

UnionBank®
The Private Bank


The Private Bank
An Organization's Rights as a Beneficiary –
When to Press, and When to be Patient

Presented to: **WRPGC**

May 5, 2017

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Right as a beneficiary



Right to Documentation

- Probate
 - Request for Special Notice (CPC 1250)
- POD Designations
- Trust document (CPC 16061.7)
 - When a revocable trust or any portion thereof becomes irrevocable
 - Whenever there is a change of trustee of an irrevocable trust
 - Lapse of a power of appointment
 - If initial notice does not include a copy of the trust, respectfully request a copy

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Right as a beneficiary



Right to Decline

- A particular asset:
 - Potential liabilities
 - Insufficient value
 - Illegal
 - Gift Acceptance Policies
- Gift is overly restricted
- Donor is controversial
- Combative or angry heirs
- Option to have Trustee liquidate

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Right as a beneficiary



Right to Periodic Accounting

- At least annually (CPC 16061 & 16062)
- Must include information about assets, liability, receipts & disbursements, other expenses
 - Trustee fees and expenses
- Prudent Investor Act (CPC 16045-16054)
- Document usually stipulates powers of trustee – some trusts have restrictions on real estate, or don't allow certain types of investments
- Accounting also required at termination of trust
- Residuary beneficiaries should request all financial statements (or, a complete accounting)

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Right as a beneficiary



Right to Information

- Agents (aka vendors) hired by Trustee – and their relationship to Trustee
- Trustee activity
- Anything that might impact your interests
- Do NOT have right to beneficiary information

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Right as a beneficiary



Right to Question the Trustee or Request Removal of Trustee

- Statute of limitations in California is 3 years
- Reasonable care, skill and caution that a prudent person (unless trust document contains further exoneration)
- Confidentiality
- Breach of Trust
- Trustee has more debts than assets or otherwise unfit to act
- Trust cannot be administered due to hostility or lack of cooperation between co-trustees
- Trustee doesn't want to act
- Trustee's fees are excessive
- Trustee is putting their own interests ahead of the beneficiaries' (example – living in a trust property)
- Abuse or misinterpretation of Discretionary powers
- Unreasonable delay
- Refusal to account and /or provide information

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Right as a beneficiary



Right to Enforce the Terms of the Trust

- If the Trustee or another beneficiary approaches your organization about changing the terms, you have the right to refuse
 - Consider PR implications
 - Remember exempt status and related duties

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Right as a beneficiary



Right to Petition the Court

- Determine the validity of the Trust
- Identify the beneficiaries
- Settle the accounts and review the acts of the Trustee
- Force the Trustees to act
- Grant power(s) to the trustee
- Determine or review a trustee's pay
- Appoint or remove a trustee, or accept a trustee's resignation
- Seek restitution from a trustee
- Modify the trust – including modifications that honor the trustor's intent to qualify for a charitable estate tax deduction
- Direct transfer of a testamentary trust to another county
- Removal of a trust from court supervision

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Responsibilities as a beneficiary



Responsibilities

- Use the Gift as Intended
 - Endowment
 - Program purposes
 - Naming rights
- Stick to your Mission
- Stewardship
 - Condolences
 - Appropriate acknowledgement of gift
 - Manage expectations/maintain relationships with family


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Responsibilities as a beneficiary 

**Understand
Rights and
Responsibilities**

- Know your rights
- Know your responsibilities
- Ask questions
- Collaborate with other beneficiary/organizations
- Don't be bullied
- Ask for help from volunteer attorney/board members
- Hire an attorney, if necessary

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Distinctly local and solid expertise 

For over 150 years Union Bank has been helping organizations like yours manage their planned giving programs and endowment funds.

Our team of Charitable Services Specialists are ready to provide integrated, detailed advice and a wide range of solutions to help your organization achieve its purpose.

Contact us to learn about your opportunity to sign up for a complimentary consultation with a Union Bank Specialist to evaluate your investment policies, asset allocation strategies or to review your Gift Annuity program.

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