

Northern California Planned Giving Council
March 13, 2014

COLLECTING THE MONEY:

How to ensure that your nonprofit is getting the most from matured bequests

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I. Introduction and Overview

Four sources of testamentary gifts

- Will
- Trust
- Beneficiary Designation
- P.O.D. accounts

Common attitudes: charities are lucky to get anything, won't know the difference, won't complain

Estate leakage: the amount of charitable bequests lost between death and distribution

Many administrators/family members don't care about the charity and others don't know how to administer estates

Recent trends:

- Erosion of estate value
 - Low interest rates mean donors may be using more principal
 - Longer life spans; impact of health care costs
 - Fluctuations in real estate & securities values
 - Management of investments during administration
 - Family members in need of funds may be more prone to fight

II. Charities' obligations and responsibilities

- Fiduciary obligation to protect charity's assets
- Protect donor intent

Charity has a right to information

How will it look in the newspapers?

III. Overview of the Estate Administration process

- Probate
- Trust administration
- What information is a beneficiary entitled to when a trust is still active?
- How long should it take to get the money?

IV. Designation of beneficiary gifts and P.O.D. accounts

- How does the charity find out about the gift?
- How to claim the assets
- How to get the statements
- What to watch for
- Who to talk to
- How long should it take to get the money?

V. Accountings, expenses, taxes and distributions

- Inventory, accountings, and statements: What is the beneficiary entitled to?
California Probate Code sections 16060-16064: "...upon reasonable request by a beneficiary, the trustee must provide the beneficiary with a report of the information relating to the assets, liabilities, receipts, and disbursements of the trust, the acts of the trustee, and the particular terms of the trust that are relevant to the beneficiary's interest."
- Expenses and fees
- How taxes should be apportioned in taxable estates
- Distributions
- Releases, receipts, and waivers

VI. What should you do when notified of an estate gift?

- What kind of documents should you expect to receive?
- What should you do with the documents that you receive?
- What do you need to know about the other beneficiaries?
- How can you know if an estate/trust is being administered properly?
- How can you work effectively with the attorney and administrator?

VII. Situations

- A check arrives with no or minimal documentation
- You have a copy of the gift documentation but are told no document was found
- The donor told your organization to expect a gift, the donor dies, and the organization hears nothing.
 - How long should you wait before trying to make contact?
- You have reason to believe that a split income gift has been mishandled
- The charity suspects there was elder financial abuse that affects value of the estate

- You think there is unreasonable delay in distribution
- The estate administrator offers to give your organization a quick distribution of a reduced amount
- You are asked to sign a receipt or release before receiving the check – or even knowing exactly how much it will be for
- Another beneficiary/family member objects to the charitable bequest
- There is litigation/controversy unrelated to the charitable gift
- Something just feels fishy
- When is it appropriate to take legal action?
 - What are the options?

VIII. When to get help

- What kind of help?
- How much will it cost?

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CHECKLIST FOR NEW PROBATE ESTATES AND TRUSTS

Probate Estate
Proceeding No.: _____

Trust

Decedents Name: _____
Date of Death: _____
Date of Notice of Hearing: _____
Estimated Value of Estate: _____

Name of Donor: _____
Date of Death: _____
Trustee: _____
Is the bequest a **contingent** bequest?
Yes _____ No _____

Request copy of will or trust documents
Date Received: _____
Request copy of Probate Inventory
& Appraisal
Date Received: _____

Obtain list of Assets if Possible _____
Request copy of trust document
Date Received: _____
If Trust value in excess of 5.34 million
obtain copy of Federal Estate Tax
Return (706)

Federal Estate Tax Return (706) for
Estates in excess of 5.34 million
Due date 9 months after death: _____
Date Received: _____
Extension of Time to File? Yes _____ No _____
Date Filed _____

Obtain copy of Final Accounting from
Trustee
Date Received: _____

Estimated Date of Distribution: _____
Residual Bequest? Yes _____ No _____
If yes, request copy of Final Accounting for
Estate - Date Received: _____
Reserve held at distribution? Yes _____ No _____
Date of release of reserve: _____

Obtain Final Decree of Distribution for
Probate Estates & Final Account of Executor
Date Received: _____

If bequest of Real Property – who prepares
Deeds of Conveyance? _____

Comments: _____

Prepared by: _____ Date: _____

[REDACTED], Esquire

[REDACTED]
[REDACTED]
[REDACTED]

Telephone: [REDACTED] Facsimile: [REDACTED]

January 21, 2014

RE: Estate of [REDACTED]

To Whom It May Concern:

I am writing to let you know that the estate process is almost complete. There are three stock funds with a total value of approximately [REDACTED] which are still in the process of liquidation. However we anticipate being able to send out the bequests made by [REDACTED] within the next month.

Thank you for your patience. The estate although not large was complicated by money factors including many small holdings, some international, with many lost certificates. Because Ms. [REDACTED] was ill for the last 10 years of her life, it was a challenge completing the search for her assets.

Ms. [REDACTED] left her entire estate to charities and we were able to locate 82 of the beneficiaries included in Ms. [REDACTED] will. Ms. [REDACTED] certainly expected that her bequests would be more generous. However, her closest relatives arranged for home care for Ms. [REDACTED] until her death at age 95 which depleted her assets.

The total estate of Ms. [REDACTED] is approximately [REDACTED]. In the next month we expect to receive the proceeds from the remaining three stock accounts, complete the probate process, pay any fees and bills and send out the checks to the beneficiaries.

In order to expedite the process we have prepared releases for the beneficiaries to sign for [REDACTED] each. We would request that you sign and return the releases and we will send out the actual amount of the bequests when we have received the releases and obtained the final figures on the value of the estate.

If we are unable to obtain releases from all the beneficiaries, we may have to prepare a time consuming accounting to file with the Probate Court which will delay the closing of the Estate and result in greater costs.

I am hopeful that the beneficiaries will sign and return the releases promptly. If there are any questions please do not hesitate to call.

Very Truly Yours,

[REDACTED]

[REDACTED]

STATE OF RHODE ISLAND

County of _____
Estate of _____
Alias _____
Alias _____

PROBATE COURT OF THE
Town of South Kingstown

No. _____
Date _____

GENERAL RELEASE

I, _____ of _____,
Name of Beneficiary City/Town

State of _____ for the following
State

described consideration paid to me or distributed to me by:

Executor				Name of Co-Fiduciary (if any)			
Name of Fiduciary	Title	Name of Co-Fiduciary (if any)	Title	Name of Co-Fiduciary (if any)	Title	Name of Co-Fiduciary (if any)	Title
_____	_____	_____	_____	_____	_____	_____	_____
No. Street	No. Street	No. Street	No. Street	No. Street	No. Street	No. Street	No. Street
City/Town State Zip Phone Number	City/Town State Zip Phone Number	City/Town State Zip Phone Number	City/Town State Zip Phone Number	City/Town State Zip Phone Number	City/Town State Zip Phone Number	City/Town State Zip Phone Number	City/Town State Zip Phone Number

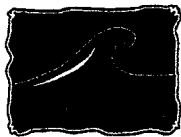
in the above named estate acknowledge receipt thereof:

I do hereby release and forever discharge the said fiduciary and his/her sureties, heirs and personal representatives from all debts, demands, actions and liabilities whatsoever, which against the said fiduciary I now have, or ever had for or on account of the estate of said:

Estate of _____
Name of Estate

Signature of Estate Beneficiary _____ Witness _____

Date



LAW OFFICES OF [REDACTED]

[REDACTED]
ATTORNEY
[REDACTED]

[REDACTED]
LEGAL ASSISTANT
[REDACTED]

April 15, 2011

Our File No.: 1923.03

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: *The [REDACTED] Charitable Remainder Unitrust Dated December 28, 2000*

Dear [REDACTED] Foundation:

On behalf of [REDACTED], I am pleased to enclose a check in the amount of Forty-eight Thousand Five Hundred Thirty-nine and 30/100 Dollars (\$48,539.30) as and for your distribution from the above-referenced Trust.

Please mail a receipt for such amount to [REDACTED], California 90275

Very truly yours,

LAW OFFICES OF [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
Enclosure
cc: [REDACTED] Trustee

From: [REDACTED]
Sent: Wednesday, October 12, 2011 4:47 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: [REDACTED]

Dear Ms. [REDACTED]

I am writing to follow up on a letter to you from [REDACTED] dated August 24, 2011. I spoke with Anne at your office and she suggested that I contact you by email.

As requested in the letter, we would like to receive a copy of the most recent trust accounting, as specified in the trust document Point 8. Also, we would like to clarify the status of the trust. As you know, the trust document specifies that the trust would terminate upon the death of the trustor, [REDACTED].

As a public charity, the [REDACTED] has a fiduciary responsibility to our donors and our mission and it is with this in mind that we request the information as specified in the trust document. We would appreciate receiving this information as soon as possible.

Thank you very much.

[REDACTED] on

Major Gifts Officer

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Thursday, October 13, 2011 9:07 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: [REDACTED]

Dear Ms. [REDACTED],

My office has already provided you with documentation that the gift to [REDACTED] has been fully satisfied. I don't understand why you persist in asking. My client made a very generous gift to your organization and he finds these continual inquiries to be quite annoying.

[REDACTED]

Please kindly consider the environment before printing
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