according  
28 the provisions that follow that section:

LEE, HERNANDEZ, LANDRUM & CARLSON, APC  
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LAS VEGAS, NV 89128  
(702) 880-9750

Article Eight

Distribution of My Trust Property

Section 1. Division into Separate Shares

All trust property not previously distributed under the terms of my trust agreement shall be divided into equal separate shares so as to create one equal share for each of my then living children, and one equal share for each of my deceased children that has descendants then living. These separate trust shares shall also be held, administered, and distributed in accordance with the provisions of this Article and the Articles that follow.

...

Section 3. Guidelines Applicable to Separate Trust Shares

Except to the extent, if any, otherwise provided by more restrictive provisions contained in subsequent sections of this Article with respect to a particular trust share, each trust share created for a beneficiary pursuant to Section 1 of this Article shall be held, administered, and distributed in accordance with the following directives. During the lifetime of the named beneficiary of any share, such named beneficiary shall be the Primary Beneficiary of such share; thereafter, if the share is subdivided into separate shares for my descendants or otherwise, the person for whom the separate share is established shall be the Primary Beneficiary thereof.

...

d. Distributions to a Primary Beneficiary's Spouse and Descendants My Trustee may make distributions from the trust share of a Primary Beneficiary to or for the health, education, maintenance and support of the spouse of the Primary Beneficiary if the spouse is living with the Primary Beneficiary. My Trustee shall have the discretion to determine whether a spouse is living with the Primary Beneficiary at the time a distribution is made.

My Trustee may also make distributions from the trust share of a Primary Beneficiary to or for the benefit of a descendant of the Primary Beneficiary for the health, education, maintenance and support of such descendant.

Distributions shall only be made by my Trustee to a spouse or a descendant of the Primary Beneficiary after considering the needs of the Primary Beneficiary of the trust share. Distributions made pursuant to this provision may be made to the complete exclusion of the other beneficiaries of the trust share. These distributions may be made to the Primary Beneficiary, the spouse of the Primary Beneficiary or the descendants of the Primary

Beneficiary in equal or unequal amounts according to their respective needs. A distribution to or for the benefit of a beneficiary's needs shall be charged to the trust rather than against the beneficiary's ultimate share or the shares of those persons taking through such beneficiary upon the termination of the trust. However, a distribution for the purchase of a residence, the purchase or establishment of a business or professional practice, or for any other extraordinary opportunity or expense shall be charged to the beneficiary's ultimate share or the share of those persons taking through such beneficiary upon the termination of the trust.<sup>6</sup>

Under Article 8, Section 3, Mr. Davis is deemed the Primary Beneficiary, and under subsection (d) thereof, his spouse and descendants are permissible beneficiaries. The language provides that the Trustee "may" make distributions under 8.3(d) to the Primary Beneficiary's (Mr. Davis) spouse or descendants, but is not required to do so. Moreover, Mr. Davis misconstrues the language "[a] distribution to or for the benefit of a beneficiary's needs shall be charged to the trust rather than against the beneficiary's ultimate share..." (emphasis added) as such provision applies to a spouse or descendant of the Primary Beneficiary, not the Primary Beneficiary (Mr. Davis) himself. The Court will note that the Trust very specifically defines the Primary Beneficiary as the person for whom an equal share is created under Article 8, Section 1. The subject provision 8.3(d) very clearly distinguishes that it applies to distributions to the spouse and descendants of the Primary Beneficiary.

As such, Mr. Davis' arguments that considerations for his health, medical and living needs supersede the trust provisions dictating how the trust assets are to be divided are without merit, and simply are not supported by the language of the Trust document itself. The provisions directing the trustee to make distributions to a primary beneficiary based on the standard of health, education, maintenance, support and welfare are specifically applicable to that beneficiary's share of the trust, as repeatedly stated in Article 8.

///

///

<sup>6</sup> See Exhibit 1 to Petition, *Beatrice B. Davis Family Heritage Trust*, dated July 28, 2000, pages 8-1, 8-2, 8-4 to 8-5, Article 8, Sections 1 and 3(d) (July 28, 2000).

C. Alternatively, the Issue of Distribution May be Determined Following Surrender of the Policy and Liquidation of its Assets.

### III.

## CONCLUSION

a) That notice of the time and place of such hearing has been given in the manner required by law;

b) That this Court authorize and direct DTC to surrender the policy and liquidate its assets for the benefit of the Trust and the beneficiaries thereof;

c) That this Court authorize and direct DTC to terminate the Trust and distribute the proceeds of the liquidated assets between the eligible beneficiaries only, after the payment of all liabilities against policy and/or assets of the policy, and any and all administrative expenses; and

d) For any further relief as this Court deems just.

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1 To the extent that this Court is not willing to authorize and instruct DTC on the issue of  
2 which beneficiaries the Trust assets should be distributed, to, DTC requests that this Court at  
3 least enter an Order authorizing and instructing DTC to surrender the policy and liquidate the  
4 assets of the same for the ultimate benefit of the Trust and its beneficiaries.

5 DATED this 4<sup>th</sup> day of April, 2019.

6 LEE, HERNANDEZ, LANDRUM  
7 & CARLSON, APC

8 By: 

9 CHARLENE N. RENWICK, ESQ.  
10 Nevada Bar No. 10165  
11 7575 Vegas Drive, Suite 150  
12 Las Vegas, NV 89128

13 Attorney for Dunham Trust Company  
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1 **AFFD**

2 DAVID S. LEE, ESQ.  
3 Nevada Bar No. 6033  
4 CHARLENE N. RENWICK, ESQ.  
5 Nevada Bar No. 10165  
6 LEE, HERNANDEZ, LANDRUM  
7 & CARLSON, APC  
8 7575 Vegas Drive, Suite 150  
9 Las Vegas, Nevada 89128  
10 (702) 880-9750  
11 Fax: (702) 314-1210  
12 dlee@lee-lawfirm.com  
13 crenwick@lee-lawfirm.com

14 Attorneys for Dunham Trust Company

15 DISTRICT COURT

16 CLARK COUNTY, NEVADA

17 In the Matter of:

18 The BEATRICE B. DAVIS FAMILY  
19 HERITAGE TRUST, dated July 28, 2000, as  
20 amended on February 24, 2014

CASE NO.: P-15-083867-T  
DEPT. NO.: 26

**AFFIDAVIT OF CHARLENE N.  
RENWICK, ESQ. IN SUPPORT OF  
SUPPLEMENTAL REPLY BRIEF IN  
SUPPORT OF PETITION FOR  
INSTRUCTIONS REGARDING  
SURRENDER OF ASSETS,  
TERMINATION OF TRUST AND  
DISTRIBUTION**

21 STATE OF NEVADA )  
22 ) ss  
23 COUNTY OF CLARK )

24 I, CHARLENE N. RENWICK, ESQ., depose and state under oath as follows:

25 1. I am an attorney duly licensed to practice law in the State of Nevada and am an  
26 associate at the law firm of LEE, HERNANDEZ, LANDRUM & CARLSON, APC.

27 2. I am an attorney of record for Petitioner DUNHAM TRUST COMPANY, in the  
28 instant matter, and have personal knowledge of the facts set forth herein, except those stated upon  
information and belief, which are based upon my knowledge and belief of their veracity, and am  
competent to testify thereto.

///

///

LEE, HERNANDEZ, LANDRUM & CARLSON, APC  
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LAS VEGAS, NV 89128  
(702) 880-9750

1           3.     On September 11, 2018, counsel for Caroline Davis, Joshua Hood, Esq., emailed  
2 me a proposed Resignation and Release of Dunham Trust Company, Directed Trustee of The  
3 Beatrice B. Davis Family Heritage Trust, as Amended ("Resignation and Release").

4           4.     After finalizing the terms of the Resignation and Release, I notified counsel that I  
5 would exchange my client's signature page to the same upon receiving the signature pages from  
6 Caroline Davis, Christopher Davis and Winfield Davis.

7           5.     On September 20, 2018, counsel for Caroline Davis confirmed that he had  
8 circulated the Resignation and Release to all of the parties, and notified me that Christopher  
9 Davis' counsel in Missouri was requesting an accounting of DTC's administration.

10          6.     On October 4, 2018, I provided the requested accounting to Mr. Hood.

11          7.     Subsequent to the same, my client informed me that Christopher Davis was  
12 making demands to DTC for a distribution.

13          8.     On October 29, 2018, Mr. Hood informed me that the proposed successor trustee,  
14 Premier Trust declined to serve as trustee of the Trust after review of the Settlement Agreement  
15 between the beneficiaries.


16          9.     A fully executed Resignation and Release was never provided to DTC, and the  
17 purported signature page attached to Mr. Davis' supplemental Opposition was also never  
18 provided to DTC.

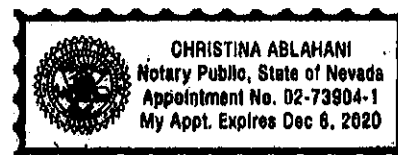
19                 FURTHER THIS AFFIANT SAYETH NAUGHT.

20                 DATED this 4<sup>th</sup> day of April, 2019.

  
CHARLENE N. RENWICK, ESQ.

21  
22                 SUBSCRIBED AND SWORN to before  
23 me this 4<sup>th</sup> day of April, 2019.

24   
25 NOTARY PUBLIC in and for said  
26 county and state.





LEE, HERNANDEZ, LANDRUM & CARLSON, APC  
7575 VEGAS DRIVE, SUITE 150  
LAS VEGAS, NV 89128  
(702) 880-9750

**CERTIFICATE OF SERVICE**

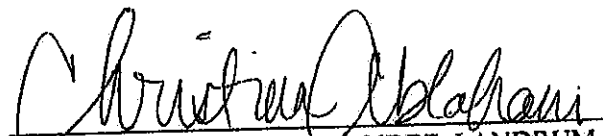
I hereby certify that on the 4<sup>th</sup> day of April, 2019, I served a true and correct copy of the above and foregoing **DUNHAM TRUST COMPANY'S SUPPLEMENTAL REPLY BRIEF IN SUPPORT OF PETITION FOR INSTRUCTIONS REGARDING SURRENDER OF ASSETS, TERMINATION OF TRUST AND DISTRIBUTION**, by the court's electronic filing system to all parties attached to the case and by first class U.S. mail, postage prepaid, to the following persons or entities:

ATTORNEY	PARTY	PHONE/FAX/E-MAIL
Mark A. Solomon, Esq. Joshua M. Hood, Esq. SOLOMON, DWIGGINS & FREER, LTD. 9060 W. Cheyenne Ave. Las Vegas, NV 89129	Caroline Davis	Phone: (702) 853-5483 Fax: (702) 853-5485  <a href="mailto:msolomon@sdfnvlaw.com">msolomon@sdfnvlaw.com</a> <a href="mailto:jhood@sdfnvlaw.com">jhood@sdfnvlaw.com</a>
John M. Tyner, Esq. POLSINELLI 900 W. 48 <sup>th</sup> Place, Suite 900 Kansas City, MO 64112	Caroline Davis (MO counsel)	<a href="mailto:JTynr@Polsinelli.com">JTynr@Polsinelli.com</a> 816.360.4140
Thomas Grover, Esq. Michael Olsen, Esq. BLACKROCK LEGAL, LLC 10155 W. Twain Ave., #100 Las Vegas, NV 89147	Christopher Davis	Phone: (702) 855-5658 Fax: (702) 869-8243  <a href="mailto:tom@goodsellolsen.com">tom@goodsellolsen.com</a> <a href="mailto:mike@goodsellolsen.com">mike@goodsellolsen.com</a>
Michael Gallagher, Esq. GALLAGHER & KAISER, LLP 523 Grand Blvd., #1D Kansas City, MO 64106	Counsel for Chris Davis (MO Counsel)	<a href="mailto:mgallagher@gkkclaw.com">mgallagher@gkkclaw.com</a>
Jonathan W. Barlow, Esq. CLEAR COUNSEL LAW GROUP 1671 W. Horizon Ridge Pkwy., Ste. 200 Henderson, NV 89012	Stephen Lehnardt	Phone: (702) 476-5900 Fax: (702) 924-0709  <a href="mailto:jonathan@clearcounsel.com">jonathan@clearcounsel.com</a>
Chris Davis 514 West 26 <sup>th</sup> Street, #3E Kansas City, MO 64108 And		

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1	2934 1/2 North Beverly Glen Circle, Apt. 506 Los Angeles, CA 90077		
2			
3	Tarja Davis 514 West 26 <sup>th</sup> Street, #3E Kansas City, MO 64108 And 2934 1/2 North Beverly Glen Circle, Apt. 506 Los Angeles, CA 90077		
4			
5	Winfield B. Davis 909 W. Temple St., Apt. 632 A Los Angeles, CA 90012		<u>Winsane@gmail.com</u>
6			
7	Harriet H. Roland, Esq. ROLAND LAW FIRM 2470 E. St. Rose Pkwy., Ste. 105 Henderson, NV 89074	Christopher D. Davis	Phone: (702) 452-1500 Fax: (702) 920-8903 <u>hroland@rolandlawfirm.com</u>
8			
9	Anthony L. Barney, Esq. Tiffany S. Barney, Esq. ANTHONY L. BARNEY, LTD. 3317 W. Charleston Blvd. Ste. B Las Vegas, NV 89102	Christopher D. Davis	Phone: (702) 438-7878 Fax: (702) 259-1116 <u>abarney@anthonybarney.com</u>
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An employee of LEE, HERNANDEZ, LANDRUM  
& CARLSON

**EXHIBIT "1"**

**Exhibit "1"**

# Advantage Insurance

April 4, 2019

VIA EMAIL: [ann.rosevear@dunham.com](mailto:ann.rosevear@dunham.com)

Ann Rosevear  
Dunham Trust Company  
241 Ridge Street Suite 100  
Reno, Nevada 89501

Re: Advantage Life Puerto Rico A.I. Policy # 1105-8007

Dear Ms. Rosevear:

In relation to the above-mentioned life insurance Policy issued by Advantage Life Puerto Rico A.I. ("Advantage Life") and owned by the Beatrice B. Davis Family Heritage Trust dated July 28, 2000 ("Davis Trust"), please find attached an in-force illustration ("Illustration") based on the most recent available information. According to the Illustration, the policy is expected to lapse in the year 2035, eleven years before the death benefit is projected to be paid in the year 2046, when the insured person is 86 years old. This means that in order for the Policy to pay a benefit to the Davis Trust, either one or both of the following events must take place:

1. The Davis Trust funds the Policy with significant additional premium paid; and/or
2. The life insured under the policy dies well before her current life expectancy.

If the Davis Trust does not intend to fund the Policy with additional premium, which would allow the Policy to stay in force through the life expectancy date, the insurable interest underlying the Policy is called into question. The existence of an insurable interest requires that the Policy serve its intended purpose of providing a death benefit as of the date of the life expectancy of the insured life. Without the continued funding of the Policy, it will no longer serve its intended purpose as a contract of insurance and could reasonably be characterized as a speculative investment on the premature mortality of the individual life insured.

The alternative to funding the Policy with additional premium would be to surrender the Policy. The value received upon completion of the surrender would either be realized in cash, or a combination of cash and policy investments distributed in kind. As you are aware, the Policy holds investments in private equity funds that may be difficult to liquidate. Should you choose to surrender the Policy, we will work with you to realize maximum cash value for all Policy assets, including the private equity interests. However, there is no assurance that the cash realized upon completion of the liquidation of Policy assets will be equal to or greater than the value indicated by the Illustration.

## Advantage Life Puerto Rico A.I.

American International Plaza  
250 Muñoz Rivera Avenue, Suite 710  
San Juan, Puerto Rico 00918

Phone: +1 (787) 705 2900  
[www.advantagelife.com](http://www.advantagelife.com)

**APP000113**

To assist you in evaluating the alternatives for the Policy, please note the following important aspects of the Illustration:

- The Illustration assumes the sale of the private equity investments at current carrying value in the near term, in order for the Policy to hold sufficient cash to pay future fees and charges as they come due.
- If the private equity investments are sold at below the indicated value, the Policy will lapse much sooner than is shown in the Illustration
- The future Death Benefit amount is shown gross and net of policy loans.
- Net investment returns are assumed to be 3% per year, reflecting a conservative investment strategy utilized to ensure sufficient cash on hand to pay future fees and charges.

Finally, we should point out that the Policy will pay Advantage Life substantial fees and charges in the future. It is not in our economic interest for the Davis Trust to surrender the Policy. However, we should point out that based on the Illustration, the party who is expected to benefit from the continuation of the Policy is Advantage Life, not the Davis Trust.

As always, we are pleased to help you with any information we can provide about the Policy and its economic value. Please contact us any time by email or telephone if we can be of service.

Very truly yours,



Walter C. Keenan  
Director

attachment

**APP000114**

Advantage Life Puerto Rico A.I.

In Force Illustration

Flexible Premium Variable Insurance Policy - Single Life

0.5000%

0.5000%

0.5000%

0.5000%

Up to \$5,000,000

From \$5,000,000 to \$10,000,000

From \$10,000,000 to \$15,000,000

From \$15,000,000 to \$20,000,000

Upwards for \$20,000,000

Insured: Cheryl Davis

Policy Owner: RHT Holdings LLC, c/o Dunham Trust Company

Investment

Return

3.0%

Current Death Benefit

Death Benefit Option

A

19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35
01-Jan-2019	01-Jan-2020	01-Jan-2021	01-Jan-2022	01-Jan-2023	01-Jan-2024	01-Jan-2025	01-Jan-2026	01-Jan-2027	01-Jan-2028	01-Jan-2029	01-Jan-2030	01-Jan-2031	01-Jan-2032	01-Jan-2033	01-Jan-2034	01-Jan-2035
31-Dec-2019	31-Dec-2020	31-Dec-2021	31-Dec-2022	31-Dec-2023	31-Dec-2024	31-Dec-2025	31-Dec-2026	31-Dec-2027	31-Dec-2028	31-Dec-2029	31-Dec-2030	31-Dec-2031	31-Dec-2032	31-Dec-2033	31-Dec-2034	31-Dec-2035
157,130	150,506	148,335	145,567	142,147	138,012	133,081	127,263	120,449	112,518	103,332	92,716	80,445	66,236	49,740	30,526	8,072
5,071,005	4,944,515	4,844,515	4,852,227	4,738,236	4,600,403	4,436,048	4,242,087	4,014,960	3,750,602	3,444,390	3,090,521	2,681,487	2,207,880	1,659,003	1,017,533	269,070
129,104	127,124	124,279	121,582	117,651	112,311	105,078	95,821	84,681	71,821	57,671	42,716	27,381	11,221	-4,741	-20,741	-47,741
115,150	113,210	110,365	106,975	102,531	97,087	90,643	82,200	71,857	59,517	45,177	28,837	10,497	-11,853	-38,013	-64,173	-90,333
3,030,442	3,147,417	3,268,507	3,395,087	3,526,137	3,662,746	3,803,609	3,950,426	4,102,914	4,261,287	4,425,773	4,596,607	4,774,036	4,958,314	5,149,705	5,348,484	5,554,984
26,582,882	26,500,069	26,378,866	26,196,677	25,873,463	25,401,706	24,784,305	23,924,513	22,746,483	21,284,324	19,581,707	17,591,945	15,272,083	12,583,682	9,483,762	5,910,782	2,852,446
134	130	128	126	124	122	120	119	118	117	116	115	113	111	109	107	
10,783,407	10,518,511	10,395,051	10,247,987	10,075,906	9,879,919	9,654,835	9,478,811	9,257,150	8,985,641	8,713,500	8,369,869	7,889,566	7,344,113	6,722,280	6,010,782	5,215,515
35,000,000	35,000,000	35,000,000	35,000,000	35,000,000	35,000,000	35,000,000	35,000,000	35,000,000	35,000,000	35,000,000	35,000,000	35,000,000	35,000,000	35,000,000	35,000,000	35,000,000
31,969,552	31,852,983	31,731,093	31,604,913	31,473,853	31,339,754	31,196,391	31,049,572	30,897,086	30,738,713	30,574,227	30,403,393	30,225,964	30,041,686	29,850,285	29,651,515	



## Charlene Renwick

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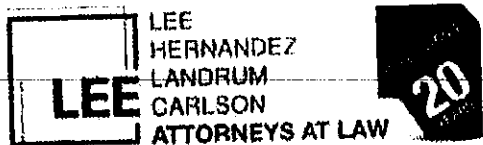
**From:** Christina M. Ablahani  
**Sent:** Friday, April 26, 2019 2:30 PM  
**To:** winsane@gmail.com; cdavis4108@gmail.com  
**Cc:** Charlene Renwick  
**Subject:** In the Matter of The Beatrice Davis Heritage Family Trust  
**Attachments:** W. Keenan\_Advantage Ins. 4.26.19 (inst. to surrender policy).pdf

Good afternoon,

Please see the attached correspondence.

Thank you.

**Tina Ablahani**  
LEGAL ASSISTANT



7575 VEGAS DRIVE, SUITE 150  
LAS VEGAS, NV 89128  
T 702.880.9750 F 702.314.1210  
[WWW.LEE-LAWFIRM.COM](http://WWW.LEE-LAWFIRM.COM)

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LEE  
HERNANDEZ  
LANDRUM  
CARLSON  
ATTORNEYS AT LAW



CHARLENE N. RENWICK  
ASSOCIATE  
CRENICK@LEE-LAWFIRM.COM

April 26, 2019

**VIA EMAIL**

Mr. Walter Keenan  
Advantage Insurance  
250 Munoz Rivera Avenue, Suite 710  
San Juan, Puerto Rico 00918  
[w.keenan@advantagelife.com](mailto:w.keenan@advantagelife.com)

**RE: In the Matter of: The Beatrice Davis Heritage Family Trust**  
Clark County Nevada District Court Case No.: P-15-083867-T

Dear Mr. Keenan,

Attached herein please find the Notice of Entry of Order Granting Dunham Trust Company's Petition for Instructions. The District Court Order directs Dunham Trust Company ("DTC") to surrender the primary asset of The Beatrice B. Davis Family Heritage Trust (the "Trust"), which is life insurance policy number ACLI 11058007 (ALIP 00081031) (the "Policy"). DTC is further directed to liquidate all assets owned by the Policy. On behalf of DTC, request is hereby made that the policy be immediately surrendered, and all of the policy assets liquidated, in accordance with the Court's Order.

Further, please be advised that DTC has been ordered by the Court to provide security by way of either bond or a cash account, in order to secure the total amount of the attorneys' fees' judgments (\$107,741.63) entered against beneficiary Christopher Davis and the Trust, jointly and severally, pending DTC's appeals of said judgments. DTC will also be required to secure two years of interest on those judgments, however, the Court has not yet determined the applicable interest amount, and we will advise as to the total amount once the Court decides the same. Please note that DTC is required to provide the referenced security within two weeks of today, which is **May 10, 2019**. If any issues arise with respect to liquidating the policy assets in order to meet this timeline, please advise the undersigned immediately.

Sincerely,

LEE, HERNANDEZ, LANDRUM, &  
CARLSON, APC

/s/ Charlene N. Renwick

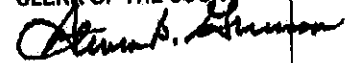
Encl.: As stated

cc: All Parties and All Beneficiaries (via electronic service and email)

7575 VEGAS DRIVE, SUITE 150  
LAS VEGAS, NEVADA 89128  
T 702.880.9750 F 702.314.1210

ARIZONA + NEVADA + FLORIDA + CALIFORNIA + COLORADO + UTAH + WASHINGTON  
WWW.LEE-LAWFIRM.COM

**APP000118**



1 ANTHONY L. BARNEY, ESQ.  
Nevada Bar No. 8366  
2 TIFFANY S. BARNEY, ESQ.  
Nevada Bar No. 9754  
3 ANTHONY L. BARNEY, LTD.  
4 3317 W. Charleston Blvd., Suite B  
Las Vegas, NV 89102  
5 Telephone: (702) 438-7878  
6 Facsimile: (702) 259-1116  
office@anthonybarney.com  
7 Prior Attorneys for Christopher D. Davis

8 EIGHTH JUDICIAL DISTRICT COURT  
9 CLARK COUNTY, NEVADA

10  
11 In the matter of:

Case No.: P-15-083867-T

12  
13 The BEATRICE B. DAVIS FAMILY HERITAGE  
14 TRUST, dated July 28, 2000, as amended on  
February 24, 2014.

Dept. No.: 26

15  
16  
17 NOTICE OF ENTRY OF ORDER

18 TO: CAROLINE DAVIS, Petitioner, by and through her attorneys, MARK SOLOMON,  
19 ESQ., and JOSHUA HOOD, ESQ., of SOLOMON DWIGGINS & FREER, LTD.  
20  
21 TO: DUNHAM TRUST, by and through its attorney, CHARLENE RENWICK, ESQ., of  
22 LEE HERNANDEZ LANDRUM & GAROFALO  
23  
24 TO: STEPHEN LENHARDT by and through his attorney, JONATHAN W. BARLOW,  
25 ESQ., of CLEAR COUNSEL LAW GROUP  
26  
27 TO: FHT HOLDINGS LLC, A Nevada Limited Liability Company, Respondent through  
Respondent through Dunham Trust Company  
28  
TO: WINFIELD B. DAVIS

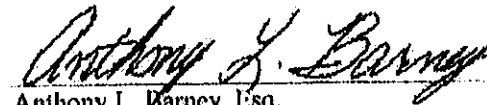
1 TO: ACE DAVIS  
2 TO: CHERYL DAVIS  
3 TO: TARJA DAVIS  
4

5 **PLEASE TAKE NOTICE EACH OF YOU**, of the following:

6 An **Order** was entered and filed on April 26, 2019 in the above-entitled matter. A copy  
7 of said Order is attached hereto and incorporated herein as Exhibit 1.

8 DATED this 26<sup>th</sup> day of April 2019.  
9

10 Respectfully Submitted,  
11 ANTHONY L. BARNEY, LTD.

12 

13 Anthony L. Barney, Esq.  
14 Nevada Bar No. 8366  
15 3317 W. Charleston Blvd., Suite B  
16 Las Vegas, NV 89102-1835  
17 (702) 438-7878  
18 *Attorneys for Petitioner*  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of Anthony L. Barney, Ltd., and not a party to this action. I further certify that on January 23<sup>rd</sup>, 2019 I served the foregoing **NOTICE OF ENTRY OF ORDER**, by first class US mail, postage prepaid, upon the following persons or entities:

Tarja Davis  
3005 North Beverly Glen Circle  
Los Angeles, California 90077  
And  
514 West 26<sup>th</sup> Street, #3E  
Kansas City, Missouri 64108

Christopher Davis  
3005 North Beverly Glen Circle  
Los Angeles, California 90077  
And  
514 West 26<sup>th</sup> Street, #3E  
Kansas City, Missouri 64108

Winfield B. Davis  
Skyline Terrace Apts.  
930 Figueroa Terr. Apt. 529  
Los Angeles, California 90012-3072

Ace Davis  
c/o Winfield B. Davis  
Skyline Terrace Apts.  
930 Figueroa Terr. Apt. 529  
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ANTHONY L. BARNEY, ESQ.  
ANTHONY L. BARNEY, LTD.  
3317 W. Charleston Boulevard, Suite B  
Las Vegas, NV 89102-1835  
[office@anthonybarney.com](mailto:office@anthonybarney.com)

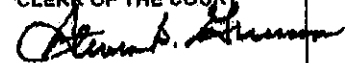
MARK A. SOLOMON, ESQ.  
Solomon Dwiggin & Freer, Ltd.  
9060 West Cheyenne Avenue

1 Las Vegas, NV 89129  
2 msolomon@sdfnlaw.com  
3 ihood@sdfnlaw.com  
4 Attorneys for Caroline Davis  
5 CHARLENE RENWICK, ESQ.  
6 LEE HERNANDEZ LANDRUM & GAROFALO  
7 7575 Vegas Drive #150  
8 Las Vegas, Nevada 89128  
9 Crenwick@lee-lawfirm.com  
10 Attorneys for Dunham Trust Company  
11 JONATHAN W. BARLOW, ESQ.  
12 CLEAR COUNSEL LAW GROUP  
13 50 Stephanie Street, Suite 101  
14 Henderson, Nevada 89012  
15 Jonathan@clearcounsel.com  
16 Attorneys for Stephen K. Lenhardt  
17 FITT Holdings LLC, A Nevada Limited Liability Company, Respondent  
18 Dunham Trust Company  
19 241 Ridge Street, Suite 100  
20 Reno, Nevada 89501  
21 MICHAEL OLSEN, ESQ.  
22 BLACKROCK LEGAL, LLC  
23 10155 W. Twain Ave., Suite 100  
24 Las Vegas, Nevada 89147  
25 Cheryl Davis  
26 5403 West 134 Terrace Unit 1525  
27 Overland Park, Kansas 66209  
28

Naomi Lieber  
Employee of Anthony L. Barney, Ltd.

## EXHIBIT 1

**APP000123**



1 ANTHONY L. BARNEY, ESQ.  
Nevada Bar No. 8366  
2 TIFFANY S. BARNEY, ESQ.  
Nevada Bar No. 9754  
3 ANTHONY L. BARNEY, LTD.  
4 3317 W. Charleston Blvd., Suite B  
Las Vegas, NV 89102  
5 Telephone: (702) 438-7878  
6 Facsimile: (702) 259-1116  
office@anthonybarney.com  
7 Prior Attorneys for Christopher D. Davis

8 **EIGHTH JUDICIAL DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10  
11 In the matter of:

Case No.: P-15-083867-T

12  
13 The BEATRICE B. DAVIS FAMILY HERITAGE  
14 TRUST, dated July 28, 2000, as amended on  
February 24, 2014.

Dept. No.: 26

15  
16 **ORDER**

17 This matter having come for hearing on the 11th day of April 2019 at 9:30 a.m., after  
18 being continued from the original hearing date of January 31, 2019, an subsequent hearing date  
19 of March 14, 2019, the Honorable Gloria Sturman presiding, Charlene Renwick, Esq. appearing  
20 on behalf of Dunham Trust Company, Joshua Hood, Esq. appearing on behalf of Caroline  
21 Davis, Jason Sadow, Esq., on behalf of Roland Law Firm; Anthony Barney, Esq. on behalf of  
22 Anthony Barney, Ltd.; Thomas Grover, Esq. on behalf of Blackrock Legal, LLC; and  
23 beneficiary Christopher Davis, and his spouse Tara Davis, appearing telephonically. Dunham  
24 Trust company having petitioned the court for instructions regarding surrender of the assets held  
25 by Beatrice B. Davis Family Heritage Trust, termination of said Trust, and distribution to the  
26  
27  
28

1 beneficiaries, the court having reviewed all pleadings and papers on file herein, and having  
2 heard oral argument of the parties, and good cause appearing therefore,  
3

4 IT IS HEREBY ORDERED ADJUDGED AND DECREED that Dunham Trust  
5 Company's ("Trustee") Petition is GRANTED, and said Trustee is directed to surrender the  
6 primary asset of the Beatrice B. Davis Family Heritage Trust (hereafter "Trust"), which is life  
7 insurance policy number ACLI 11058007 (ALIP 000081031)(the "Policy"); and,  
8

9 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that beneficiaries of the  
10 Trust are directed to immediately turn over any tangible assets in their possession, which are  
11 owned by the Policy, to Advantage Insurance, the insurer; and,  
12

13 IT IS FURTHER ORDERED ADJUDGED AND DECREED, that the Trustee is  
14 directed to liquidate all assets owned by the Policy, for the purpose of satisfying the judgments  
15 already entered in favor of the Roland Law Firm, Anthony L. Barney, Ltd., and BlackRock  
16 Legal, LLC. The remaining funds of the liquidation are also for the ultimate distribution to the  
17 beneficiaries, the allocation of which is to be later determined by the Court.  
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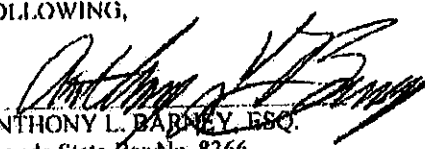



1 IT IS FURTHER ORDERED ADJUDGED AND DECREED, that no distribution shall  
2 be made from the Trust to any beneficiary until further Order of the Court directing such  
3 distribution. However, this does not in any way prevent execution on the judgments entered in  
4 favor of the Roland Law Firm, Anthony L. Barney, Ltd. And BlackRock Legal, L.L.C.


5 DATED this 25<sup>th</sup> day of April 2019.

6  
7  
8   
DISTRICT COURT JUDGE

9 RESPECTFULLY SUBMITTED BY THE  
10 FOLLOWING,

11   
12 ANTHONY L. BARNEY, ESQ.  
13 Nevada State Bar No. 8366  
14 TIFFANY S. BARNEY, ESQ.  
15 Nevada State Bar No. 9754  
16 ANTHONY L. BARNEY, LTD.  
3317 W. Charleston Blvd., Suite B  
Las Vegas, Nevada 89102  
Former Attorney for Christopher D. Davis

17   
18 THOMAS R. GREVER  
19 NSB 12387  
20 BLACKROCK LEGAL

21   
22 HARRIET H. ROLAND, ESQ.  
23 NV Bar No. 5471  
24 ROLAND LAW FIRM  
25 2470 E. St. Rose Pkwy, Ste. 105  
26 Henderson, NV 89074  
27 Telephone: (702) 452-1500  
28 Facsimile: (702) 920-8903  
Former Attorney for Christopher D. Davis



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7 Prior Attorneys for Christopher D. Davis

8 EIGHTH JUDICIAL DISTRICT COURT  
9 CLARK COUNTY, NEVADA

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11 In the matter of:

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23 TO: STEPHEN LENHARDT by and through his attorney, JONATHAN W. BARLOW,  
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25 TO: FHT HOLDINGS LLC, A Nevada Limited Liability Company, Respondent through  
26 Respondent through Dunham Trust Company  
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28 TO: WINFIELD B. DAVIS

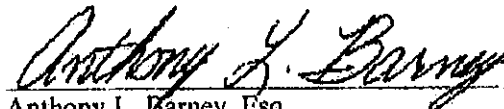
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12 

13 Anthony L. Barney, Esq.  
14 Nevada Bar No. 8366  
15 3317 W. Charleston Blvd., Suite B  
16 Las Vegas, NV 89102-1835  
17 (702) 438-7878  
18 Attorneys for Petitioner  
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25 Cheryl Davis  
26 5403 West 134 Terrace Unit 1525  
27 Overland Park, Kansas 66209  
28

Heidi Lieber  
Employee of Anthony L. Barney, Ltd.

## EXHIBIT 1

**APP000131**



1 ANTHONY L. BARNEY, ESQ.  
Nevada Bar No. 8366  
2 TIFFANY S. BARNEY, ESQ.  
Nevada Bar No. 9754  
3 ANTHONY L. BARNEY, LTD.  
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5 Telephone: (702) 438-7878  
6 Facsimile: (702) 259-1116  
office@anthonybarney.com  
7 *Prior Attorneys for Christopher D. Davis*

8 **EIGHTH JUDICIAL DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10  
11 In the matter of:

Case No.: P-15-083867-T

12  
13 The BEATRICE B. DAVIS FAMILY HERITAGE  
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Dept. No.: 26

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22 Anthony Barney, Ltd.; Thomas Grover, Esq. on behalf of Blackrock Legal, LLC; and  
23 beneficiary Christopher Davis, and his spouse Tara Davis, appearing telephonically. Dunham  
24 Trust company having petitioned the court for instructions regarding surrender of the assets held  
25 by Beatrice B. Davis Family Heritage Trust, termination of said Trust, and distribution to the  
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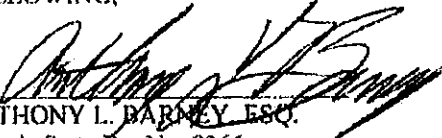



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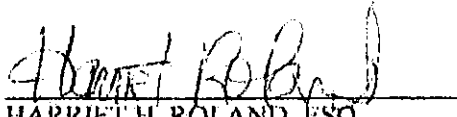
6 DATED this 25<sup>th</sup> day of April 2019.

7  
8   
DISTRICT COURT JUDGE

9  
10 RESPECTFULLY SUBMITTED BY THE  
FOLLOWING,

11   
12 ANTHONY L. BARNEY, ESQ.  
13 Nevada State Bar No. 8366  
14 TIFFANY S. BARNEY, ESQ.  
15 Nevada State Bar No. 9754  
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Former Attorney for Christopher D. Davis

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23 NV Bar No. 5471  
24 ROLAND LAW FIRM  
25 2470 E. St. Rose Pkwy, Ste. 105  
26 Henderson, NV 89074  
27 Telephone: (702) 452-1500  
28 Facsimile: (702) 920-8903  
Former Attorney for Christopher D. Davis

*Steven D. Grierson*

PET  
CHARLENE N. RENWICK, ESQ.  
Nevada Bar No. 10165  
LEE, HERNANDEZ, LANDRUM  
& CARLSON, APC  
7575 Vegas Drive, Suite 150  
Las Vegas, Nevada 89128  
(702) 880-9750  
Fax: (702) 314-1210  
crenwick@lee-lawfirm.com

Attorney for Dunham Trust Company

DISTRICT COURT  
CLARK COUNTY, NEVADA

In the Matter of:

The BEATRICE B. DAVIS FAMILY  
HERITAGE TRUST, dated July 28, 2000, as  
amended on February 24, 2014

CASE NO.: P-15-083867-T  
DEPT. NO.: 26

**PETITION FOR INSTRUCTIONS  
REGARDING SURRENDER OF  
ASSETS, TERMINATION OF TRUST  
AND DISTRIBUTION ON ORDER  
SHORTENING TIME**

Petitioner, DUNHAM TRUST COMPANY, by and through its attorney Charlene N. Renwick Esq. of the law firm LEE, HERNANDEZ, LANDRUM & CARLSON, APC., hereby petitions this Court for instruction, on an Order Shortening Time, regarding distribution of trust assets to the beneficiaries. Specifically, based on the information available to Petitioner regarding the viability of the trust assets, and the request of certain beneficiaries, Petitioner seeks instruction to liquidate the trust assets, and distribute the proceeds of the same among the beneficiaries, pursuant to this Court's determination. The foregoing petition is brought pursuant to NRS 164,030, and the terms of the Beatrice B. Davis Family Heritage Trust, dated July 28, 2000 ("Trust").

///

///

LEE, HERNANDEZ, LANDRUM & CARLSON, APC  
7575 VEGAS DRIVE, SUITE 150  
LAS VEGAS, NV 89128  
(702) 880-9750

1 This Petition is based on the pleadings and papers herein, the affidavit of counsel in  
2 support of an Order Shortening Time, the following points and authorities, and any oral argument  
3 that this Court may entertain at the time of hearing.

4 LEE, HERNANDEZ, LANDRUM  
& CARLSON, APC

5  
6  
7 By: 

DAVID S. LEE, ESQ.  
Nevada Bar No. 6033  
CHARLENE N. RENWICK, ESQ.  
Nevada Bar No. 10165  
7575 Vegas Drive, Suite 150  
Las Vegas, NV 89128

Attorneys for Dunham Trust Company

12  
13 **ORDER SHORTENING TIME**

14 Upon application, the supporting affidavit of Charlene N. Renwick, Esq., counsel for  
15 Petitioner DUNHAM TRUST COMPANY ("Petitioner"), and good cause appearing therefor:

16 IT IS HEREBY ORDERED that the time for hearing on Petitioner's Petition for  
17 Instruction on an Order Shortening Time is hereby is shortened. Said Motion shall be heard on the  
18 31<sup>st</sup> day of January, 2019 at 9:30 A.m. in Department XXVI of the above-entitled Court.

19 DATED this 3<sup>rd</sup> day of January 2019.

20  
21   
DISTRICT COURT JUDGE  
22  
23  
24  
25  
26  
27 ///  
28 ///

LEE, HERNANDEZ, LANDRUM & CARLSON, APC  
7575 VEGAS DRIVE, SUITE 150  
LAS VEGAS, NV 89128  
(702) 880-9750

**AFFIDAVIT OF CHARLENE N. RENWICK, ESQ. IN SUPPORT OF PETITION  
FOR ORDER SHORTENING TIME**

STATE OF NEVADA        }  
COUNTY OF CLARK       } ss

I, CHARLENE N. RENWICK, ESQ., depose and state under oath as follows:

1. I am an attorney duly licensed to practice law in the State of Nevada and am an associate at the law firm of LEE, HERNANDEZ, LANDRUM & CARLSON, APC.

2. I am an attorney of record for Petitioner DUNHAM TRUST COMPANY, in the instant matter, and have personal knowledge of the facts set forth herein, except those stated upon information and belief, which are based upon my knowledge and belief of their veracity, and am competent to testify thereto.

3. Based on information from the insurance carrier, Petitioner is informed and believes that the value of the sole asset of the subject Trust, a life insurance policy, is rapidly losing value, thereby jeopardizing the viability of the asset and the Trust itself, and posing a great risk to the Trust beneficiaries.

4. Petitioner has communicated its concerns about this risk to the current beneficiaries, Caroline Davis, Christopher Davis, Winfield Davis, of the trust, along with contingent beneficiary, Tarja Davis.

5. Based on discussion with the current beneficiaries and contingent beneficiary, DTC is informed and believes that the beneficiaries are generally in favor of surrendering the policy, liquidating the policy assets and distributing the proceeds from the same amongst the current beneficiaries, subject to agreement on the distribution scheme.

6. Despite requesting that the beneficiaries discuss and reach agreement on distribution, no proposed distribution scheme has been presented to Petitioner.

7. Hearing on this petition is being requested in shortened course given the Court's recent awards of attorneys' fees in favor of Christopher Davis' former counsel, and against the Trust and Christopher Davis, jointly and severally.

LEE, HERNANDEZ, LANDRUM & CARLSON, APC  
7575 VEGAS DRIVE, SUITE 150  
LAS VEGAS, NV 89128  
(702) 880-9750

1 8. As previously reported to the Court, the Trust does not have immediate liquidity to  
2 satisfy the attorneys' fees' judgments, and as such, the issue of surrendering the policy and  
3 liquidating assets must be decided immediately.

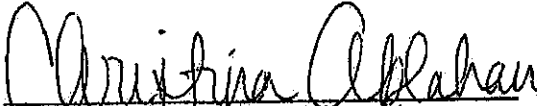
4 9. Hearing this matter in shortened course will not prejudice any party or beneficiary,  
5 and instead, will serve to benefit the same by providing immediate direction to the trustee  
6 Petitioner as to how to further administer the Trust and its asset.

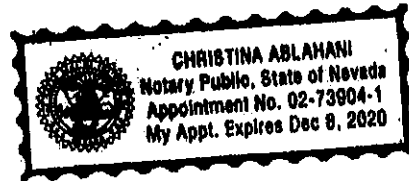
7 FURTHER THIS AFFIANT SAYETH NAUGHT.

8 DATED this 31<sup>st</sup> day of December, 2018.

9  
10 CHARLENE N. RENWICK, ESQ.

11 SUBSCRIBED AND SWORN to before  
12 me this 31<sup>st</sup> day of December, 2018.

13   
14 NOTARY PUBLIC in and for said  
15 county and state.



16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27 ///

28 ///

LEE, HERNANDEZ, LANDRUM & CARLSON, APC  
7575 VEGAS DRIVE, SUITE 150  
LAS VEGAS, NV 89128  
(702) 880-9750

## MEMORANDUM OF POINTS AND AUTHORITIES

### I.

#### STATEMENT OF FACTS

As this Court is aware, Beatrice B. Davis ("Grantor"), a Missouri resident, created the Beatrice B. Davis Family Heritage Trust, dated July 28, 2000 ("Trust"). Pursuant to the terms of said trust, Grantor's children, Christopher Davis and Caroline Davis, are the named beneficiaries of the Trust, and their respective spouses and descendants are also included as discretionary beneficiaries of the Trust.<sup>1</sup> Further, per Grantor's appointment, Stephen Lehnardt was appointed as the Trust Protector and Alaska Trust Company was named as the initial Trustee of the Trust.<sup>2</sup> On or about August 2, 2011, Mr. Lehnardt removed Alaska Trust Company as Trustee and replaced the same with Alaska USA Trust Company.

Subsequently, Mr. Lehnardt, acting as Trust Protector of the Trust, changed the Trust situs from Alaska to Nevada, by way of the First Amendment to the Beatrice B. Davis Family Heritage Trust, dated February 24, 2014 ("Amendment").<sup>3</sup> Under the Amendment, Alaska USA Trust Company was replaced as trustee by Dunham Trust Company ("DTC").<sup>4</sup> Specifically, DTC was appointed as the Directed Trustee. Under the Amendment, Mr. Lehnardt also appointed Christopher Davis as the Investment Trust Advisor, and appointed himself as the Distribution Trust Advisor.<sup>5</sup>

As this Court will recall, the primary asset of the Trust is a life insurance policy, number ACLI 11058007 (ALIP 00081031) (the "policy"). The policy is currently administered by Advantage Insurance, and it insures the life of Christopher Davis' ex-wife, Cheryl Davis, with a \$35,000,000 death benefit, and a \$4,000,000 revolving line of credit ("LOC"). Pursuant to the most recent accounting provided by Advantage, based on various loans taken against the policy

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<sup>1</sup> Exhibit 1, *Beatrice B. Davis Family Heritage Trust*, dated July 28, 2000, page 8-1, Article Eight, Section 1 and page 8-4, Article 8, Section 3.d. (July 28, 2000).

<sup>2</sup> *Id.* at page 1-1, Article One, Section 1.

<sup>3</sup> Exhibit 2, *First Amendment to Beatrice B. Davis Family Heritage Trust*, dated February 24, 2014 (February 24, 2014).

<sup>4</sup> *Id.* at page 2.

<sup>5</sup> *Id.* at pages 2 and 3.

1 by the Grantor and Christopher Davis, there are outstanding loans and interest in the amount of  
2 \$2,889,944.99 owed against the same.<sup>6</sup> Adding to the liabilities of the Trust is the recent awards  
3 of attorney's fees to Christopher Davis' former attorneys, Anthony Barney, Harriet Roland, and  
4 Goodsell & Olsen. The Barney Firm was awarded \$32,680.17, the Olsen Firm was awarded  
5 \$31,930.83, and the Roland Firm was awarded \$39,501.63 (subject to submitting un-redacted  
6 billing statements), in attorneys' fees against the Trust and Christopher Davis, jointly and  
7 severally. As reported to the Court at the time of hearing on Barney, Olsen and Roland attorney's  
8 fees motions, the Trust does not have the available liquidity to pay these judgments.

9 Further, based on numerous discussions with Advantage, it has come to DTC's attention  
10 that the policy assets lack liquidity and have limited value. Resultantly, the value of the policy has  
11 been severely reduced.<sup>7</sup> This poses an immediate concern for DTC as the reduced value directly  
12 limits the cash available to fund policy administration charges, which include the cost of  
13 insurance, as well as administration fees.<sup>8</sup> Based on the current accounting, it is DTC's  
14 understanding that the policy only has sufficient cash to operate for approximately two years  
15 before it will need to liquidate other assets to fund these charges in order to keep the policy in  
16 effect.

17 Moreover, the existing policy assets are not sufficient to continue funding the policy  
18 charges and maintain the death benefit. Based on the existing assets, the most significant of which  
19 is a 95% interest in a specialty pharmacy called PharmService, LLC, liquidation of the same  
20 would likely only keep the policy viable temporarily, and could potentially result in complete  
21 lapse of the policy as early as 5 years. This means that unless the insured dies prematurely, the  
22 policy will lapse, leaving the Trust beneficiaries with nothing.<sup>9</sup> Finally, the issue of the policy  
23 insured being Christopher Davis' ex-wife creates as moral hazard situation for the policy, given  
24 that the beneficiaries, and contingent beneficiaries such as Christopher Davis' current spouse,

25  
26 <sup>6</sup> Exhibit 3, *Policy Statement*, July 1, 2018 to September 30, 2018; Exhibit 4, *Promissory Notes and Loan Tracking Summary*.

27 <sup>7</sup> Exhibit 5, *Corres. from DTC to Beneficiaries* (June 8, 2018).

28 <sup>8</sup> Exhibit 6, *Email from W. Keenan* (Advantage Insurance) November 28, 2018.

<sup>9</sup> *Id.*

1 would benefit from the insured's premature death. This means that in the event that Cheryl Davis  
2 dies of any cause other than natural causes, the payment of the death benefit will be subject to  
3 investigation and severe scrutiny by the insurer, which could potentially result in non-payment of  
4 the death benefit.<sup>10</sup>

5 The above issues have been communicated to the beneficiaries, along with the options  
6 available to the Trust, which are as follows: (a) continue with the current structure until death of  
7 the insured, or exhaustion of policy assets, whichever comes first. Under this option, once the  
8 policy lapses there is no remaining value to the trust. This is the least beneficial option for the  
9 Trust and its beneficiaries; (b) the existing policy could be amended to reduce the face value of  
10 the policy and cost of insurance, and extend the expected life of the policy to age 99 of the  
11 insured. It is unlikely that the amended policy could provide a line of credit to the trust as  
12 provided for under the current structure. The reduction of the face amount of the policy would  
13 likely be in the \$10 million range, which is substantially reduced from the current \$35 million.  
14 Further, the existing loans to the policy would need to be taken into consideration as they are still  
15 due and owing to the policy. Additionally, extending the life expectancy of the policy to 99 years  
16 will more than likely result in the current beneficiaries receiving no benefit from the Trust under  
17 this scenario; and (c) the final option, which is the subject of this Petition, is to cancel the existing  
18 policy and return the policy assets to the Trust. Surrender of the policy would require liquidation  
19 of all assets, including sale of the PharmService investment. The insurer estimates that upon  
20 liquidation of all the assets, the proceeds from the same will be approximately \$4 million dollars.

21 DTC and the beneficiaries discussed the proposed surrender of the policy at length during  
22 a conference call on November 28, 2018,<sup>11</sup> and based on the same, beneficiary Caroline Davis  
23 requested that DTC surrender the policy and liquidate the policy assets.<sup>12</sup> Based on discussion  
24 with beneficiary Winfield Davis, son of Christopher Davis, it is DTC's belief that he is in  
25

26  
27 <sup>10</sup> Id.

<sup>11</sup> See Exhibit 7, Affidavit of Charlene Renwick Esq. in Support of Petition for Instructions (December 31, 2018).

<sup>12</sup> See Exhibit 8, Email from J. Hood (Counsel for Caroline Davis) (December 7, 2018)



1 agreement with Caroline Davis that the policy should be surrendered.<sup>13</sup> Moreover, after extensive  
2 discussion with Advantage Insurance, and analysis of the information provided by the same, DTC  
3 believes that surrender of the policy, liquidation of its assets and distribution of the proceeds from  
4 the same amongst the current beneficiaries is in the best interests of the Trust and the  
5 beneficiaries.<sup>14</sup> As this Court will recall, DTC acts as manager of FHT Holdings, LLC, which is  
6 the owner of the policy, and as such, the policy owner may surrender the same under Sections 2.7  
7 and 7.1 of the policy.<sup>15</sup> Based on the same, DTC seeks instruction from the Court to surrender the  
8 policy and liquidate its assets. Further, DTC seeks instruction from this Court to terminate the  
9 Trust, under Article 12, Section 11, as DTC believes that the continued administration of the  
10 Trust is no longer economically feasible.

11 **II.**

12 **PETITION FOR INSTRUCTIONS**

13 NRS 164.030(1) provides that “[a]ny trustee whose appointment has been confirmed, as  
14 provided in NRS 164.010, at any time thereafter may petition the court for instructions in the  
15 administration of the trust . . .” Under the same and based upon the foregoing, DTC requests an  
16 order of this Court authorizing and directing DTC to surrender the policy and liquidate the policy  
17 assets.

18 As noted above, this Court found the Trust jointly and severally liable for payment of  
19 Christopher Davis’ attorneys’ fees to his former attorneys. Moreover, as set forth in Exhibit 4,  
20 various loans were taken against the policy, and against the PharmService, LLC asset by  
21 Christopher Davis, and have not been repaid.<sup>16</sup> DTC is further informed that the tangible assets  
22 held under the policy, which include various pieces of artwork and jewelry<sup>17</sup>, are under the  
23 control and direction of Christopher Davis, as the managing director of the Davis Family Office.

24  
25 <sup>13</sup> Exhibit 7.

26 <sup>14</sup> Exhibit 7.

27 <sup>15</sup> See Exhibit 9, Assignment of Policy Interest (April 10, 2014) and Exhibit 10, Life Insurance Policy # ACLI 1105-8007  
PC (May 9, 2011).

28 <sup>16</sup> Exhibit 4, and Exhibit 11, *PharmService LLC Statement of Assets, Liabilities, and Equity - Tax Basis* (June 30, 2018) (which  
reflects an advance of \$696,258.28 to Christopher Davis).

<sup>17</sup> Exhibit 12, *Summary of Tangible Assets of Value* (December 31, 2016)

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1 Despite multiple requests that Mr. Davis relinquish these assets to Advantage Insurance for  
2 handling under the policy, Christopher Davis has refused to relinquish the same.<sup>18</sup> Based upon  
3 information provided by Advantage Insurance, if the policy is surrendered and its assets  
4 liquidated, the PharmService loan taken by Mr. Davis, as well as the missing tangible assets will  
5 need to be accounted for against the proceeds once the policy is surrendered and its assets are  
6 liquidated. Resultantly, DTC believes that the intent of the Grantor, which was to establish a  
7 financial resource base to support her family for generations to come,<sup>19</sup> can no longer be met  
8 given that the value of the underlying insurance policy has been substantially depleted as a result  
9 of the substantial loans taken against the policy and its main asset, PharmService, LLC, by  
10 Christopher Davis, and his continued refusal to turn over the tangible assets held by the policy.

11 Under Article 12, Section 11 of the Trust, DTC may terminate the trust if maintaining the  
12 same is no longer economically feasible:

13 Notwithstanding any other provision of this trust, if at any time after my  
14 death, any trust created in this trust is reduced to an amount which the  
15 Trustee, in the Trustee's sole and absolute discretion, determines that the  
16 trust is no longer economically feasible (which shall not be at any time  
17 when the reasonably anticipated annual costs of operating the trust do not  
18 exceed the greater of 15 percent of anticipated annual trust income or one  
19 and one half percent of the trust's assets), the Trustee may, in the Trustee's  
20 sole discretion, either: terminate such trust and distribute the trust property  
21 to the person(s) then entitled to the income or to receive or to have the  
22 benefit of the income therefrom or to the legal representative of such  
23 person. If there is more than one income beneficiary, the distribution to  
24 such income beneficiaries shall be made in the proportion in which they  
25 are beneficiaries...

21 Based on the information provided by Advantage Insurance, it is DTC's understanding that the  
22 trust assets have been so substantially depleted that continued administration of its sole asset, the  
23 life insurance policy, will likely lapse in approximately 5 years. This information leads DTC to  
24 reasonably anticipate that annual costs of operating the trust will exceed 15% of annual trust  
25 income, or 1 ½ percent of the trust's assets. Resultantly, DTC believes that the interests of the

26  
27 <sup>18</sup> Exhibit 13, *Various Correspondence to Davis Family Office re: relinquishment of tangible assets.*

28 <sup>19</sup> Exhibit 1, page 8-3, Article 8, Section 3(b).

1 beneficiaries would be best served by termination of the trust, and equitable distribution of the  
2 proceeds.

3 With respect to distribution of the proceeds, it is without dispute that Christopher Davis  
4 has received substantial benefits under the trust, to the exclusion of the other current beneficiaries,  
5 Caroline Davis and Winfield Davis. This benefit has been derived through the multiple loans  
6 against the policy (in amount of \$2,862,076.04) and PharmService, LLC (in an amount of  
7 \$696,258.28), as well as Christopher Davis' control and direction of the tangible assets, which he  
8 presumably maintains in the custody of the Davis Family Office (with an approximate value of  
9 \$649,000 based on last estimated valuation by Advantage, *see* Ex. 12). To date, however,  
10 Caroline Davis and Winfield Davis have not received any benefit or distributions from the Trust  
11 whatsoever. Given that Christopher Davis has received benefits from the Trust that far exceed the  
12 current estimated value of the Trust assets, DTC requests instruction from this Court that upon  
13 termination of the Trust, no distribution be made to Christopher Davis given that he has already  
14 received an equitable distribution from the trust as described above. DTC further requests that  
15 this instruction specify that the available proceeds after termination be distributed equitably  
16 between Caroline Davis and Winfield Davis only, to be determined by the Trustee once a final  
17 accounting is made after surrender of the policy and liquidation of its assets. Again, based on the  
18 information provided by the current insurer, Advantage Insurance, DTC believes that the policy  
19 proceeds will be approximately \$4 million upon liquidation of the policy assets, less payment of  
20 any administrative expenses, including any award of attorneys' fees, repayment of the  
21 PharmService, LLC loan, and write off of the tangible assets that Mr. Davis refuses to relinquish.  
22 As this Court can plainly see, it is imperative that Christopher Davis be excluded from final  
23 distribution of the trust assets to ensure that the Grantor's intent of providing for each of her  
24 beneficiaries is met. *See*, Ex. 1.

25 Based on the forgoing, Petitioner requests that this Petition be set for hearing in shortened  
26 course, and that following said hearing, that this Court make and enter its Orders and Decrees  
27 pursuant to NRS 164.030(1) as follows:  
28

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- 1 a) That notice of the time and place of such hearing has been given in the  
2 manner required by law;  
3 b) That this Court authorize and direct DTC to surrender the policy and  
4 liquidate its assets for the benefit of the Trust and the beneficiaries thereof;  
5 c) That this Court authorize and direct DTC to terminate the Trust and  
6 distribute the proceeds of the liquidated assets between Caroline Davis and  
7 Winfield Davis only, after the payment of all liabilities against policy and/or  
8 assets of the policy, and any and all administrative expenses; and  
9 d) For any further relief as this Court deems just.

10 DATED this 31<sup>st</sup> day of December, 2018.

11 LEE, HERNANDEZ, LANDRUM  
12 & CARLSON, APC

13  
14 By: 

15 CHARLENE N. RENWICK, ESQ.  
16 Nevada Bar No. 10165  
17 7575 Vegas Drive, Suite 150  
18 Las Vegas, NV 89128

19 Attorney for Dunham Trust Company  
20  
21  
22  
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25  
26  
27  
28

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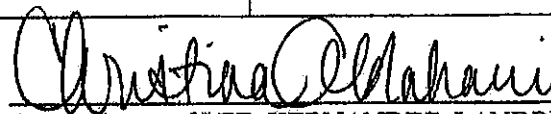
**CERTIFICATE OF SERVICE**

I hereby certify that on the 8<sup>th</sup> day of January, 2019, I served a true and correct copy of the above and foregoing **PETITION FOR INSTRUCTIONS REGARDING SURRENDER OF ASSETS, TERMINATION OF TRUST AND DISTRIBUTION ON ORDER SHORTENING TIME**, by the court's electronic filing system to all parties attached to the case and by first class U.S. mail, postage prepaid, to the following persons or entities:

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8 9 10	Harriet H. Roland, Esq. ROLAND LAW FIRM 2470 E. St. Rose Pkwy., Ste. 105 Henderson, NV 89074	Christopher D. Davis	Phone: (702) 452-1500 Fax: (702) 920-8903  <u>hroland@rolandlawfirm.com</u>
11 12 13	Anthony L. Barney, Esq. Tiffany S. Barney, Esq. ANTHONY L. BARNEY, LTD. 3317 W. Charleston Blvd. Ste. B Las Vegas, NV 89102	Christopher D. Davis	Phone: (702) 438-7878 Fax: (702) 259-1116  <u>abarney@anthonybarney.com</u>



An employee of LEE, HERNANDEZ, LANDRUM  
& CARLSON

**EXHIBIT "1"**

**Exhibit "1"**

This  
**FAMILY HERITAGE TRUST**

prepared for

**BEATRICE B. DAVIS**

by

Stephen K. Lehnardt  
Lehnardt & Lehnardt, LLC  
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Kenneth A. Ziskin Law Corporation and Lehnardt & Lehnardt, LLC

CD-000175

**APP000149**



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**The BEATRICE B. DAVIS  
Family Heritage Trust**

**Article One**

**Creation of My Trust**

**Section 1. My Trust**

This is my irrevocable trust, dated July 28, 2000. I, BEATRICE B. DAVIS, am the Trustmaker.

The following is my initial Trustee:

**ALASKA TRUST COMPANY**

The following is my initial Protector :

**STEPHEN K. LEHNARDT**

All references to "my trust" or "trust" in this document, unless otherwise stated, shall refer to this irrevocable trust and the trusts created in it. All references to "Trustee" shall refer to my initial Trustees or their successor or successors in trust.

When the term "Trustmaker" is used in my trust, it shall have the same legal meaning as "Grantor," "Settlor," "Trustor," or any other term referring to the maker of a trust.

I desire to give my Trustee broad discretion with respect to the management, distribution and investment of my trust, so as to benefit trust beneficiaries. Specific goals of my trust include, but are not limited to, the following:

Minimizing the extent to which the trust estate is subject to the claims of creditors; and

Minimizing the income and wealth transfer taxes which beneficiaries may face on their trust shares; and

In order to maximize the protection of the trust estate or estates from creditor's claims of the Trustmaker and to minimize all wealth transfer taxes, I have provided that the various trusts created hereunder may last in perpetuity as permitted under Alaska law.

## **Section 2. Application of Alaska Trust Law**

I intend that this trust and the trusts created under this Agreement are trusts described in Alaska Statutes (AS) 34.40.110, 13.36.035(a) and (c). Accordingly, unless the Trustee moves the situs of this trust or any trust created hereunder to another jurisdiction, I direct that

At all times at least one trustee of each trust shall be a "qualified person" under AS 13.36.390(1); and

The duties of that trustee shall include the duty and responsibility to maintain books and records of the trust in Alaska and to prepare or to arrange for the preparation of the tax returns of the trust; and

At least some assets of the trust shall be deposited in Alaska within the meaning of AS 13.36.035(c)(1); and

At least part of the administration of the trust shall occur in Alaska within the meaning of AS 13.36.035(c)(4).

## **Section 3. The Name of My Trust**

For convenience, my irrevocable trust shall be known as the:

BEATRICE B. DAVIS FHT,  
dated July 28, 2000

For purposes of beneficiary designations, transfers directly to my trust, and formal correspondence, my trust shall be referred to as:

ALASKA TRUST COMPANY, Trustee, or its successors in trust,  
under the BEATRICE B. DAVIS FAMILY HERITAGE TRUST,  
dated July 28, 2000.

In addition to the above descriptions, any description for referring to my trust shall be effective to transfer title to my trust or to designate my trust as a beneficiary as long as that description includes the date of my trust, the name of at least one initial or successor Trustee, and any reference that indicates that assets are to be held in a fiduciary capacity.

#### **Section 4. An Irrevocable Trust**

This trust is irrevocable, and I shall have no power to control and direct payments, remove trust property, or alter, amend, revoke, or terminate this trust, either in whole or in part. In all events, this Agreement shall be interpreted in a manner consistent with the provisions of this paragraph, notwithstanding any contrary provision of this Agreement.

#### **Section 5. I Have No Rights in This Trust**

After the execution of this trust agreement, I shall have no right in the income or principal of this trust. Neither I nor my estate shall have any reversionary or similar interest in this trust or the property contained in it.

#### **Section 6. Guidance in Interpreting My Intent**

This Agreement shall be interpreted in a manner consistent with the provisions of this Article, notwithstanding any contrary provision of this Agreement.

## **Article Two**

### **Funding My Trust**

#### **Section 1. Initial Funding**

My trust will be initially funded with \$10 and such other property as I transfer to it by gift.

#### **Section 2. Additional Funding**

My trust may be additionally funded by me or any other person in any manner with property interests of all kinds. All property interests transferred, assigned, conveyed, or delivered to my Trustee in trust shall be absolute and irrevocable and must be acceptable to my Trustee.

All property interests transferred, assigned, conveyed, or delivered to my Trustee shall be subject to all of the terms and conditions set forth in this agreement.

## **Article Three**

### **Administration of My Trust During My Life**

#### **Section 1. My Lifetime Beneficiaries**

I am the widow of Ilus W. Davis.

The names of my children are:

CHRISTOPHER D. DAVIS

CAROLINE D. DAVIS

All references to my children in this agreement are to these children.

During my lifetime, except as otherwise provided in this instrument, the beneficiaries of this trust shall be my children, my children's spouses, my children's descendants, and any other natural person added as a beneficiary pursuant to other provisions of this agreement which permits such persons to be added as beneficiaries.

#### **Section 2. A Beneficiary's Withdrawal Right**

While I am living, in each calendar year in which any property is given or deemed to be given to the trust by a direct or an indirect transfer of property to the trust, each living beneficiary under this Article, other than myself, shall have only the withdrawal rights set out in this Section.

##### **a. Beneficiaries Shall Have Withdrawal Rights**

If no contrary intention is expressed by the donor, and subject to the other limitations imposed under this Article, each living beneficiary (other than myself, if I should be added as a beneficiary by the Protector) under Section 1 shall have the right to withdraw that beneficiary's portion of the property contributed to this trust. The person or persons contributing funds to this trust may, however, specify in writing to the Trustee at the time the funds are

contributed that any one or more of the beneficiaries shall not have the withdrawal rights which are set forth in this Article, or may specify in writing to the Trustee that no contributions made to the Trustee subsequent to the writing shall be subject to withdrawal rights, except to the extent subsequently specified in writing to the Trustee.

**b. Each Beneficiary's Share**

Unless a donor provides otherwise, each lifetime beneficiary of this trust shall be entitled to an equal, pro-rata share of the contributed property.

**c. Value of Contributed Property**

The contribution value of a gift shall be used for purposes of determining the value of the withdrawal rights.

The withdrawal right shall be subject to the limitations and qualifications as provided in subsequent provisions of this Article.

**Section 3. The Annual Limit on Withdrawals**

In no event shall the amount withdrawable by a beneficiary by reason of a direct or indirect gift to this trust by a donor in any one calendar year exceed the gift tax annual exclusion, or twice that amount if all of the following apply: (i) the donor is married at the time the contribution is made, (ii) the gift is eligible to be "split" for federal gift tax purposes between the spouses, and (iii) no separate contribution is made by the donor's spouse during the calendar year. This annual limit on withdrawals shall apply separately to annual gifts from each donor, and the annual exclusion shall not limit the cumulative amount of annual withdrawals for all donors.

The gift tax annual exclusion shall be as provided under Section 2503(b) of the Internal Revenue code of 1986, as amended, or any other corresponding provisions of any subsequent federal tax law in effect at the time of the addition to this trust.



#### **Section 4. Exercise of Withdrawal Rights by My Beneficiaries**

A beneficiary's withdrawal right shall be vested as of the date of the transfer to the trust that results in the withdrawal right. Subject to Subsection d. below, withdrawals may be made at any time from the date of the transfer to the trust through a date which is 30 days after the date on which the beneficiary (or person who has the authority to act for the beneficiary) has notice of the contribution.

##### **a. Withdrawal Rights Are Cumulative, But Subject to Lapse**

The amount withdrawable by a beneficiary as a result of successive additions shall be cumulative, but, to the extent that the withdrawal rights have not been exercised, the cumulative amount withdrawable shall lapse at the end of each calendar year by an amount equal to the greater of the amounts specified in Section 2514(e)(1) and (2) of the Internal Revenue Code (currently \$5,000 or 5% of the aggregate value of the property out of which the exercise of such power could be satisfied at the time of such lapse, with such amounts to be adjusted to reflect any subsequent amendments to such Sections) reduced by the amount of any such lapses which occurred previously in the same calendar year under this or other instruments. Any unexpired portion of such withdrawal right shall be carried forward into succeeding years and lapse on January 1st of each succeeding year, but only to the extent provided above.

##### **b. Method for Exercising Withdrawal Rights**

A withdrawal right beneficiary shall exercise a withdrawal right by delivering a written request to my Trustee prior to the date that the right lapses.

##### **c. The Death of a Beneficiary**

A beneficiary's vested withdrawal right shall not terminate by reason of his or her death. The personal representative of the beneficiary's estate shall then have the right to exercise the vested withdrawal right on behalf of the beneficiary's estate.

If the personal representative of a deceased beneficiary does not exercise the beneficiary's withdrawal right and also does not make a

timely filing to properly allocate a portion of the deceased beneficiary's available generation skipping transfer exemption against the beneficiary's unexpired vested withdrawal amount, my Trustee shall promptly distribute to the personal representative of the beneficiary cash in an amount equal to the deceased beneficiary's unexpired vested withdrawal amount.

**d. Withdrawal rights which have not lapsed**

Withdrawal rights which are not exercised during the 30-day period provided in Subsection a. of this Section 4 may only be exercised during the first 30 days of each succeeding calendar year, and then only to the extent such rights have not otherwise lapsed under the terms of this instrument.

**Section 5. Notice by My Trustee of the Right to Withdraw**

For each calendar year of the trust in which a direct or indirect transfer is made to the trust, my Trustee, within 15 days following the initial transfer of property to the trust for that calendar year, shall provide written notice to each beneficiary then entitled to a withdrawal right that property has been transferred to the trust. The notice shall be delivered by hand or by mail to the last known address of the beneficiary and shall inform the beneficiary of the right of the beneficiary to withdraw.

**a. Notice for Indirect Transfers**

If an indirect transfer is made to the trust which is the initial transfer made to the trust for the calendar year, my Trustee, within fifteen days of my Trustee's actual notice of such indirect transfer, shall provide written notice to each beneficiary then entitled to a right to withdraw that property has been transferred to the trust. The notice shall be delivered by hand or by mail to the last known address of the beneficiary and shall inform the beneficiary of the right of the beneficiary to withdraw.

**b. Notice to Additional Beneficiaries**

If additional individuals subsequently become qualified to be beneficiaries of the trust as a result of being born or adopted after

this trust is signed, my Trustee shall give written notice to or on behalf of that beneficiary within a reasonable time after being informed of the additional beneficiary. This shall in no manner be deemed to permit me to add beneficiaries or expand the class of individuals to be beneficiaries.

#### **Section 6. Minor or Disabled Beneficiaries**

If a beneficiary entitled to make a withdrawal is a minor or under any other form of legal disability during all or part of any withdrawal period, the beneficiary's legal or natural guardian, conservator, or other personal representative shall be informed of, and may exercise, the withdrawal right on behalf of the beneficiary.

#### **Section 7. Trustee Duties as to a Withdrawal Right**

My Trustee shall retain sufficient liquid trust property or other trust property which is transferable in order to satisfy the withdrawal rights which are then outstanding, except to the extent that my Trustee believes it can borrow against other assets in order to satisfy a withdrawal right.

My Trustee may distribute trust property in cash or in kind, including insurance policies held in the trust or interests in those policies, to a beneficiary making a withdrawal. My Trustee is authorized to borrow, upon such terms as are reasonable and necessary, in order to provide for payment of amounts required by any exercise of withdrawal rights by a beneficiary.

#### **Section 8. Indirect Transfers**

The amount of any payment made directly to an insurance company by any party other than my Trustee of all or any part of a premium on a life insurance policy owned by the trust on my life shall be considered a transfer to the trust.

The date of the transfer shall be the date of the premium payment to the extent that the payment is deemed to be a gift from me to the beneficiaries for federal gift tax purposes.

Any such indirect transfer shall create withdrawal rights in an amount equal to the value of the deemed gift.

## **Section 9. Amounts Not Withdrawn**

During my lifetime, all property held by my Trustee under this trust agreement, except any principal amount which is subject to a pending withdrawal right, shall be retained in trust and shall be held, administered and distributed as follows.:

### **a. Discretionary Distribution of Income and Principal to My Children and Their Descendants**

During my lifetime, my Trustee may distribute to or for the benefit of my children and their descendants, and any other person who has been made a beneficiary hereof pursuant to the terms of this instrument, so much of the income and principal of this trust as my Trustee, in its sole and absolute discretion, shall determine. However, my Trustee shall not distribute to a beneficiary who has been appointed as a beneficiary by the Protector, an aggregate amount in excess of the aggregate amounts so appointed. Except as otherwise provided herein, my Trustee, in its sole and absolute discretion, shall determine the amount and timing of any and all distributions of income or principal to the beneficiaries hereof.

A distribution to or for the benefit of a beneficiary shall be charged to the trust as a whole rather than against the beneficiary's ultimate share.

Any net income not distributed by my Trustee shall be accumulated and added to the principal of the trust.

### **b. Distributions to or for My Benefit**

If I am at any time a beneficiary of this trust during my lifetime, my Trustee may also distribute to or for my benefit so much of the income and principal of this trust as my Trustee, in its sole and absolute discretion, shall determine. I do not intend to limit the sole and absolute discretion of my Trustee in any way, nor to impose any fiduciary duty other than as expressly stated in my trust.

My Trustee shall have no obligation to make any distribution whatsoever to me under any circumstances. I do not anticipate that my other resources will ever be insufficient to maintain my lifestyle as it exists at the time of creation of this trust. However, if my circumstances should change, and if the Protector shall appoint me as an additional beneficiary of this trust, my Trustee, in its sole and absolute discretion, may make distributions to or for my benefit during my lifetime to allow me to maintain my lifestyle as it exists at the time of creation of my trust. My Trustee may (but need not) rely on a certificate signed by the Protector, without further investigation, in making its determination regarding the sufficiency, or lack thereof, of my other resources, and my Trustee shall have no liability for actions taken in reliance on such a certificate.

**c. Additional Restrictions, Guidelines and Requirements for Discretionary Distributions**

In making distributions pursuant to this Section, my Trustee shall take into consideration, to the extent that my Trustee deems advisable, in its sole and absolute discretion, any income or other resources which are available to my beneficiaries outside of the trust and are known to my Trustee.

In making distributions under this provision, my Trustee shall also take into account the general guidelines I have established in Section 3. of Article Eight.

Without limiting the discretion of my Trustee, I request that:

My Trustee shall emphasize conservation of principal and growth of the trust estate in determining the appropriate amounts of any distributions, other than distributions to myself (to the extent, if any, that I may be a beneficiary hereof); and

My Trustee shall be especially mindful of any outstanding obligations that my Trustee has, and distributions shall not be made which impair my Trustee's ability to satisfy those obligations.

Distributions to beneficiaries other than myself (to the extent that I may be a beneficiary hereof) shall generally be made on an equitable basis, so that the family of one of

my descendants does not receive substantially more than the family of another descendant at the same level of consanguinity.

My Trustee shall have no liability whatsoever for distributions which are authorized by this instrument to any beneficiary or beneficiaries if such distributions are consistent with written advice from the Protector, so long as my Trustee does not believe in good faith that such advice was given under duress or legal compulsion. In the event of any doubt regarding an instruction or advice from the Protector, I encourage and authorize my Trustee to require the Protector to certify, under penalty of perjury, that my Protector has not given such advice or instruction under duress or legal compulsion. In any event, at least ten days before making any distributions permitted by this Section to any person my Trustee shall advise the Protector in writing of my Trustee's intention to make the proposed distribution and the amount proposed to be distributed, unless the Protector has waived notice of such distribution.

My Trustee, in evaluating the extent to which distributions may be appropriate to a beneficiary, may take into account all obligations, including tax obligations, of the beneficiary. However, my Trustee shall not be obligated to make any distributions in amounts which compensate any beneficiary for any income or other tax imposed on a beneficiary as a result of the income of this Trust, or which satisfy any such obligation. I prefer that any distributions made to assist a beneficiary to meet its tax or other obligations be made only if the failure to provide such reimbursement would cause an economic hardship to the beneficiary and the beneficiary could not comfortably pay such tax or other obligation from other resources.

**d. Prohibitions Against Certain Distributions**

Notwithstanding any other provision of this trust agreement, no distribution shall be made by my Trustee to satisfy any legal support obligation which I have, nor shall any such distribution be made to my estate or to any creditor of my estate.

Likewise, in no event shall the aggregate distributions to all beneficiaries during my lifetime, other than to me if I have been added as a beneficiary, pursuant to the provisions of this Section 9 exceed one and one half (1.5%) percent of the value of the trust in any calendar year. For purposes of valuing the trust for determining

the amount that can be distributed under this provision, the value shall be the value of the trust on the 31<sup>st</sup> day of December of the year prior to the year in which the subject distribution is made.

#### **Section 10. Limited Power of Appointment**

During my lifetime, my Trustee shall have the limited power to appoint the principal of the trust to any persons, or corporations or other entities, in whole or in part, or in equal or unequal proportions, subject to the following provisions:

**a. Successor Trustees**

If my Trustee resigns, is terminated, or cannot serve for any other reason, then my Trustee's successors in trust shall have the right to exercise this limited power of appointment.

**b. Qualifications on the Limited Power of Appointment**

The power shall only be exercisable by the holder of the power, and shall not be exercised in favor of the holder, the holder's estate, the holder's creditors, or the creditors of the holder's estate. It may only be exercised in favor of persons who are beneficiaries of this trust or in favor of trusts for the benefit of persons who are beneficiaries hereof.

The power shall not be exercised by the holder in any manner that would result in an economic benefit to the holder or that would in any manner discharge or reduce any legal obligation of the holder.

My Trustee shall have no right to exercise this power of appointment with respect to any portion of the trust property which is subject to a continuing withdrawal right of a beneficiary.

No exercise of this power of appointment may be made, or shall be valid, until 30 calendar days after notice of the intended exercise of the power of appointment, including the exact text of the instrument to be used to exercise the power, has been delivered to me, the Protector and the attorney(s) whose names are shown on the cover page hereof (except to the extent any of them are deceased or the Trustee cannot locate them in the exercise of reasonable diligence).

No exercise of this power shall be valid if my Trustee is acting under duress or legal compulsion. The instrument exercising such power shall not be valid unless my Trustee represents, warrants and declares in writing, under penalty of perjury, therein that my Trustee is not acting under any duress or legal compulsion with regard to such exercise and that my Trustee has given the notice required hereunder prior to such exercise.

#### **Section 11. Termination of the Lifetime Trust**

This lifetime trust shall terminate upon the death of the Trustmaker, and the principal and any accrued and undistributed net income shall be distributed under the Articles that follow.



**Article Four**  
**Life Insurance**  
**and**  
**Administrative Powers Provisions**

**Section 1. Purchase of Life Insurance Generally**

My Trustee may purchase and hold as trust property a policy or policies of insurance on my life, the life of any trust beneficiary, or on the life of any person in whom any trust beneficiary has an insurable interest. My Trustee shall have no obligation to purchase life insurance in this trust. My Trustee may, however acquire such insurance to meet traditional insurance needs or as a vehicle for holding investment assets in a manner that allows from growth in values free of income taxes, in its discretion.

My Trustee may also receive any such policies made as a gift to the trust, and thereafter may hold and deal with the policies as the owner.

My Trustee shall have the following powers, which may be exercised by it in its sole and absolute discretion, in addition to all other powers granted a policy owner:

**a. Automatic Premium Loans**

My Trustee shall have the power to execute or cancel any automatic premium loan agreement with respect to any policy, and shall have the power to elect or cancel any automatic premium loan provision in a life insurance policy.

**b. Borrow for Premium Payments**

My Trustee may borrow money with which to pay premiums due on any policy either from the company issuing the policy or from any other source. My Trustee may assign any such policy as security for the loan.

**c. Exercise Option on a Policy**

My Trustee shall have the power to exercise any option contained in a policy with regard to any dividend or share of surplus apportioned to the policy.

**d. Reduce or Convert a Policy**

My Trustee may reduce the amount of a policy or convert or exchange the policy.

**e. Surrender a Policy**

My Trustee may surrender a policy at any time for its cash value.

**f. Elect Paid-Up Insurance**

My Trustee may elect any paid-up insurance or any extended-term insurance nonforfeiture option contained in a policy.

**g. Sell Policies**

My Trustee shall have the power to sell policies at their fair market value to the insured or to anyone having an insurable interest in the policy.

**h. Exercise All Other Rights, Options, or Benefits**

My Trustee shall have the right to exercise any other right, option, or benefit contained in a policy or permitted by the insurance company issuing that policy.

**i. Rights upon Termination of the Trust**

Upon termination of the trust, my Trustee shall have the power to transfer and assign the policies held by the trust as a distribution of trust property.

My Trustee shall make every effort to transfer any policy insuring a beneficiary's life to that beneficiary as part of that beneficiary's distributive share.

## **Section 2. Rights and Duties of Trustees with respect to Life Insurance Policies**

The provisions of this Section shall supersede the principles of trust law generally with respect to my Trustee's duties and obligations relating to any life insurance policies owned or acquired by my trust.

### **a. Right of Trustees to Accept and Retain Life Insurance Policies Without Liability**

My Trustees may, without liability, accept and retain policies of insurance on my life or on the life of any other person in whose life my Trustees have an insurable interest. My Trustees shall have no duty at any time during the term of any trust created hereunder to diversify with respect to such policies or to inquire into the suitability of any insurance policy or the financial condition of any insurer.

### **b. Right of Trustees to Purchase Life Insurance Without Any Duty to Diversify; Limited Liability**

My Trustees may purchase insurance on my life or on the life of any other person in whose life I or my Trustee has an insurable interest. Such purchase and payment of subsequent premiums may utilize all or any part of trust assets without any duty to diversify the investments of the trust in assets other than life insurance. My Trustee may purchase all insurance held hereunder from one or more insurers without any duty to diversify the types of policies or to purchase policies from more than one insurer.

My Trustee may, without incurring any liability to any person, purchase such policies upon the recommendation of an experienced insurance advisor or my Protector. My Trustee shall be under no liability at any time during the term of any trust hereunder to any person for any loss suffered as a result of the financial condition, including insolvency, of any insurer.

The Trustmaker considers life insurance policies, including policies issued by companies approved by the Protector or any entity or entities succeeding to the business of said company, as proper investments of the trust capital and income.

So long as the assets that represent the cash values of such policy, are held in a segregated asset account that is not subject to claims by the creditors of such insurer, my Trustee need not be concerned with the financial strength of the insurer. My Trustee is authorized to invest or retain indefinitely, any insurance policy that holds or acquires an interest in any entity or asset held by me or members of my family, or Trusts created by any of us. My Trustee shall have no duty, responsibility or liability to monitor the investments or the investment performance of any partnership owned by this Trust or by an insurance policy owned by this Trust.

The trustee shall have no duty, responsibility or liability to monitor the investments or the investment performance of any investment inside any separate account within any life insurance policy owned by this trust if the investments in that separate account are comprised primarily of closely held business interests managed by members of my family.

The sole duty of the trustee with respect to such insurance policy or policies shall be to hold the policy and pay premiums.

**c. My Trustee May Rely on My Protector's Directives**

Upon the written direction of the Protector, my Trustee shall appoint an "Ancillary Insurance Trustee" specified by the Protector. Such Ancillary Insurance Trustee shall have the authority to act for this Trust with regard to the purchase of one or more policies of life insurance; provided, however, that such Ancillary Insurance Trustee shall have such authority only for the time period specified in the written direction of the Protector, and only with regard to the purchase of policies approved by the Protector. The authority of the Ancillary Insurance Trustee shall cease upon the date specified by the Protector in its written direction to the Trustees, and the appointment shall specify the date on which such authority ceases. . In the alternative, my Trustee may establish a subtrust under the laws of any jurisdiction with the Ancillary Insurance Trustee as the

Trustee thereof, and this Trust as the beneficiary thereof, or a company (in which the Ancillary Insurance Trustee exercises discretion with regard to the purchase of insurance) in an appropriate jurisdiction, in order to facilitate the purchase of such insurance.

My Trustee shall have no duty or responsibility to inquire into the suitability of any insurance policy or the financial condition of any insurer issuing any policy purchased by, or at the direction of, the Ancillary Insurance Trustee. My Trustee shall, without discretion, pay such premiums as may be required under the terms of any insurance policy purchased at the direction of the Ancillary Insurance Trustee, except to the extent otherwise directed in writing by the Protector, or transfer sufficient funds to pay such premiums to the subtrust or other entity established to facilitate the purchase of such insurance..

**d. Payment of Life Insurance Premiums**

My Trustee may pay premiums on life insurance policies and may utilize all or any part of trust assets to do so without any duty to diversify the investments of the trust in assets other than life insurance and without incurring any liability to any person who is a beneficiary of this trust.

**Section 3. The Death of an Insured**

Upon the death of an insured, my Trustee shall make all appropriate after-death elections with respect to insurance policies on the life of the insured then held by the trust.

**a. Collection of Insurance Proceeds**

Upon the death of an insured, my Trustee shall make every effort to collect all sums made payable to the trust or my Trustee.

My Trustee may, in its sole and absolute discretion, exercise any of the settlement options that may be available under the terms of a policy held by the trust. My Trustee shall not be liable to any beneficiary for the settlement option ultimately selected.

**b. Collection Proceedings**

My Trustee may institute proceedings, whether in law or equity, administrative or otherwise, to enforce payment of such proceeds.

My Trustee need not, except at its option, enter into or maintain any litigation or take action to enforce any payment until it has been indemnified to its satisfaction for all expenses and liabilities to which it, in its sole judgment, may be subjected.

My Trustee is expressly authorized, in its sole and absolute discretion, to adjust, settle, and compromise any and all claims that may arise from the collection of any death proceeds. The decisions of my Trustee shall be binding and conclusive on all beneficiaries.

**c. Liability of Payor**

No person or entity that pays insurance proceeds to my Trustee, as beneficiary shall be required to inquire into any of the provisions of this trust or to see to the application of any such proceeds by my Trustee.

The receipt of the proceeds by my Trustee shall relieve the payor of any further liability as a result of making such payment.

**Section 4. Intent to Create a Grantor Trust**

I intend that this trust be a grantor trust for federal income tax purposes. I understand that the powers granted and reserved in this trust will cause the income of the trust to be taxed to me under the provisions of Sections 671-677 of the Internal Revenue Code of 1986.

## **Article Five**

### **Administration of My Trust on My Death**

#### **Section 1. Purchase of Assets and Loans**

My Trustee is authorized to purchase and retain in the form received, as an addition to the trust, any property that is a part of my probate or trust estate. In addition, my Trustee may make loans, with or without security, to my probate or trust estate. My Trustee shall not be liable for any loss suffered by the trust as a result of the exercise of the powers granted in this Section.

Notwithstanding anything in this agreement to the contrary, my Trustee shall not have the power to use any trust property for the benefit of my estate as defined in Section 20.2042-1(b) of Title 26 of the Code of Federal Regulations, unless such property otherwise is included in my gross estate for federal estate tax purposes.

#### **Section 2. Distributions of Amounts Included in My Estate**

My Trustee shall distribute an amount equal to the value of any asset of this trust that is includible in my gross estate for federal estate tax purposes to my revocable living trust.

The amount so distributed shall be added to the property of my living trust and disposed of in accordance with its terms.

If I die and my living trust is not in existence, my Trustee shall distribute the amount called for under this Section to my descendants, per stirpes.

#### **Section 3. Administration of the Balance of the Trust Property**

The balance of the trust property not disposed of under the prior provisions of this trust agreement shall be administered as provided in the Articles that follow.

## **Article Six**

### **The Family Trust**

It is not my desire to create a Family Trust for the benefit of my beneficiaries. All of the trust property that has not been distributed under prior provisions of this agreement shall be divided, administered, and distributed under the provisions of the Articles that follow.



## **Article Seven**

### **The Common Trust**

It is not my desire to create a Common Trust for the benefit of my beneficiaries. All of the trust property that has not been distributed under prior provisions of this agreement shall be divided, administered, and distributed under the provisions of the Articles that follow.

## **Article Eight**

### **Distribution of My Trust Property**

#### **Section 1. Division into Separate Shares**

All trust property not previously distributed under the terms of my trust agreement shall be divided into equal separate shares so as to create one equal share for each of my then living children, and one equal share for each of my deceased children that has descendants then living.

These separate trust shares shall also be held, administered, and distributed in accordance with the provisions of this Article and the Articles that follow.

#### **Section 2. Creation of Exempt and Nonexempt Shares for Beneficiaries**

If any portion of any trust share created for any beneficiary in Section 1 would not be exempt from the Generation Skipping Transfer Tax, then my Trustee shall divide the trust property constituting the trust share for that beneficiary into two separate shares. One share shall be designated the "Exempt Share." The second share shall be designated the "Nonexempt Share." My Trustee shall allocate trust property to fund such shares as follows:

My Trustee shall allocate to each beneficiary's Exempt Share such beneficiary's proportionate share (as determined in Section 1 of this Article) of trust property that is fully exempt from the generation-skipping tax.

My Trustee shall allocate to each beneficiary's Nonexempt Share such beneficiary's proportionate share (as determined in Section 1 of this Article) of the remaining trust property.

My Trustee shall have complete authority to make allocations of trust property between the Exempt Shares and the Non-Exempt Shares established in this Section. Property conveyed or assigned in kind to the Exempt Shares shall be valued at its value as finally determined for federal

estate tax purposes. However, if specific property is allocated to these shares, the division of assets shall be made in a manner that fairly reflects net appreciation or depreciation in the value of the assets measured from the valuation date for federal estate tax purposes to the date of funding.

The Exempt Shares and Non-Exempt Shares shall be held and administered as separate and distinct trusts. The terms and provisions of each beneficiary's Exempt Share and Non-Exempt Share shall be the trust provisions established for that beneficiary in Section 4 of this Article. However, the Non-Exempt Share shall be subject to the general power of appointment provisions of Section 13 of Article Twelve.

### **Section 3. Guidelines Applicable to Separate Trust Shares**

Except to the extent, if any, otherwise provided by more restrictive provisions contained in subsequent sections of this Article with respect to a particular trust share, each trust share created for a beneficiary pursuant to Section 1 of this Article shall be held, administered, and distributed in accordance with the following directives. During the lifetime of the named beneficiary of any share, such named beneficiary shall be the Primary Beneficiary of such share; thereafter, if the share is subdivided into separate shares for my descendants or otherwise, the person for whom the separate share is established shall be the Primary Beneficiary thereof.

#### **a. Preservation of Exempt Property for Future Generations**

Except as otherwise permitted herein, my Trustee shall hold the trust property of each Exempt Share for the benefit of my beneficiaries as provided in this agreement. Although my Trustee, in its discretion, may distribute the property of a trust share which is exempt from the Generation Skipping Transfer Tax pursuant to the terms of this agreement for the benefit of my beneficiaries, I request that my Trustee, before making distributions to a beneficiary from the Exempt Share, inform the beneficiary about the long-term advantages of retaining assets in trust to avoid estate tax liability and generation-skipping tax liability for generations.

I request that any discretionary distributions be made first from any Non-Exempt Share held for a beneficiary and only thereafter from the beneficiary's Exempt Share.

b. **Provide for My Beneficiaries' Lifestyle Needs**

I desire that my Trustee provide the respective beneficiary of each such share with funds (paid to, or for the benefit of, such Primary Beneficiary) sufficient to provide for the beneficiary's ~~health~~ ~~and from maintenance, support and welfare~~ and to provide the beneficiary with sufficient funds to maintain a modest, conservative lifestyle. I also desire that my Trustee give assistance to the respective beneficiary of each such share for:

The purchase of a residence which is modest and commensurate with the Primary Beneficiary's lifestyle.

The purchase or establishment of a business or professional practice.

Any other extraordinary opportunity or expense deemed by my Trustee to be in the best interests of the beneficiary.

I have previously made significant gifts to my children, and those gifts are fully available to them to use in any way they choose. My purpose in creating this trust is to provide a financial resource base that will support and protect my family for generations to come. While my children or their descendants may choose to make charitable contributions from their independent resources [including those resources which they received as gifts from me] I do not regard this trust as an appropriate source for charitable giving. Accordingly, my Trustee shall not make distributions to any beneficiary from this trust if my Trustee believes or suspects that the distributed funds will be used to make any kind of charitable contribution. I envision that these resources will be maintained to provide for the specific needs of my children and their descendants. Accordingly, in making discretionary distributions to a beneficiary, my Trustee shall be mindful of, and take into consideration to the extent it deems necessary, any additional sources of income and principal available to the beneficiary which arise outside of this agreement and are known to my Trustee. It is also my express desire that my Trustee take into consideration the future probable needs of a beneficiary prior to making any discretionary distributions hereunder.

However, during any period when the Primary Beneficiary of a trust share serves as the sole trustee of his or her trust share, distributions to or for the benefit of such Primary Beneficiary (or to satisfy any support obligation of such Primary Beneficiary) shall be limited to distributions which satisfy the ascertainable standards of health care, education, maintenance, and support for the Primary Beneficiary except to the extent otherwise authorized by the provisions below concerning the Powers of an Interested Trustee.

**c. Provisions Relating to the Payment of Debts of a Beneficiary**

I do not desire that my Trustee use its discretion to pay debts incurred by a beneficiary (except debts incurred in the ordinary course of living for matters related to, and consistent with, the ascertainable standard referred to above and the principles of this section). Further, I do not desire that such discretion be used in a manner which enables the respective beneficiary to provide for persons other than the beneficiary's descendants or then living spouse, or which would cause the beneficiary's share to be included in the taxable estate of the beneficiary.

**d. Distributions to a Primary Beneficiary's Spouse and Descendants**

My Trustee may make distributions from the trust share of a Primary Beneficiary to or for the health, education, maintenance and support of the spouse of the Primary Beneficiary if the spouse is living with the Primary Beneficiary. My Trustee shall have the discretion to determine whether a spouse is living with the Primary Beneficiary at the time a distribution is made.

My Trustee may also make distributions from the trust share of a Primary Beneficiary to or for the benefit of a descendant of the Primary Beneficiary for the health, education, maintenance and support of such descendant.

Distributions shall only be made by my Trustee to a spouse or a descendant of the Primary Beneficiary after considering the needs of the Primary Beneficiary of the trust share. Distributions made pursuant to this provision may be made to the complete exclusion of the other beneficiaries of the trust share. These distributions may be

made to the Primary Beneficiary, the spouse of the Primary Beneficiary or the descendants of the Primary Beneficiary in equal or unequal amounts according to their respective needs. A distribution to or for the benefit of a beneficiary's needs shall be charged to the trust rather than against the beneficiary's ultimate share or the shares of those persons taking through such beneficiary upon the termination of the trust. However, a distribution for the purchase of a residence, the purchase or establishment of a business or professional practice, or for any other extraordinary opportunity or expense shall be charged to the beneficiary's ultimate share or the share of those persons taking through such beneficiary upon the termination of the trust.

**e. Distributions Should Encourage Beneficiaries to Live Meaningful Lives**

Until the Primary Beneficiary of a trust share attains the age of 35, I desire that distributions of property from the Primary Beneficiary's share be limited in such a manner as to encourage the Primary Beneficiary to fill a meaningful role in society and to conserve a reasonable amount of principal in order to provide security for the Primary Beneficiary's retirement. I do not desire that my Trustee use discretion so liberally as to remove any incentive for the Primary Beneficiary to fill a meaningful role in society.

To clarify my intent in this provision, when I use the phrase "a meaningful role in society", I would include any of the following activities conducted on a substantially full-time basis (full-time either individually, or in the combination in which they are pursued by the Primary Beneficiary): (i) paid employment; (ii) efforts to start, manage or operate a business; (iii) creation of literary works, works of art or craft work if the Primary Beneficiary shows a talent for such creation and such works appear to have sufficient commercial value or potential to earn funds to support at least a subsistence lifestyle for the Primary Beneficiary; (iv) education; (v) organized research; (vi) volunteer work for a bona fide charitable organization; (vii) public office; (viii) parenting; (ix) competitive athletics or sport; (x) artistic performance (such as dance, music, theater, *et cetera*); and (xi) any other activity that my Trustee concludes, in its sole discretion, furthers the Primary Beneficiary's self-esteem and sense of accomplishment.

My Trustee may, in its discretion, increase or decrease the amount of Trust assets paid to, or for, a Primary Beneficiary in order to encourage such Primary Beneficiary to take actions likely to fulfill his or her potential. In that regard, my Trustee may provide for bonus distributions, or increases in regular distributions, to the extent that the Primary Beneficiary meets performance targets set by my Trustee and communicated to the Primary Beneficiary.

My Trustee may use funds from the Primary Beneficiary's share to retain a suitable professional to meet with and counsel the Primary Beneficiary with regard to achieving self-esteem, or finding a suitable career, may set standards and targets based on the advice of such professional, and may rely upon reports from such professional. However, my Trustee need not retain such a professional unless my Trustee believes it would provide meaningful assistance to meet the goals set forth herein. For example, if the Primary Beneficiary is already pursuing an active professional career or business, my Trustee should not need the advice of a professional counselor.

During any period in which my Trustee concludes that the Primary Beneficiary is unable to otherwise fill a meaningful role in society due to any disability or illness, the Primary Beneficiary shall be deemed to fill a meaningful role in society, regardless of his or her activities

**f. Payment of Educational Expenses**

If the Primary Beneficiary is a full time student at an accredited college, university, vocational school or similar institution and maintains a grade point average equivalent to "C" or better, my Trustee shall, in its sole and absolute discretion, pay for the Primary Beneficiary's reasonable educational costs. As used in this Paragraph, the term "educational costs" includes tuition, books, fees, supplies, transportation (including the cost of an automobile, maintenance and repairs; and air fare in connection with travel to and from school or with respect to school functions) and reasonable living expenses. The Trustee shall have the absolute discretion to determine the reasonableness and duration of all educational costs.

**g. Payment to Guardians**

If any Primary Beneficiary is a minor or incapacitated and placed in the home of a relative or guardian, my Trustee shall furnish from the share for such Primary Beneficiary those trust funds which my Trustee deems, in its sole and absolute discretion, to be necessary or advisable to assist the guardian or relative in providing adequate care and housing for the Primary Beneficiary.

My Trustee may make funds available to any such guardian or relative who is caring for a Primary Beneficiary in order to:

Improve the guardian's or the relative's home;

Purchase a more suitable home for the guardian or the relative

Purchase personal property, appliances, or any other appurtenances needed to provide adequate care and housing for the beneficiaries.

Notwithstanding anything in this agreement to the contrary, if a guardian is also serving as a Trustee under this agreement and a corporate fiduciary is not acting as a Co-Trustee, then no payments to or for the benefit of that guardian shall be made pursuant to this Section unless approved by a Co-Trustee who meets the requirements to be a Independent Special Trustee in relation to the guardian, and the guardian may, if no such person is serving as a Co-Trustee, appoint a person to serve as the Independent Special Trustee with regard thereto. In lieu of providing funds to the guardian for the purposes specified above, my Trustee may make property acquired by this Trust available for use by the guardian to meet the purposes of these provisions.

**h. Provisions Governing When One Beneficiary Causes the Death of Another Beneficiary**

Any beneficiary who intentionally causes the death of another beneficiary shall forfeit all rights and benefits whatsoever to any interest in this Trust if:



- i. the beneficiary is convicted of a felony in connection with the death of the deceased beneficiary; or
- ii. the beneficiary is found liable in a civil wrongful death action in connection with the death of the other beneficiary

The forfeiture of benefits and rights shall include the forfeiture of the right to exercise any power of appointment or any right to serve in any fiduciary or representative capacity, including trustee, executor, personal representative, or agent. In addition, the beneficiary that causes the death of the other beneficiary as well as all of the beneficiary's descendants shall be deemed to have predeceased the deceased beneficiary. The trust interest of the deceased beneficiary shall be distributed to those persons or trusts that would have succeeded to the interest had the beneficiary that caused the death of the other beneficiary predeceased the deceased beneficiary.

My Trustee shall have the broadest possible discretion and authority to investigate the death of any beneficiary if my Trustee has reason to suspect that another beneficiary wrongfully caused the death of the deceased beneficiary. My Trustee shall investigate the death to determine whether the other beneficiary caused the death of the deceased beneficiary. I expressly authorize my Trustee to expend trust funds for legal, forensic, and investigative experts to assist my Trustee in pursuing such an investigation. My Trustee shall provide the information gained from any investigation to those persons that would have standing to bring a criminal action or a civil wrongful death action against the beneficiary that my Trustee believes wrongfully caused the death of the other beneficiary.

If, following a diligent inquiry, my Trustee determines that there is a substantial likelihood that a beneficiary has wrongfully caused the death of a deceased beneficiary of this trust, then my Trustee may, in its sole and absolute discretion, withhold trust distributions to that beneficiary until any civil or criminal action relating to the death of the beneficiary has been finally adjudicated. If a court of competent jurisdiction determines that the beneficiary is civilly or criminally liable, my Trustee may also bring any action to recover from the beneficiary any distributions made to the beneficiary following the date of death of the deceased beneficiary.

If no civil or criminal action is brought after a five year period following the date of the death of the deceased beneficiary, or if such action is brought and the defendant beneficiary is acquitted of both civil and criminal liability, my Trustee shall reinstate the defendant beneficiary as a beneficiary of this trust and pay over to the defendant beneficiary any specific benefits that were expressly withheld during the pendency of the civil or criminal proceeding or during the five year period if no civil or criminal action is brought.

I understand that the nature of the discretion and authority given to my Trustee by this paragraph may subject my Trustee to litigation by a beneficiary whose rights are affected under this paragraph. If any legal or equitable action is brought against my Trustee in connection with my Trustee's action taken under this paragraph, I authorize my Trustee to expend such funds from the separate trust share of the deceased beneficiary as my Trustee determines are necessary to provide for my Trustee's defense, including costs and attorneys fees. My Trustee shall be indemnified and held harmless by such separate trust share from any loss, claim or damage in connection with any claim arising out of this provision which my Trustee shall incur as a result of any action taken in good faith by my Trustee, regardless of the ultimate outcome of the matter.

**i. Use of Assets**

Rather than making distributions to a beneficiary which the beneficiary may use to purchase assets in his or her own name, I encourage, but do not require, my Trustee to acquire trust assets for the use of a beneficiary, or to otherwise make trust assets available for use by the beneficiary, in situations in which the ownership by the trust would be beneficial to the beneficiary's overall tax objectives and would not, in the opinion of the Trustee, expose the trust to unreasonable and unnecessary risks.

**j. Prohibitions Against Certain Distributions**

Notwithstanding any other provision of this trust agreement, in no event shall the aggregate distributions to all beneficiaries made pursuant to the provisions of this Article Eight exceed eight (8%) percent of the value of the trust in any calendar year. For purposes of valuing the trust for determining the amount that can be

distributed under this provision, the value shall be the value of the trust on the 31<sup>st</sup> day of December of the year prior to the year in which the subject distribution is made.

#### **Section 4. Distribution of Trust Shares for My Beneficiaries**

The share of each Primary Beneficiary who survives me shall be distributed as follows:

**a. Distribution of Trust Share for CAROLINE D. DAVIS**

The trust share for CAROLINE D. DAVIS shall be held in trust and administered and distributed as follows:

**1. Distributions of Net Income**

My Trustee, in its sole and absolute discretion, shall apply to, or for the benefit of, CAROLINE D. DAVIS and such other beneficiaries to whom distributions are authorized in Section 3 of this Article as much of the net income from her trust share as my Trustee in its sole and absolute discretion shall determine.

**2. Distributions of Principal**

My Trustee, in its sole and absolute discretion, shall apply to, or for the benefit of, CAROLINE D. DAVIS and such other beneficiaries to whom distributions are authorized in Section 3 of this Article as much of the principal from her trust as my Trustee in its sole and absolute discretion shall determine.

**3. Guidelines for Discretionary Distributions**

To the extent that I have given my Trustee any discretionary authority over the distribution of income or principal to CAROLINE D. DAVIS, it is my desire that my Trustee be liberal in exercising such discretion and that

distributions be made in accordance with the general guidelines I have outlined in Section 3 of this Article.

#### **4. Distribution on the Death of CAROLINE D. DAVIS**

Upon the death of CAROLINE D. DAVIS, any property remaining in her trust share shall be divided and allocated to the then living descendants of CAROLINE D. DAVIS, per stirpes, to be held and administered in separate trust shares for each of such descendants upon the same terms and provisions set forth that govern the trust share for CAROLINE D. DAVIS during her lifetime.

If CAROLINE D. DAVIS has no then living descendants, any property in her trust share shall be distributed to my descendants, per stirpes. Each such share shall be added to any existing trust share held by my Trustee for that beneficiary. If no separate trust share then exists for that beneficiary, the trust share shall be held and administered in separate trust share for that beneficiary upon the same terms and provisions that govern the separate trust share for CAROLINE D. DAVIS during her lifetime.

If I have no descendants then living, my Trustee shall distribute the trust property as provided in Article Nine of this agreement.

#### **5. Continuation of Trust Shares for Descendants**

Upon the death of any beneficiary for whom a trust share shall have been established pursuant to subparagraph 4, any property in such beneficiary's trust share shall be divided and allocated to the beneficiary's then living descendants, per stirpes, to be held and administered in separate trust shares for each of the descendants of such beneficiary upon the same terms and provisions that govern the trust share for the deceased beneficiary during his or her lifetime.

Upon the death of the descendants of a beneficiary for whom a trust share shall have been established, and likewise upon the death of their descendants for whom a

trust share shall have been established, a separate trust share shall be established for the descendants of a deceased beneficiary, per stirpes, and held and administered pursuant to the provisions of this subparagraph 5 from generation to generation until the expiration of the Rule Against Perpetuities period described in Article Fourteen of this agreement. Upon the expiration of the Rule Against Perpetuities period, such shares shall be distributed as therein provided.

If any beneficiary of a trust share has no descendants living at his or her death, any property in the trust share of such beneficiary shall be divided and allocated to the then living descendants, per stirpes, of the marriage of the most immediate ancestor of such beneficiary that is my descendant and has descendants then living. Such property shall be held and administered in separate trust shares for each such beneficiary upon the same terms and provisions that governed the trust share for the deceased beneficiary during his or her lifetime.

If there are no then living descendants of the marriage of any ancestor of such beneficiary that is my descendant, then my Trustee shall distribute such trust property as provided in Article Nine of this agreement.

**b. Distribution of Trust Share for CHRISTOPHER D. DAVIS**

The trust share for CHRISTOPHER D. DAVIS shall be held in trust and administered and distributed as follows:

**1. Distributions of Net Income**

My Trustee, in its sole and absolute discretion, shall apply to, or for the benefit of, CHRISTOPHER D. DAVIS and such other beneficiaries to whom distributions are authorized in Section 3 of this Article as much of the net income from his trust share as my Trustee in its sole and absolute discretion shall determine.

## **2. Distributions of Principal**

My Trustee, in its sole and absolute discretion, shall apply to, or for the benefit of, CHRISTOPHER D. DAVIS and such other beneficiaries to whom distributions are authorized in Section 3 of this Article as much of the principal from his trust as my Trustee in its sole and absolute discretion shall determine.

## **3. Guidelines for Discretionary Distributions**

To the extent that I have given my Trustee any discretionary authority over the distribution of income or principal to CHRISTOPHER D. DAVIS, it is my desire that my Trustee be liberal in exercising such discretion and that distributions be made in accordance with the general guidelines I have outlined in Section 3 of this Article.

## **4. Distribution on the Death of CHRISTOPHER D. DAVIS**

Upon the death of CHRISTOPHER D. DAVIS, any property remaining in his trust share shall be divided and allocated to the then living descendants of CHRISTOPHER D. DAVIS, per stirpes, to be held and administered in separate trust shares for each of such descendants upon the same terms and provisions set forth that govern the trust share for CHRISTOPHER D. DAVIS during his lifetime.

If CHRISTOPHER D. DAVIS has no then living descendants, any property in his trust share shall be distributed to my then living descendants, per stirpes. Each such share shall be added to any existing trust share held by my Trustee for that beneficiary. If no separate trust share then exists for that beneficiary, the trust share shall be held and administered in separate trust share for that beneficiary upon the same terms and provisions that govern the separate trust share for CHRISTOPHER D. DAVIS during his lifetime.

If I have no descendants then living, my Trustee shall distribute the trust property as provided in Article Nine of this agreement.

##### **5. Continuation of Trust Shares for Descendants**

Upon the death of any beneficiary for whom a trust share shall have been established pursuant to subparagraph 4, any property in such beneficiary's trust share shall be divided and allocated to the beneficiary's then living descendants, per stirpes, to be held and administered in separate trust shares for each of the descendants of such beneficiary upon the same terms and provisions that govern the trust share for the deceased beneficiary during his or her lifetime.

Upon the death of the descendants of a beneficiary for whom a trust share shall have been established, and likewise upon the death of their descendants for whom a trust share shall have been established, a separate trust share shall be established for the descendants of a deceased beneficiary, per stirpes, and held and administered pursuant to the provisions of this subparagraph 5 from generation to generation until the expiration of the Rule Against Perpetuities period described in Article Fourteen of this agreement. Upon the expiration of the Rule Against Perpetuities period, such shares shall be distributed as therein provided.

If any beneficiary of a trust share has no descendants living at his or her death, any property in the trust share of such beneficiary shall be divided and allocated to the then living descendants, per stirpes, of the marriage of the most immediate ancestor of such beneficiary that is my descendant and has descendants then living. Such property shall be held and administered in separate trust shares for each such beneficiary upon the same terms and provisions that governed the trust share for the deceased beneficiary during his or her lifetime.

If there are no then living descendants of the marriage of any ancestor of such beneficiary that is my descendant,

then my Trustee shall distribute such trust property as provided in Article Nine of this agreement.

**c. Distribution of Trust Share for Afterborn Beneficiaries**

The trust share for any beneficiary of mine born after the creation of this trust agreement shall be held in trust and administered and distributed as follows:

**1. Distributions of Net Income**

My Trustee, in its sole and absolute discretion, shall apply to, or for the benefit of such afterborn beneficiary and such other beneficiaries to whom distributions are authorized in Section 3 of this Article as much of the net income from his or her trust share as my Trustee in its sole and absolute discretion shall determine.

**2. Distributions of Principal**

My Trustee, in its sole and absolute discretion, shall apply to, or for the benefit of the afterborn beneficiary and such other beneficiaries to whom distributions are authorized in Section 3 of this Article as much of the principal from his or her trust as my Trustee in its sole and absolute discretion shall determine.

**3. Guidelines for Discretionary Distributions**

To the extent that I have given my Trustee any discretionary authority over the distribution of income or principal to the afterborn beneficiary, it is my desire that my Trustee be liberal in exercising such discretion and that distributions be made in accordance with the general guidelines I have outlined in Section 3 of this Article.



#### **4. Distribution on the Death of the Afterborn Beneficiary**

Upon the death of the afterborn beneficiary, any property remaining in his or her trust share shall be distributed to the then living descendants of the afterborn beneficiary, per stirpes, to be held and administered in separate trust shares for each of such descendants upon the same terms and provisions set forth that govern the trust share for the afterborn beneficiary during his or her lifetime.

If the afterborn beneficiary has no then living descendants, any property in his or her trust share shall be distributed to my then living descendants, per stirpes. Each such share shall be added to any existing trust share held by my Trustee for that beneficiary. If no separate trust share then exists for that beneficiary, the trust share shall be held and administered in separate trust share for that beneficiary upon the same terms and provisions that govern the separate trust share for the afterborn beneficiary during his or her lifetime.

If I have no descendants then living, my Trustee shall distribute the trust property as provided in Article Nine of this agreement.

#### **5. Continuation of Trust Shares for Descendants**

Upon the death of any beneficiary for whom a trust share shall have been established pursuant to subparagraph 4, any property in such beneficiary's trust share shall be divided and allocated to the beneficiary's then living descendants, per stirpes, to be held and administered in separate trust shares for each of the descendants of such beneficiary upon the same terms and provisions that govern the trust share for the deceased beneficiary during his or her lifetime.

Upon the death of the descendants of a beneficiary for whom a trust share shall have been established, and likewise upon the death of their descendants for whom a trust share shall have been established, a separate trust share shall be established for the descendants of a

deceased beneficiary, per stirpes, and held and administered pursuant to the provisions of this subparagraph 5 from generation to generation until the expiration of the Rule Against Perpetuities period described in Article Fourteen of this agreement. Upon the expiration of the Rule Against Perpetuities period, such shares shall be distributed as therein provided.

If any beneficiary of a trust share has no descendants living at his or her death, any property in the trust share of such beneficiary shall be divided and allocated to the then living descendants, per stirpes, of the marriage of the most immediate ancestor of such beneficiary that is my descendant and has descendants then living. Such property shall be held and administered in separate trust shares for each such beneficiary upon the same terms and provisions that governed the trust share for the deceased beneficiary during his or her lifetime.

If there are no then living descendants of the marriage of any ancestor of such beneficiary that is my descendant, then my Trustee shall distribute such trust property as provided in Article Nine of this agreement.

#### **Section 5. Share of a Descendant of a Deceased Beneficiary**

Each share set aside for a deceased beneficiary, if any, which has then living descendants shall be divided, administered, and distributed as follows:

**a. Division into Separate Shares**

Each share set aside for a deceased beneficiary who has then living descendants shall be divided into as many equal shares as shall be necessary to create one equal share for such deceased beneficiary's descendants, per stirpes.

**b. Distribution of Shares for Descendants**

Any share established for a then living descendant of a deceased beneficiary of mine pursuant to Paragraph a. of this Section 5 shall

be held and administered upon the same terms and provisions set forth in Section 4 (c) of this Article that governs the separate shares created for afterborn beneficiaries.

## **Article Nine**

### **Ultimate Distribution Pattern**

If at any time there is no person, corporation, or other entity entitled to receive all or any part of my trust property, then all of the trust property shall be distributed to the Ilus W. Davis Foundation.

If the Ilus W. Davis Foundation is not then in existence, my Trustee shall distribute such property to the Kansas City Community Foundation to be held and administered in a separate fund in the name of Ilus and Beatrice Davis. This fund shall be used to carry out the charitable purposes which are as similar as possible to the mission and purpose of the Ilus W. Davis Foundation.

**Article Ten**  
**Methods of Distribution and Trust**  
**Administration with Regard to**  
**Minor and Disabled Beneficiaries**

**Section 1. General Guidelines for Distribution**

Whenever a distribution is authorized or required to be made by a provision of this agreement to any beneficiary who is disabled or incapacitated, such distribution may be made by my Trustee:

Without continuing court supervision or the intervention of a guardian, conservator, or any other legal representative.

Without giving or requiring any bond or surety on bond.

Pursuant to any of the methods authorized under this Article.

In making distributions under this Article, disability or incapacity shall include adjudicated mental incapacity by a court of competent jurisdiction, or incapacity because of age, illness, injury or any other cause as determined pursuant to the terms of this Agreement.

Before making any distributions to beneficiaries under this Article, it is my desire that my Trustee, to the extent that it is both reasonable and possible:

Inquire into the ultimate disposition of the distributed funds.

Take into consideration the behavior of trust beneficiaries with regard to their disposition of prior distributions of trust property.

My Trustee shall obtain a receipt from the person, corporation, or other entity receiving any distribution called for in this Article.

## **Section 2. Methods of Payment**

My Trustee may make the distributions called for in this Article in any one or more of the following ways:

Directly to a beneficiary.

To persons, corporations, or other entities for the use and benefit of the beneficiary.

To an account in a commercial bank or savings institution in the name of the beneficiary, or in a form reserving the title, management, and custody of the account to a suitable person, corporation, or other entity for the use and benefit of the beneficiary.

In any prudent form of annuity purchased for the use and benefit of the beneficiary.

To any person or duly licensed financial institution, including my Trustee, as a custodian under the Uniform Transfers to Minors Act, or any similar act, of any state, or in any manner allowed by any state statute dealing with gifts or distributions to minors or other individuals under a legal disability.

To any agent under a valid power of attorney.

To any guardian, or other person deemed by my Trustee to be responsible, and who has assumed the responsibility of caring for the beneficiary.

## **Section 3. Special Instructions for Beneficiaries Disabled Due to Addictive Situations**

Prior to making any distribution authorized under this Agreement, or as a condition for further distributions, my Trustee may require that any beneficiary that has been determined to be disabled as provided in this Section due to a drug, alcohol, gambling, chemical or other dependency disorder, participate in or complete a rehabilitation program aimed at combating the dependency problem.

If my Trustee suspects that a beneficiary has a dependency problem, my Trustee shall advise my Protector, and together they shall name a panel of three individuals who have expertise in the suspected dependency. If the three-member panel selected advise the Trustee that the beneficiary is disabled by reason of a dependency problem, or if the beneficiary refuses to cooperate with the three-member panel in the process of making the determination, my Trustee may consider the beneficiary to be disabled for purposes of this provision.

If a beneficiary is disabled by reason of drug, alcohol, gambling, chemical or other dependency disorder, my Trustee may condition further distributions, or the amount of distributions, upon participation in, or satisfactory completion of, a rehabilitation program for the problem involved, and/or upon appropriate medical, chemical or psychological tests to establish that the problem has been controlled and remains under control.

My Trustee, in its sole and absolute discretion, may determine the nature and extent of the rehabilitative program, including follow up requirements. I direct that my Trustee consult with the three member panel selected to evaluate the matter of the beneficiary's dependency as well as counselors from rehabilitative programs selected by my beneficiary's medical doctors in order to best design an individualized program for the affected beneficiary.

I specifically authorize and direct my Trustee to pay the expenses of rehabilitation for the affected beneficiary from that beneficiary's trust property.

If any of my beneficiaries are incarcerated, I authorize my Trustee to withhold or limit distributions to such beneficiary during the period of such incarceration and, thereafter, to condition some or all of such distributions on participation by the beneficiary in counseling or therapy intended to reduce the likelihood of recidivism.

## **Article Eleven**

### **The Resignation, Replacement, and Succession of My Trustee and the Protector**

#### **Section 1. The Resignation of a Trustee**

Any Trustee may resign by giving thirty days' written notice to me or to my legal representative. If I am not living, the notice shall be delivered to my Trustees, if any, and to all of the beneficiaries then eligible to receive mandatory or discretionary distributions of net income from any trust created under this agreement.

If a beneficiary is a minor or is legally incapacitated, the notice shall be delivered to that beneficiary's guardian or other legal representative.

#### **Section 2. The Removal of a Trustee**

Any Trustee may be removed as follows:

**a. No Removal by Me**

I shall have no right to remove any Trustee.

**b. Removal by My Protector**

During my lifetime, any Trustee may be removed by my Protector, unless my Protector is acting under duress or legal compulsion.

**c. Removal by Other Beneficiaries After My Death**

After my death, a majority of the beneficiaries then eligible to receive mandatory or discretionary distributions of net income under this agreement may remove any Trustee.



**d. No Cause for Removal Needed**

No person having a right to remove a Trustee need give any Trustee being removed a reason, cause, or ground for such removal.

**e. Notice of Removal**

Notice of removal shall be effective when made in writing by either:

Personally delivering notice to the Trustee and securing a written receipt, or

Mailing notice in the United States mail to the last known address of the Trustee by certified mail, return receipt requested.

**Section 3. Replacement of Individual Trustees**

If an individual Trustee is removed, dies, resigns, becomes legally incapacitated, or is otherwise unable or unwilling to serve, that Trustee shall be replaced as follows:

**a. Replacement By Me**

I shall have no right to replace any Trustee.

**b. Replacement by Others During My Lifetime**

While I am living, if a Trustee dies, resigns, is removed or is unable or unwilling to continue serving as a Trustee of this trust, my Trustee shall be replaced by one or more successor Qualified Trustees selected by the Protector.

If the Protector fails to act within a reasonable period of time but in any event delays longer than 30 days to fill a vacancy in Trusteeship, a successor Trustee may be appointed by my surviving children but only if they both agree. If both of my children are incapacitated, deceased or otherwise fail to act within a reasonable time but in any event delay longer than 30 days, a majority in interest of the beneficiaries who are my descendants and who are then eligible for

distributions of income or principal from this trust shall have the right to name a Qualified Trustee.

The authority of any beneficiary who is not of legal age or otherwise suffers from a lack of legal incapacity shall be exercised by his or her legal or natural guardian or conservator, as the case may be.

**c. Replacement After My Death**

After my death, my Trustee shall be replaced by one or more successor Qualified Trustees selected by the Protector.

If the Protector fails to act within a reasonable period but in any event delays longer than 30 days, a successor Trustee may be appointed by my children, but only if they both agree. If both of my children are incapacitated, deceased or otherwise fail to act within a reasonable period of time but in any event delay longer than 30 days, a majority in interest of the beneficiaries who are my descendants and who are then eligible for distributions of income or principal from this trust shall have the right to name a Qualified Trustee.

The authority of any beneficiary who is not of legal age or otherwise suffers from a lack of legal incapacity shall be exercised by his or her legal or natural guardian or conservator, as the case may be.

**Section 4. Replacement of Corporate Trustees**

If a corporate Trustee is removed, resigns, or is otherwise unable or unwilling to serve, that Trustee shall be replaced in the same manner as any other Trustee.

**Section 5. Qualified Trustee**

A "Qualified Trustee" shall mean a corporate fiduciary that satisfies the requirements of Section 6 of this Article or an individual fiduciary acceptable to my Protector. If the person authorized to appoint a successor Trustee fails to designate a Qualified Trustee, any beneficiary (including a contingent beneficiary) may petition a court of competent jurisdiction, ex parte, to designate a Qualified Trustee to serve as a Trustee.

The court that designates the successor Trustee shall not acquire any jurisdiction over any trust created under this agreement, except to the extent necessary to name a Qualified Trustee as a successor Trustee

## **Section 6. Corporate Fiduciaries**

Any corporate fiduciary named in this trust agreement or appointed by a court of competent jurisdiction as a Trustee must be a bank or trust company situated anywhere in the world having trust powers under applicable law.

Such corporate fiduciary shall:

- a. have a combined capital and surplus of at least 5 million dollars; or
- b. maintain in force a policy of insurance with policy limits of not less than 5 million dollars covering the errors and omissions of the Trustee with a solvent insurance carrier licensed to do business in the jurisdiction in which the Trustee has its corporate headquarters.

## **Section 7. Powers and Liabilities of Successor Trustees**

Any successor Trustee, whether corporate or individual, shall have all of the rights, powers, and privileges, and be subject to all of the obligations and duties, both discretionary and ministerial, as given to the original Trustee.

Any successor Trustee shall be subject to any restrictions imposed on the original Trustees. No successor Trustee shall be required to examine the accounts, records, and acts of any previous Trustees.

No successor Trustee shall in any way be responsible for any act or omission to act on the part of any previous Trustee.

## **Section 8. The Protector**

If the initial Protector or any subsequent Protector is unable or unwilling to serve or to continue to serve in that capacity, the successor Protector shall be

an individual designated in writing by the previously serving Protector as provided in this Section. If a Protector dies, resigns, becomes incapacitated and has not named a successor Protector, the then serving Protector shall be replaced by the following individuals who shall serve as Protector in the order in which their names appear:

First, STEPHEN K. LEHNARDT, my Protector

Second, an individual person who is designated in a written instrument given by CHRISTOPHER D. DAVIS and CAROLINE D. DAVIS, or the survivor of them.

If at any time there is no Protector designated herein who is acting as to any trust hereunder, the Protector of such trust shall be such individual as the last serving Protector has designated in an instrument in writing.

In the absence of any such designation, the Protector shall be an individual person (other than me) selected by a court of competent jurisdiction in Alaska. I request that any individual named by my children, the last serving Protector or any court be an individual with mature judgment who has the interests of myself and my beneficiaries as his or her primary concern. A Protector may resign in the same manner as a Trustee may resign.

I have appointed the Trust Protector to give advice to the Trustee and to ensure that the Trustee properly fulfills its duties. Trustmakers often rely on their trustees to exercise broad discretion, and rely on such trustees to make determinations that would be consistent with the Trustmakers' desires. However, my Trustee hereunder may not know me and my family well enough to be able to do this well. Therefore, I have selected persons to act as Trust Protector whom I believe know me and can determine what I would have desired with regard to my family better than my Trustee. I do not wish or expect my Trust Protector to be subservient to my desires, or to consult me with regard to the advice my Trust Protector gives and the actions my Trust Protector takes.

Some of the persons selected as Trust Protector or successor Trust Protector may have other personal or professional relationships which may impose or imply fiduciary or other duties to me. I hereby fully relieve such Trust Protector from any such duties to the extent the Trust Protector is acting as Trust Protector. I instruct the Trust Protector to make independent decisions regarding what my Trust Protector believes would best serve my family and the broad objectives for my family expressed in this instrument.

The actions of my Trust Protector shall not be subject to any review or supervision by any court. My Trust Protector may act, or refrain from acting, free of any duty, fiduciary or otherwise, to me or any member of my family. Instead, I direct my Trust Protector to act freely and independently, taking my broad objectives into account only to the extent that my Trust Protector believes they are important, and without consultation with, or influence by, me.

The Protector shall be invested with the following authority:

**a. Power Respecting Trustees**

During my life, the Protector is authorized, in the exercise of sole and absolute discretion, in accordance with the provisions of Article Eleven hereof, to designate successor Trustees and to remove any and all Trustees acting hereunder and appoint successor Trustees in their place; provided, however, that no Protector may appoint me, himself or herself, any person who is married to the Protector or who is related to the Protector or his or her spouse within the third degree of consanguinity, or who is a partner or fellow shareholder of the Protector in any enterprise in which the Protector holds a ten percent (10%) interest or to which he devotes on an average more than 10 hours per week, or who is any subsequent spouse of mine, or any spouse of any descendant of mine.

**b. Power to Advise Regarding Distributions**

The Protector may advise the Trustee with regard to distributions that the Protector believes would carry out the intentions of the Trustmaker and which the Protector believes would be in the best interests of the beneficiaries. However, the Trustee shall have no legal or moral obligation whatsoever to act in accordance with any such advice.

This agreement does not impose any fiduciary responsibility on the Protector to monitor the acts of the Trustees. The Protector shall not be liable for failing to remove any Trustee even if such Trustee may be guilty of a gross violation of his or her fiduciary duties hereunder.

**c. Power to Add Beneficiaries During My Lifetime**

The Protector shall have the authority to appoint the following persons or classes of persons as additional discretionary beneficiaries under Article Three of this agreement:

- i. Myself
- ii. Any descendant of my grandparents;
- iii. The spouse of any beneficiary identified in Article Three of this agreement

Such appointment may identify the added beneficiary generally or may limit the distribution discretion of my Trustee to an amount specified in the written instrument exercising this power delivered to my Trustee. My Trustee shall have discretion to make distributions to, or for the benefit of, such appointee subject to the other limitations of Section 9 of Article Three.

The Trust Protector shall not exercise this power at any time that this Trust holds real property in a jurisdiction where the holding of such real property would impact adversely on the spendthrift restrictions hereof or on the ability to maintain a perpetual trust after such exercise. My Trustee shall have no obligation to distribute to any such appointee the amounts specified in such instruments. My Trustee shall have discretion to make distributions (limited by the aggregate amounts specified in such appointments) to, or for the benefit of, such appointee subject to the other limitations of Section 9 of Article Three.

**d. Power to Allow Beneficiaries to Purchase Property from the Trust on Favorable Terms.**

The Protector shall have the authority to allow any beneficiary of this trust (other than a beneficiary added by my Protector under the preceding clause), without the approval or consent of any adverse party, to purchase, exchange, or otherwise deal with or dispose of any portion of the principal or the income of this trust for less than an adequate consideration in money or money's worth, but in no event for less than 90% of the fair market value of such portion of the principal or income from this trust.

**e.        Limitation on Exercise of Powers of the Protector**

No action of the Protector shall have any force or effect unless accompanied by a representation, warranty and declaration by the Protector that its action is not made under duress or legal compulsion.

**Article Twelve**  
**General Matters and Instructions**  
**with Regard to my Trustee**

**Section 1. Use of "Trustee" Nomenclature**

As used throughout this agreement, the word "Trustee" shall refer to the initial Trustee as well as any single, additional, or successor Trustee. It shall also refer to any individual, corporation, or other entity acting as a replacement, substitute, or added Trustee.

**Section 2. No Requirement to Furnish Bond or Registration**

My Trustee shall not be required to furnish any bond for the faithful performance of its duties. This trust shall be registered with the State of Alaska in the manner required by Alaska law

If a bond is required by any law or court of competent jurisdiction, it is my desire that no surety be required on such bond.

**Section 3. Court Supervision Not Required**

All trusts created under this agreement shall be administered free from the active supervision of any court.

Any proceedings to seek judicial instructions or a judicial determination shall be initiated by my Trustee in the appropriate state court having original jurisdiction of those matters relating to the construction and administration of trusts.



#### **Section 4. My Trustee's Responsibility to Make Information Available to Beneficiaries**

During my lifetime, my Trustee shall report at least semi-annually to my Protector and to my children or to the survivor of them. After the death of my children, my Trustee shall report, at least semiannually, to the beneficiaries then eligible to receive mandatory or discretionary distributions of the net income from the various trusts created in this agreement and all of the receipts, disbursements, and distributions occurring during the reporting period along with a complete statement of the trust property.

With respect to any trust asset that is not cash or marketable securities, my Trustee shall only have the duty to report to the beneficiaries the information that is provided to my Trustee. My Trustee shall be indemnified and held harmless by the assets in the trust from any loss, claim or damage [including costs and attorney's fees] incurred by my Trustee arising out of any claim by a beneficiary relating to my Trustee's duty to report information relating to any non-marketable securities held by my Trustee.

The trust's books and records along with all trust documentation shall be available and open at all reasonable times to the inspection of the trust beneficiaries and their representatives.

My Trustee shall not be required to furnish trust records or documentation to any individual, corporation, or other entity that is not a beneficiary, does not have the express written approval of a beneficiary, or is not requesting such pursuant to a court order.

#### **Section 5. Delegation Among the Trustees**

Any Trustee may delegate to any other Trustee the power to exercise any or all powers granted my Trustee in this agreement, including those that are discretionary, if allowed by law.

My delegating Trustee may revoke any such delegation at will.

The delegation of any such power, as well as the revocation of any such delegation, shall be evidenced by an instrument in writing executed by the delegating Trustee.

As long as any such delegation is in effect, any of the delegated powers may be exercised by the Trustee receiving such delegation with the same force

and effect as if the delegating Trustee had personally joined in the exercise of such power.

#### **Section 6. Utilization of Substitute Trustee**

If any Trustee is unwilling or unable to act as to any trust property, my Trustee shall designate, in writing, an individual, bank trust department, or trust company to act as a substitute Trustee with regard to such property.

The property being administered by the substitute Trustee, as well as the net income therefrom, shall be distributed or remitted as directed by the delegating Trustee consistent with the terms of this agreement.

Each substitute Trustee shall exercise all of the fiduciary powers granted by this agreement unless expressly limited by the delegating Trustee in the instrument appointing such substitute Trustee, or by any provision within this Section.

Any substitute Trustee may resign at any time by delivering written notice to my Trustee to that effect.

Following my death, a Qualified Trustee may appoint any of my descendants, or the spouse of any of my descendants, as a special Substitute Trustee of this trust, or any subtrust created hereby, whose sole responsibility shall be to determine the amount to be distributed in any period to the beneficiaries of this trust, or any such subtrust. Such Substitute Trustee shall have no authority to exercise any discretion with regard to distributions to, or for the benefit of, such Substitute Trustee and, if such Substitute Trustee has been delegated the power to determine the amount of any distributions to or for the Substitute Trustee's benefit, his/her authority shall be limited by an ascertainable standard only to distributions reasonably necessary for his/her health, education, maintenance and support. The actions of any Substitute Trustee shall be limited by the provisions of the agreement with regard to the actions of an Interested Trustee. Notwithstanding anything to the contrary in this instrument, in the event that the Qualified Trustee delegates to such a Substitute Trustee the responsibility to determine the amount to be distributed in any period to the beneficiaries of this trust, or any such subtrust, the Substitute Trustee shall have all the powers of the Trustees hereof with regard to such distributions, and no other Trustee, including the Qualified Trustee which appointed such Substitute Trustee, shall have any responsibility to determine appropriate distributions under the terms of this Trust.

## **Section 7. Indemnification of the Trustee**

I recognize that some persons may be hesitant to serve as Trustee of this trust agreement because of a concern about potential liability, particularly with respect to the management of assets in closely held corporations or partnerships. Therefore I direct that my Trustee shall not incur any liability by reason of any error of judgment, mistake of law, or action of any kind taken or omitted to be taken in connection with respect to the management of any non-marketable securities held by my trust. My Trustee shall be fully indemnified by the trust estate against any claim or demand by any trust beneficiary or trust creditor arising out of any claim relating to the management of such assets, except for any claim or demand based on my Trustee's own willful misconduct or gross negligence proved by clear and convincing evidence. Expenses incurred by my Trustee in defending any such claim or demand shall be paid by the trust estate in advance of the final disposition of such claim or demand, upon receipt of an undertaking by or on behalf of such Trustee to repay such amount, if it shall ultimately be determined that such Trustee is not entitled to be indemnified as authorized in this Section.

My Trustee shall not incur liability to the trust nor to the trust beneficiaries for a decision to invest or to retain an investment of all or any part of the trust property in a partnership, limited partnership, limited liability company, or other entity which provides additional protection of the assets of the trust or which provides for the convenient management of jointly owned family property (including property held by one or more trusts for members of the family), even if restrictions on transfer and liquidation may cause the ownership interest to have a fair market value which is less than the fair market value of the assets contributed to the entity, or if the lack of control over the interests (or lack of diversification of investments as a result thereof) have an adverse impact on the value of the assets hereof.

## **Section 8. Trustee's Fee**

My Trustee shall be entitled to fair and reasonable compensation for the services it renders as a fiduciary. The amount of compensation shall be an amount equal to the customary and prevailing charges for services of a similar nature during the same period of time and in the same geographic locale.

My Trustee shall be reimbursed for the reasonable costs and expenses incurred in connection with its fiduciary duties under this agreement.

### **Section 9. A Majority of Trustees Required to Control**

Except as otherwise provided herein, when more than two Trustees are acting, the concurrence and joinder of a majority of my Trustees shall control in all matters pertaining to the administration of any trust created under this agreement, except as to matters properly delegated to one of them.

Except as otherwise provided herein, if only two Trustees are acting, the concurrence and joinder of both shall be required, except as to matters properly delegated to one of them.

As to any matter where my Trustees cannot attain the concurrence or joinder of a majority of Trustees, my Trustees may designate by agreement of all of my Trustees a third party to determine such matter, and my Trustees shall abide by the decision of such third party, or, if they cannot agree on a third party, may seek the instructions of a court of competent jurisdiction.

Any dissenting or abstaining Trustee may be absolved from personal liability by registering a written dissent or abstention with the records of the trust. The dissenting Trustee shall thereafter act with the other Trustees in any manner necessary or appropriate to effectuate the decision of the majority.

### **Section 10. Successor Corporate Fiduciaries**

If any bank or trust company ever succeeds to the trust business of any corporate fiduciary serving as a Trustee under this agreement, whether because of a name change or any other form of reorganization, or if such corporate fiduciary ever transfers all of its existing business to any other bank or trust company, the successor shall thereupon, without any action being required, succeed to the trusteeship as if originally named.

### **Section 11. Early Termination of Trusts Based on Cost**

Notwithstanding any other provision of this trust, if at any time after my death, any trust created in this trust is reduced to an amount which the Trustee, in the Trustee's sole and absolute discretion, determines that the trust is no longer economically feasible (which shall not be at any time when the reasonably anticipated annual costs of operating the trust do not exceed the greater of 15 percent of anticipated annual trust income or one and one-half percent of the trust's assets), the Trustee may, in the Trustee's sole discretion, either:

terminate such trust and distribute the trust property to the person(s) then entitled to the income or to receive or to have the benefit of the income therefrom or to the legal representative of such person. If there is more than one income beneficiary, the distribution to such income beneficiaries shall be made in the proportion in which they are beneficiaries or if no proportion is designated, in equal shares to such beneficiaries; or

purchase and deliver to the income beneficiary(ies) restrictive savings accounts, certificates of deposit, annuities, endowments, or comparable investments which the Trustee deems proper; or

distribute the trust assets to a custodian for the beneficiary(ies) under the applicable Uniform Transfers (or Gifts) to Minors Act.

## **Section 12. Generation-Skipping Tax Provisions**

In order to minimize the impact of any generation-skipping tax that may be applied to any of the trusts created by this agreement or their beneficiaries, my Trustee, in its sole and absolute discretion, is authorized to take the following actions:

### **a. Division into Exempt and Nonexempt Trusts**

If any trust created under this agreement would be partially exempt from generation-skipping tax by reason of an allocation of a generation-skipping tax exemption to it, prior to such allocation my Trustee shall divide the total trust assets into two separate trust shares of equal or unequal value, to permit allocation of the exemption solely to one trust share (the "exempt trust").

The exempt trust shall consist of a fractional interest of the total trust assets in an amount necessary to cause the exempt trust to be entirely exempt from generation-skipping tax. The other trust share (the "nonexempt trust") shall consist of the remaining fractional interest of the total trust assets.

My Trustee shall have complete authority to make allocations of trust property between the Exempt Shares and the Non-Exempt

Shares established in this Section. Property conveyed or assigned in kind to the Exempt Shares shall be valued at its value as finally determined for federal estate tax purposes. However, if specific property is allocated to these shares, the division of assets shall be made in a manner that fairly reflects net appreciation or depreciation in the value of the assets measured from the valuation date for federal estate tax purposes to the date of funding. My Trustee shall maintain separate accounts for the exempt trust and the nonexempt trust.

Any exempt trust or nonexempt trust and any exempt share or nonexempt share established under this agreement may be referred to by such name as may be designated by my Trustee.

**b. Additions to a Separate Trust**

If a trust under this agreement, whether created under this Section or not, is entirely exempt or nonexempt from generation-skipping tax and adding property to it would partially subject the trust to generation-skipping tax, my Trustee may hold that property in a separate trust in lieu of making the addition.

**c. Terms of the Trusts**

If my Trustee divides a trust into two separate trust shares or creates a separate trust for additions, the trusts or trust shares that result shall have the same terms and conditions as the original trust.

My Trustee shall not make discretionary distributions from the income or principal of an exempt trust to beneficiaries who are non-skip persons as long as any readily marketable assets remain in a nonexempt trust for such beneficiaries.

To the extent possible, my Trustee shall make discretionary distributions to beneficiaries who are skip persons from an exempt trust for such beneficiaries.

**d. Allocation from an Exempt Trust First**

Upon division or distribution of an exempt trust and a nonexempt trust, my Trustee may allocate property from the exempt trust first

to a share from which a generation-skipping transfer is more likely to occur.

**e. Taxable Distributions**

If my Trustee considers that any distribution from a trust under this agreement, other than pursuant to a power to withdraw or appoint, is a taxable distribution subject to a generation-skipping tax payable by the beneficiary, my Trustee shall augment the distribution by an amount which my Trustee estimates to be sufficient to pay the tax and shall charge the same against the trust to which the tax relates.

**f. Taxable Terminations**

If my Trustee considers that any termination of an interest in trust property is a taxable termination subject to a generation-skipping tax, my Trustee shall pay the tax from the portion of the trust property to which the tax relates, without adjustment of the relative interests of the beneficiaries.

**g. No Duty to Make Generation Skipping Allocations**

No provision of this Section 12 or any other provision of this trust shall impose or imply any affirmative duty on my Trustee to make any allocation of my generation skipping exemption unless my Trustee is expressly requested in writing to make such allocation and is provided the information necessary to properly make the allocation.

**Section 13. My Beneficiary's General Power of Appointment**

The beneficiary of any separate trust share created in this trust agreement shall have the unlimited and unrestricted testamentary general power to appoint by a valid last will and testament, by a valid living trust agreement or by any other written instrument which expressly refers to this power any property remaining in the trust share the distribution of which would otherwise constitute a taxable generation-skipping transfer. In exercising this general power of appointment, my Primary Beneficiary shall specifically refer to this power. The Primary Beneficiary of the trust share shall have the sole and exclusive right to exercise this general power of appointment.

This general power of appointment specifically grants to my Primary Beneficiary the right to appoint property to his or her own estate. It also specifically grants to my Primary Beneficiary the right to appoint the property among persons, corporations, or other entities in equal or unequal proportions, and on such terms and conditions, whether outright or in trust, as the Primary Beneficiary may elect.

Any property in the trust share which is not distributed pursuant to the exercise of the general power of appointment or is not subject to such power because it is not taxable as a generation-skipping transfer shall be distributed under the lapse and other provisions of the beneficiary's trust share.

This provision shall apply to all trust shares created for a beneficiary under this trust agreement unless the provisions of the separate trust share, by reference to this provision, provides otherwise.



## **Article Thirteen**

### **My Trustee's Administrative and Investment Powers**

#### **Section 1. Introduction to Trustee's Powers**

Except as otherwise provided in this agreement, my Trustee shall have both the administrative and investment powers enumerated under this Article and any other powers granted by law with respect to the various trusts created by this agreement.

My Trustee shall also have the express power to employ attorneys, accountants, agents, auditors, trust departments and officers and other financial advisors (including brokers, financial planners, professional money managers, and registered investment advisors) in order to assist in carrying out the responsibilities of the position of Trustee.

Unless otherwise specifically provided in this Agreement, the decision to employ such assistants, as well as determining the terms and conditions of such employment (including the decision to terminate such assistant) is at the sole and absolute discretion of my Trustee.

So long as a Trust Protector serves with regard to this Trust, my Trustee may delegate the investment powers with regard to the assets hereof to such persons or entities as are designated by my Trust Protector in a written instrument. However, my Trustee is authorized, without approval from the Trust Protector, to establish one or more bank accounts or transactional accounts with a broker dealer, for the purpose of holding not more than \$10,000 on a long term basis, or through which funds may be transferred between investments or to beneficiaries. My Trustee is further authorized, without approval from my Trust Protector, to invest Trust assets, or incur liabilities on account of the Trust, for the purpose of acquiring any asset from me, a beneficiary of this Trust or a trust for my benefit or that of any beneficiary hereof.

## **Section 2. Powers to Be Exercised in the Best Interests of the Beneficiaries**

My Trustee shall exercise the following administrative and investment powers without the order of any court, as my Trustee determines in its sole and absolute discretion to be in the best interests of the beneficiaries.

Despite any conflicting provision in my trust, my Trustee shall not exercise any power in a manner inconsistent with the beneficiaries' right to the beneficial enjoyment of the trust property in accordance with the general principles of the law of trusts.

### **a. Waiver of Prudent Investor Rule**

In addition to the investment powers conferred in this Trust, the Trustee is authorized (but not directed) to acquire and retain investments not regarded as traditional for trusts, including investments that would be forbidden or would be regarded as imprudent, improper or unlawful by the "prudent person" rule, "prudent investor" rule, or any other rule or law which restricts a fiduciary's capacity to invest. The Trustee, in the exercise of sole and absolute discretion, may invest in any type of property, wherever located, including any type of life insurance policy, security or option, improved or unimproved real property, and tangible or intangible personal property, and in any manner, including direct purchase, joint ventures, partnerships, limited partnerships, limited liability companies, corporations, mutual funds, business trusts or any other form of participation or ownership whatsoever. In making investments, the Trustee may disregard any or all of the following factors:

Whether a particular investment, or the trust investments collectively, will produce a reasonable rate of return or result in the preservation of principal.

Whether the acquisition or retention of a particular investment or the trust investments collectively are consistent with any duty of impartiality as to the different beneficiaries. The Trustmaker intends that no such duty shall exist.

Whether the trust is diversified. The Trustmaker intends that no duty to diversify shall exist.

Whether any or all of the trust investments would traditionally be classified as too risky or speculative for trusts. The entire trust may be so invested. The Trustmaker intends the Trustee to have sole and absolute discretion in determining what constitutes acceptable risk and what constitutes proper investment strategy.

The Trustmaker's purpose in granting the foregoing authority is to modify the "prudent person" rule, "prudent investor" rule, or any other rule or law which restricts a fiduciary's ability to invest insofar as any such rule or law would prohibit an investment or investments because of one or more factors listed above, or any other factor relating to the nature of the investment itself. The Trustmaker does this because the Trustmaker believes it is in the best interests of the beneficiaries of the trusts created hereunder to give the Trustee broad discretion in managing the assets of the trusts created hereunder.

**b. Investment Policy**

I have attached, as Schedule B, a suggested set of investment rules and guidelines in the form of a written investment policy. I desire that my Trustee follow the investment policy when making investment and management decisions affecting trust assets.

Notwithstanding any investment policy contained in Schedule B, my Trustee is expressly authorized to acquire and retain any interest in any insurance policy insuring the life of any member of my immediate family other than myself. Likewise, my Trustee is authorized to acquire and retain any interest in a business entity in which a majority of the equity interest is owned by me, members of my immediate family or by trusts established for their benefit.

In the event my Trustee determines that the investment policy should be modified, my Trustee shall submit the proposed modification(s) to the then current beneficiaries of my Trust for review. The proposed modifications shall become effective only upon the consent of 85% of the then current beneficiaries of my Trust. If the requisite consent is not obtained, the then existing policy shall remain in effect.

**c. Fiduciary Capacity**

Every act done, power exercised or obligation assumed by a Trustee pursuant to the provisions of this Agreement shall be held to be done, exercised or assumed, as the case may be, by the Trustee acting in a fiduciary capacity and not otherwise, and every person, firm, corporation or other entity contracting or otherwise dealing with the Trustee shall look only to the funds and property of the trust estate for payment under such contract or payment of any money that may become due or payable under any obligation arising under this Agreement, in whole or in part, and the Trustee shall not be individually liable therefor even though the Trustee did not exempt himself, herself or itself from individual liability when entering into any contract, obligation or transaction in connection with or growing out of the trust estate.

**Section 3. Administrative and Investment Powers**

My Trustee is hereby granted the following administrative and investment powers:

**a. Agricultural Powers**

My Trustee may retain, sell, acquire, and continue any farm or ranching operation whether as a sole proprietorship, partnership, or corporation.

My Trustee may engage in the production, harvesting, and marketing of both farm and ranch products either by operating directly or with management agencies, hired labor, tenants, or sharecroppers.

My Trustee may engage and participate in any government farm program, whether state or federally sponsored.

My Trustee may purchase or rent machinery, equipment, livestock, poultry, feed, and seed.

My Trustee may improve and repair all farm and ranch properties, construct buildings, fences, and drainage facilities; acquire, retain, improve, and dispose of wells, water rights, ditch rights, and priorities of any nature.

My Trustee may, in general, do all things customary or desirable to operate a farm or ranch operation for the benefit of the beneficiaries of the various trusts created under this agreement.

**b. Business Powers**

My Trustee may retain and continue any business in which this Trust acquires an ownership interest (including, but not limited to, an ownership interest as a shareholder, partner, sole proprietor, member, or participant in a joint venture), even though that interest may constitute all or a substantial portion of the trust property, without regard to any duty to diversify that might otherwise apply.

I recognize that the value of a non-controlling interest in a business entity held by this trust, including a limited partnership, may be less than underlying value of the net assets of such entity. Notwithstanding any duty to diversify, I authorize my Trustee to continue to hold such interest to maximize its long-term value, rather than to liquidate such asset at a discount, so long as the entity continues to be controlled by, or for the benefit of, members of my family.

To the extent that my Trustee determines that it may be advantageous, I authorize my Trustee to sell all, or a portion, of the interest of this Trust in any business entity or other asset to a segregated asset account held under a variable life insurance contract for cash, a private annuity or an installment note (or a combination thereof) with a fair market value equal to the fair market value of the interest sold. My Trustee may rely upon a determination by my Trust Protector, or a person appointed by my Trust Protector, in this regard. For the purposes of this provision, "fair market value" shall be determined by my Trustee in its reasonable discretion in a manner consistent with the principles applicable for Federal estate and gift tax purposes. No such sale shall be permitted, however, unless a majority of the interests in such life insurance contract are held by some combination of me, my Spouse, my descendants and trusts established primarily for the benefit of such persons.

My Trustee may directly participate in the conduct of any such business or employ others to do so on behalf of the beneficiaries. My Trustee may take part in the management of any business in

which investment is retained or made hereunder and delegate duties with respect to such management, with the requisite powers, to any employee, manager, partner or associate of such business, without liability for such delegation. To the extent that the interest held by this Trust is not one which has management powers (such as a limited partnership interest, or a membership interest in a limited liability company, or an indirect interest through a segregated asset account in a variable life insurance policy), my Trustee shall have no obligation to supervise the management of the underlying assets, and no liability for the actions of those who manage the respective entity who are not selected by my Trustee.

My Trustee may reduce, expand, limit or otherwise fix and change the operation or policy of any such business and to act with respect to any other matter in connection with any such business; subject the principal and income of this trust to the risks of any such business for such term or period as the Trustee, in the exercise of sole and absolute discretion, may determine.

My Trustee may advance money or other property to any such business; make loans, subordinated or otherwise, of cash or securities to any such business and to guarantee the loans of others made to any such business; borrow money for any such business, either alone or with other persons interested therein, and to secure such loan or loans by a pledge or mortgage of any part of any trust estate; select and vote for directors, partners, associates and officers of any such business; act as directors, general or limited partners, associates and officers of any such business either individually or through an officer or officers if any Trustee be a corporation; and receive compensation from such business for so acting.

My Trustee may enter into stockholders' agreements with corporations in which any trust estate has an interest and/or with the stockholders of such corporations; liquidate, either alone or jointly with others, any such business or any interest in any such business; and generally exercise any and all powers as the Trustee may deem necessary with respect to the continuance, management, sale or liquidation of any such business.

My Trustee may execute partnership agreements, buy-sell agreements, operating agreements for limited liability companies, and any amendments to them.

My Trustee may participate in the incorporation of any trust property and any reorganization, merger, consolidation, recapitalization, liquidation, dissolution, stock redemption or cross purchase buy-sell agreement. Any powers it may exercise with respect to stock may be exercised with respect to any other form of business interest.

My Trustee may hold the stock of any corporation as trust property, and may elect or employ directors, officers, managers, employees, and agents and compensate them for their services.

My Trustee may sell or liquidate any business interest that is part of the trust property.

To the extent that my Trustee determines that it may be advantageous, I authorize my Trustee to sell all, or any portion, of the interest which this Trust holds in any asset to a segregated asset account held within a variable life insurance contract for cash, a private annuity or an installment note (or a combination thereof) with a fair market value equal to the fair market value of the interest sold. For the purposes of this provision, the "fair market value" of an asset shall be determined by my Trustee in its reasonable discretion in a manner consistent with the principles applicable to the determination of value for Federal estate and gift tax purposes. No such sale shall be permitted, however, unless a majority of the beneficial interests in such life insurance contract are held by some combination of me, my Spouse, my descendants or trusts established primarily for the benefit of such persons.

My Trustee may carry out the provisions of any agreement entered into by me for the sale of any business interest or the stock thereof.

My Trustee may exercise all of the business powers granted in this agreement regardless of whether my Trustee is personally an interested or involved party with respect to any business enterprise forming a part of the trust property.

My Trustee may permit any business in which the trust holds an interest to establish a commercial lending or deposit relationship with any corporate fiduciary and to permit such corporate fiduciary to earn interest, take and enforce security interests in collateral owned by that business, enforce all its creditors rights with respect to any loan to such business and otherwise profit from such lending relationship.

**c. Common Fund Powers**

For the purpose of convenience with regard to the administration and investment of the trust property, my Trustee may hold the several trusts created under this agreement as a common fund.

My Trustee may make joint investments with respect to the funds comprising the trust property.

My Trustee may enter into any transaction authorized by this Article with fiduciaries or other trusts or estates in which any beneficiary hereunder has an interest, even though such fiduciary is also a Trustee under this agreement.

**d. Power to Establish Sub-Trusts**

My Trustee shall have the power and is expressly authorized to create one or more sub-trusts sited in any jurisdiction in the world for the purpose of acquiring, holding and managing trust property. Any such sub-trust shall provide that this trust shall be the sole beneficiary of such sub-trust.

**f. Compensation Powers**

My Trustee shall pay from income or principal all of the reasonable expenses attributable to the administration of the respective trusts created in this agreement.

My Trustee shall pay itself reasonable compensation for its services as fiduciary as provided in this agreement, and shall reasonably compensate those persons employed by my Trustee, including agents, auditors, accountants, attorneys, and financial advisors (including brokers, financial planners, professional money managers, registered investment advisors and trust departments and officers).

My Trustee may appoint, employ and remove, at any time and from time to time, any investment counsel, accountants, depositories, custodians, brokers, consultants, attorneys, expert advisers, agents, clerks and employees, irrespective of whether any person, firm or corporation so employed shall be a Trustee hereunder or shall be a corporate affiliate of a Trustee hereunder and irrespective of whether any firm or corporation so employed shall be one in which



a Trustee hereunder shall be a partner, stockholder, officer, director or corporate affiliate or shall have any interest.

My Trustee may pay the usual compensation for such services out of principal or income as the Trustee may deem advisable, and such compensation may be paid without diminution of or charging the same against the commissions or compensation of any Trustee hereunder, and any Trustee who shall be a partner, stockholder, officer, director or corporate affiliate in any such firm or corporation shall nonetheless be entitled as a partner, stockholder, officer, director or corporate affiliate to receive such Trustee's share of the compensation paid to such firm or corporation.

**g. Distribution Powers**

My Trustee is specifically authorized to make divisions and distributions of the trust property either in cash or in kind, or partly in cash and partly in kind, or in any proportion of cash or in kind it deems advisable. My Trustee shall be under no obligation or responsibility to make pro rata divisions and distributions in kind.

My Trustee may allocate specific property to any beneficiary or share although the property may differ in kind from the property allocated to any other beneficiary or share.

The foregoing powers may be exercised regardless of the income tax basis of any of the property.

My Trustee may make a joint purchase with, or to make a sale at less than fair market value to, any beneficiary of a trust created hereunder; make loans without interest or at less than market rate interest to any beneficiary; and enter into any other transaction or agreement whether or not of a commercial nature with any beneficiary which the Trustee, in the exercise of sole and absolute discretion, may determine to be in the best interest of the trust or its beneficiaries as a group.

My Trustee may employ domestic servants and pay any other expenses incident to the maintenance of a household for the benefit of any one or more of the beneficiaries of a trust created hereunder, as the Trustee, in the exercise of sole and absolute discretion, may determine, and provide for the personal care and comfort of any one or more of the beneficiaries in any manner whatsoever.

My Trustee may permit any one or more of the beneficiaries of any trust created hereunder, as the Trustee, in the exercise of sole and absolute discretion, may determine, to occupy any real property and to use any tangible personal property forming part of the trust on such terms as the Trustee, in the exercise of sole and absolute discretion, may determine, whether for rent, rent-free, in consideration of payment of taxes, insurance, maintenance or ordinary repairs, or otherwise.

#### **h. Environmental Powers**

My Trustee shall have the power to inspect any trust property to determine compliance with any environmental law affecting such property or to respond to any environmental law affecting property held by my Trustee. "Environmental Law" shall mean any federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment or of human health.

My Trustee shall have the power to refuse to accept property if my Trustee determines that there is a substantial risk that such property is contaminated by any hazardous substance or has previously, or is currently, being used for any activities directly or indirectly involving hazardous substances which could result in liability to the trust assets. "Hazardous substance" shall mean any substance defined as hazardous or toxic by any federal, state, or local law, rule, regulation, or ordinance.

My Trustee shall have the power to take any necessary action to prevent, abate, clean up or otherwise respond to any actual or threatened violation of any environmental law affecting trust property prior to or after the initiation or enforcement of any action by any governmental body.

My Trustee may disclaim or release any power granted to it or implied by any document, statute, or rule of law that the Trustee determines may cause the Trustee to incur liability under any environmental law.

My Trustee may charge the cost of any inspection, review, prevention, abatement, response, cleanup, or remedial action authorized under this power against the trust property.

My Trustee shall not be liable to any beneficiary or to any other party for any decrease in value of the trust property by reason of my

Trustee's compliance with any environmental law, specifically including any reporting requirement under such law.

My Trustee may use and expend trust property to (i) conduct environmental assessments, audits or site monitoring; (ii) take all appropriate remedial action to contain, clean up or remove any environmental hazard including a spill, discharge or contamination; (iii) institute legal proceedings concerning environmental hazards or contest or settle legal proceedings brought by any local, state, or federal agency concerned with environmental compliance or a private litigant; (iv) comply with any local, state, or federal agency order or court order directing an assessment, abatement or clean-up of any environmental hazard; and (v) employ agents, consultants and legal counsel to assist or perform the above undertakings or actions. No Trustee shall be liable for any loss or depreciation in value sustained by the trust as a result of the Trustee retaining any property on which there is later discovered to be hazardous materials or substances requiring remedial action pursuant to any federal, state, or local environmental law, unless the Trustee contributed to that loss or depreciation in value through willful default or misconduct or gross negligence.

**i. Funeral and Burial Expenses**

My Trustee may in its sole discretion pay the funeral and burial or cremation expenses, expenses of the last illness, and valid claims and expenses of an income beneficiary of any trust created under this agreement.

Funeral and burial or cremation expenses shall include, but not be limited to, the cost of memorials of all types and memorial services of such kind as my Trustee shall approve. Valid claims and expenses shall include, but not be limited to, all state and federal death taxes.

The payments shall be paid from the assets of the trust or trusts from which the beneficiary was receiving income.

**j. Income and Principal Powers**

My Trustee may determine in a fair, equitable, and practical manner how all Trustee's fees, disbursements, receipts, and wasting assets shall be credited, charged, or apportioned between principal

and income. Except to the extent otherwise required by law, my Trustee shall allocate capital gains to principal, and not to income.

My Trustee may set aside from trust income reasonable reserves for taxes, assessments, insurance premiums, repairs, depreciation, obsolescence, depletion, and for the equalization of payments to or for the beneficiaries; it may select any and all accounting periods with regard to the trust property.

**k. Investment Powers in General**

My Trustee may invest and reinvest in such classes of stocks, bonds, securities, commodities, options, metals, rare coins, bullion, or other property, real or personal, as it shall determine.

My Trustee may invest in investment trusts as well as in common trust funds.

My Trustee may purchase life, annuity, professional liability, accident, sickness, disability and medical insurance on the behalf of and for the benefit of any trust beneficiary.

My Trustee may place all or any part of the securities which at any time are held by any trust in the care and custody of another bank or trust company with no obligation while such securities are so deposited to inspect or verify the same and with no responsibility for any loss or misapplication by such bank or trust company; may have all stocks and registered securities placed in the name of such bank or trust company or in the name of its nominee; and may appoint such bank or trust company agent and attorney to collect, receive, receipt for and disburse any income, and generally to perform the duties and services incident to a so-called "custodian" account.

My Trustee may employ a broker-dealer as a custodian for all or any part of the securities at any time held by any trust and to register such securities in the name of such broker-dealer; register securities in the name of a nominee with or without the addition of words indicating that such security is held in a fiduciary capacity, or hold securities in bearer form, or in uncertificated form; and use a central depository, clearing agency or book-entry system, such as The Depository Trust Company, Euroclear or the Federal Reserve Bank of New York.

So long as any trust holds a substantial amount of marketable securities, I encourage my Trustee to retain one or more professional investment advisers to manage the investment in such marketable securities, and I authorize such Trustee to delegate to any registered investment adviser or corporate fiduciary the discretion to manage such investments, in which event my Trustee shall be relieved of any liability or responsibility for the manner in which such investments are managed by the registered investment adviser or corporate fiduciary.

**l. Loan, Borrowing, and Encumbrance Power**

My Trustee may loan money to any beneficiary other than myself, with or without interest, on any term or on demand, with or without collateral, as my Trustee deems to be in the best interests of the trust beneficiaries.

My Trustee may loan money to any person or entity, including me, on terms or on demand. Any such loan shall be fully secured with good collateral and shall bear a market rate of interest appropriate for the nature of the transaction.

It may borrow money upon such terms and conditions as it shall deem advisable, including, in the case of a corporate fiduciary, the power to borrow from its own banking or commercial department.

My Trustee shall have the power to obligate the trust property for the repayment of any sums borrowed where the best interests of the beneficiaries have been taken into consideration.

My Trustee shall have the power to encumber the trust property, in whole or in part, by a mortgage or mortgages, deeds of trust, or by pledge, hypothecation or otherwise, even though such encumbrance may continue to be effective after the term of any trust or trusts created in this agreement.

**m. Margin, Brokerage, Securities, and Bank Account Powers**

My Trustee is authorized to buy, sell, and trade in securities of any nature, including short sales and on margin. My Trustee may maintain and operate margin accounts with brokers, and may pledge any securities held or purchased by my Trustee with such brokers as securities for loans and advances made to my Trustee.

My Trustee may retain, exercise, or sell rights of conversion or subscription with respect to any securities held as part of the trust property.

My Trustee may vote or refrain from voting at corporate meetings either in person or by proxy, whether general or limited, and with or without substitutions.

My Trustee is authorized to establish and maintain bank accounts of all types in one or more banking institutions that my Trustee may choose. My Trustee may open such accounts in the name of the Trustee (with or without disclosing fiduciary capacity) or in the name of my trust. Where an account is in the name of the trust, checks on that account, and authorized signatures need not disclose the fiduciary nature of the account or refer to any trust or Trustee.

**n. Mortgage Powers**

My Trustee shall have the power to enter into any mortgage whether as a mortgagee or mortgagor; to purchase mortgages on the open market, and to otherwise buy, sell, or trade in first or subordinate mortgages.

My Trustee may reduce the interest rate on any mortgage and consent to the modification or release of any guaranty of any mortgage.

My Trustee may continue mortgages upon and after maturity with or without renewal or extension, and may foreclose any mortgage. My Trustee may purchase the mortgaged property or acquire it by deed from the mortgagor without foreclosure.

**o. Nominee Powers**

My Trustee may hold any trust property in the names of my Trustee, or in the name of a nominee, and may enter into agreements to facilitate holding such property. My Trustee may accomplish such with or without disclosing its fiduciary capacity.

**p. Nonproductive Property**

My Trustee may hold property which is non-income producing or is otherwise nonproductive if the holding of such property is, in the sole and absolute discretion of my Trustee, in the best interests of the beneficiaries.

**q. Oil, Gas, Coal, and Other Mineral Powers**

My Trustee may do all things necessary to maintain in full force and effect any oil, gas, coal, or other mineral interests comprising part or all of the trust property.

My Trustee may purchase additional oil, gas, coal, and other mineral interests when necessary or desirable to effect a reasonable plan of operation or development with regard to the trust property.

My Trustee may buy or sell undivided interest in oil, gas, coal, and other mineral interests, and may exchange any of such interests for interests in other properties or for services.

My Trustee may execute oil, gas, coal, and other mineral leases on such terms as my Trustee may deem proper, and may enter into pooling, unitization, repressurization, and other types of agreements relating to the development, operation, and conservation of mineral properties.

Any lease or other agreement may have a duration that my Trustee deems reasonable, even though extending beyond the duration of any trust created in this agreement.

My Trustee may execute division orders, transfer orders, releases, assignments, farm outs, and any other instruments which it deems proper.

My Trustee may drill, test, explore, mine, develop, and otherwise exploit any and all oil, gas, coal, and other mineral interests, and may select, employ, utilize, or participate in any business form, including partnerships, joint ventures, co-owners' groups, syndicates, and corporations, for the purpose of acquiring, holding, exploiting, developing, operating, or disposing of oil, gas, coal, and other mineral interests.

My Trustee may employ the services of consultants or outside specialists in connection with the evaluation, management, acquisition, disposition, or development of any mineral interest, and may pay the cost of such services from the principal or income of the trust property.

My Trustee may use the general assets of the trusts created under this agreement for the purposes of acquiring, holding, managing, developing, pooling, unitizing, repressuring, or disposing of any mineral interest.

**r. Powers of Attorney**

My Trustee may execute, deliver, and grant to any individual or corporation a revocable or irrevocable power of attorney to transact any and all business on behalf of the various trusts created in this agreement.

The power of attorney may grant to the attorney-in-fact all of the rights, powers, and discretion that my Trustee could have exercised.

**s. Powers to Merge Similar Trusts**

My Trustee may merge and consolidate any trust created in this agreement with any other trust created by me, or any other person at any other time, if the other trust contains substantially the same terms for the same beneficiaries, and has at least one Trustee in common with the trust or trusts created in this agreement.

My Trustee may administer such merged and consolidated trusts as a single trust or unit. If, however, such a merger or consolidation does not appear feasible, as determined in the sole and absolute discretion of my Trustee, my Trustee may consolidate the assets of such trusts for purposes of investment and trust administration while retaining separate records and accounts for the respective trusts.

**t. Powers of an Interested Trustee**

An Interested Trustee is any Trustee who has an interest as a beneficiary in this trust agreement or any trust created by it. In all instances where an Interested Trustee distributes, or participates in



the distribution, of trust income or principal to or for the benefit of such Trustee (including distributions to or for a beneficiary for which the Trustee has an obligation of support), then the distribution shall be limited by the ascertainable standard to amounts reasonably necessary for the education, health, maintenance, and support of the beneficiary. Notwithstanding anything in this agreement to the contrary, in making such distributions, the Interested Trustee shall not use discretion in applying those ascertainable standards.

No individual Trustee shall exercise or participate in the exercise of such discretionary power with respect to distributions to any person or persons such Trustee is legally obligated to support, as to that support obligation. An Interested Trustee may, from time to time, retain (and remove or replace) an Independent Special Trustee who has no interest as a beneficiary under this agreement and any trust created hereunder to make any discretionary determination with regard to the amount of any distribution that would be required by the ascertainable standards of health, education, maintenance and support, and such Interested Trustee shall be bound to comply with such determination.

An Independent Special Trustee must be one or more persons other than the Trustmaker or a beneficiary (or the Trustmaker's or beneficiary's spouse), none of whom are "Related or Subordinate Parties" to the Trustmaker or a beneficiary (or the Trustmaker's or beneficiary's spouse), as defined in Section 672(c) of the Code, and none of whom are subservient to the wishes of the Trustmaker within the meaning of Section 674(c) of the Code.

**u. Powers of an Insured Trustee**

Any individual Trustee under this agreement, other than me, is prohibited from exercising any power conferred on the owner of any policy which insures the life of such individual Trustee and which is held as part of the trust property.

If my Trustee holds any such policy or policies as a part of the trust property, the powers conferred on the owner of such a policy shall be exercised only by the other then acting Trustee.

If the insured Trustee is the only then acting Trustee, then such powers shall be exercised by a substitute Trustee designated

pursuant to the provisions of the agreement dealing with the trusteeship.

If any rule of law or court decision construes the ability of the insured Trustee to name a substitute Trustee as an incident of ownership, the substitution process shall be implemented by a majority of the then current mandatory and discretionary income beneficiaries, excluding the insured Trustee if the insured Trustee is a beneficiary.

**v. Real Estate Powers**

My Trustee may make leases and grant options to lease for any term, even though the term may extend beyond the termination of any trust created under this agreement.

My Trustee may grant or release easements and other interests with respect to real estate; enter into party wall agreements, execute estoppel certificates, and develop and subdivide any real estate.

My Trustee may dedicate parks, streets, and alleys or vacate any street or alley; construct, repair, alter, remodel, demolish, or abandon improvements.

My Trustee may elect to insure, as it deems advisable, all actions contemplated by this subsection.

My Trustee may take any other action reasonably necessary for the preservation of real estate and fixtures comprising a part of the trust property or the income therefrom.

**w. Sale, Lease, and Other Dispositive Powers**

My Trustee may sell, lease, transfer, exchange, grant options with respect to, or otherwise dispose of the trust property.

My Trustee may deal with the trust property at such time or times, for such purposes, for such considerations and upon such terms, credits, and conditions, and for such periods of time, whether ending before or after the term of any trust created under this agreement, as it deems advisable.

My Trustee may make such contracts, deeds, leases, and any other instruments it deems proper under the immediate circumstances, and may deal with the trust property in all other ways in which a natural person could deal with his or her property.

**x. Settlement Powers**

My Trustee may compromise, adjust, arbitrate, alter the terms of, or abandon any claim in favor of or against any trust created under this agreement, and may take deeds in lieu of foreclosure.

**y. Trust Addition and Retention Powers**

My Trustee is authorized to receive additional trust property, whether by gift, will, or otherwise, either from me or any other person, corporation, or entity.

Upon receipt of any additional property, my Trustee shall administer and distribute the same as part of the trust property.

My Trustee may retain, without liability for depreciation or loss resulting from such retention, all property constituting the trust estate at the time of its creation or thereafter received from other sources.

The foregoing shall be acceptable even though such property may not be of the character prescribed by law for the investment of trust funds, or may result in inadequate diversification of the trust property.

My Trustee is authorized to purchase property and casualty insurance to protect against theft, damage, or loss regarding any asset retained in trust.

**z. Trustees' or Fiduciaries' Powers Act**

In addition to all of the powers specifically granted my Trustee in this Article, my Trustee may exercise those powers set forth under the Trustees' or Fiduciaries' Powers Acts, or their equivalent, of the State of Alaska together with any amendment to such laws.

My Trustee may perform every act reasonably necessary to administer each and every share or trust created under this agreement.

All of the powers granted to my Trustee in this Article shall be in addition to those powers conferred upon Trustees under all applicable state and federal statutes.

Each power conferred upon my Trustee under this Article, or upon Trustees in general, by applicable state or federal statutes, shall be subject to any express limitations or contrary directions contained in this agreement.

#### **Section 4. Qualified Family Owned Farm and Business Powers**

My Trustee shall have the power to amend the terms of any trust holding "qualified family-owned business interests," as defined in section 2057 of the Internal Revenue Code, in order to permit trust property to qualify for the "family owned business deduction," including an amendment that changes beneficial interests and that directs the segregation of trust property into more than one trust.

#### **Section. 5 Provisions Governing S Corporation Stock**

After my death or at such earlier time as any trust created hereunder is not a grantor trust under Section 671 of the Code, if any stock of a corporation which is an S corporation within the meaning of Section 1361(a) of the Code is allocated to a trust created under this agreement including, but not limited to any stock of a corporation which elects, under Section 1362(a) of the Code to be treated as an S corporation, then the provisions of this Section shall apply to the administration of this trust and to any trust created under this agreement.

##### **a. Segregation into Separate Trust Shares**

Notwithstanding any provision in this agreement to the contrary, the stock of each S corporation (herein referred to as "S Corporation Stock") may be segregated by the Trustee, in its sole and absolute discretion, and held in a separate trust or as a separate

share created as a separate trust and the Trustee may elect any of the following options:

**i. Electing Small Business Trust (ESBT)**

The Trustee may elect in accordance with Section 1361 (e)(3) of the Code to qualify any trust or any portion thereof as an Electing Small Business Trust within the meaning of Section 1361(e)(1);

**ii. Qualified Small Business Trust (QSST)**

The Trustee may request that the Current Income Beneficiary (hereinafter defined) of each separate trust, with the assistance of the Trustee, make an election in accordance with Section 1361 (d)(2) of the Code to qualify that trust as a Qualified Subchapter S Trust within the meaning of Section 1361 (d)(3) of the Code (herein referred to as a "Qualified Sub-chapter S Trust").

**iii. Any Other Form of Eligible Stockholder**

The Trustee may elect to qualify any trust as any other form of eligible stockholder of an S corporation under similar future legislation.

The decision to elect treatment as an Electing Small Business Trust or as a Qualified Subchapter S Trust or any other form of eligible Subchapter S stockholder shall be in the sole discretion of the Trustee, and the Trustee is hereby authorized to take any actions necessary to effect such elections.

**b. Provisions Governing Qualified Subchapter S Trust (QSST)**

Each separate Qualified Subchapter S Trust (or separate share) shall have the same name as the trust to which the stock was originally allocated, plus the name of the Current Income Beneficiary thereof, followed by the name of the S Corporation whose stock is held in trust, and the words "Trust S" (herein referred to as a "Trust S"). Each Trust S shall be administered in

accordance with the same provisions contained in the trust to which the stock was originally allocated; provided however, that the provisions of this Section shall control the administration of each Trust S created to the extent inconsistent with the provisions of the original trust.

**i. Current Income Beneficiary**

A Trust S shall have only one Current Income Beneficiary. The current Income Beneficiary of a Trust S is the person who has a present right to receive income distributions from the trust to which the S Corporation Stock was originally allocated.

If more than one person has a present right to receive income distributions from the trust to which the S Corporation Stock was originally allocated, the Current Income Beneficiary shall be determined by the Trustee.

If the Trustee, in the Trustee's sole and absolute discretion, determines there is more than one person who has a present right to receive income distributions from the trust the Trustee may cause the S Corporation Stock to be segregated into more than one Trust S, each with a different Current Income Beneficiary.

**ii. Distributions**

The Trustee shall distribute all of the income (as that term is defined in Section 643(b) of the Code) to the Current Income Beneficiary of that trust as least annually. If a Trust S ceases to hold S Corporation Stock, then in the discretion of the Trustee, distributions of income shall be governed by the terms of the trust from which the S Corporation Stock was originally severed, except that income may only be distributed to the Current Income Beneficiary of each Trust S.

Distributions of principal shall be governed by the terms of the trust to which the S Corporation Stock was originally allocated except that principal may only be distributed to the Current Income Beneficiary of each Trust S by the Trustee.

**iii. Termination of a Trust S**

If any Trust S is terminated during the lifetime of the Current Income Beneficiary, all of the principal and undistributed income of that Trust S shall be distributed to the Current Income Beneficiary.

If not earlier terminated by distribution of the entire trust estate under the foregoing paragraph, each Trust S shall terminate on the death of the current Income Beneficiary, at which time the Trustee shall administer or distribute any property in that Trust S in accordance with the provisions that would have been applicable to the administration of those as if that Trust S had never been created. If, upon application of those provisions, S Corporation Stock would remain in a trust created hereunder, the Trustee, in the Trustee's sole and absolute discretion, may segregate the stock in a separate trust or separate share for purposes of Section 1361(d)(3) of the Code.

The Trustmaker requests that the current Income Beneficiary of that trust make an election, with the assistance of the Trustee, to qualify the trust as a Qualified Subchapter S Trust in accordance with Section 1361 (d)(2) of the Code. The stock of each S Corporation shall be held in a separate trust to be administered in accordance with this Section. If the Trustee, in the Trustee's sole and absolute discretion determines that there is more than one income beneficiary, the Trustee may cause the S Corporation Stock to be segregated into more than one Trust S, each with a different Current Income Beneficiary.

**c. Governance of the Trusts**

The separate trusts or trust shares created under this Section shall be governed by the following additional provisions:

**i. No Disqualification of "S" Status**

No trust created or administered under this Section shall be administered in such a manner as to cause the termination of the S Corporation status of any corporation

whose stock is held as a part of such trust. Accordingly, to the extent the terms of this agreement are inconsistent with any trust created or administered hereunder qualifying as an Electing Small Business Trust, a Qualified Subchapter S Trust, or any other form of eligible Subchapter S stockholder, it is my intent that the terms of the trust be construed and administered in a manner that is consistent with qualifying the trust as an Electing Small Business Trust, a Qualified Subchapter S Trust or any other form of eligible Subchapter S stockholder, during any period that the trust holds S Corporation Stock, and any provision incapable of being so construed or applied shall be disregarded.

**ii. Method of Distribution**

No method of distribution permitted herein may be utilized in a manner that would jeopardize the qualification of a trust as an Electing Small Business Trust, a Qualified Subchapter S trust or any other form of eligible subchapter S stockholder.

**iii. Elections**

Any reference in this agreement to any person, acting in an individual or fiduciary capacity, making an election for himself or for or on behalf of any person, shall include, but not be limited to, an election made in accordance with Section 1361(e)(3), Section 1361(d)(2) or any other applicable subsection of Section 1361 of the Code.

**iv. Apportionment of Receipts and Expenses**

The Trustee hereunder shall characterize receipts and expenses of any Trust S in a manner consistent with qualifying that trust as a Qualified Subchapter S Trust.



**v. Trust Consolidation**

The Trustee may not consolidate any Trust S with another if doing so would jeopardize the qualification of one or both of the trusts as Qualified Subchapter S Trusts.

**vi. Disposition of S Corporation Stock**

If the continuation of any trust or Trust S created under this Section would, in the opinion of the Trustee's legal counsel, result in the termination of the S Corporation status of any corporation whose stock is held as a part of the trust estate, the Trustee, in the Trustee's sole discretion, shall have, in addition to the power to sell or other wise dispose of such stock, the power to distribute the stock of such S Corporation to the person then entitled to receive the income therefrom.

**vii. Reformation to Conform with S Corporation Requirements**

It is my intent that any S Corporation Stock comprising a portion of the trust estate be eligible to be held pursuant to the terms of this trust, either as an Electing Small Business Trust, a Qualified Subchapter S Trust, or in any other manner permitted by the Code or the regulations or rulings thereunder. Accordingly, the Trustee is granted the power to amend or modify this trust by written instrument without the ruling of any court when, in the sole opinion of the Trustee, amendment is required to this trust or any trust established hereunder to permit S Corporation Stock to be held pursuant to the terms of this trust.

Notwithstanding the foregoing, no reformation of this trust, in order to permit the Trustee to hold S Corporation Stock, shall have the effect of benefiting me, directly or indirectly, including granting to me any interest, right, or power, administrative or other wise in the trust estate, the trust funds, or the income thereof. The sole purpose of this power to amend the trust is to enable the Trustee to make technical amendments to the Trust Agreement as necessary to permit the trust to hold S Corporation Stock

during the continuance of this trust in accordance with the  
Code and regulations promulgated thereunder.

## **Article Fourteen**

### **Definitions and General Provisions**

#### **Section 1. Definitions**

For purposes of this agreement, the following words and phrases shall be defined as follows:

**a. Adopted and Afterborn Persons**

Persons who are legally adopted while they are under 18 years of age (and not those persons adopted after attaining 18 years of age) shall be treated for all purposes under this agreement as though they were the naturally born children of their adopting parents.

An afterborn person is a descendant of mine who is born after the date that I sign this agreement. A child in gestation who is later born alive shall be considered a child in being throughout the period of gestation.

I intend for my trust to benefit only those of my descendants who result from legitimate marital unions and adoptions. Therefore, notwithstanding the foregoing, no adopted or afterborn person shall be accepted as a descendant of mine unless that person is the product of a valid marital union in existence prior to the birth or adoption of such person and continuously for at least ten years thereafter. A valid marital union exists if the husband and wife are legally married and actually reside with each other in the same principal residence. The burden shall be on the person to establish that a particular marital union satisfies the requirements of this paragraph. Any legal separation during the ten-year period shall break the continuity of the marital union. Any informal separation during the ten-year period that suggests the possibility of marital disunity shall be evaluated by my Trustee to determine whether the separation is sufficient to signify the dissolution of the marital union. Any involuntary separation during the ten-year period due to circumstances beyond the control of the spouses, including death of one of the spouses, shall not indicate dissolution of the marital union.

During the ten year qualification period, my Trustee shall hold such beneficiary's trust share, if any, and shall not make any distributions for the benefit of such beneficiary. The beneficiary shall not enjoy any rights or privileges associated with such trust share until and unless such beneficiary qualifies. Nothing in this paragraph shall operate to deny any current beneficiary from receiving benefits from his or her trust share, nor in limiting the discretion of my Trustee in determining those benefits.

**b. Descendants**

A person's descendants shall include all of his or her lineal descendants through all generations.

A descendant in gestation who is later born alive shall be considered a descendant in being throughout the period of gestation.

An adopted person, and all persons who are the descendants by blood or by legal adoption while under the age of 18 years of such adopted person, shall be considered descendants of the adopting parents as well as the adopting parents' ancestors.

**c. Per Stirpes Distributions**

Whenever a distribution is to be made to a person's descendants, per stirpes:

The distributable assets are to be divided into as many shares as there are then living children of such person and deceased children of such person who left then living descendants.

Each then living child shall receive one share and the share of each deceased child shall be divided among such child's then living descendants in the same manner.

**d. Education**

As used in this trust, "education" shall include:

Any course of study or instruction at an accredited college or university granting undergraduate or graduate degrees.

Any course of study or instruction at any institution for specialized, vocational, or professional training.

Any curriculum offered by any institution that is recognized for purposes of receiving financial assistance from any state or federal agency or program.

Any course of study or instruction which may be useful in preparing a beneficiary for any vocation consistent with the beneficiary's abilities and interests.

Distributions for education may include tuition, fees, books, supplies, living expenses, travel, and spending money to the extent that they are reasonable.

**e. Personal Representative**

For the purposes of this agreement, the term "personal representative" shall include an executor, administrator, guardian, custodian, conservator, Trustee, or any other form of personal representative.

**f. Disability**

Except as otherwise provided in this agreement, any individual may be treated as disabled, incompetent, or legally incapacitated if:

The individual has been declared or adjudicated as such by a court of competent jurisdiction, or

A guardian, conservator, or other personal representative of such individual's person or estate has been appointed by a court of competent jurisdiction, or

The individual has been certified as such in writing by at least two licensed physicians, or

The individual has disappeared or is absent for unexplained reasons, or the individual is being detained

under duress where the individual is unable to effectively manage his or her property or financial affairs, or

The individual suffers from a drug, alcohol, chemical, gambling or other dependency addiction, as certified in writing by our Trustee and at least one licensed physician. If the disability of a Trustee is in question, that individual Trustee shall not participate in the decision.

**g. Independent Trustee**

As used in this agreement, an "independent" Trustee must be one or more persons other than me, no more than half of whom are "Related or Subordinate Parties", as defined in Section 672(c) of the Code, who are subservient to my wishes within the meaning of Section 674(c) of the Code.

**h. Duress or Legal Compulsion**

A person shall be deemed to be acting under "duress or legal compulsion" if that person has been compelled by legal process to take an action, or if such person has been threatened with legal sanctions or liability if such person fails to take an action.

**i. Immediate Family**

*Immediate Family* means Beatrice B. Davis, Christopher D. Davis and Caroline D. Davis, their spouses, other than a spouse who is legally separated from the person under a decree of divorce or separate maintenance, and their descendants.

**j. Spouses**

An individual is a "spouse" if such individual is the then current spouse of a child of mine on the signing date of this trust. If an individual enters into a valid marital union, as defined in paragraph a. of this section, with a child of mine or a beneficiary of mine following the signing date of this trust, then such individual may qualify as a "spouse" if that if the marital union exists continuously for a period of ten years, and that individual is not legally separated from the person under a decree of divorce or separate maintenance.

## **Section 2. The Rule Against Perpetuities**

It is my intent and desire that the trust shares created in this agreement shall last in perpetuity for the benefit of my descendants.

The trust shares created in my trust shall exist in perpetuity to the fullest extent permitted by Alaska law. If the situs of this trust is changed to another jurisdiction, the trust share created in my trust shall exist in perpetuity to the fullest extent permitted by the law of the trust situs. My trust or any trust share created in my trust that is deemed to be subject to a Rule Against Perpetuities or similar rule in any jurisdiction which limits the period during which property can be held in trust shall terminate upon the expiration of the longest period that property may be held under the law of such jurisdiction. This restriction shall not apply to a trust created by any exercise of a power of appointment conferred in my trust that effectively commences a new rule against perpetuities period consistent with the law of that jurisdiction.

This period shall include any applicable period in gross, (such as 21 years, 90 years or 110 years). However, if the jurisdiction has a Rule Against Perpetuities or similar rule which applies only to certain types of property, such as real property, the provisions of this Section shall apply only to such property.

If under the law of such jurisdiction the longest period under which property may be held in trust is determined or is alternatively determined with reference to the death of the last survivor of a group of individuals living on the date my trust was created, each trust created in this agreement shall terminate twenty-one years after the death of the last survivor of the group composed of me, the descendants of my grandparents and the descendants of his late majesty King George VI living on the date this trust is created. At that time, the property held in trust shall be discharged of any further trust, and shall immediately vest in and be distributed to those persons entitled to receive or have the benefit of the income from the respective trust.

For purposes of distributions under this Section only, it shall be presumed that any person then entitled to receive any discretionary payments of the income of a separate trust is entitled to receive all of the income, and it shall be presumed that any class of persons entitled to receive discretionary payments of income is entitled to receive all of such income.

### **Section 3. Protective Clause**

The Trustmaker intends that the trusts created under this Agreement are described in Alaska Statutes (AS) 34.40.110, 13.36.035(a) and (c) and shall at all times meet the requirements of such trusts, except on transfer to another permitted situs.

The Trustee, within the meaning of AS 34.40.110(a) shall not either voluntarily or involuntarily transfer a beneficiary's interest, including the Grantor, of any trust hereunder before the payment or delivery of the interest to the beneficiary. No beneficial interest in any trust created hereunder, whether in income or in principal, shall be subject to anticipation, assignment, pledge, sale or transfer in any manner. No beneficiary of any such trust or other person interested therein shall have the power to anticipate, encumber or charge his or her interest therein, and no trust estate created hereunder shall be liable for or subject to the debts, contracts, obligations, liabilities, or torts of any beneficiary of any such trust or other person interested therein. Nothing contained herein shall be construed as preventing any beneficiary from making a qualified disclaimer within the meaning of Section 2518 of the Internal Revenue Code of 1986, as amended, with respect to interests herein.

To the fullest extent permitted by Alaska law, the interests of all the beneficiaries in the various trusts and trust property subject to this agreement shall not be alienated, pledged, anticipated, assigned, or encumbered unless specifically authorized by the terms of this agreement.

Such interests shall not be subject to legal process or to the claims of any creditors while such interests remain trust property.

Notwithstanding any other provisions of this Trust Agreement, if the Trustee, in the Trustee's sole discretion, determines any part, or all of the Trust property, may be subject to loss in contravention of this section, the Trustee may appoint a Trustee in another jurisdiction, either in or outside the United States, and resign as Trustee, so long as doing so will not terminate the Trust.

### **Section 4. Maintaining Property in Trust**

If, on the termination of any separate trust created under this agreement, a final distribution is to be made to a beneficiary for whom my Trustee holds a



trust created under this agreement, such distributions shall be added to such trust rather than being distributed.

The property that is added to the trust shall be treated for purposes of administration as though it had been an original part of the trust.

### **Section 5. Contest Clause**

If any person, including a beneficiary, shall in any manner, directly or indirectly, attempt to contest or oppose the validity of this agreement, or commences or prosecutes any legal proceedings to set this agreement aside, then in such event such person shall forfeit his or her share, cease to have any right or interest in the trust property, and shall be deemed to have predeceased me.

Should any person disclaim his or her interest, in whole or in part, in any trust created for his or her benefit in this trust agreement the result of which would be for that person to receive trust property free of trust earlier than provided by the terms of the trust, then the disclaiming person shall forfeit his or her interest in the trust, shall cease to have any right or interest in the trust property, and shall be deemed to have predeceased me.

### **Section 6. Changing the Trust Situs**

Except as expressly provided herein, the situs of this agreement or any subtrust established hereunder may be changed by the unanimous consent of all of the beneficiaries then eligible to receive mandatory or discretionary distributions of net income under this agreement or such subtrust, with the consent of any then-acting Protector and the Trustee thereof, which shall be given only after Trustee has obtained advice from counsel as to the tax and other consequences of a change in situs.

Upon a change of situs, the Trust Protector may amend this instrument by its written action to change the references to Alaska or Alaska law to references to such new situs or the law of such new situs, and take such action as may be required to conform the terms of this agreement to the terms of law of such situs in order to achieve the purposes for which this trust was created. During the life of the Trustmaker, the situs may not be changed unless my Trustee has obtained an opinion of legal counsel to the effect that the change in situs will not impact adversely on the spendthrift provisions of this Trust or

cause inclusion of the assets held in this trust in the taxable estate of the Trustmaker or any beneficiary hereof.

In making the determination to change the situs of this trust or of any subtrust created hereunder, I encourage my beneficiaries to consider whether or not any proposed trust situs has a rule against perpetuities which would require the distribution of the corpus of this trust sooner than would otherwise be required in the then current situs.

The situs may be changed to a jurisdiction within or without the United States. If the situs is so changed, this Trust shall then, at the election of the Trustee, be administered exclusively under the laws of such jurisdiction, no acts of administration or investment need be conducted in Alaska, and any requirement for a Trustee to be a qualified person under Alaska law shall, instead, be deemed to be a requirement that the Trustee be a person who is qualified to serve as a Trustee of a trust governed by the laws of such jurisdiction, or as may be required for the trust to be so governed.

If such consent is obtained, the beneficiaries shall notify my Trustee in writing of such change of trust situs, and shall if necessary designate a successor corporate fiduciary in the new situs. This notice shall constitute removal of the current Trustee if appropriate, and any successor corporate Trustee shall assume its duties as provided under this agreement. A change in situs under this Section shall be final and binding, and shall not be subject to judicial review.

## **Section 7. General Matters**

The following general matters of construction shall apply to the provisions of this agreement:

### **a. Construction**

Unless the context requires otherwise, words denoting the singular may be construed as denoting the plural, and words of the plural may be construed as denoting the singular. Words of one gender may be construed as denoting another gender as is appropriate within such context.

**b. Headings of Articles, Sections, and Paragraphs**

The headings of Articles, Sections, and Paragraphs used within this agreement are included solely for the convenience and reference of the reader. They shall have no significance in the interpretation or construction of this agreement.

**c. Notices**

All notices required to be given in this agreement shall be made in writing by either:

Personally delivering notice to the party requiring it, and securing a written receipt, or

Mailing notice by certified United States mail, return receipt requested, to the last known address of the party requiring notice.

The effective date of the notice shall be the date of the written receipt or the date of the return receipt, if received, or if not, the date it would have normally been received via certified mail, provided there is evidence of mailing.

**d. Delivery**

For purposes of this agreement "delivery" shall mean:

Personal delivery to any party, or

Delivery by certified United States mail, return receipt requested to the party making delivery.

The effective date of delivery shall be the date of personal delivery or the date of the return receipt, if received, or if not, the date it would have normally been received via certified mail, provided there is evidence of mailing.

**e. Applicable State Law**

The validity of this trust shall be determined by reference to the laws of the State of Alaska.