

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE TRUST
AGREEMENT, 23 PARTNERS TRUST I,
AN IRREVOCABLE TRUST.

No. 82991

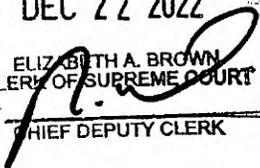
MICHAEL T. NEDDER; AND
DOUGLAS DELUCA,

Appellants/Cross-Respondents,
vs.

JULIA ANN DELUCA, PRIMARY
BENEFICIARY OF 23 PARTNERS
TRUST I; AND JOANNE S. BRIGGS, AS
PARENT AND GUARDIAN OF
ALEXANDER IAN DELUCA, PRIMARY
BENEFICIARY OF 23 PARTNERS
TRUST I,
Respondents/Cross-Appellants.

FILED

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ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

Appeal and cross-appeal from a district court order concerning the administration of a trust. Eighth Judicial District Court, Clark County; Gloria Sturman, Judge.

Affirmed in part, reversed in part, and remanded.

Hutchison & Steffen, PLLC, and Alexander R. Velto, Reno, and Russel J. Geist and Todd W. Prall, Las Vegas,
for Appellants/Cross-Respondents.

Solomon Dwiggin Freer & Steadman, Ltd., and Alex G. LeVeque and Roberto M. Campos, Las Vegas,
for Respondents/Cross-Appellants.

BEFORE THE SUPREME COURT, HARDESTY, STIGLICH, and
HERNDON, JJ.

OPINION

By the Court, STIGLICH, J.:

This case involves the administration of a discretionary trust and requires us to determine what disclosures must be made by the trustees to the beneficiaries. In making that determination, we consider both what Nevada's trust statutes compel and what the trust document itself permits. The trust at issue provides the beneficiaries with discretionary distribution interests, granting the trustees sole discretion over the issuance of those distributions. While the trustees have regularly made distributions, the beneficiaries seek information concerning the trust's financial administration and a copy of the trust instrument itself.

We conclude that Nevada's trust statutes—in particular NRS 165.1207—do not require the trustees to provide the beneficiaries with an accounting because the beneficiaries' sole distribution interests are discretionary. However, because the beneficiaries constitute “present” and “vested” beneficiaries, as those terms are used in the trust, they may request and receive copies of certain trust instruments, may inspect the books of account and records of financial transactions, and on request, may receive an annual tax return, inventory, and accounting under the terms of the trust. In the underlying matter, the district court ordered the trustees to provide most of this information and access but concluded that the beneficiaries were not entitled to an accounting. We affirm the district court as to the materials that it ordered the trustees to deliver, but we reverse its determination that the beneficiaries were not entitled to an accounting.

The district court also ordered the trustees to provide the beneficiaries with copies of all sections of the trust document concerning the beneficiaries' rights. We agree with the district court that neither Nevada statutes nor the trust instrument require the trustees to provide the beneficiaries with a copy of the entire trust instrument but conclude that the trustees have not shown that the district court abused its discretion in ordering them to produce sections of the trust concerning the beneficiaries' rights. We agree with the trustees, however, that the district court abused its discretion in failing to specify which sections must be provided. We therefore remand and instruct the district court to identify which sections of the trust the trustees must provide to the beneficiaries.

BACKGROUND

Jon DeLuca and Joanne Briggs married, had two children together (Julia DeLuca and Alexander DeLuca), and later divorced. Thereafter, Jon created the 23 Partners Trust I, an irrevocable trust, for the benefit of his children. Michael Nedder is the Independent Trustee, and Jon's brother, Douglas DeLuca, is the Family Trustee (collectively, Trustees). Jon provided Joanne with information about the trust, including Jon's estate plan flowchart, a list of assets, and an audio recording of a meeting between Jon and Michael Nedder regarding Jon's estate plan and the trust. After Jon passed away, Trustees made distributions from the trust for the care and well-being of Julia and Alexander. Two years later, Julia and Alexander (collectively, Beneficiaries), through Joanne because they were minors, requested detailed information about the trust, including an accounting and a copy of the trust document, which Trustees denied.

Beneficiaries petitioned the district court to assume jurisdiction of the the trust, obtain an accounting, and obtain a copy of the trust

document.¹ Trustees objected, arguing that the trust provided for completely discretionary distributions to Beneficiaries and that Beneficiaries were not entitled to receive an accounting or a copy of the trust document. The court concluded that Beneficiaries were not entitled to an accounting but ordered Trustees to provide certain financial information annually, including federal tax returns, an inventory of assets, and a summary of financial transactions. The district court also determined that Beneficiaries were not entitled to receive a copy of the entire trust document but that they were entitled to receive a copy of the specific provisions affecting their rights.² Trustees appealed, and Beneficiaries cross-appealed.

DISCUSSION

Trustees argue that neither Nevada law nor the trust instrument entitles Beneficiaries to receive an accounting or a copy of the trust document. Trustees argue that the district court thus erred in ordering them to provide certain financial information and portions of the trust document. Beneficiaries counter that they are entitled to receive not only the financial information and trust provisions the court ordered released, but also an accounting under NRS 165.180, NRS 165.1207, and the trust itself. Beneficiaries further argue that they are entitled to receive a copy of the entire trust document, rather than only select portions. In

¹Julia reached the age of majority during the pendency of the litigation and has joined the action as an adult. Accordingly, the clerk of this court shall amend the caption on this court's docket so that it is consistent with the caption appearing on this opinion.

²The court entered its order after having reviewed a copy of the trust document in camera.

resolving the issues presented by this appeal, we look first to Nevada's statutes regarding trust accounting before examining the specific terms of the trust at issue today and the court's discretionary authority to order the trustees to provide copies of the trust document.

Nevada statutes do not entitle Beneficiaries to receive an accounting, but the terms of the trust provide for annual accountings

Nevada statutes do not require accounting to discretionary-interest beneficiaries

Beneficiaries argue that NRS 165.180 empowers the district court to order an accounting of the trust and that they are entitled to an accounting under NRS 165.1207. We disagree.

We review de novo questions of law, including statutory interpretation. *In re Orpheus Tr.*, 124 Nev. 170, 174, 179 P.3d 562, 565 (2008). "When the language of a statute is unambiguous, courts are not permitted to look beyond the statute itself when determining its meaning." *Id.* "Whenever possible, this court will interpret a rule or statute in harmony with other rules and statutes" and will "construe statutes such that no part of the statute is rendered nugatory or turned to mere surplusage." *Albios v. Horizon Cmtys., Inc.*, 122 Nev. 409, 418, 132 P.3d 1022, 1028 (2006).

NRS 165.180 provides that NRS Chapter 165 "does not abridge the power of any court of competent jurisdiction to require testamentary or nontestamentary trustees to file an inventory, to account, to exhibit the trust property, or to give beneficiaries information or the privilege of inspection of trust records and papers, at times other than those prescribed" by statute. It further provides that NRS Chapter 165 does not bar a trustee from accounting voluntarily where not compelled to do so by statute or court order. *Id.* NRS 165.1207 addresses a trustee's duty to account and excludes

discretionary-interest beneficiaries from those entitled to receive an accounting, providing that “[a] trustee is not required to provide an account to a beneficiary of an irrevocable trust while that beneficiary’s only interest in the trust estate is a discretionary interest, as described in NRS 163.4185.” NRS 165.1207(1)(b)(5). Under NRS 163.4185(1)(c), a distribution interest is “[a] discretionary interest if the trustee has discretion to determine whether a distribution should be made, when a distribution should be made and the amount of the distribution.”

We first consider NRS 165.180. By its plain language, this statute acknowledges that NRS Chapter 165 does not exhaustively delineate how a court exercises its powers and fulfills its duties in administering trusts. But recognizing that the chapter “does not abridge” a court’s powers regarding these actions at other times does not constitute a grant of authority. Nor does it constitute an independent basis on which Beneficiaries may rely for any affirmative relief. We conclude that Beneficiaries have not shown that relief is warranted on this basis.

We next consider NRS 165.1207. All parties agree that the distributions at issue are made at Trustees’ discretion, and our review of the trust confirms this view. Accordingly, we conclude that Beneficiaries’ interest is a discretionary interest. Beneficiaries argue that this is not their *only* interest in the trust, relying on the definition of “[i]nterest” in NRS 132.180 to assert that they also have, for example, an interest in a power of appointment. Beneficiaries offer no support for their contention that NRS 132.180, a wills and estates statute, applies here, and their position is unpersuasive. NRS 165.1207(1)(b)(5) specifically refers to the different types of interests described in NRS 163.4185. The more reasonable interpretation of NRS 165.1207(1)(b)(5)’s language, and that which

harmonizes its meaning with that of NRS 163.4185, is that “interest in the trust estate” refers to the distribution interest, defined as either a “mandatory, support or discretionary interest.” See NRS 163.4155 (defining distribution interest); NRS 163.4185(1) (providing that distribution interests may be classified as mandatory, support, or discretionary). This construction also gives meaning to the use of “only” in reference to the beneficiary’s interest in the trust estate in NRS 165.1207(1)(b)(5), since NRS 163.4185 recognizes that a trust may contain a combination of types of interests and directs how those types should be separated in administering the trust. See NRS 163.4185(2)-(3). Accordingly, Beneficiaries were not entitled to receive an accounting under NRS 165.1207 and have not shown that relief is appropriate in this regard.

The trust provides that Beneficiaries are entitled to review certain trust materials and to annual accountings

Having concluded that Beneficiaries are not entitled to an accounting pursuant to Nevada statute, we consider the terms of the trust itself. Beneficiaries argue that they are vested beneficiaries and thus entitled to review trust materials and to an accounting. Trustees counter that only vested beneficiaries may receive and review financial information regarding the trust under the trust’s terms and that Beneficiaries are not vested because their interest is discretionary.

Where the underlying facts are not disputed, as the parties agree is the case here, we review de novo a district court’s interpretation of a trust. *In re W.N. Connell & Marjorie T. Connell Living Tr.*, 134 Nev. 613, 616, 426 P.3d 599, 602 (2018). We will construe a trust so as to give effect to the grantor’s apparent intent. *Id.* To ascertain the grantor’s intent, we apply contract principles, considering the trust as a whole and seeking “the

most fair and reasonable interpretation of the trust's language." *Id.* (internal quotation marks omitted).

The trust names Julia and Alexander as beneficiaries and directs that its primary purpose is for the use and benefit of the grantor's descendants while reducing or eliminating tax liability.³ The trust declares itself to be irrevocable. On the grantor's death, the trust estate shall be divided into equal shares for each of the grantor's then-living children, and each share shall constitute a separate "exempt family trust."⁴ The child in whose name the trust stands constitutes its "primary beneficiary," and the separate trusts shall be named "23 Partners Trust I" followed by the name of the primary beneficiary. The Independent Trustee has sole and unreviewable discretion in making distributions to a primary beneficiary as the Independent Trustee deems appropriate for the beneficiary's purposes. The trust provides that Trustees are to act as fiduciaries and have absolute discretion in acting with respect to trust property and interests. A primary beneficiary who has attained 33 years of age may remove a trustee, so long as a replacement Independent Trustee is a bank or trust company.

Section 5.1(C) of the trust provides that, on request by a "present beneficiary," Trustees must promptly deliver "[c]opies of all trust related instruments of amendment, revocation, exercise of power, designation, release, disclaimer, etc., as well as of a Trustee's resignation, removal, appointment and/or acceptance, the original of which shall be

³We recount details regarding trust provisions to provide useful context and set forth the provisions necessary to resolve these appeals.

⁴The distinction between exempt and nonexempt trusts is not material for our purposes here.

attached hereto.” And under § 5.2(A), a trustee shall make the books of account and records of all financial transactions available at reasonable times for inspection by each “presently vested income, principal[,] and remainder beneficiary.” Further, on request by such a beneficiary, that trustee shall provide an annual federal tax return, starting and ending inventory for the year, and an accounting showing all financial transactions that occurred in that period. Trustees shall not, however, provide notice of the existence of the trust to any beneficiary, to the extent concealment is permitted by law.

By its terms, as relevant here, the trust provides rights to particular information to a “present beneficiary” and to a “presently vested income, principal[,] and remainder beneficiary.” “[B]eneficiary” is statutorily defined as each individual designated as such for a particular trust, and each person entitled to receive distributions for a particular trust is the “primary beneficiary,” except where context indicates a different meaning. The trust does not describe when a beneficiary is vested, though we can construe the grantor’s intent in this regard by considering how beneficiaries are discussed throughout the trust. See NRS 163.004(1) (providing that, generally, a trust’s terms may settle “the rights and interests of beneficiaries in any manner that is not illegal or against public policy”); *Connell Living Tr.*, 134 Nev. at 617-18, 426 P.3d at 603 (considering the trust as a whole to ascertain the grantor’s intent in the absence of specific language to the contrary). The trust sets apart different classes of beneficiaries, indicating that a beneficiary may be present or contingent, primary or contingent, and present or future. See Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 116 (2012) (“Under the conjunctive/disjunctive canon, *and* combines items while *or*

creates alternatives.”). These distinctions parallel those in the statutory definition of “[b]eneficiary” as “a person that has a present or future beneficial interest in a trust, *vested or contingent*.” NRS 163.4147 (emphasis added); *cf. Boulder Oaks Cmty. Ass’n v. B & J Andrews Enters., LLC*, 125 Nev. 397, 405, 215 P.3d 27, 32 (2009) (harmonizing a controlling statutory definition with a contractual term able to fit within the statutory definition). As Julia and Alexander were Jon’s living children at the time of his death, each is the primary beneficiary of a separate trust based on their respective shares of 23 Partners Trust I. Each may currently receive discretionary trust distributions. Each currently has the interest that he or she has in that separate trust and thus is a present beneficiary, rather than a future one. As Julia and Alexander are present and primary beneficiaries, they are therefore not contingent beneficiaries. The trust is irrevocable, further weighing against deeming Beneficiaries contingent. *See Linthicum v. Rudi*, 122 Nev. 1452, 1457, 148 P.3d 746, 750 (2006) (observing that an interest in a revocable trust is contingent and does not vest until the settlor’s death). And, consistent with the statutory definition, as they are not contingent beneficiaries, they are vested beneficiaries within the meaning and usage of the trust.⁵

Trustees argue, however, that Beneficiaries cannot be vested beneficiaries because their interests are discretionary. While this argument may be colorable as other courts have interpreted trust law, *see, e.g., Brownell v. Leutz*, 149 F. Supp. 98, 102 (D.N.D. 1957) (“[I]n such a

⁵Our conclusion regarding the statuses of contingent and vested beneficiaries pertains to their treatment in this trust, and we do not opine on the common law applicable to trusts in this regard. *Cf.* NRS 163.004(1).

[discretionary] trust, where the beneficiaries are a class of persons, they do not have interests in the trust property, but merely have inalienable expectancies with no certainty of ultimate enjoyment.”); *Steuer v. Franchise Tax Bd.*, 265 Cal. Rptr. 3d 216, 225 (Ct. App. 2020) (“Where a trustee has absolute discretion to allocate net trust income to the beneficiary, the beneficiary has a contingent interest in the distribution.”); *In re Canfield’s Estate*, 181 P.2d 732, 737 (Cal. Dist. Ct. App. 1947) (“In a discretionary trust where the trustee has absolute discretion, as here, in the allocation of the trust net income between the two beneficiaries (aside from a negligible portion thereof), each beneficiary has at most a mere expectancy.”), this view stands contrary to the term’s use in the trust, and Trustees have not identified support in Nevada law compelling a contrary reading. Further, this interpretation would render the rights conveyed in § 5.2(A) meaningless, as Trustees’ absolute discretion in making distributions would preclude a distribution beneficiary from ever being vested. *See Phillips v. Mercer*, 94 Nev. 279, 282, 579 P.2d 174, 176 (1978) (“A court should not interpret a contract so as to make meaningless its provisions.”). We therefore conclude that Trustees’ suggested interpretation in this regard is unpersuasive.

Accordingly, as a “present beneficiary” for the trust of which each is primary beneficiary, Julia and Alexander are each entitled to request and receive “[c]opies of all trust related instruments of amendment, revocation, exercise of power, designation, release, disclaimer, etc., as well as of a Trustee’s resignation, removal, appointment and/or acceptance, the original of which shall be attached hereto.” The district court correctly determined that Beneficiaries may receive these records, and we affirm to that extent.

As a “presently vested” beneficiary for the trust of which each is primary beneficiary, Julia and Alexander are each entitled to inspect the books of account and records of all financial transactions at reasonable times and, on request, to receive an annual tax return, inventory, and accounting. Here, the district court erred in determining that Beneficiaries were not vested beneficiaries. Nevertheless, despite incorrectly concluding that Beneficiaries were not vested, the court correctly ordered Trustees to produce many of the materials to which vested beneficiaries are entitled. Thus, the district court did not err in ordering that Trustees were required to provide an annual tax return, inventory, and summary of financial transactions. The district court, however, was mistaken in concluding that Beneficiaries were not entitled to an accounting. The district court also ordered that Beneficiaries are permitted to inspect the books and records if an item on the tax return indicates that inspection is appropriate. This directive should not have been conditioned on the tax returns, and we conclude that the trust permits Beneficiaries to inspect the books and records at reasonable times.

Notwithstanding the district court’s erroneous conclusion that Beneficiaries were not vested, it reached the correct outcome in part. We affirm its order to the extent of the materials that it ordered Trustees to deliver. *See Saavedra-Sandoval v. Wal-Mart Stores*, 126 Nev. 592, 599, 245 P.3d 1198, 1202 (2010) (affirming a district court order where the court reached the correct result, albeit for the wrong reason). We reverse to the extent that it concluded that Beneficiaries were not entitled to an accounting and that it did not permit Beneficiaries to inspect the books and records at reasonable times. The district court must direct Trustees to

provide an annual accounting and inspections of the books and records at reasonable times.

The district court did not abuse its discretion in ordering Trustees to provide portions of the trust instrument but should have identified the specific sections to be provided

Lastly, Trustees argue that neither Nevada statutes nor the trust provide that Beneficiaries are entitled to receive copies of any part of the trust document and that the district court thus erred in ordering their delivery. Trustees further argue that the district court erred in ordering them to provide the sections of the trust affecting Beneficiaries' rights without specific analysis or guidance. Beneficiaries, meanwhile, argue that the district court's mandate that Trustees provide sections of the trust was not error, and they argue that they are entitled to receive a copy of the entire trust document. Beneficiaries argue that the absence of a provision expressly providing a right to receive the entire document does not frustrate their request because the provisions giving them certain rights and entitling them to receive notice of amendments imply a right to receive the entire underlying instrument.

NRS 164.010(1) provides that a district court may assume jurisdiction over a trust, and NRS 164.010(5)(d) provides that such a court may enter orders regarding a trust. An interested person may then petition a court regarding the administration of a nontestamentary trust. NRS 164.015(1); *cf.* NRS 163.0016 (defining "[n]ontestamentary trust" as "a trust, including, without limitation, an electronic trust, that is created and takes effect during the lifetime of the settlor"). Such a petition may seek relief "regarding any aspect of the affairs of the trust." See NRS 153.031(1); NRS 164.015(1). We review a district court order regarding the administration of a trust for an abuse of discretion. *Hannam v. Brown*, 114

Nev. 350, 362, 956 P.2d 794, 802 (1998). A district court's findings of fact will be upheld if they are supported by substantial evidence and not clearly erroneous. *Id.* at 357, 956 P.2d at 799.

Preliminarily, NRS 165.147 ties the right to receive a copy of the trust document to the right to an accounting, providing that, generally, only those beneficiaries entitled to an accounting pursuant to NRS 165.1201-.148 may compel the trustees to provide a copy of the trust document. And because an accounting pursuant to NRS 165.1207 is not warranted, as explained above, we need not reach Beneficiaries' contention that they are entitled to a copy of the trust under NRS 165.147.

Nevertheless, in petitioning for a copy of the trust, Beneficiaries alleged that they received distributions from the trust that paid for many of their regular expenses but had never been given a copy of the trust and thus did not know its terms, their rights under it, whether the trust was being administered appropriately, or whether their rights under the trust were being violated. The district court held a hearing, assumed jurisdiction over the trust, concluded that it could not resolve the petition without reviewing the trust itself, and ordered production of the trust instrument for attorneys' eyes only review in chambers. After examining the trust, the district court found that Beneficiaries had an interest in discretionary distributions from the trust and concluded that they were entitled to know information regarding their rights under the trust. It determined that they were entitled to receive annual disclosures of certain financial information and concluded that, while no provision in the trust required Trustees to produce a copy of the instrument, Beneficiaries should receive the sections of the trust affecting their rights.

We recognize that, while the trust declares that Trustees have absolute, unfettered discretion, this is not so. Although Beneficiaries' interests are discretionary, a court may nevertheless review Trustees' exercise of discretion for conduct that is dishonest, is in bad faith, or constitutes willful misconduct. NRS 163.419(1). The district court's finding that Beneficiaries have discretionary interests is supported by substantial evidence and not clearly wrong. The district court appropriately concluded that Beneficiaries should have access to trust materials in order to safeguard their statutory rights and rights under the trust. Further, the record shows that the district court entertained thorough briefing on the issues and provided the parties with sufficient opportunity to argue their cases. The district court had authority to enter an order concerning the administration of the trust here, and the order evinces a reasoned consideration of the issues and claims presented. Accordingly, we conclude that Trustees have not shown that the district court abused its discretion in ordering them to deliver copies of sections of the trust instrument.⁶ See

⁶We observe that the trust provides that "the Trustee shall not provide notice of the existence of the trust to any beneficiary hereunder," "[n]otwithstanding anything herein to the contrary and to the extent permitted by applicable law." The trust does not offer guidance as to what precisely the grantor intended with this provision, particularly as it appears to conflict with the general rule that trustees must inform beneficiaries regarding the trust. See Restatement (Third) of Trusts § 82(1)(a) (2007) (providing that a trustee has a general duty "to inform fairly representative beneficiaries of the existence of the trust, of their status as beneficiaries and their right to obtain further information, and of basic information concerning the trusteeship"). Considering that it is evident that Beneficiaries here already have notice of the existence of the trust, we decline to infer broader consequences from this provision and conclude that a fair and reasonable interpretation under these circumstances reads it to

Skender v. Brunsonbuilt Constr. & Dev. Co., LLC, 122 Nev. 1430, 1435, 148 P.3d 710, 714 (2006) (“An abuse of discretion occurs if the district court’s decision is arbitrary or capricious or if it exceeds the bounds of law or reason.” (internal quotation marks omitted)).

Nevertheless, we agree with Trustees that the district court abused its discretion in not specifying which sections Trustees must deliver to Beneficiaries, and we remand for the district court to set forth which specific sections Beneficiaries are entitled to receive. *See Las Vegas Review-Journal v. City of Henderson*, 137 Nev., Adv. Op. 81, 500 P.3d 1271, 1278 (2021) (remanding for limited purpose of applying the appropriate test and entering specific findings where the district court order did not do so). We clarify that where a district court acts pursuant to its authority under NRS 164.010 and directs a trustee to take a course of action, it should provide sufficient clarity in its mandate as to ensure that there is no confusion as to what steps must be taken. *Cf. Fed. Nat’l Mortg. Ass’n v. Westland Liberty Vill., LLC*, 138 Nev., Adv. Op. 57, 515 P.3d 329, 337 (2022) (cautioning district courts, in the context of a preliminary injunction, to exercise care to ensure that a mandate provides sufficient guidance as to what specifically must be performed).

Insofar as Beneficiaries rely on *Matter of Estate of Ella E. Horst Revocable Trust, U/A/D 05/21/1991*, 136 Nev. 755, 761, 478 P.3d 861, 867 (2020), to argue that Trustees were obligated to disclose the entire trust rather than sections, their reliance is misplaced, as that decision

have no force as to a beneficiary who already knows that the trust exists. *See Connell Living Tr.*, 134 Nev. at 616, 426 P.3d at 602 (favoring the most fair and reasonable construction in ascertaining the grantor’s intent).

contemplated whether strict compliance was necessary when a trustee elected to notify beneficiaries pursuant to NRS 164.021 that a revocable trust became irrevocable. That optional disclosure does not bear on whether Trustees must disclose here.

CONCLUSION

These appeals present an opportunity to clarify several statutes and issues regarding the administration of trusts. We conclude that NRS 165.1207(1)(b)(5) does not provide a beneficiary whose only distribution interest in a trust is discretionary with a right to an accounting and that NRS 165.180 does not provide a district court with an independent basis on which to order an accounting. Whether a beneficiary has a right to an accounting under the terms of a trust, however, turns principally on the language of the trust instrument itself, so as to give force to the grantor's intent. Where a trust provides certain entitlements to "present" or "vested" beneficiaries, the construction of those terms should look to their definitions in the trust instrument first and foremost; in the absence of a specific definition, the construction should consider their usage in the instrument. And we clarify that a district court should provide sufficient specificity in its orders where it directs a trustee to take particular action with respect to the administration of a trust.

In the present circumstances, we conclude that Beneficiaries are entitled to the rights of both "present" and "vested" beneficiaries. We affirm the district court order insofar as it ordered Trustees to deliver annual financial documents and make available for inspection books of account and records of financial transactions, but we reverse the order insofar as it denied an accounting. We also affirm the district court order directing Trustees to deliver copies of sections of the trust instrument

affecting Beneficiaries' rights but conclude that the failure to specify which sections this entailed constituted an abuse of discretion. Accordingly, on remand, we direct the district court to indicate which sections must be delivered.

Stiglich, J.
Stiglich

We concur:

Hardesty, J.
Hardesty

Herndon, J.
Herndon