

Name of Person Filing Document: _____

Address: _____

City, State, Zip Code: _____

Telephone Number: _____

Attorney Bar Number (if applicable): _____

Licensed Fiduciary Number (if applicable): _____

Representing Self or Attorney for: _____

FOR CLERK'S USE ONLY

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF _____**

In the Matter of the Estate of

Decedent's Name, Deceased

Case Number. _____

**ORDER TO PERSONAL
REPRESENTATIVE AND
ACKNOWLEDGEMENT AND
INFORMATION TO HEIRS/DEVISEES**

The best interest of this estate is of great concern to this Court. As Personal Representative, you are subject to the power of the Court. Therefore, to help avoid problems and to assist you in your duties, this Order is entered. You are required to be guided by this Order and to obey it.

This Court will not review or supervise your actions as Personal Representative unless an interested party files a written request to the Court. In Arizona, if you are a beneficiary of an estate, you are expected to protect your own interests in the estate. The Personal Representative is required to provide sufficient information to the beneficiary to permit the beneficiary to protect his or her interests. The Court may hold a Personal Representative personally liable and responsible for any damage or loss to the estate resulting from a violation of the Personal Representative duties. The following is an outline of some of your duties as Personal Representative.

DUTIES OF THE PERSONAL REPRESENTATIVE

The duties of the Personal Representative are found in Chapter 3, Title 14 of the Arizona Revised Statutes (from now on called "A.R.S."). You are responsible for knowing and doing your duties according to these statutes. Some of the duties are as follows:

- 1. Gather, control, and manage estate assets.** As Personal Representative you have the duty to gather and control all assets that belonged to the decedent (the person who has died) at the time of his or her death. After the valid debts and expenses are paid, you have the duty to distribute any remaining assets according to the decedent's Will, or, if there is no Will, to the intestate heirs of the decedent. As Personal Representative, you have the authority to manage the estate assets, but you must manage the estate assets for the benefit of those interested in the estate.
- 2. Fiduciary Duties.** As Personal Representative you are a fiduciary. This means you have a legal duty of fairness and impartiality to the beneficiaries and the creditors of the estate. You must be cautious and prudent in dealing with estate assets. As Personal Representative, the estate assets do not belong to you and must never be used for your benefit or mixed with your assets or anyone else's assets. Arizona law prohibits a Personal Representative from participating in transactions that are a conflict of interest between you, as Personal Representative, and you as an individual. Other than receiving reasonable compensation for your services as Personal Representative, you may not profit from dealing with estate assets.
- 3. Provide Notice of Appointment.** Within **thirty (30) days** after your **Letters of Appointment** as Personal Representative are issued, you must mail notice of your appointment to the Arizona Department of Revenue and to the heirs and devisees whose addresses are reasonably available to you. If your appointment is made in a formal proceeding, you need not give notice to those persons previously noticed of a formal appointment proceeding. *See* A.R.S. § 14-3705.
- 4. Provide Notice of Admission of Will to Probate.** Within **thirty (30) days** of the admission of the Will to informal probate, you must give written notice to all heirs and devisees of the admission of the Will to probate, together with a copy of the Will. You must notify the heirs that they have four (4) months to contest the probate. *See* A.R.S. § 14-3306.
- 5. Mail Copies of this Order to Personal Representative.** Within **thirty (30) days** after your **Letters of Appointment** as Personal Representative are issued, you must mail a copy of this **Order to Personal Representative and Acknowledgment and Information to Heirs/Devisees** to all the heirs or devisees of the estate and to any other persons who have filed a demand for notice.
- 6. File Proof of Compliance.** Within **forty-five (45) days** after your **Letters of Appointment** as Personal Representative are issued, you must file with the Court a notarized statement swearing that a copy of this Order was mailed to each devisee, to each heir in intestate (no Will) estates, and to any other persons who have filed a demand for notice.
- 7. Publish Notice.** Unless a predecessor Personal Representative already has fulfilled this duty or you were appointed more than two years after the decedent's date of death, you must publish a notice once a week for three (3) consecutive weeks in _____ County in a

newspaper of general circulation that announces your appointment as Personal Representative and tells creditors of the estate that, unless they present their claims against the estate within the prescribed time limit, the claims will not be paid. In addition, you must mail a similar notice to all persons you know are creditors of the estate. *See* A.R.S. § 14-3801.

- 8. Protect Assets.** You must immediately find, identify, and take possession of all the estate assets and make proper arrangements to protect them. *See* A.R.S. § 14-3709. All property must be retitled to show ownership in the name of the estate - such as "Estate of (decedent's name), by (your name) as Personal Representative." **Do not** put the estate assets into your name, anyone else's name, joint accounts, trust accounts ("in trust for"), or payable on death ("POD") accounts. Do not list yourself or any other person as joint owner or beneficiary on any bank accounts or other assets belonging to the estate. Do not mix any estate assets with your own assets or anyone else's assets.

If your authority as Personal Representative has been limited by the Court, you must promptly protect the estate assets as ordered and file a **Proof of Restricted Assets** form with the Court. You may not sell, encumber, distribute, withdraw, or otherwise transfer restricted assets without first obtaining permission from the Court.

- 9. Determine Statutory Allowances.** It is your responsibility to determine whether any individuals are entitled to statutory allowances under A.R.S. §§ 14-2402, -2403, and -2404. Statutory allowances include a homestead allowance, exempt property allowance, and a family allowance.

- 10. Inventory Assets.** Unless a predecessor Personal Representative already has fulfilled this duty, **within 90 days** after your **Letters of Appointment** as Personal Representative are issued, you must prepare an inventory or list of the decedent's probate assets and their values as of the date of death. *See* A.R.S. § 14-3706. The inventory must be either (1) filed with the Court and mailed to all interested persons who request it, or (2) not filed with the Court, but mailed to: (a) each of the heirs if the decedent died intestate or to each of the devisees if the decedent's Will was admitted to probate; and (b) to any other interested person who requests a copy of the inventory.

- 11. Standard of Care.** In administering estate assets, you must observe the standards of care applicable to a trustee, including the prudent investor rules. *See* A.R.S. §§ 14-10801 et seq. and 14-10901 et seq.

- 12. Keep Detailed Records.** You must keep detailed records of all receipts and expenses of the estate. You are required to provide an account of your administration of the estate to all persons affected by the administration. *See* A.R.S. § 14-3933.

13. Pay Valid Debts and Expenses. You must determine which claims and expenses of the estate are valid and should be paid. You must provide to any creditor whose claims are not allowed prompt written notification that they will not be paid or will not be paid in full. *See* A.R.S. § 14-3806. To the extent there are enough assets in the estate, you are responsible for payment of any estate debts and/or expenses that you know about or can find out about. If there are not enough estate assets to pay all debts and expenses, you must determine which debts and expenses should be paid according to the law. *See* A.R.S. § 14-3805. You may be personally liable if you pay a debt or expense that should not be paid.

14. Pay Taxes. It is your responsibility to determine that all taxes are paid and that all tax returns for the decedent and the estate are prepared and filed.

15. Distribute Remaining Assets. After payment of all debts and expenses of the estate, you must distribute estate assets as directed in the Will, or, if there is not a Will, to the intestate heirs. If there are not enough assets in the estate to make the gifts set forth in the Will, it is your responsibility to determine how the distributions should be made as required by law. *See* A.R.S. §§ 14-3902 and -3907. You may be personally liable if you make an improper distribution of estate assets.

16. Change of Address. Until the probate is closed and you are discharged as Personal Representative, you must notify the Court in writing if you change your home or mailing address.

17. Payment as Personal Representative. As Personal Representative, you may be entitled to reasonable compensation. *See* A.R.S. § 14-3719. Arizona statutes do not designate percentage fees for your work or say how much a Personal Representative should be paid. You must keep receipts to prove out-of-pocket expenses. In determining whether a fee is reasonable, the Court will consider the following factors.

- (a) The time required (as supported by detailed time records), the novelty and difficulty of the issues involved, and the skill required to do the service properly;
- (b) The likelihood that your acceptance as Personal Representative will preclude other employment;
- (c) The fee normally charged in the area for similar services;
- (d) The nature and value of estate assets, the income earned by the estate, and the responsibilities and potential liability assumed by you as Personal Representative;
- (e) The results obtained for the estate;
- (f) The time limitations imposed by the circumstances;
- (g) The experience, reputation, diligence and ability of the person performing the services;
- (h) The reasonableness of the time spent and service performed under the circumstances; and

(i) Any other relevant factors.

18. Court Involvement. Usually, to reduce estate expenses, estates are administered and estate claims and expenses are paid, including the fees to the attorney and Personal Representative, with little Court involvement. The Court does not supervise informal probates or the conduct of a Personal Representative. However, if any interested party believes that the estate has not been properly handled or that the fees charged by the attorney or Personal Representative are not reasonable under the circumstances, that party may request that the Court review the account for the Personal Representative administration of the estate. Any additional Court involvement may result in additional delay and expenses. If appropriate, the Court may assess the additional expense against the estate or the nonprevailing party.

19. Close the Estate. After you have administered the estate and the assets of the estate have all been distributed, the estate must be closed, either formally or informally. In an informal closing, a copy of the Closing Statement must be filed with the Court and sent to all persons receiving a distribution from the estate. *See* A.R.S. § 14-3933. For a formal closing, *see* A.R.S. §§ 14-3931 and -3932. **Usually, the estate should be completely administered and closed within two (2) years after the initial appointment of the Personal Representative.**

This is only a general outline of **some** of your duties as Personal Representative. This Order does not describe all of your duties and is not a substitute for obtaining professional legal advice. If you have any questions as Personal Representative, **before** taking any action, you should contact an attorney who handles probate estates to find out what to do.

The Superior Court of Arizona in _____ County may have forms, instructions, and procedures to help you with the Probate of an Informal Estate.

WARNING: FAILURE TO OBEY A COURT ORDER AND THE STATUTORY PROVISIONS RELATING TO THIS ESTATE MAY RESULT IN YOUR REMOVAL AS PERSONAL REPRESENTATIVE AND OTHER PENALTIES. IN SOME CIRCUMSTANCES YOU MAY BE HELD IN CONTEMPT OF COURT, PUNISHED BY CONFINEMENT IN JAIL, A FINE OR BOTH. IN ADDITION, IF YOU VIOLATE ANY OF YOUR FIDUCIARY DUTIES, YOU COULD BE HELD PERSONALLY LIABLE FOR ANY LOSSES FOR WHICH YOU ARE RESPONSIBLE.

DATED this ____ day of _____, 20____.

Judge/Special Commissioner's Signature

Judge/Special Commissioner's Name
(Type or Print Name)

ACKNOWLEDGMENT

I (We), the undersigned, acknowledge receiving a copy of this Order and agree to be bound by its provisions, whether or not read before signing, as long as serving as Personal Representative.

Personal Representative's Signature

Date

Personal Representative's Name
(Type or Print Name)

Co-Personal Representative's Signature (if any)

Date

Co-Personal Representative's Name
(Type or Print Name)