

Instructions and Duties of a Testamentary Trustee

Prepared By:

Timothy A. Cope, Commissioner of Accounts

COMMISSIONER OF ACCOUNTS FOR PRINCE WILLIAM COUNTY CITIES OF MANASSAS AND MANASSAS PARK

Charles E. McWilliams, Jr.

4310 Prince William Parkway, Ste 300

Prince William, VA 22192

T: (703) 525-3208

F: (800) 558-4912

COA@thelandlawyers.com

Nicholas D. Williams

7930 Donegan Drive

Manassas, Virginia 20109

T: (703) 747-9714

F: (703) 361-2477

mail@pwccoa.com

**It is extremely important that you read this instruction packet
in its entirety Before You Begin Administering The
Testamentary Trust**

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THESE INSTRUCTIONS AND DUTIES OF TESTAMENTARY TRUSTEE were prepared by the Commissioner of Accounts of Prince William County to assist you in performing the general duties you are charged with in administering a trust. It is the duty of a Testamentary Trustee to be in full compliance with the legal requirements of all sections of the Code of Virginia that pertains to a Testamentary Trustee. These instructions answer only the most commonly asked procedural questions.

The term “**Personal Representative**” or “**Fiduciary**” will be used in these instructions and will encompass and refer to a “**Trustee.**”

Please be advised that the Commissioner of Accounts is not an employee of the Commonwealth of Virginia or Prince William County, but rather is appointed by the Judges of the Circuit Court of Prince William County.

THESE INSTRUCTIONS ARE NOT TO BE CONSIDERED AS ADVICE TO A TRUSTEE CONCERNING ALL THE LAWS APPLICABLE TO YOUR DUTIES. IF YOU HAVE ANY QUESTIONS REGARDING YOUR DUTIES, YOU SHOULD CONSULT WITH AN ATTORNEY AT LAW; OR, IF TAX MATTERS ARE INVOLVED, AN ATTORNEY AT LAW OR A CERTIFIED PUBLIC ACCOUNTANT OR OTHER COMPETENT TAX AUTHORITY.

It is important that you are aware of the following information and principles to avoid your incurring personal liability in your role as a personal representative and to fulfill the requirements of filing the proper documentation with the Commissioner of Accounts and the Circuit Court of Prince William County:

1. KEEP ALL TRUST ASSETS AND MONEY SEPARATE.

This is not your money. Do not deposit any estate money in to your personal account or use this money for any of your bills or personal finances or you will be subject to court sanctions and you could be subject to criminal prosecution. A Trust account should be opened to receive all trust funds.

2. CANCELLED CHECKS AND RECEIPTS ARE REQUIRED.

When you file an Accounting with the Commissioner of Accounts you will have to prove that any disbursements of money and distributions of property to any beneficiary of a Trust under a will as well as creditors were in fact received. Open the account for the Trust at a bank which returns cancelled checks or provides a photocopy of the check which, together with the bank statements, itemizes that check.

3. RECORD KEEPING.

It is your obligation to maintain an accurate record of all Trust assets, receipts and disbursements you have made from Trust assets and Trust funds. These records will be required in support of the documentation you are required to file with the Commissioner of Accounts during your administration of the Trust. Beneficiaries of a Trust under a will may also want to review these records.

4. IMPORTANT DEADLINES.

The following are important deadlines to meet your filing requirements with the Clerk of the Circuit Court and the Commissioner of Accounts:

4 months after date of receipt of any trust assets: (Virginia Code §64.2-1300) Send the **Inventory** to the Commissioner of Accounts Office with the appropriate fees (See fee schedule).

4 months after the end of the calendar year in which the Trust was first funded: (Virginia Code §64.2-1306) Send the **first Accounting** to the Commissioner of Accounts Office covering the period from when the Trust was first funded through the end of the year with the appropriate fees (See fee schedule).

Second and subsequent Accountings are due to the Commissioner of Accounts with the appropriate fees by May 1 of each year and should cover each 12-month period (January 1 thru December 31) subsequent to the first Accounting. (Virginia Code §64.2-1306)

Final Accounting is due within 4 months of the ending date of the period covered, which may not necessarily cover a 12-month period. **All assets must be distributed. The account may not reflect any remaining assets on hand.**

Failure to comply with these deadlines or to submit additional documentation requested by the Commissioner of Accounts may result in:

1. **Delinquency fees imposed by the Commissioner of Accounts you are required to pay from your personal funds. (See the fee schedule for the various delinquency fees that may be imposed).**
2. **A summons being issued by the Commissioner of Accounts to file any delinquent documentation.**
3. **Forfeiture of your commission for your services as Trustee.**
4. **A summons being issued by a Judge of the Circuit Court of Prince William County to appear before the Circuit Court to answer for your delinquency which can result in your being fined and/or imprisoned.**
5. **Removal of your appointment as Trustee together with being held personally liable for any losses incurred by the Trust which includes, but is not limited to, costs to investigate your administration and to qualify a substitute personal representative to administer the Trust.**

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General Information on Trust Administration

Trustee Duties: The trustee of a testamentary trust is obligated to act using reasonable care and skill for the benefit of the trust and its beneficiary(ies), and to carry out the intentions of the decedent as stated in the will.

A trustee has the obligation to follow the terms and provisions of the trust as stated in the will in respect to the payment of income and/or principal, the uses for which principal of the trust may be used/distributed, if allowed, and for the satisfaction of any and all special conditions and requirements stated in the testamentary trust by the decedent.

Taking Possession of Assets: The Certificate of Qualification, which you received from the Probate clerk, is your authority to take possession of Trust assets as distributed by the executor of the estate. In order to take possession of financial personal property and change title to the Trust estate, any bank, brokerage or other investment entity will require that you provide the Trust Tax Identification Number. This will require applying for the Trust Tax Identification Number with the IRS. To obtain a taxpayer identification number consult with an accountant or:

Go to www.irs.gov/businesses
Click on the link titled "Employer Identification Number"
Click on "Apply for an EIN Online"
Scroll down to click on line titled "Apply Online Now"
Click on "Begin Application"
Choose Trusts
Click 'Continue' -follow all instructions and complete all requested information. The IRS will provide an EIN number and confirmation page to print for your records.

Record Keeping/Supporting Documentation: As Trustee, you have an obligation to maintain a record of all receipts and disbursements of the Trust funds. Be prepared to present supporting documentation to the Commissioner of Accounts during your administration of the Trust. Below is a list which provides you with some of the records you should retain:

- All original invoices of bills paid
- Paid promissory notes
- Original banking and brokerage statements
- Cancelled checks or copies of bank statements which include the front of the cancelled checks by the bank as part of the monthly bank statement.
- Signed (and preferably notarized) receipts from beneficiaries for each asset distributed.

Virginia Banks for Trust Accounts: It is **strongly recommended** that banks located in Virginia be used for trust accounts and if possible use a bank that returns cancelled checks. We will accept photostatic copies that are prepared and provided by the bank OR a photostatic copy that is obtained on line through the bank's "on line" banking capabilities.

Investment of Trust Funds

A Personal Representative has the responsibility to invest the principal funds of the Trust estate in excess over the amount reasonably necessary for working funds. If the Personal Representative fails to invest these principal assets, the Personal Representative can be assessed a surcharge equal to at least the interest rate payable on money market accounts during the accounting period. Any surcharge must be paid from the personal funds of the Personal Representative.

Time Requirement: Principal funds must be invested within four (4) months from the time such funds come under the control of the Personal Representative. (Virginia Code §64.2-1501)

Standard of care for investments: the standard of care for investments is set out in the **Virginia Code, Article 2 Uniform Prudent Investor Act, §64.2-781, et seq.**, and is referred to as the "**prudent investor rule**", unless the prudent investor rule is waived in the will.

If the value of personal property to be invested under the fiduciary's control or management does not exceed \$100,000, a Personal Representative may invest in the securities listed in Virginia Code §64.2-1502 and be presumed to have been prudent in investing the funds held by them in a fiduciary capacity.

Preservation of Trust Assets

The Personal Representative is responsible for the care, preservation, and management of the estate's assets.

If the Personal Representative fails to preserve the value of estate assets because of negligence or improper conduct of the Personal Representative, the Personal Representative is charged with the lost principal and interest thereon. (Virginia Code §64.2-1415)

Trust estate assets and funds cannot be combined or commingled with the personal assets and funds of the Personal Representative. Trust estate assets and funds should be kept in separate accounts from the personal assets and funds of the Personal Representative.

TAXES: FEDERAL, STATE, CITY/COUNTY

It is the duty of the Trustee to determine and pay all taxes due by the trust, including but not limited to:

- Federal and State income taxes;
- Real estate and personal property taxes; and,
- Local government and business taxes

Taxes may be paid from the Trust as an administrative expense.

Document Filing Dates

A. Inventory-within four (4) months after the date you receive any trust assets:

Mail your completed "**Inventory for Trust**" form and a copy to the Commissioner of Accounts Office. Be sure to include the appropriate fees and supporting documentation. This form (Form

CC-1673) was given to you at your qualification appointment with the Probate Clerk and may also be a computer generated reproduction obtained at:

<https://www.vacourts.gov/forms/circuit/cc1673.pdf>

Example:

Date of receipt of Trust assets: April 1, 2021

Inventory due: August 1, 2021

You must report assets as they existed on the date of receipt, even though they have changed form or increased/decreased in value as of the date the inventory is prepared.

B. First Account-within (4) months after the end of the calendar year in which the trust was funded.:

Mail your completed "Account for Trust" form to the Commissioner of Accounts Office. Be sure to include the appropriate fees and supporting documentation. This form (Form CC-1684) was given to you at your qualification appointment with the Probate Clerk and may also be a computer generated reproduction at:

<https://www.vacourts.gov/forms/circuit/cc1684.pdf>

Example:

Date of receipt of Trust assets: April 1, 2021

Due Date: May 1, 2022

Period Covered: April 1, 2021 to December 31, 2021

C. Second and subsequent Accounts-May 1 of each subsequent year and cover the period from January 1st to December 31st of the preceding year.

The Personal Representative may also refer to the "Important Deadlines" on Page 3.

Inventory for Trust

General Information: Valuation of Assets

Personal Property: use fair market value as of the **date of the receipt or transfer**, not the value when inventory is prepared.

Real Property: Use the local real estate assessed value or appraised value. (Do not reduce gross value by outstanding mortgage, loan, lien, or other claim against the property).

NOTE: If additional assets are discovered, or if you find errors of more than \$5,000.00 in the assets reported in the initial inventory, an amended inventory must be filed with the Commissioner of Accounts within four (4) months after discovery of the additional assets and/or the discrepancy.

NOTE: If the after discovered assets or errors are less than \$5,000.00, an amended inventory is not required and the adjustment(s) can be made in the first accounting for the testamentary trust.

Preparing the "Inventory for Trust"

Part 1. List the Trust estate; tangible and intangible.

- Assets should be clearly identified, listed in reasonable detail, and valued as of the date of receipt.
- List articles separately that have a value of more than \$500.00 such as a collection (stamps, coins, or other collectibles)
- Group similar assets together; such as personal effects and household property.

EXAMPLE	VALUE
Personal items	\$ 200.00
Household furnishings	\$ 500.00
Personal effects	\$1,000.00

- List articles separately that have a value of more than \$500.00 such as a collection (stamps, coins, or other collectibles)

EXAMPLE	VALUE
Coin Collection (appraised value)	\$3,900.00
Stamp Collection (appraised value)	\$1,500.00

- Motor vehicles, boats, and personal watercraft should be listed by year, make and model.

2019 Toyota Camry	\$15,000.00
2018 Bayliner Watercraft	\$4,800.00

- Checking, savings, and other accounts should include the bank name, type of account, the account number (**only the last four digits for privacy reasons**), any accrued interest, and the maturity date

ABC Bank, checking Acct #6215	\$ 2,522.00
XYZ Bank, Certificate of Deposit #9237 2.5% interest, maturity date 12/2/09	\$ 9,500.00

- Stock, mutual funds, partnerships, or limited liability companies, whether held in certificate form, book account form, or in a brokerage account, must be listed separately and must include name, number of shares, or percentage of ownership, and price per share or value of percentage of ownership.

ABC Company, 200 shares, \$50 per share	\$ 10,000.00
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GGG Mutual fund, 1,000 shares, \$5 per share	\$ 5,000.00
WWW Brokerage Acct Money market Acct	\$ 4,222.00

- Bonds and promissory notes should be listed and each should include the issuer's name, face amount, interest rate, and maturity date for each item.

City Water Authority Bond, \$8,000 6.75% interest, maturity date 10/2/12	\$ 8,000.00
Mary Smith, promissory note, face amount \$27,000 7% interest, maturity date 11/1/12	\$ 27,000.00

- A sole proprietorship is not a separate entity but rather an accumulation of assets that a person uses in a business and should be listed as a heading with the various personal assets listed except proprietorship real estate should be listed in Parts 2, 3, or 4 on the Inventory form.

OK Proprietorship:	\$
Office furnishings	\$ 3,995.00
2 HP notebook computers	\$ 5,000.00
2008 VUE Hybrid – Saturn	\$ 18,000.00

NOTE: if, in unusual circumstances, there are assets for which there is no recognized market value, such as partnership interests, stock in closely held corporations, or legal claims against others, they may be valued at \$2.00 or an estimate of value on the inventory, however, the accurate market value must be provided on the first accounting, or on an amended Inventory. If there is an increase in value of \$25,000.00 or more, you must file an amended inventory. Any increases of less than \$25,000.00 can be reflected as an "adjustment" on the accounting.

Part 2. The trust's real estate in Virginia over which you have a power of sale.

- The Trustee should list all of the Virginia real estate, or partial interests in real estate, over which the Trustee has the power of sale.
- Power of sale may be by express grant in the will, incorporated in the will powers enumerated in Virginia Code § 64.2-105, and trust powers in 64.2-777, 64.2-778 or by order of the court pursuant to Virginia Code § 64.2-106.

Real Estate to be Reported:

- Report each piece of real estate; include legal description, street address, and city or county in which the property is located.
- The Personal Representative should list all of the trust's Virginia real estate, or partial interests in real estate, over which the Trustee has the power of sale.

Example:

Lot 2, Block B, 3201 Main Street, Manassas, VA, assessed value	\$ 350,000.00
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Part 3. List the Trust's Real Estate in Virginia, over which you do NOT have a power of sale.

- All Virginia real estate not listed in Part 2.
- Real estate over which the Trustee has no power of sale, such as Real estate held in survivorship form with another person.

Part 4. List the Decedent's Non-Virginia Real Estate.

The Trustee should report all of the trust real estate or partial interest in real estate not situated in Virginia that are assets of the Trust, whether or not the property is located in the United States.

Lot 200, Block BB, 201 8 th Street, Miami, Florida assessed value	\$ 150,000.00
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Certificate of Accuracy, Completeness, and Mailing:

Explanation:

Before filing the 'Inventory for Trust form, be sure to do the following:

- Date and sign page 3 (All Trustees are required to sign)
- Write a check for the appropriate Inventory filing fee (payable to: Commissioner of Accounts)
- Make at least two (2) copies of the Inventory; 1 for your records, and 1 for the Commissioner of Accounts Office to be filed with the original Inventory.

When ready to file, mail ALL of the items listed below to the Commissioner of Accounts Office:

1. The completed Inventory form
2. One copy of the completed Inventory form
3. Payment for the Inventory Filing Fees (see fee schedule)

Mail or hand deliver to: The Commissioner of Accounts to whom you were assigned at the address on the front page of these Instructions.

ACCOUNT FOR A TESTAMENTARY TRUST

General Information

1. Accounts must be signed by each Trustee.
- 2 **YOU MUST USE FORM CC-1684** and applicable exhibits; **OR**, similar computer generated format containing ALL information.
The account form and applicable exhibits **MUST BE TYPED AND THE PAGES MUST BE NUMBERED IN SEQUENTIAL ORDER.**

Filing Due Date:

First account must be filed within (4) months after the end of the calendar year (May 1st) in which the trust was funded. (Virginia Code § 64.2-1306)

Example:

Date of receipt of Trust assets: April 1, 2021

Due Date: May 1, 2022

Period Covered: April 1, 2021 to December 31, 2021

Second and subsequent Accounts-May 1 of each subsequent year and cover the period from January 1st to December 31st of the preceding year.

Required Copies:

The signed original and one signed copy.

Fees, Costs, and Assessments:

Payment is due when you file your Account For Trust with the Commissioner of Accounts Office. The computation of fees is based on the beginning assets from the Inventory plus receipts, gain on asset sales, and adjustments. If you are filing a second or subsequent account, fees are based on assets, plus receipts, gain on asset sales and adjustments. Please see the Fee Schedule for the appropriate filing fees.

Valuation of Assets:

Carrying Value is the value established when the asset was acquired, that is, the value of an asset as reported on the Inventory; or, the cost of a new asset on the date of purchase.

Current Market Value is the value of an asset if the asset were sold as of the date of the end of the accounting period.

Some assets such as bank accounts, certificate of deposits, and money market funds will have the same carrying and current market value.

NOTE: Testamentary Trustees who are charged with the duty of distributing income to one beneficiary, a life tenant, but will eventually distribute the principal to another beneficiary, remainderman, must maintain separate principal and income accounts so that the cash is correctly identified as an income receipt/disbursement or a principal receipt/disbursement. Fees paid by the trust that benefit both the life tenant and remainderman (for example, fees paid to the Commissioner of Accounts) **MUST** be paid one-half from income disbursements and one-half from principal disbursements. Refer to the **Uniform Principal and Income Act**. Virginia Code §64.2-1000, et seq.

Preparing the "Account for Trust" Form

As Personal Representative, you must prepare applicable exhibits, referred to in the Account For Trust as an itemized list, before you can prepare the account summary.

1. Line 1 Beginning Assets:

If filing a **FIRST** account, itemize the beginning assets from Parts 1,2,3 and 4 of the Inventory

For Trust form that you filed four months after you qualified before the Clerk. Include the full description of each asset and the carrying value and market value. If filing a second or subsequent account, itemize the total assets on hand at the end of the prior accounting period, including the full description of each asset and the carrying value and market value.

The total of the beginning assets must be entered on Line 1 on the Account for Trust Summary Form.

2. Line 2 Principal Receipts:

Generally, principal receipts are capital gains and additional principal received from the Trust Grantor/Estate. Itemize chronologically all principal receipts received during the account period.

The total of the receipts shown on an attached itemized list is entered on Account Summary Form, Line 2.

3. Line 3 Income Receipts:

Itemize chronologically all interest, dividends, gross rental income, refunds, and any other income received during the accounting period by account. For example, show each quarterly dividend from XYZ Stock rather than a lump sum for the year.

ABC Bank Checking Account		
3/1/09 ABC Bank interest	\$ 8.50	
3/5/09 Virginia Natural Gas, Refund	\$ 30.00	
4/1/09 ABC Bank Interest	\$ 8.50	TOTAL
5/15/09 IRS Tax refund	\$ 1,200.00	\$ 1247.00

ABC Brokerage Account		
3/1/09 ABC MM Account, interest	\$100.00	
3/5/09 AB Inc., dividend	\$25.00	= \$125.00
TOTAL RECEIPTS:		\$ 1,372.00

The total of the receipts shown on an attached itemized list is entered on Account Summary Form, Line 3

4. Line 4 Gains on Asset Sales:

For Securities sold by a broker, show the date of the sale, the name of security, the total number of shares, the total number of shares sold, the total carrying value, the gross sales price and the net gain.

ABC Corporation, 300 shares		
3/1/09 carrying value	\$ 14,388.50	
Sold 300 shares	\$ 15,327.38	NET GAIN:
		\$ 938.85

For real property sold, show the date of the sale, property description, to whom sold, total carrying value, gross sales price, and the net gain. Itemize the cost of sale from the settlement statement under disbursements. (i.e. realtor commission, recording fees, taxes, title, etc).

Lot 1, Block B, 3201 Main Street, Manassas, VA, sold to John Smith		
3/15/09 carrying value	\$ 350,000.00	
Gross Sales price	\$ 450,000.00	NET GAIN:
		\$ 100,000.00

For miscellaneous items sold, show date of sale, description, name of purchaser, total carrying value, gross sales price, and net gain.

2007 Chevrolet Suburban		
3/15/09 carrying value	\$ 15,000.00	
Gross Sales Price	\$ 18,000.00	NET GAIN:
		\$ 3,000.00

The total of the net gains shown on an attached itemized list is entered on Account Summary Form, Line 4

5. Line 5 Adjustments:

Itemize any additional **after-discovered** assets under \$5,000.00:

3/1/09 After discovered asset		
1 U.S. Savings Bank, serial #25555, face amount \$500.00, maturity May 1, 2020		
Date of death value	\$500.00	
Net increase in value		\$500.00

Itemize **corrections** to assets previously reported:

3/1/09 Asset correction		
CCC Company, 200 shares, inventory value \$40/share	\$ 8,000.00	
Date of death value was \$30/share	\$ 6,000.00	
Adjustment		-\$2,000.00

Itemize **mergers** and **name changes** of securities and **stock splits** showing the **effective date**

and any changes in the number of shares.

4/8/09 Merger and Name change		
Bell Atlantic Corp., 100 shares	\$ 3,000.00	
Merger and exchange of shares Verizon Communications, 100 shares	\$ 3,000.00	
Adjustment		\$ 0.00

Itemize acquisition of additional principal assets:

3/1/09 Asset Acquisition		
Dominion Resources, Inc.	\$ 2,250.00	
Commission	\$ 65.00	
Amount paid for Dominion Resources	- \$2,315.00	
Adjustment		\$ 0.00

Itemize shares acquired from reinvested dividends showing each reinvestment and the amount of stock purchase:

3/1/09 Reinvested Dividends		
MFS Mun bd Tr. 200 shares @\$11.25/share	\$2,251.68	
Less dividends used for purchase	-\$2,251.68	\$ 0.00

The total of the net adjustments shown on an attached itemized list is entered on Account Summary Form, Line 5.

6. Line 6 Total:

The total dollar amount of Line's 1, 2, 3, 4 and 5 is entered on Account Summary form, Line 6.

NOTE FOR LINES 7 AND 8:

In determining allocation between Income and Principal Disbursements for the following Lines 7 and 8, The Uniform Principal and Income Act, Virginia Code Section 64.2-1000, et seq., should be consulted for proper allocation of disbursements between principal and income.

The trust instrument should also be consulted to determine if there is direction as to the charging of expenses. A specific provision in the Will (trust) controls over statutory language.

Unless stated otherwise in the trust, investment fees, trustee's fees, accounting and tax return preparation fees and Court filing fees are charged one-half to principal and one-half to income. Legal fees are generally charged one-half to principal and one-half to income.

Taxes owed by the trust are generally charged to principal.

Documentation In Support Of Disbursements Set Forth In Lines 7 And 8 Are Required To Accompany The Account For Trust-See "Record Keeping/Supporting Documentation" On Page 5:

7. Line 7 Principal Disbursements:

Itemize chronologically all disbursements by date, check number, payee, and purpose of disbursement.

The total of the Principal disbursements shown on an attached itemized list is entered on Account Summary Form, Line 7.

8. Line 8 Income Disbursements:

Itemize chronologically all disbursements by date, check number, payee, and purpose of disbursement.

The total of the income disbursements shown on an attached itemized list is entered on Account Summary Form, Line 8.

9. Line 9 Losses on Asset Sales:

For securities sold by a broker: show the date of sale, the name of security, the total number of shares, the total number of shares sold, the total carrying value, the gross sales price, and the net loss.

3/1/09 ABC Corp 300 shares @\$47.96/share		
Carrying value of 60 shares	\$ 2,877.60	
5/1/09 Sold 60 shares	\$ 2,500.00	
Computations: (\$47.96 × 60 = \$2,877.60) (\$2,877.60 - \$2,500.00 = \$377.60)		
Loss		\$ 377.60

*240 shares remaining of ABC Corp. with remaining carrying value of \$11,510.93

For real property sold: show the date of the sale, the property description, to whom sold, the total carrying value, the contract/gross sales price, and the net loss.

3/15/09 Sale 15 E. Main St., Manassas, VA		
Carry value	\$ 300,000.00	
Gross Sales Price	\$ 250,000.00	
Loss		\$ 50,000.00

For miscellaneous items sold: show the date of sale, the description, to whom sold, the total carrying value, the gross sales price, and the net loss.

2007 Ford Mustang		
Carrying value	\$ 8,000.00	
Contract/Gross Sales Price	\$ 7,500.00	

Loss	\$ 500.00
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The Total from the above examples is \$50,877.60.

The total of ALL of the NET LOSS shown on an attached itemized list is entered on Account Summary Form, Line Number 9.

LINES 10 AND 11:

Income distributions: The terms of the Trust specifies who, if anyone, is entitled to distributions of income earned by the trust. Payment of income should be paid as specified in the trust. These directions as stated in the trust must be followed.

Principal distributions: If the terms of the Trust set forth a standard established by the decedent for distribution of principal for specific purposes, even if limited, those purposes are controlling. Distributions contrary to those limited purposes will not be approved by the Commissioner of Accounts.

If the terms of the Trust set forth a broader standard for distributions of principal, such as the typical "support, maintenance and education" , although not as limited, the Trustee should exercise great care and judgment in making principal distributions.

If the terms of the Trust direct the Trustee to "consider all other sources of income" in determining the need for a principal distribution, this requires the Trustee determine the appropriateness of a distribution in view of that directive.

DOCUMENTATION IN SUPPORT OF DISBURSEMENTS SET FORTH IN LINES 10 AND 11 ARE REQUIRED TO ACCOMPANY THE ACCOUNT FOR TRUST-SEE "RECORD KEEPING/SUPPORTING DOCUMENTATION" ON PAGE 5.

10. Line 10-Principal Distributions:

Itemize chronologically all distributions by date and include check number, description of distribution and payee.

The total value of the Principal Distributions shown on an attached itemized list is entered on Account Summary Form, Line Number 10.

11. Line 11-Income Distributions:

Itemize chronologically all distributions by date and include check number, description of distribution and payee.

The total value of the Income Distributions shown on an attached itemized list is entered on Account Summary Form, Line Number 11.

12. Line 12-Assets on Hand

Itemize each assets remaining on hand at its carrying value and its market value at the end of the accounting period.

Assets on hand	Carrying Value	Market Value
ABC Bank, Checking Acct #111	\$ 25,200.00	\$ 25,200.00
SYZ Brokerage, MM Acct #2222	\$ 75,800.00	\$ 75,800.00
Coin Collection	\$ 3,500.00	\$ 3,500.00
ABC Corp. 300 shares	\$ 10,000.00	\$ 8,000.00
CCC Company, 200 shares	\$ 6,000.00	\$ 7,000.00
Dominion Resources, 100 shares	\$ 2,300.00	\$ 3,400.00
Verizon Communications, 100 shares	\$ 3,000.00	\$ 4,000.00
TOTAL VALUE	\$125,800.00	\$126,900.00

The **TOTAL** of the Carrying Value must be entered on line number 12.**

**The Total of the Market Value must be entered below line number 13.

NOTES:

The Trustee will be required to provide verification of the existence of each asset. This includes bank statements, (reconciled to agree with your account balance) broker's statements, copies of K-1 forms, copies of promissory notes, Certificate of Deposit Statements, titles to vehicles and watercraft.

13. Line 13-Total

The total dollar amount of Line 7, 8, 9,10,11 & 12 must be inserted on Line 13 of the Account Summary form, AND this total MUST equal the total listed on Line #6 of the Account Summary form.

Before filing the Account For Trust form, be sure to do the following:

- Date and sign page 1 (All Trustees are required to sign)
- Write a check for the appropriate Account filing fee (payable to: Commissioner of Accounts)
- Be sure to number each page in sequential order.
- Make at least two (2) copies of the Accounting; 1 for your records, and 1 for the Commissioner of Accounts Office.

When ready to file, mail ALL of the items listed below:

1. An Original complete and executed Account for Trust together with an itemized list for each figure on the Summary Form and stated supporting documentation.
2. One copy of the completed Account for Trust form together with an itemized list for each figure on the Summary Form.
3. Payment for the Account Filing Fees (see fee schedule)

Mail to: Mail or hand deliver to: The Commissioner of Accounts to whom you were assigned at the address on the front page of these Instructions.

FINAL ACCOUNT FOR TRUST

The Final Account For Trust must exhibit all assets of the Trust as having been disbursed or distributed in accordance with the terms of the Trust and show a zero balance as Assets On Hand (Line 12). A Tax Certificate must accompany the Account dated and signed by all Trustees before the Final Account can be audited or approved (Virginia Code §58.1-911). The Tax Certificate To Accompany Fiduciary Accounts was given to you at your qualification appointment with the Probate Clerk.

COMPENSATION FOR ADMINISTRATION OF ESTATE

General Information

A Trustee is entitled to "reasonable" compensation for administering a trust estate. (Virginia Code §64.2-1208)

The Personal Representative's compensation is for the complete handling of the administration of the trust. Compensation is not an honorarium, but it is based on services rendered by the Trustee. The Compensation Guidelines that follow are based on the "Guidelines for Fiduciary Compensation" adopted by the Judicial Counsel of Virginia and this jurisdiction.

Compensation Guidelines for Personal Representative

If you have any questions regarding Trustee Compensation, please contact the Commissioner of Accounts Office BEFORE YOU TAKE A FEE.

Principal Fee (Taken annually)

1% of first \$500,000 (.01)

¾ of 1% of next \$500,000 (.0075)

½ of 1% of \$1,000,000 through \$9,999,999 (.005)

Over \$10,000,000 – by agreement with the Commissioner (consultation required)

If the Will (or Court order) does not state the fiduciary compensation, these guidelines will control.

Successor Personal Representative

When a Personal Representative is succeeded by another, the annual fees shall be pro-rated, and an additional compensation fee may be allowed, but only if the Commissioner of Accounts or the Court determines this to be appropriate.

Co-Personal Representative

One fee will be divided equally among the co-personal representatives. The co-Personal Representative's may agree among themselves on a different division. In case of a dispute concerning the division of the compensation fee, the Commissioner of Accounts may hold a hearing to resolve the dispute, but only if ALL of the Personal Representatives first agree to the use of this hearing procedure.

Important Notes about Compensation for Personal Representatives:

The Commissioner of Accounts may deviate from the above compensation guideline on a case-by-case basis, if necessary, to insure that each Personal Representative receives "reasonable compensation" for services provided. Factors to be considered in determining the compensation include the nature of

the assets, the character of the work, the difficulties encountered, the time and expertise required, the responsibilities assumed, the risks incurred and the results obtained.

The Commissioner of Accounts will also allow a deviation from the above compensation guideline if the will clearly sets out the Personal Representative compensation in a specific dollar amount or percentage OR, if all interested parties give informed consent and agree in writing to the amount of compensation.

Fees paid to an attorney or accountant employed by the Personal Representative to perform duties that could be performed by the Personal Representative will be deducted from the compensation due to the Personal Representative. "Reasonable fees" paid to attorneys or accountants for tax work, litigation, or other professional services reasonably necessary for the orderly administration of the estate need not be deducted from the Personal Representative's compensation.

Bond

When you qualified as Trustee, you signed a Bond guaranteeing your performance as required by law. The Probate Clerk determined the dollar amount of every Personal Representative's bond, and also determined whether the bond shall be secured or unsecured. (Virginia Code §64.2-504)

Unsecured Bond

This bond only requires the Personal Representative's signature.

Secured (surety) Bond

This bond requires both the Personal Representative's signature and the signature of a third party (usually a corporate surety).

Bond Increase

If there is an increase in the value of the assets under your control as Personal Representative, and the dollar value of the assets becomes greater than the dollar amount set on your bond at the time of qualification before the Clerk, you will be required to sign a new bond to increase the dollar amount on the bond. You will receive notification from the Clerk to execute a new bond within a set deadline. If you do not sign a new bond by the deadline given, your powers of appointment as Personal Representative may be revoked due to an insufficient bond.

Bond Reduction

If there is a decrease in the value of the assets under your control and the dollar values of the assets become less than the dollar amount set on your bond at the time of your qualification, you can request a reduction in the amount of the bond. **A bond reduction request can only be considered after an inventory or accounting has been approved by the Commissioner of Accounts showing that the assets on hand, plus anticipated income, are less than the current bond amount. Please mail a written request for a bond reduction to the Probate Clerk.**

PENALTIES

The Code of Virginia provides for certain penalties if a Personal Representative does not properly file the required documents with the Commissioner of Accounts Office in a timely manner. Any penalties are to be paid from the Personal Representative's personal assets and **NOT** from the assets of the estate.

Late Fee

For failure to file an inventory or accounting within the time required by law, the Personal Representative will be assessed a late filing fee. Personal Representatives who fail to settle their accounts in a timely manner shall forfeit their compensation unless good cause can be shown for their delay.

Summons

If the Personal Representative fails to respond to letters from the Commissioner of Accounts regarding the filing of an inventory or accounting, or fails to provide appropriate supporting documentation, a summons will be issued and served upon the Personal Representative by the Sheriff. Upon service, the Personal Representative has thirty (30) days in which to submit the required information to the Commissioner of Accounts.

Court Appearance

If a summons deadline is not met, the Commissioner of Accounts will report the delinquency to the Court and will request that a Show Cause Order be entered against the Personal Representative. After the Court issues a Show Cause Order, the Personal Representative will be required to appear in the Circuit Court of Prince William County. The Personal Representative will have to explain to the Judge why he/she has not complied with the law. The Court may revoke the Personal Representative's powers, and may also impose a fine not to exceed \$500.00.

Any fees or fines incurred because of delinquency must be paid by the Personal Representative, individually and personally, and cannot be paid from the estate assets.

Change of Address

Any Personal Representative who moves from Virginia and becomes a resident of another state shall inform the Probate Clerk and the Commissioner of Accounts of his/her new address and phone number within thirty (30) days of the date of the change in residency. **Any person who fails to inform the Clerk and the Commissioner shall be subject to a civil penalty of \$50.00.**

GUIDELINES FOR FIDUCIARY COMPENSATION

A guideline is a statement of policy or procedure; it is not a fiat. The Judicial Council, in establishing the Standing Committee on Commissioners of Accounts in 1993, charged the committee with promoting uniformity of practice among commissioners of accounts. Mindful of the Supreme Court's admonition that the circumstances in each case determine the allowance of fiduciary compensation, the Standing Committee suggests the following Guidelines for Fiduciary Compensation to promote a degree of uniformity among the Commissioners of Accounts in Virginia in their task of determining compensation to be allowed fiduciaries. The guidelines are not intended as a substitute for the analytical work the Commissioner must do in determining the statutory "reasonable compensation" for each case.

A. DECEDENT'S ESTATES

1. Where the will clearly sets out compensation in a specific dollar amount or a specific percentage that the Executor is to receive, the Testator's instructions control, and the Executor is entitled to the amount set out.

2. Where the will states that the Executor shall receive for services the compensation set out in a referenced published fee schedule in effect at the time such services are rendered, fees as set out in the fee schedule shall be presumed to be reasonable, as that term is used in §26-30. The burden of proving that fiduciary compensation taken according to such a fee schedule is not reasonable would be on the Commissioner or the objecting party.

3. The presumption in 2. does not apply in the case where the will is silent as to the Executor's compensation. In such a case, if the Executor (corporate or otherwise) uses a published fee schedule to determine compensation, the rules and the guidelines set out herein apply. However, there is no presumption that such a published fee schedule is not reasonable.

4. Where all parties affected by the amount of the compensation are (i) competent to contract (ii) understand the issues involved (i.e., have given "informed consent") and (iii) agree in writing as to the amount of the compensation to be paid, then the agreement should be honored by the Commissioner.

5. Unless determined as set out in paragraphs 1., 2. or 4. above, fees to be allowed the Executor on all property in the decedent's probate estate (calculated on the inventory value, including amendments) are as follows:

(a) 5% of first \$400,000.00

4% of next \$300,000.00

3% of next \$300,000.00

2% over one million

Over \$10 million - by agreement with the Commissioners
(prior consultation is required).

AND

(b) 5% of income receipts (not including capital gains).

6. The value of real estate will be included as property in the decedent's probate estate for fee purposes only if the Executor is given the power to sell real estate and (i) is instructed to sell real estate in the will, or (ii) is requested to sell real estate by all affected beneficiaries or devisees, or (iii) is required to sell real estate to pay taxes or other charges against the estate, or (iv) the Executor determines that such sale is clearly in the best interest of the estate and the devisees or beneficiaries as a whole.

7. If the Executor employs an attorney or accountant to perform the duties of the fiduciary, the fees of those persons are deducted from the compensation due the fiduciary. Note that this does not apply to reasonable fees paid to attorneys or accountants for tax work or

litigation or other legal services reasonably necessary for the orderly administration of the estate.

8. If the Executor employs an investment advisor, the advisor's fees, if reasonable, will not generally be deducted from the Executor's compensation.

9. The Commissioner may also increase or decrease the otherwise allowable compensation in exceptional circumstances. Factors to be considered in determining the compensation would be the nature of the assets, the character of the work, the difficulties encountered, the time and expertise required, the responsibilities assumed, the risks incurred and the results obtained. A consideration of these factors could result in a decrease or an increase of the compensation that would otherwise be determined using the standards set out elsewhere herein.

10. As a general rule, an Executor is not allowed compensation based on the value of assets not includable in the probate estate. The Commissioner may allow such compensation only in unusual circumstances. The Executor is advised to make separate fee arrangements with the beneficial owners of such non-probate assets; the estate is not to be charged with such fees.

NOTE: The use of the word Executor above includes all fiduciaries charged with administering decedent's estates. The words "fee" and "compensation" are used interchangeably.

B. TRUSTS

With respect to Trusts, the specific guidelines to compensation are:

1. Compensation shall be taken on an annual basis, based on the fair market value of the trust assets at the beginning of the accounting period. Where the required accounting is for a period of less than one full year (see, for example, §26-17.6.A.), the compensation must be pro-rated.

2. Paragraphs A. 1. through A. 4. apply as well to trusts.

3. Income and principal shall be treated alike in determining the value in B. 1. above (i.e., no distinction shall be made between income and principal).

4. The schedule of fees is as follows:

1% of the first \$500,000 (.01)

3/4 of 1% of the next \$500,000 (.0075)

1/2 of 1% over \$1,000,000 (.005)

Over \$10 million - by agreement with Commissioner

(prior consultation is required).

5. The guidelines set out in A. 7., 8., and 9. above also apply to Trustees. In addition, the Commissioner may reduce the allowable compensation in certain circumstances, such as where the Trustee has delegated total investment responsibility to professionals or is not making any discretionary distributions.

C. CONSERVATORS AND GUARDIANS

1. The same percentages as set out above for Trustees shall apply to both Conservators, Guardians of infants and Trustees of veterans under §37.1 - 137.3. The percentages shall be applied annually to the principal amount as shown on the inventory (initial account) and on the beginning balance of accountings (subsequent accounts). However, an additional fee of 5% shall be allowed on non-investment income received during the account period (for example, periodic payments such as social security or retirement payments counted as income). Compensation must be pro-rated when the required accounting is for a period of less than one full year (see §26-17.4.A.).

2. The guidelines set out in paragraphs A. 7., 8., and 9. and B. 1. above shall apply where appropriate.

D. SUCCESSOR FIDUCIARIES

Where a fiduciary is succeeded by another, the annual fees (Trustees, Conservators and Guardians) shall be pro-rated. In the case of Executors, the fees shall be based on the guidelines, but the Commissioner will determine the amount to be allowed, based on the factors set out in A. 9. above. More than one full fee may be allowed, subject to the Commissioner's decision.

E. CO-FIDUCIARIES

1. Generally, one fee will be divided equally among the co-fiduciaries. The co-fiduciaries may agree among themselves on a different division.
2. The Commissioner can agree to an increased fee under all the circumstances of the matter, and considering the factors set out in A. 9. above.
3. In case of a dispute concerning the division of the fee, the Commissioner may hold a hearing. However, all of the fiduciaries should first agree on the use of this procedure.

NOTES:

(1) The time to take compensation: Fiduciaries no longer must wait to take their fees until the estate is closed. However, the time of taking should bear some relationship to the expected life of the estate, the work already done, and the work remaining to be done.

(2) Fees of Conservators and Guardians of Infants: Where an account of less than a one year period must be filed (§26-17.4), a pro-rata fee will be allowed for the short account (i.e., 1/3 of an annual fee for a 4 month account).

(3) Statutes: Nothing in these Guidelines is intended to alter any statute concerning fiduciary compensation. See especially §26-19, headed "(w)hen fiduciaries to forfeit their commissions, etc."

(4) Other matters: Reference to the "Manual for Commissioners of Accounts" is recommended where other questions occur. See in particular §9.204 of the Manual, "Fiduciary Compensation and Attorney's Fees."

TAX CERTIFICATE TO ACCOMPANY FIDUCIARY ACCOUNTS

To: Commissioner of Accounts
Circuit Court of Prince William County, Virginia

Re: Estate of _____ Fiduciary No. _____

The undersigned fiduciary/fiduciaries of the above-referenced estate ("Estate") does/do hereby certify, to the best of the knowledge of the undersigned, as follows:

1. The undersigned has read and reviewed the sections of the Code of Virginia on the reverse side of this Tax Certificate to Accompany Fiduciary Accounts.
2. (a) All taxes pertaining to the Estate have been paid; or,
(b) All taxes pertaining to the Estate have been paid to the extent ascertainable after personal inquiry of the Virginia Department of Taxation and the Director of Tax Administration, Prince William County, Virginia, or the Commissioner of Revenue of the City of Manassas and the City of Manassas Park, Virginia, as may be appropriate based upon the residence of the decedent; or,
(c) There remains in the possession of the undersigned a sufficient sum, over and above the charges of administration, to pay all taxes charged against the undersigned in the undersigned's fiduciary capacity; or,
(d) The Estate is insolvent and the debts of the decedent were paid in accordance with existing statutes made and provided for such instances.
3. Under the laws of the United States and the Commonwealth of Virginia, all required federal and Virginia estate tax returns have been filed. All federal and Virginia estate taxes imposed upon the property of the Estate have been paid in full or no such tax is due.
4. The undersigned certifies under penalty of perjury that the foregoing is true and correct.

Fiduciary Name and Title: _____
(Please Print)

Date: _____
(Signature)

Fiduciary Name and Title: _____
(Please Print)

Date: _____
(Signature)

**Excerpts from the 1950 Code of Virginia, as amended, relating to the duties of the
Commissioner and the fiduciary with regard to the payment of taxes:**

Section 58.1-22. Accounts not to be settled until taxes paid or provided for.

No Commissioner of accounts shall, under Section 26-32, file any report of an account of the transactions of any fiduciary not governed by Section 58.1-911 until the commissioner finds that all taxes, whether state, county or city, assessed and chargeable upon property in the hands of the person for whom such account is settled have been paid or unless such account shall show that there remains in the hands of such person a sufficient sum, over and above the charges of administration, to pay all taxes charged against such person in his capacity as fiduciary.

Section 58.1-23. Inquiries required of fiduciaries.

Every personal representative, before settling the estate in his hands, shall make inquiry of the treasurer of the county or city wherein the decedent last resided and of the Department with respect to any unpaid taxes and levies assessed against his decedent.

Section 58.1-911. Final account.

No final account of a personal representative shall be approved by a commissioner of accounts unless the commissioner finds that all state, county or city taxes assessed and chargeable upon property in the hands of a personal representative have been paid. No final account of a personal representative who is required to file a federal estate tax return shall be approved by the commissioner of accounts unless the commissioner finds that the tax imposed on the property by this chapter, including applicable interest, has been paid in full or that no such tax is due.

Tax inquiries may be made to:

Commonwealth of Virginia	Internal Revenue Service
Virginia Department of Taxation Office of Customer Services Post Office Box 1115 Richmond, VA 23218-1115 804-367-8031 www.tax.virginia.gov	1-800-829-1040 (Local Office) 5205 Leesburg Pike Baileys Crossroads, VA 22041 703-756-6663 www.irs.gov

Taxpayer Services for Prince William Co.	Taxpayer Services for Manassas Park
Dr. A.J. Ferlazzo Building 15941 Donald Curtis Drive Woodbridge, VA 20191 703-792-6710	Commissioner of Revenue 1 Park Center Court Manassas, VA 20111 703-335-8825
Sudley North Government Center 7987 Ashton Avenue Manassas, VA 20110	Taxpayer Services for Manassas City
James J. McCoart Administration Building 1-County Complex Court Prince William, VA 22192	Commissioner of Revenue 9027 Center Street Manassas, VA 20110 703-257-8253