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6 JANNA DAY and PAMELA ESTELLE RUMPH

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES, CENTRAL DISTRICT

10
11 In re the matter of:

12 THE DAY FAMILY SURVIVOR'S TRUST

[Assigned to the Hon. Lee R. Bogdanoff,
Dept. 29]

CASE NO.: SP006992

13
14 **PETITION FOR:**

15 **1. INSTRUCTIONS AND ORDER**
16 **REGARDING DISTRIBUTION OF**
17 **REAL PROPERTY TO JANNA**
DAY;

18 **2. ORDER IMPOSING**
19 **SURCHARGE AND OTHER**
20 **REMEDIES**

21 **[PROBATE CODE SECTIONS**
22 **17200(a)(1), 17200(a)(3),**
17200(a)(5), 17200(a)(6),
17200(a)(12)]

23 **[Exhibits 1-17]**

24 Hearing Information:

25 Date: 10/12/22

26 Time: 8:30am

27 Dept. 29
28

EXHIBIT LIST

All exhibits referred to in this Petition are incorporated herein by reference. The exhibits are:

EXHIBIT 1: RESTATED DECLARATION OF TRUST (dated Dec. 15, 1993)

EXHIBIT 2: 7TH AMENDMENT TO DAY TRUST

EXHIBIT 3: 8TH, 9TH & 10TH AMENDMENTS TO DAY TRUST

EXHIBIT 4: 11TH AMENDMENT TO DAY TRUST

EXHIBIT 5: CHANGE OF TRUSTEE AMENDMENT

EXHIBIT 6: DECLARATION OF HOLLY MILES

EXHIBIT 7: DECLARATION OF KIP MILES

EXHIBIT 8: DECLARATION OF BRANDON GOLDSTEIN

EXHIBIT 9: DECLARATION OF JANNA DAY

EXHIBIT 10: PETITION FOR INSTRUCTIONS REGARDING HOLD

ON PARTIAL DISTRIBUTION

EXHIBIT 11: MINUTE ORDER DATED JANUARY 9, 2009

EXHIBIT 12: EXCERPT FROM 2008-2013 SURVIVOR'S TRUST ACCOUNTING

BACKGROUND

EXHIBIT 13: MARITAL TRUST ACCOUNTING FOR 1996

EXHIBIT 14: JASON ACCEPTANCE

EXHIBIT 15: DEEDS

EXHIBIT 16: REFEREE'S REPORT

EXHIBIT 17: DECLARATION OF PAMELA ESTELLE RUMPH

1 TO THE COURT, AND ALL INTERESTED PARTIES:

2
3 Beneficiaries JANNA DAY and PAMELA ESTELLE RUMPH (“Petitioners”),
4 hereby petition this probate Court for instructions and an order that trustee Jason Rubin
5 distribute the real property at 22223 Carbon Mesa Road, Malibu, CA 90265 (“Malibu
6 Property”) to Janna Day in accordance with the provisions of the Day Family Trust,
7 determine any necessary equitable payments to the Day Family Survivor’s Trust and for
8 surcharge of trustee Rubin for the damages to the Trust and its beneficiaries.

9
10 **SUMMARY OF PETITION**

11 This Petition to Instruct trustee, Jason Rubin, to distribute the Malibu Property is
12 based on:

13 1. The Day Family Trust Documents explicit mandate that “The share
14 allocated for Trustor’s daughter shall include Trustors’ residence located at 22223 Carbon
15 Mesa Road...”. (Exhibit 1; Restated Declaration of Day Trust, Section 10.02),
16

17 2. The Day Family Trust Documents which required the Malibu Property to
18 have been placed into the Marital Trust and distributed to Janna Day on her 60th
19 birthday, which occurred on November 9, 2013, (Exhibit 1; Restated Day Trust, Section
20 10.02(e)),
21

22 3. Prior co-trustees, Foster Rains and Terry Mayo’s arbitrary and wrongful
23 transfer of the Malibu Property to the Survivor’s Trust in violation of the express terms
24 and intent of the trust documents, followed by current trustee Rubin’s refusal to re-transfer
25 the property back to the Marital Trust,
26

27 4. The re-affirmation of the intent of surviving trustor, Janice Day, in 1996,
28 when she directed her one-half community property interest in the Malibu Property be

1 transferred into the Marital Trust for consideration of \$645,212.75 on December 11, 1996.
2 (Exhibit 13),
3

4 5. Chain of Title vesting the Malibu Property as property of the Day Family
5 Trust (not the Day Family Survivor's Trust) during the life of surviving trustor Janice E.
6 Day. (Exhibit 15),
7

8 6. The Declarations of Kip Miles, Holly Miles, Brandon Goldstein and Pamela
9 Estelle Rumph, all the adult contingent beneficiaries of the Survivor's Trust, consenting to
10 and waiving their interest in the Malibu Property in favor of distribution to Janna Day.
11 (Exhibits 6-8, 17).
12

13 **PETITION** 14

15 **7. JURISDICTION AND VENUE:** The location of the Malibu Property
16 and principal administration of the Trust are in Los Angeles County, California.

17 The real property in question is currently situated in the Day Family Survivor's
18 Trust and this Petition is filed in accordance with local rules, which require, "All
19 petitions filed under Probate Code section 17200 et seq. which relate to the same trust
20 must be filed under the same case number". L.A.S.C. Local Rule §4.106.

21 **8. INTERESTED PARTIES:**

22 **A. SETTLORS/CO-TRUSTORS:**

23 Husband and wife, Frank P. Day and Janice E. Day, ("Co-Trustors"), were the
24 settlors and co-trustors of the Day Family Trust. Frank P. Day died on June 15, 1995.
25 Janice Day survived Frank Day by approximately two years, passing on July 4, 1997.

26 **B. BENEFICIARIES:**

27 1. Frank and Janice Day had one child, the primary beneficiary of the Trust
28 and current petitioner, Janna Day ("Janna"). Janna Day had three children, Pamela Estelle

1 Rumph (“Estelle”), Kip Miles (“Kip”), and Holly Miles (“Holly”).

2 2. Kip Miles and Holly Miles both have one child (great-grandchildren
3 of the Co-Trustors). Brandon Goldstein has reached the age of majority. Archer Miles is
4 seven years old and the Court has appointed Mr. Timothy Mishler as his guardian ad
5 litem.

6 C. TRUSTEES:

7 Prior co-trustees, Foster Rains and Terry Mayo (“Co-Trustees”) served jointly from
8 October 1996 through March 2013. City National Bank replaced the Co-Trustees
9 followed by another term for Terry Mayo. Jason Rubin is currently the sole trustee
10 administering all Day trusts and subtrusts.

11 **9. THE TRUST DOCUMENTS:**

12 A. Trust As Established Prior to Death of Co-Trustor Frank P. Day

13 1. Original Trust: On May 24, 1985, jointly created a living trust
14 entitled the “Day Family Trust”. It was amended five times prior to December 1993.

15 B. Restated Day Family Trust (Sixth Amendment): On December 15, 1993,
16 the Co-Trustors jointly executed a sixth amendment, fully restating and entirely replacing
17 the original Trust and previous amendments. A true and correct copy of the Restated
18 Declaration of the Day Family Trust, the operative trust instrument, is attached as Exhibit
19 1.

20 C. Amendments to the Restated Day Family Trust: The following amendments to
21 the Restated Day Family Trust (Exhibit 1) were made:

22 1. Seventh Amendment: On Sept. 19, 1994, a Seventh Amendment was
23 executed by both trustors, Frank Day and Janice E. Day. This Amendment changed the
24 substantive distributions of the Survivor’s Trust and the Marital Trust. The amendments
25 to the Survivor’s Trust (Section 7.08) were later revoked and amended by Janice E. Day,
26 as survivor. The decisive provisions of the Marital Trust, in particular Section 9.03 and
27 Section 10.02 et. seq., however, remain in place today, as this 1994 revision was the final
28 amendment executed by Frank Day before his death. A copy of the Seventh Amendment

1 is attached as Exhibit 2.

2 2. Eighth Amendment: On September 1, 1995, an Eighth Amendment
3 was executed solely by Janice E. Day, after the passing of her husband, Frank Day. This
4 amendment to Section 7.08 provided for outright distribution of all Survivor's Trust assets
5 to Janna Day on Janice's death. This amendment was subsequently revoked in its entirety
6 by the Eleventh Amendment. A copy of the non-operative Eighth, Ninth and Tenth
7 Amendments are attached as Exhibit 3.

8 3. Ninth Amendment: On October 1, 1996, a Ninth Amendment was
9 executed solely by the surviving spouse, Janice E. Day. This Amendment was
10 specifically revoked in its entirety by the Eleventh Amendment. Revoked by 11th
11 Amendment. Attached in Exhibit 3.

12 4. Tenth Amendment: On January 6, 1997, a Tenth Amendment was executed
13 solely by the surviving spouse, Janice E. Day and merely changed the income provisions
14 applicable while she was still alive. Revoked by 11th Amendment. Attached in Exhibit 3.

15 5. Eleventh Amendment: On June 24, 1997, an Eleventh Amendment
16 was executed solely by the surviving spouse, Janice E. Day. The Amendment made
17 significant revisions to the Survivor's Trust distribution scheme. A copy of the Eleventh
18 Amendment is attached as Exhibit 4.

19 6. Change of Trustee: On October 3, 1996, Janice Day amended the
20 Trust to appoint Terry D. Mayo and Foster Rains as co-trustees of all trusts established
21 by the Restated Day Family Trust. A copy of the Change of Trustee amendment is
22 attached as Exhibit 5.

23 **10. REVOCABILITY:**

24 The Day Family Trust was initially revocable. However, the Marital Trust
25 became irrevocable on Frank Day's death on June 15, 1995. Exhibit 1, p. 3, § 3.03(c).
26 The Survivor's Trust remained revocable and amendable by the surviving trustor, Janice
27 E. Day (Ex. 1, p. 14, § 7.06.), and became irrevocable on her death on July 4, 1997.

1 **11. TRUSTEES:**

2 The Trustors initially appointed themselves as co-trustees. Exhibit 1, p. 4, §
3 4.01. Upon the death or inability of either trustor to serve as trustee, the surviving trustor
4 was designated to serve as sole trustee. (Id.). The surviving trustor was granted the
5 authority to remove a trustee and/or appoint a successor trustee of any trust created under
6 the trust instrument. Ex. 1., p. 5, § 4.03(b). Less than one year prior to her death, Janice
7 E. Day named two recent acquaintances to take her place as co-trustees. See Exhibit 5,
8 Change of Trustee, dated October 3, 1996. Terry Mayo was a fundraiser from Janice's
9 alma mater and Foster Rains was a police officer who had worked a security detail for her
10 a couple years prior to Janice's death.

11 Both Co-Trustees, Mayo and Rains were removed after an extensive bench trial
12 before Judge Lefkowitz ending in December 2012. City National Bank was appointed
13 trustee by court order on March 21, 2013. However, Mayo appealed the judgment and the
14 Court of Appeal reversed the ruling and reinstated Mayo, but not Rains, who was not
15 party to the appeal. Subsequently, Terry Mayo resigned and Jason Rubin became sole
16 successor trustee for all Day trusts on May 1, 2017.

17 **12. DIVISION INTO SEPARATE TRUSTS:**

18 The detailed provisions of the Day Family Trust, of which the Day Family
19 Survivor's Trust is one part, form the core of this Petition, and will be addressed further,
20 below in this Petition. However, under the auspices of the main trust instrument (Exhibit
21 1), a number of other separate trusts were to be established. Ex. 1, p. 10, Article VI.

22 **A. Survivor's Trust:**

23 The stated purpose of the Survivor's Trust, as amended by Janice Day, was "that
24 the assets in the Survivor's Trust be used to provide financial security for Janna and her
25 children throughout their lifetimes regardless of any market reverses, improvident
26 investment of funds, or improvident use of funds that may occur." Exhibit 4, Eleventh
27 Amendment, p.1, § 7.08.

28 The Survivor's Trust was to be funded with the surviving trustor's (Janice) share of

1 community property and any of her separate property Ex. 1, p. 10, § 6.02.

2 **B. Marital Trust:**

3 The Marital Trust was to be funded with the Frank Day's share of community
4 property and any of his separate property, as he pre-deceased Janice. Ex. 1, p. 10, § 6.04.

5 **C. Exemption Trust** (Ex. 1, p. 10, § 6.03):

6 According to the Co-Trustees, the Exemption Trust "was never established because
7 there was no amount remaining of the Estate Tax exemption under Estate Tax laws due
8 to gifts made during Frank P. Day's lifetime." First Account Current and Report of
9 Trustees filed February 14, 2005.

10 **D. Disclaimer Trust** (Ex. 1, p. 10, § 6.05):

11 Again, according to the Co-Trustees, "The Disclaimer Trust was never established
12 by a Disclaimer by Surviving Trustor Janice E. Day." First Account Current and Report of
13 Trustees filed February 14, 2005.

14 **E. Grandchildren Trusts:**

15 Six separate trusts were established for the Co-trustors' grandchildren, Estelle, Kip
16 and Holly. Three trusts for each grandchild were to be funded by assets from the
17 Survivor's Trust and three trusts for each grandchild were to be funded by assets from
18 the Marital Trust. Ex. 1: Day Family Trust § 9.03; Ex. 4: 11th Amendment, p.3, § 7.08;
19 Ex. 2: Seventh Amend., dated Sept. 19, 1994.

20 **13. COURT APPROVED ACCOUNTINGS:**

21 Although Mayo and Rains became Co-Trustees in 1996, they did not provide any
22 of the beneficiaries with an accounting until 2005, when they filed a First Account
23 Current. See Decl. of Janna Day; Decl. of P. Rumph, Exhibits 9, 17.

24 In December 2016, trustee Mayo filed a Fourth Account Current. As with the
25 previous accounts filed, the Fourth Account Current does not disclose the ongoing issue
26 with the Malibu Property being transferred to the Survivor's Trust (thereby violating the
27 trust provisions).

1 **14. NOTICE**

2 Notice is required and will be provided to the following:

3
4 Terrence M. Franklin, attorney for trustee, Jason Rubin
5 Sacks, Glazier, Franklin & Lodise LLP
6 350 South Grand Avenue, Suite 3500
7 Los Angeles, CA 90071
8 tfranklin@trustlitigation.la

9 Holly Miles, beneficiary (grandchild of Settlers)
10 5307 Argos Street
11 Agoura Hills, CA 91301
12 holly.miles@sbcglobal.net

13 Brandon Goldstein, beneficiary (great-grandchild of Settlers)
14 5307 Argos Street
15 Agoura Hills, CA 91301
16 brandgolds1@gmail.com

17 Kip Miles, beneficiary (grandchild of Settlers)
18 5321 Argos St.
19 Agoura Hills, CA 91301
20 kip.miles@icloud.com

21 Mr. Timothy G. Mishler, guardian ad litem for
22 Archer Anthony Miles, beneficiary (great-grandchild of Settlers)
23 814 W Foothill Blvd
24 Monrovia, CA 91016
25 timmishler@hdmlawyers.com

26 Pamela Estelle Rumph & Janna Day, Petitioners
27 c/o attorney David R. Akin

28 Archer Anthony Miles is a remote contingent beneficiary who is a minor. On June
3, 2022, the Court appointed Mr. Timothy G. Mishler as guardian ad litem to protect his
interests.

15. DIVISION INTO SEPARATE TRUSTS

 A. Division into Four Trusts Including Martial Trust and Survivor's Trust

 Upon the death of the first trustor, the trustee was to divide the trust estate into

1 three or four trusts; a Marital Trust, an Exemption Trust, a Survivor's Trust and a
2 Disclaimer Trust, if applicable. Exhibit 1, p. 10, § 6.01.

3 As per the Trustee's representations, neither the Disclaimer Trust nor the
4 Exemption Trust were ever funded. See Above.

5 B. Funding of the Survivor's Trust and Marital Trust on Surviving Trustor's Death

6 Because Frank Day died first, the Survivor's Trust was to be funded with Janice's
7 share of community property and any of her separate property. The Marital Trust was to
8 be funded with Frank's share of community property and his separate property. Ex. 1.,
9 pp. 10-11, §§ 6.02, 6.04.

10 C. Division of Marital Trust on Surviving Trustor's Death

11 On Janice's death, the trustee was to divide the Marital Trust into four separate
12 trusts; one for Janna and each of her three children. As per the Seventh Amendment, the
13 grandchildren's trusts were to be funded with the lesser of \$2,000,000 or 20% of all the
14 value of all combined trusts created by the Day Trust. Exhibit 2: Seventh Amendment,
15 dated Sept. 19, 1994.

16 The other 80%, (or more) of the Marital Trust was to be allocated to Janna Day in a
17 separate trust.

18 D. Division of Survivor's Trust on Surviving Trustor's Death

19 Janice Day amended Section 7.08 of the Trust, the key distribution section relating
20 to the Survivor's Trust on June 24, 1997, just two weeks before her death. See Exhibit 4,
21 Eleventh Amendment.

22 The 11th Amendment specified that, on Janice's death, the trustee was first to pay
23 \$500,000 to Middlebury College (Janice's alma mater and Terry Mayo's employer
24 at the time of this Amendment).

25 The trustee was then to divide the remaining trust assets into four separate trusts;
26 one for Janna and each of her three children. The value of each grandchild's trust
27 was to be equal to 1/3rd of the trustor's remaining generation-skipping tax exemption.

28 All of the rest of the assets in the Survivor's Trust were to be allocated to a trust

1 providing income for Janna. Exhibit 4, Eleventh Amendment, dated June 24, 1997.

2 **16. TRUST PURPOSES AND PROVISIONS FOR BENEFICIARIES**

3 **A. Survivor's Trust**

4 The stated purpose of the Survivor's Trust, as amended by Janice Day, was "that
5 the assets in the Survivor's Trust be used to provide financial security for Janna and her
6 children throughout their lifetimes regardless of any market reverses, improvident
7 investment of funds, or improvident use of funds that may occur." Exhibit 4, Eleventh
8 Amendment, p.1, § 7.08.

9 Although the final version of the trust signed by Frank (Ex. 1; Ex. 2, Seventh
10 Amendment dated Sept. 19, 1994) called for the entire Survivor's Trust to be distributed
11 outright to Janna Day on the surviving trustor's death, Janice, as the surviving trustor,
12 had the right to amend this provision and did so with the Eleventh Amendment executed
13 just before her passing.

14 The Eleventh Amendment carved out separate trusts for each of the
15 grandchildren, Kip, Holly and Estelle out of "a value equal to the entire generation
16 skipping transfer tax exemption of one million dollars (1,000,000)." Exhibit 4, Eleventh
17 Amendment, p.3, § 7.08.

18 Meanwhile, whereas Janna Day was entitled to all of the income generated by
19 the Survivor's Trust, on Janna's death, the remaining principal was to be held in trust
20 "for the descendants of Janna then surviving, by right of representation." Ex. 4, Eleventh
21 Amendment, p.4.

22 **B. Marital Trust**

23 Unlike the amended Survivor's Trust, the principal of the Marital Trust was to
24 be fully distributed in three phases during Janna's lifetime, at ages 45, 55 and completely
25 on reaching 60.

26 Therefore, the determination of whether an asset was allocated to the Marital Trust
27 as opposed to the Survivor's Trust carries a crucial distinction insofar as it determines
28 both the beneficiary entitlement and timing for distribution of said asset.

1 **17. FUNDING THE RESPECTIVE TRUSTS ESTABLISHED BY THE**
2 **MARITAL TRUST AND SURVIVOR'S TRUST**

3 A. Allocation of Assets to Marital Subtrusts and Survivor's Subtrusts

4 After figuring out the funding amount of each separate trust, the trustee
5 was required to fund the separate trusts with assets in accordance with the trust plans.
6 The Trustors' residence, which is the Malibu Property (there has only been one piece of
7 real estate applicable to the Day estate and trusts) was required to be allocated to
8 specifically to Janna. Exhibit 1, p. 18, § 10.02(a).

9 B. Mandatory Allocation of Malibu Property to Marital Trust

10 While the Co-Trustees had some discretion as to how the grandchildren trusts
11 were funded from the total pool of assets (Ex. 1, p. 42, § 11.17 - power to distribute in
12 cash or in kind), the Trust was explicitly clear that the Malibu Property was to be given
13 specifically to Janna Day under the Marital Trust. The Co-Trustors were keenly aware
14 that the Trust provisions at Section 10.02 were irrevocable upon Frank Day's passing
15 and that the irrevocable portions mandated full distribution to Janna at 60.

16 Additionally, the Trust specified that Janna was allowed to live in the residence
17 rent free prior to the Malibu Property being distributed to her. Exhibit 1, p. 18, §10.02(a).

18 Therefore, it is impeccably clear that the Co-Trustors irrevocably decided that a
19 central part of their estate plan was that the Malibu Property was for the sole benefit of
20 their daughter, Janna.

21 Since the Survivor's Trust was amended by Janice Day in June 1997 to provide
22 only income to Janna, and then pass through the remaining principal to the grandchildren,
23 the only acceptable funding for the Malibu Property while preserving the trustors' goals
24 was to place the Malibu Property in the Marital Trust, which Janna would eventually
25 inherit it, in whole.

26 **18. THE ACTUAL FUNDING OF THE TRUSTS**

27 A. Original Funding of the Malibu Property was Proper

28 In fact, the Malibu Property was originally placed in the Day Family Trust, where

1 it properly belonged in accordance with the trust documents. True and correct certified
2 copies of all deeds to the Malibu Property from 1985 to the present were obtained for the
3 period from October 1, 1985 to July 1, 2022. See Ex. 15; Decl. of Pamela E. Rumph, Ex.
4 17, ¶19.

5 Until 2014, the Malibu Property remained recorded with the county recorder under
6 the “Day Family Trust”, not the Survivor’s Trust.

7 B. Transfer Entirely to the Marital Trust

8 After the death of Frank Day, surviving trustor, Janice E. Day, anticipated and
9 identified the potential issue with regard to her community property portion of the Malibu
10 Property and Janna’s right to said property. She addressed this issue by having a
11 compensatory payment of \$645,212.75 made on December 11, 1996 from the Marital
12 Trust to the Survivor’s Trust and transferring the Malibu Property entirely into the Marital
13 Trust.

14 The Referees Report for the 1st Account Current (for period from 1995-2004)
15 confirms that this payment was to move the house into the Marital Trust to later be
16 distributed to Janna Day. See Exhibit 16.

17 Page 17 of the Referee’s Report indicated:

18 “The only irregular item during this period is the \$790,000 adjustment to principal
19 made on 12/11/96. This was done strategically to prepare the Carbon Mesa property for
20 eventual distribution to Janna from the Marital Trust.” See Exhibit 16, Page 19.

21 C. Transfer of the Malibu Property to the Survivor’s Trust

22 However, at some point in 1998, only one year after surviving trustor’s death, Co-
23 Trustees Terry Mayo and Foster Rains unilaterally elected to transfer the Malibu Property
24 to the Survivor’s Trust. The trustees stated, “The transfer was completed in 1998 with the
25 Marital Trust transferring the Day Residence to the Survivor’s Trust for securities and/or
26 other trust assets with a fair market value up to \$1.5 million.” Ex. 10, Petition for
27 Instructions Regarding Hold on Partial Distribution, p. 5.

28 Although the Co-Trustees claimed the compensatory amount was \$1.5 million,

1 transfers totaling only \$1,122,715.63 are apparent from the 1998 Accountings. On
2 December 30, 1998, the accountings indicate that the Marital Trust receives payments
3 from the Survivors Trust in the amounts of \$652,836.12, \$257,379.51, and \$212,500
4 (Total Amount \$1,122,715.63). In the Referee's Report for the 1st Account Current, there
5 is no mention that these amounts are to purchase the Malibu Property back from the
6 Marital Trust. Instead, the Referee's Report only makes mention that these payments are
7 adjustments as per Hugh Snow.

8 The exact amount shall of the payments made and any necessary compensatory
9 payments on distribution will need to be ascertained through the benefit of discovery, to
10 the extent distribution of the Malibu Property to Janna Day necessitates equitable
11 payments to the contingent beneficiaries. Addressed further in Sec. 22 below.

12 The rationale for this decision, in contravention of Frank and Janice E. Day's
13 wishes and the trust language, remains unclear.

14 This vitally important decision to transfer the Malibu Property from one trust to
15 another, was not discussed with Janna Day, nor any of the beneficiaries prior to Mayo
16 directing the transfer. See attached Exhibit 9, Declaration of Janna Day.

17 Contrary to the trustees' contentions in 2008, Janna never discussed or agreed to
18 transfer the Malibu Property from one trust to another. See Ex. 9. Declaration of Janna
19 Day.

20 Janna Day contends that any representations by the trustee or his attorneys to the
21 effect that Janna was informed of or discussed the re-allocating the Malibu Property
22 from the Marital Trust to the Survivor's trust are inaccurate and a misrepresentation of
23 the true facts. See Ex. 9, Declaration of Janna Day.

24 The only rationale, ever explained to Janna Day (albeit indirectly), is that which
25 is documented in a letter from Mayo's attorney, Hugh Snow, to attorney Laurence
26 Sorenson. In Mr. Snow's letter, dated August 20, 1997, he states:

27 "To assure Janna the use of the home for her lifetime, and to protect the home
28 against any possible creditors that Janna might have, the trustees have decided to
allocate the home to the Survivor's Fund rather than the Marital Fund, so that the

1 home will not be distributed to Janna at ages 45, 55, or 60.” Snow Letter dated
2 August 20, 1997.

3 It should be noted that this stated purpose for moving the Malibu Property
4 could not be at greater odds with the intentions of Trustee Rubin, presently asking the
5 Court to sell the Malibu Property (Petition for Instructions to Sell Real Property filed
6 04/29/22).

7 Rubin currently seeks this Court’s approval to sell the Malibu Property, without
8 regard to the original trustor’s intent or the effect on Janna Day or her “life estate.”

9 **19. THE TRUST TERMS MANDATE THAT THE MALIBU PROPERTY**
10 **BE REINSTATED TO THE MARITAL TRUST AND THEN DISTRIBUTED**

11 The Trust provisions specifying that the Malibu Property is to be earmarked for
12 Janna are mandatory.

13 The un-amended portion of the Trust, at Section 10.02, states:

14 **“10.02 DISTRIBUTION TO TRUSTORS’ DAUGHTER**

15 The share of this Trust allocated to Trustor’s daughter, JANNA, shall be
16 retained, administered and distributed by Trustee as follows:

17 (a) The share allocated for Trustors’ daughter shall include Trustors’ residence
18 located at 22223 Carbon Mesa Road, Malibu California (legal description
19 omitted)...if said residence is an asset of this trust at the date of death of the
20 Surviving Trustor. Ex. 1, § 10.02.”

21 Therefore, Mr. Mayo had no discretion to change the terms of the Trust and this
22 Court must order the Malibu Property distributed to Janna Day, in accordance with the
23 Trust terms. Any offsetting payment to reimburse the Survivor’s Trust for the loss of
24 the value of the Malibu Property should first come from trustee Rubin (see surcharge
25 below), to rectify his refusal to abide by the explicit trust terms and, if applicable, should
26 otherwise be left to the discretion of this Court.

27 None of these terms could have been amended by the 11th Amendment, which was
28 executed after the death of Frank Day. Moreover, Janice Day’s actions to transfer her half

1 of the community property clearly indicate this was not her intention.

2 Because the trust provisions with regard to distribution of the Malibu Property are
3 clear, express and not subject to the unilateral amendment by the trustee(s) without first
4 obtaining court approval, this breach of the trust terms is continuing and ongoing.

5 **20. THE FORMER CO-TRUSTEES ABANDONED THEIR ONE**
6 **POSTHUMOUS ATTEMPT TO SEEK COURT APPROVAL IN JANUARY 2009**

7 The decision to move the Malibu Property from the Marital Trust to the
8 Survivor's Trust was done opaquely at Mayo and Rains' sole discretion and without
9 proper notice to the beneficiaries.

10 Mayo and Rains never sought judicial guidance relating to this transfer until
11 November 24, 2008, when they filed a Petition for Instructions Regarding Hold on Partial
12 Distribution.

13 On or about November 13, 2008, Co-Trustees, Foster Rains and Terry Mayo filed
14 a Petition for Instructions seeking "the Court's instruction as to whether the trustees may
15 delay the remaining partial distribution to Janna Day until it is determined whether the
16 Day Residence is an asset of the Marital Trust distributable outright to Janna, and if so,
17 how much the Marital Trust may owe the Survivor's Trust with respect to the Day
18 Residence." Ex. 10, Petition for Instructions Regarding Hold on Partial Distribution.

19 This Petition was filed only after the Co-Trustees delayed and failed to distribute
20 one-half of the remaining principal of the Marital Trust to Janna Day on her 55th birthday
21 (11/09/08).

22 Janna Day denies that at any time prior to 2008, she was ever notified or had any
23 discussion about the Malibu Property being transferred from the Marital Trust to the
24 Survivor's Trust. See Ex. 9, Dec. of Janna Day ¶4.

25 The Co-Trustees decision to transfer the Malibu Property at 2223 Carbon Mesa
26 Road from the Marital Trust to the Survivor's Trust was never directly explained to Janna
27 Day prior to making the transfer or even thereafter and she never knowingly agreed to
28 give up her right to inherit the Malibu Property. See Ex. 9, Dec. of Janna Day ¶5.

1 The Co-Trustees stated, "The transfer was completed in 1998 with the Marital
2 Trust transferring the Day Residence to the Survivor's Trust for securities and/or other
3 trust assets with a fair market value up to \$1.5 million." Ex. 10, Petition for Instructions
4 Regarding Hold on Partial Distribution, p. 5.

5 The Petition for Instructions Re Hold on Partial Distribution further notes that "the
6 Court raised an issue concerning whether Section 10.02(a) of the Trust Agreement is a
7 governing provision of the Survivor's Trust and whether the Day Residence should be the
8 property of the Marital Trust and distributable to Janna Day as all or part of the partial
9 distribution she is entitled to receive after November 9, 2008. The Court's questions are
10 the subject of a separate petition for instructions being filed in Case Number SP 006992."
11 Ex. 10, Petition for Instructions Regarding Hold on Partial Distribution, p. 5.

12 Yet, this Petition for Instructions was taken off calendar, on January 9, 2009, at the
13 request of the Co-Trustees Mayo & Rains, who were the moving party. See Minute Order
14 dated January 9, 2009, attached as Exhibit 11.

15 Thereafter, the issue of whether the Malibu Property was appropriately an asset of
16 the Marital versus Survivor's Trust was never broached again in any judicial proceeding,
17 nor discussed with any beneficiary, except that the annual accountings from 2008 though
18 2013 made reference to the issue remaining undecided. See Declaration of Janna Day; Ex.
19 9, Ex. 12, Excerpt from Survivor's Trust Accounting 2008-13.

20 Each of the annual accountings provided to the beneficiaries for the Survivor's
21 Trust from 2008 through 2013 stated:

22 "Real Estate Property Issue - There is ongoing litigation concerning whether the
23 real estate property held in the Trust is beneficially owned by the Day Family
24 Marital Trust."

25 Accordingly, it appears that even though Mayo and Rains realized there was a
26 vitally important issue regarding whether the Malibu Property was properly transferred
27 from the Marital Trust, they never again sought judicial guidance, even up through the
28 time that the remainder of the Marital Trust was transferred to Janna Day around

1 November 2013.

2 The same approach has been adopted by Mr. Rubin, who has been aware of the
3 issue since prior to accepting his position as trustee. See trustee's "Letter of Agreement"
4 signed on April 19, 2017 (Ex. 14).

5 In fact, in his initial agreement to accept the position, Mr. Rubin insisted that the
6 beneficiaries temporarily put aside the issue of the distribution as memorialized by the
7 clause stating that "The Petition for Instructions and Order Regarding Distribution of Real
8 Property, filed on January 19, 2017, by Janna Day and Pamela Estelle Rumph, shall be
9 dismissed without prejudice. The Beneficiaries agree to meet and confer with the Trustee
10 before any future petition is filed seeking similar relief, i.e. the distribution of the Property
11 to Janna herself." See Exhibit 14.

12 According to the trustee's Letter of Agreement, after 18 months that "a new
13 petition seeking to transfer the Property to Janna Day can be brought, as long as part of
14 the relief sought from said petition includes compensation to the Survivor's Trust for the
15 value of the Property being transferred out of the Trust, said value to be determined by the
16 Court." See Exhibit 14.

17 It has been more than 18 months (more than twice that amount), but despite the
18 trustee's disinterest and inability to make the Malibu Property income-generating, he
19 regardless has indicated he will object to the distribution of the property to Janna. See
20 Ex. 17, Decl. of Pamela Estelle Rumph.

21 Most alarmingly, Mr. Rubin now seeks to sell the Malibu Property, despite the fact
22 the improper transfer of the Malibu Property from the Marital Trust to the Survivor's
23 Trust was alleged by previous trustee and his counsel to be for the following purpose:

24 "To assure Janna the use of the home for her lifetime, and to protect the home
25 against any possible creditors that Janna might have, the trustees have decided
26 to allocate the home to the Survivor's Fund rather than the Marital Fund, so that
27 the home will not be distributed to Janna at ages 45, 55, or 60." Snow Letter
28 dated August 20, 1997.

1 The Co-Trustees' actions could not be more contrary to the stated purpose, leaving
2 us with the reality that what they have done, and what trustee Rubin continues to do, is
3 simply to dispossess Janna of the property her parents earmarked for her.

4 **21. TRUST LITIGATION**

5 There was considerable litigation between the beneficiaries of the Day Family
6 Trust and former Co-Trustees Foster Rains and Terry Mayo from 2009 to 2014. See
7 Case File; L.A.S.C. Case No. SP006992 (this case).

8 Sacks, Glazier, Franklin & Lodise LLP ("Sacks Glazier") was counsel for the Co-
9 Trustees from 2009 to 2014, with Terry Franklin as the lead attorney. The litigation was
10 extensive enough that Sacks Glazier was eventually paid well over \$1.5 million in legal
11 fees from the Day Trust.

12 However, none of that litigation has settled the issue of the correct disposition of
13 the Malibu Property, which has never been resolved.

14 **22. THE COURT SHOULD DETERMINE ANY NECESSARY** 15 **EQUALIZING PAYMENTS TO THE SURVIVOR'S TRUST**

16 Another aspect of this petition is to determine any compensating payments
17 necessary to the Survivor's Trust upon distribution of the Malibu Property to Janna Day.

18 This issue is complicated by a number of factors, including the apparent
19 inconsistencies in the amount alleged to have been previously paid to the Marital Trust
20 when Rains and Mayo violated the trust terms by purporting to remove the property from
21 the irrevocable Marital Trust corpus.

22 Again, the Co-Trustees stated \$1.5 million was transferred to the Marital Trust in
23 exchange for transferring the Day Residence to the Survivor's Trust. Ex. 10, Petition for
24 Instructions Regarding Hold on Partial Distribution, p. 5.

25 However, only transfers totaling only \$1,122,715.63 are apparent from the 1998
26 Accountings. The exact amount of any compensating payment will require some due
27 diligence and opportunity for discovery.

28 There is also the question of the value of what is essentially a life-estate vested for

1 Janna Day, which should be taken into account amongst other factors including time value
2 of money and lost income to Janna Day.

3 From the perspective of the adult beneficiaries, they are in agreement that the
4 calculation is better left to agreement amongst the family than continuation of the
5 management which is threatening the ability of the family to retain the Malibu Property.
6 See Decl. of Kip Miles; Decl. of Holly Miles; Decl. of Brandon Goldstein. Exhibits 6-8.

7 To the extent determination of any compensatory issue presents an obstacle to
8 distribution, all adult beneficiaries have waived their interest in favor of the Malibu
9 Property being distributed to Janna Day. See Decl. of Kip Miles; Decl. of Holly Miles;
10 Decl. of Brandon Goldstein, Decl. of Pamela Estelle Rumph. Exhibits 6-8, 17.

11 Janna Day warrants that, if distributed to her, she will use the Malibu property to
12 help support the future of Kip Miles, Holly Miles, Pamela Estelle Rumph, as well as the
13 remote contingent great-grandchild beneficiaries, Archer Miles and Brandon Goldstein.
14 See Ex. 9; Decl. of Janna Day.

15 **23. DISTRIBUTION OF THE PROPERTY WILL SERVE THE BEST**
16 **INTERESTS OF ALL BENEFICIARIES**

17 Even should the Court find no equalizing payments are required to be made to the
18 Survivor's Trust, this Petition nonetheless benefits the interests of all beneficiaries,
19 including the contingent beneficiaries, in the long run.

20 The remaining Survivor's Trust corpus is being bled dry. The Malibu Property,
21 which has steadily appreciated in value is soon to be the only remaining asset of the
22 Survivor's Trust. Petitioners will demonstrate that the trustee is expending well over
23 \$100,000 in administrative fees and costs every year, likely an average of more than
24 \$250,000 per year since 2010.

25 The Trustee's only plan is to sell the Malibu Property and manage the liquid assets,
26 as per the Petition for Instructions Re Sale of Real Property filed with this Court on April
27 29, 2022. Trustee's petition for sale, however, fails to identify the anticipated amount
28 remaining after payoff of liens and taxes.

1 Moreover, Petitioners allege that trustee Rubin has basically been derelict in his
2 duty to make the Malibu Property income producing. See Decl. of P. Rumph, Ex. 17.

3 The current trustee reneged on his promise to make the necessary repairs and spent
4 far less than the anticipated \$400,000, which currently leaves the Malibu Property with an
5 estimated \$100,00 - \$200,000 in repairs required before it can be rented to a residential
6 tenant. See Ex. 14; Decl. of Janna Day (Ex. 9, ¶8); Decl. of P. Rumph, Ex. 17.

7 This Court can be confident that if Mr. Rubin is successful in obtaining an order to
8 sell the property, any sum remaining after sale and distribution of the Malibu Property
9 will soon be depleted with additional administrative expenses and fees even at a fraction
10 of the historic rate.

11 Conversely, Janna Day and Pamela E. Rumph have extensive plans to make the
12 Malibu Property income generating and to supply equitable payments to the beneficiaries,
13 as warranted. See Decl. of Janna Day, Ex. 9; Decl. of P. Rumph, Ex. 17.

14 Therefore, even in the worst-case scenario, when compared to the status quo and
15 prospects after sale of the Malibu Property, wherein the bulk of the asset is used only to
16 pay administrative fees, direct distribution to Janna to work out an equitable plan with her
17 children and grandchildren benefits not just Janna, but all beneficiaries.

18 **24. THE COURT SHOULD SURCHARGE TRUSTEE FOR ANY**
19 **CONTINUING FAILURE TO EFFECT DISTRIBUTION AS MANDATED BY**
20 **THE TRUST TERMS**

21 On or about May 1, 2017, Jason Rubin formally became successor trustee.

22 Again, Mr. Rubin has known from the very outset of his tenure as trustee about this
23 issue of distribution to Janna. See Exhibit 14, Trustee Letter of Agreement.

24 However, Rubin has not performed on this Agreement, insofar as he has failed to
25 invest much of the money earmarked into making the Property suitable for residential
26 rental. The Trustee Agreement and subsequent agreements with the beneficiaries were
27 signed by the beneficiaries with the one purpose of obtaining loans so that the Malibu
28 House could be improved and thereafter produce revenue that could pay off the loans and

1 provide additional income to the trust. However, Rubin's failure to apply even a
2 reasonable proportion of the loan proceeds has produced an income deficit. See Ex. 17,
3 Decl. of P. Rumph.

4 Meanwhile, in defaulting on his agreement and because Rubin was aware of the
5 mandatory provisions of the trust instrument, he is in continuing breach of the trust terms
6 which require distribution of the Malibu Property to Janna.

7 Following the trust terms is the first and most basic of all trustee duties:

8 "On acceptance of the trust, the trustee has a duty to
9 administer the trust according to the trust instrument and, except to
10 the extent the trust instrument provides otherwise, according to
11 this division." Probate Code Sec. 16000.

12 "16001. (a) Except as provided in subdivision (b), the trustee of a
13 revocable trust shall follow any written direction acceptable to the
14 trustee given from time to time (1) by the person then having the
15 power to revoke the trust or the part thereof with respect to which
16 the direction is given or (2) by the person to whom the settlor
17 delegates the right to direct the trustee.

18 (b) If a written direction given under subdivision (a) would have
19 the effect of modifying the trust, the trustee has no duty to follow
20 the direction unless it complies with the requirements for modifying
21 the trust." Probate Code Sec. 16001.

22 There can be no room for reinterpreting the trust terms taken in context of trustor
23 Janice E. Day's words and actions.

24 "The interpretation of a written instrument, even though it involves what might
25 properly be called questions of fact [citation], is essentially a judicial function to be
26 exercised according to the generally accepted canons of interpretation so that the purposes
27 of the instrument may be given effect. [Citations.] Extrinsic evidence is 'admissible to
28 interpret the instrument, but not to give it a meaning to which it is not reasonably
susceptible' [citations], and it is the instrument itself that must be given effect. [Citations.]
It is therefore solely a judicial function to interpret a written instrument unless the
interpretation turns upon the credibility of extrinsic evidence." (Parsons v. Bristol

1 Development Co. (1965) 62 Cal.2d 861, 865; see Sanders v. Yanez (2015) 238
2 Cal.App.4th 1466, 1471.)

3 Although not necessary here since the trust terms are unambiguous, all the extrinsic
4 evidence also favors the contentions set forth that the Malibu Property was required to be
5 allocated to Janna Day.

6 As stated above, surviving trustor, Janice E. Day's intent was clearly reinforced
7 when she had her remaining community property half of the Malibu property transferred
8 into the Marital Trust in exchange for value paid into the Survivor's Trust the year prior to
9 her death.

10 The Malibu Property was recorded on title under the Day Family Trust, not the
11 Day Family Survivor's Trust until 2014, when recorded under the Day Family Survivor's
12 Trust in error. See Exhibit 15, Certified Copies of Deeds.

13 At a minimum, any administrative or attorney fees charged against trust assets to
14 oppose this petition should be either returned or surcharged to trustee.

15 "[A]ttorney fees deriving from probate court litigation are subject to concerns
16 sufficiently unique, we believe, to distinguish them from fees generated in ordinary civil
17 litigation." (Hollaway, supra, 68 Cal.App.4th at p. 98.)" Donahue v. Donahue, (2010) 182
18 Cal.App.4th 259, 269.

19 Given these circumstances and the unambiguous trust mandate, current Trustee
20 Rubin should not be continuing to forestall the necessary transfer to Janna Day, nor
21 expend trust assets for fees and costs to oppose this action.

22 "Probate courts have a special responsibility to ensure that fee awards are
23 reasonable, given their supervisory responsibilities over trusts. "Presented with a section
24 17200 petition to settle an account, `the probate court has a duty imposed by law to
25 inquire into the prudence of the trustee's administration.'" Ibid. (citing Schwartz v.
26 Lawson (2008) 164 Cal.App.4th 417, 427).

27 "'Thus, `[t]he underlying principle which guides the court in allowing costs and
28 attorneys' fees incidental to litigation out of a trust estate is that such litigation is a benefit

1 and service to the trust." (Lefkowitz, supra, 50 Cal.App.4th at p. 1314.)" Donahue v.
2 Donahue, (2010)182 Cal.App.4th 259, 269-70. See also, Whittlesey v. Aiello, (2002)
3 104 Cal.App.4th 1221, 1230.

4 "If litigation is necessary for the preservation of the trust, the trustee is entitled to
5 reimbursement for his or her expenditures from the trust; however, if the litigation is
6 specifically for the benefit of the trustee, the trustee must bear his or her own costs
7 incurred, and is not entitled to reimbursement from the trust." (Terry v. Conlan (2005) 131
8 Cal.App.4th 1445, 1461.

9 Here, Mr. Rubin's failure to act and continued resistance to adhere to the terms of
10 the trust and re-transfer of the property back to the Marital Trust/Janna warrants surcharge
11 and reimbursement to the trust for any trust assets expended to oppose this effort.

12 As an additional prophylactic, considering the Trustee's recent statements that the
13 Trust is rapidly running out of money to pay monthly trust expenses, this Court should set
14 a reasonable cap (\$10,000) for Trustees attorney's fees related to this Petition. Doolittle
15 v. Exchange Bank (2015) 241 Cal.App.4th 529, 545.

17 **PRAYER FOR RELIEF**

18
19 WHEREFORE, Petitioners pray for Instructions and an Order:

20
21 1. Instructing the Trustee Jason Rubin to transfer the Malibu Property located at
22 22223 Carbon Mesa Road to the Marital Trust and/or simultaneously distributing said
23 property to Janna Day since the Marital Trust was to be fully distributed to her on her 60th
24 birthday in 2013,

25 2. Ordering any offset or countervailing payment to the Survivor's Trust to
26 reimburse the Survivor's Trust for the removal of the real property assets,

27 3. Determining any necessary compensatory payments to the Survivor's Trust
28 necessitated by the distribution of the Malibu Property back to the Marital Trust,

4. Surcharging the Trustee, Jason Rubin in an amount to be determined at an evidentiary hearing for the damage to the beneficiaries of the Day Trust caused by his breach of duty and failure to follow the terms of the trust instrument;

5. Order that the Trustee pay the attorney's fees of Petitioners required to obtain an order for Trustee to properly distribute the trust assets,

6. Order a reasonable cap (\$10,000) on Trustee's attorney's fees paid out of the trust, which are related to this Petition.

6. Granting such other relief as the Court deems just and proper.

DATED: July 29, 2022

LAW OFFICE OF DAVID R. AKIN

Dilanti

By: _____
DAVID R. AKIN,
Attorneys for Beneficiaries,
JANNA DAY and P. ESTELLE RUMPH

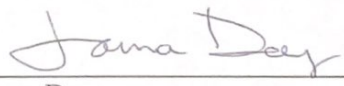
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VERIFICATION

I, Janna Day, have read the foregoing PETITION FOR INSTRUCTIONS AND ORDER REGARDING DISTRIBUTION OF REAL PROPERTY TO JANNA DAY; and for ORDER IMPOSING SURCHARGE AND OTHER REMEDIES; with Exhibits 1-17, and know its contents.

I am the primary beneficiary of the Day Family Trust and the Day Family Survivor's Trust and a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was executed on July 29, 2022 in Malibu, California.



Janna Day,
Beneficiary

1
2 VERIFICATION
3

4 I, Pamela Estelle Rumph, have read the foregoing PETITION FOR INSTRUCTIONS
5 AND ORDER REGARDING DISTRIBUTION OF REAL PROPERTY TO JANNA DAY; and
6 for ORDER IMPOSING SURCHARGE AND OTHER REMEDIES; with Exhibits 1-17, and
7 know its contents.
8

9 I am a beneficiary of the Day Family Trust and the Day Family Survivor's Trust
10 and a party to this action. The matters stated in the foregoing document are true of my own
11 knowledge except as to those matters which are stated on information and belief, and as to those
12 matters, I believe them to be true.
13
14

15 I declare under penalty of perjury under the laws of the State of California that the
16 foregoing is true and correct and that this verification was executed on July 29, 2022 in Malibu,
17 California.
18

19
20 

21 Pamela Estelle Rumph,
22 Beneficiary
23
24
25
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27
28

EXHIBIT 1

EXHIBIT 1

DAY FAMILY TRUST
RESTATED DECLARATION OF TRUST
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DAY FAMILY TRUST
RESTATED DECLARATION OF TRUST

THIS DECLARATION OF TRUST is the Sixth Amendment and a complete Amendment and Restatement of the DAY FAMILY TRUST, originally entered into by Declaration of Trust dated May 24, 1985, and is intended to amend, supersede and replace said Declaration of Trust as well as all previous amendments thereto. This Trust is made between FRANK P. DAY and JANICE E. DAY (hereinafter together referred to as "Trustors" and individually referred to as "Trustor"), who declare that they have transferred to themselves as Trustees (hereinafter together referred to as "Trustee") property more particularly described in Article 1.01 below.

ARTICLE I
CREATION OF TRUST: TRUST ESTATE

1.01 TRANSFER CREATING TRUST: NAME OF TRUST

Trustors have previously transferred and delivered to Trustee certain property, to have and to hold the same, and may, in the future, transfer and deliver additional property which Trustee shall have and hold pursuant to the provisions of this Trust. All of such property is hereinafter referred to collectively as the "Trust Estate." As amended and restated, this Trust shall continue to be known as and referred to as the "Day Family Trust dated May 24, 1985." The Trust Estate shall be held and administered by Trustee for the uses and purposes and upon the terms and conditions set forth below.

1.02 ACCEPTANCE OF TRUST BY TRUSTEE

No consideration was or will be given by Trustee for the conveyance or transfer to it of any of the Trust Estate. Trustee accepts such title to the Trust Estate as is conveyed or transferred to it hereunder without liability or responsibility for the conditions or validity of such title, and the Trust Estate has been or will be conveyed or transferred to Trustee, in trust, for the

uses and purposes and upon the Trusts herein provided. Trustee agrees to hold the Trust Estate, and to perform the duties of Trustee, subject to the conditions herein stated.

1.03 EFFECT OF TRANSFER OF COMMUNITY PROPERTY

It is Trustors' intention that neither Trustor, while acting as Trustee, shall have any more extensive power over any community property constituting part of the Trust Estate than such Trustor would have had under applicable California law regarding the same subject matter had this Trust not been created.

ARTICLE II

FAMILY STATUS AND CITIZENSHIP

2.01 FAMILY STATUS

Trustors declare that they are married and that they have one (1) living child of their marriage, to wit: JANICE E. RUMPH, also known as JANNA E. RUMPH, also known as JANNA D. RUMPH ("JANNA"). The term "child of Trustors" as used herein shall mean only JANNA. Trustors further declare that they have three (3) grandchildren, to wit: PAMELA ESTELLE RUMPH ("PAMELA"), the issue of JANNA's marriage to ROBERT CALHOUN RUMPH; and HOLLY DAY MILES ("HOLLY") and KIP ANTHONY MILES ("KIP"), the issue of JANNA by a prior marriage. The terms "Trustors' grandchild" and "Trustors' grandchildren" as used herein shall be deemed to refer only to the three (3) grandchildren mentioned above.

2.02 CITIZENSHIP OF TRUSTORS

Trustors declare that, as of the date of this Trust, husband Trustor is a citizen of the United States of America and wife Trustor is a citizen of the United States of America.

ARTICLE III

RIGHTS RESERVED AND GRANTED BY TRUSTORS

3.01 SPECIFIC RESERVATION OF RIGHTS AND GRANT OF PRIVILEGES

Trustors specifically reserve and grant the rights and privileges set forth in this Article III.

3.02 RIGHT TO ADD PROPERTY TO TRUST ESTATE

(a) Trustors, or either of them, or any other person may, from time to time, with the consent of Trustee, by conveyance, assignment, or inter vivos or testamentary transfer, add property of any kind to the Trust Estate or to any share thereof, which property shall thereupon be subject to all of the terms and provisions of this Trust the same as if such property had been part of the original Trust Estate included hereunder.

(b) Trustors, or either of them, or any other person, may designate this Trust as the beneficiary of the proceeds of insurance policies and the benefits of any pension, profit sharing or other form of retirement benefit or deferred compensation plan.

3.03 RIGHT TO AMEND OR REVOKE TRUST

(a) While both Trustors are competent, Trustors, acting together, may, from time to time, by written notice signed by both Trustors and delivered to the Trustee, amend any provision hereof.

(b) Either Trustor, while competent, acting alone, may, at any time, with respect to such Trustor's share of the community property or separate property contributed to the Trust Estate, by written notice signed by such Trustor and delivered to either Trustee and the other Trustor, revoke this Trust as it pertains to such Trustor's share of the Trust Estate.

(c) Following the death of the first Trustor to die, one or more of the Trusts created hereunder shall become irrevocable.

3.04 EFFECT OF REVOCATION BY TRUSTORS

Any property reconveyed to Trustors, or either of them, as the result of a revocation shall retain its character as community property or separate property in the same manner as it was characterized prior to its conveyance to Trustee.

3.05 EXERCISE OF POWERS RESERVED TO TRUSTOR IF TRUSTOR INCOMPETENT

A power reserved to a Trustor under this Article may not be exercised by that Trustor if such Trustor is then incompetent, but may be exercised by the duly appointed conservator or guardian of that Trustor's estate, pursuant to specific court authorization. A power granted in this Article that is exercisable only by the

joint action of Trustors may not be exercised by them if either Trustor is then incompetent, but may be exercised by the joint action of the competent Trustor and the duly appointed conservator or guardian of the estate of the incompetent Trustor. If both Trustors are then incompetent, such power may be exercised by the joint action of the conservators or guardians of the estates of both Trustors, but only if each conservator or guardian obtains specific court authorization. However, the incompetence of one Trustor shall not prevent a competent Trustor, acting alone, from exercising a power that is exercisable by the competent Trustor acting alone. Furthermore, while a Trustor is incompetent, that Trustor's attorney-in-fact designated in a durable power of attorney duly executed pursuant to applicable law may exercise (or if joint action is required, join in exercising) a power reserved to that Trustor under this Trust, if the instrument creating the durable power of attorney expressly gives the attorney-in-fact such power.

ARTICLE IV
TRUSTEE

4.01 DESIGNATION OF TRUSTEE

(a) The initial Trustees of this Trust shall be the Trustors, FRANK P. DAY and JANICE E. DAY.

(b) Upon the death, resignation or incapacity of either Trustor, the other Trustor shall continue to serve as the sole Trustee.

(c) Upon the death, resignation or incapacity of both Trustors, PAUL P. DENZER and BOSTON SAFE DEPOSIT AND TRUST COMPANY OF CALIFORNIA shall be appointed to serve as Co-Trustees.

(d) In the event PAUL P. DENZER is unable or unwilling to serve as a successor Co-Trustee, then he shall appoint a successor Co-Trustee to take his place, and in the absence of such appointment, BOSTON SAFE DEPOSIT AND TRUST COMPANY OF CALIFORNIA shall continue to serve as the sole Trustee.

(e) The term "Trustee" as used herein shall be deemed to refer collectively to any Co-Trustees and/or Trustee or Successor Trustee who is then serving as Trustee hereunder.

(f) The Co-Trustees so designated shall be deemed Trustee of all Trusts created under this Declaration of Trust.

4.02 RESIGNATION OF TRUSTEE

Any Trustee or Co-Trustee may resign at any time upon giving written notice sixty (60) days before such resignation is to take effect (unless a shorter period is mutually agreed upon). Notice shall be given to all Co-Trustees and all adult beneficiaries and the guardian, conservator or custodian of the person or estate of any minor or incompetent beneficiary who may then be receiving or entitled to receive income hereunder.

4.03 RIGHT TO APPOINT SUCCESSOR TRUSTEE

(a) So long as both Trustors are living and competent, Trustors may, acting jointly, remove an existing Trustee or Co-Trustee and appoint a successor Trustee or Co-Trustee, whether individual or corporate, as they see fit.

(b) Upon the death or incapacity of either Trustor, the other Trustor shall have full and unrestricted power and authority at any time or times to remove the existing Trustee or Co-Trustee and to appoint a successor Trustee or Co-Trustee.

(c) After the death of the surviving Trustor, Trustor's daughter, acting together with the individual Co-Trustee named in Paragraph 10.01 above who is then serving, shall have the power and authority at any time or times to remove the institutional (bank) Co-Trustee hereunder and to appoint as Successor Trustee any other state or national banking association or trust company authorized to engage in trust business in the State of California, to serve along with the then acting individual Co-Trustee.

(d) An existing Trustee or Co-Trustee shall be removed by delivery to the Trustee hereunder a written notice of such removal, a written appointment of the successor Trustee or Co-Trustee and its acceptance thereof in writing. Upon delivery of such instruments to Trustee hereunder, it shall, after deducting

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all charges and amounts due it as such Trustee and upon receipt of such proper indemnity as it may reasonably require, transfer and deliver the Trust Estate to the successor Trustee or Co-Trustee. Thereafter, the removed Trustee shall have no further powers, discretions, rights, obligations or duties with reference to the Trust Estate and all rights, duties and powers formerly exercised by the removed Trustee shall inure to and be binding upon the successor Trustee.

4.04 LIMITATION OF LIABILITY OF TRUSTEES AND SUCCESSOR TRUSTEE

(a) No Trustee or Co-Trustee shall be liable for any loss or expenses suffered by the Trust Estate and arising from the conduct by the Trustee of any business held by the Trust Estate, including any corporation controlled by the Trust, except such loss or expense as shall have been caused by said Trustees or Co-Trustees gross negligence and/or willful misfeasance. No Co-Trustee shall incur liability for misconduct, mismanagement, or negligence on the part of any other Co-Trustee.

(b) Any successor Trustee or Co-Trustee taking office hereunder shall have no responsibility for the acts or omissions of any prior Trustee and no duty to audit or investigate the accounts or administration of any prior Trustee nor, unless in writing it is requested to do so by any person having a present or future beneficial interest under this Trust, shall it have any duty to take action or obtain redress for breach of Trust.

4.05 BOND REQUIREMENT

No bond shall be required of any Trustee or Co-Trustee, whether individual or corporate, unless specifically requested in writing by a beneficiary or remainderman hereunder. Upon such request, a bond shall be obtained by Trustee, and all expenses thereof shall be paid from the Trust Estate.

4.06 PAYMENT OF COMPENSATION AND EXPENSES FROM INCOME OR PRINCIPAL

(a) Trustee shall pay from income or principal of the Trust Estate or partly from each, in its discretion, all expenses

incurred in the administration of this Trust and the protection of this Trust against legal attack, including counsel fees and reasonable compensation for its own services as such Trustee, which compensation and expenses shall constitute a first lien on the Trust Estate.

(b) Subject to subparagraph (c) below, each corporation and individual acting at any time as a Trustee or Co-Trustee hereunder shall be entitled to a reasonable compensation for services in accordance with the compensation then paid for similar services to corporate trustees in the city wherein the Trustee is located.

(c) In the event that PAUL P. DENZER is serving as a Co-Trustee of this Trust, then said individual Co-Trustee shall be entitled to compensation in an amount equal to seventy-five percent (75%) of the compensation payable to the corporate Trustee, such that during any period of time when PAUL P. DENZER is serving as a Co-Trustee with a commercial Trustee, the total Trustee fees may exceed a "reasonable compensation" for similar services (i.e., they may equal one and three-quarters (1-3/4) times the compensation typically paid for similar services to corporate Trustees in the city in which the corporate Trustee is located).

(d) The Trustees and Co-Trustees shall be entitled to reimbursement from the Trust Estate, without limitation to particular assets, for all reasonable expenses incurred in the management and protection of the Trust Estate, and for all expenses incurred by them in furtherance of Trust business, including any expenses incurred by the individual Trustees for travel to and from meetings with the beneficiaries of the Trust and/or to and from meetings with the corporate Co-Trustee to review the conduct of any business operated and investments maintained pursuant to the terms of this Trust.

4.07 MARSHALLING OF ASSETS

Trustors desire to ensure that, upon their deaths, when the Successor Co-Trustees assume responsibility hereunder, that the assets of the Trust are fully and completely inventoried by the Co-Trustees complying with the following procedures:

(a) Trustors' safe deposit boxes at BANK OF AMERICA (formerly SECURITY PACIFIC BANK) in Malibu, California, shall be opened only in the presence of a representative of the Corporate Co-Trustee, their daughter, JANNA, and PAUL P. DENZER, the Initial Designated Successor Co-Trustee; provided that if PAUL P. DENZER is not available to participate in the initial inventory, then HENRY CALDERAIO shall stand in his stead; provided further that if HENRY CALDERAIO is not available to participate in the initial inventory, then WALLACE DREW shall stand in his stead.

(b) Trustors shall provide either HENRY CALDERAIO and/or PAUL P. DENZER with a letter addressed to their daughter, JANNA, providing the combination to Trustors' home safe. One of said parties shall accompany JANNA to Trustors' home to inventory the contents of the home safe and segregate those items (which shall be addressed in the letter) for specific transfer and immediate distribution to Trustors' daughter, JANNA, which letter shall be incorporated herein by this reference as an instruction to authorize and direct said specific gifts.

4.08 SERVICES OF HENRY CALDERAIO

Trustors' note that during their lifetimes they have enjoyed the benefit of HENRY CALDERAIO's counsel and wish to express their appreciation for so many years of service and friendship. Trustors hope that HENRY CALDERAIO will continue to assist their daughter in the future. Accordingly, for so long as he is willing and available to provide such services, from and after the death of Surviving Trustor, Trustee is instructed to retain the services of HENRY CALDERAIO to serve as a counselor and advisor to Trustors' daughter, JANNA. Said counseling services may include, but not be limited to, advise in the areas of tax planning, general accounting, and general counsel regarding trust and other investment or financial matters. Trustee shall retain HENRY CALDERAIO for these services and shall compensate him at the rate of Two Thousand Five Hundred Dollars (\$2,500) per quarter.

ARTICLE V
DISTRIBUTIONS TO TRUSTORS DURING JOINT LIFETIME

5.01 INCOME AND PRINCIPAL TO TRUSTORS DURING JOINT LIFETIME

(a) During the joint lifetimes of Trustors, Trustee shall distribute to or apply for the benefit of Trustors as much of the community property net income and principal as Trustee, in Trustee's discretion, shall deem advisable. Any net income not so distributed shall be added to the principal of the community property comprising the Trust Estate. Notwithstanding the foregoing, Trustors, or either of them, by a writing delivered to Trustee, may at any time and from time to time withdraw for any purpose whatsoever any portion of the community property net income and principal, up to and including the whole thereof.

(b) During the joint lifetimes of Trustors, Trustee shall distribute to or apply for the benefit of a Trustor who contributed separate property to the Trust as much of the net income and principal from such Trustor's separate property comprising the Trust Estate as Trustee, in Trustee's discretion, shall deem advisable. Any net income not so distributed shall be accumulated and added to the principal of such Trustor's separate property comprising the Trust Estate. Notwithstanding the foregoing, such Trustor, by a writing delivered to Trustee, shall have the right at any time and from time to time to withdraw for any purpose whatsoever any portion of such Trustor's separate property net income and principal, up to and including the whole thereof.

5.02 DISCRETIONARY DISTRIBUTION OF INCOME OR PRINCIPAL TO AN INCAPACITATED TRUSTOR

If at any time during their joint lifetimes either Trustor becomes incompetent or for any other reason is unable to act on said Trustor's own behalf, Trustee may, in Trustee's discretion, distribute to or apply for the benefit of said Trustor, or to the Trustor who is not disabled for the benefit of both, such amounts of net income and principal of the Trust Estate, up to and including the whole thereof, as Trustee may from time to time deem advisable to provide for said Trustor's health, support and

comfort, in accordance with said Trustor's accustomed standard of living before such disability, and to support those dependent on said Trustor, with regard to said Trustor's other means outside of the property comprising the Trust Estate. Any net income not so distributed shall be added to principal of the community or separate estate, as the case may be.

ARTICLE VI

DIVISION OF TRUST ESTATE UPON DEATH OF EITHER TRUSTOR

6.01 DIVISION INTO SEPARATE TRUSTS

Upon the death of either Trustor (sometimes described as the "Deceased Trustor") leaving the other Trustor surviving (sometimes described as the "Surviving Trustor"), Trustee shall divide the Trust Estate into separate Trusts to be known as the Survivor's Trust, the Exemption Trust, the Marital Trust and, if applicable, the Disclaimer Trust. It is the intent of Trustors to take full advantage of the Unified Tax Credit then available at the death of Deceased Trustor, as well as to take full advantage of the marital deduction, in accordance with IRC Section 2056. This Trust shall be interpreted to conform to these intentions, notwithstanding any provision hereof which could be construed to the contrary.

6.02 TRUST A: THE SURVIVOR'S TRUST

Trust A (sometimes known as the "Survivor's Trust") shall consist of Surviving Trustor's share in Trustors' community property and Surviving Trustor's separate property that is or hereafter becomes subject to this Trust.

6.03 TRUST B: THE EXEMPTION TRUST

The following assets shall be allocated to Trust B (sometimes known as the "Exemption Trust"):

(a) Any life insurance policies which were the separate property of Deceased Trustor, insuring the life of Surviving Trustor; and

(b) Such additional amounts of the community and separate property of Deceased Trustor to increase Deceased Trustor's taxable estate for federal estate tax purposes so that after taking

into account all credits and other deductions which may be available under the Code, other than the marital deduction [including, but not limited to, Section 2010 thereof], the lowest amount of federal estate tax is payable with respect to Deceased Trustor's estate.

Trustee may satisfy the gift to Trust B in cash or kind, or partly in each, with property valued at the date of distribution.

6.04 TRUST C: THE MARITAL TRUST

The rest and residue of Deceased Trustor's estate, including any assets received by Trustee upon or by reason of the death of said Trustor, shall be placed in Trust C (known as the "Marital Trust").

(a) This Trust is intended to provide Trustee, as Deceased Trustor's personal representative, the power to elect, pursuant to IRC Section 2056, to defer the payment of any federal estate tax due with respect to all or any portion of the assets allocable to this Trust until the death of Surviving Trustor. The right to elect the deferral of payment of federal estate tax, as provided above, shall be at the option of Trustee. If, for any reason, Trustee is unable or not qualified to make such election, then the personal representative appointed under the last Will of Deceased Trustor shall be authorized to exercise such election.

(b) If Trustee (or the personal representative of Deceased Trustor's estate) elects to have any portion, but not all, of the Marital Trust treated as qualified terminable interest property, as described in IRC Section 2056, Trustee shall divide the Marital Trust into two (2) separate trusts, each having identical provisions, to be known respectively as the Elected Marital Trust and the Nonelected Marital Trust. The Elected Marital Trust shall consist of that portion of the Marital Trust which is treated as qualified terminable interest property, and the Nonelected Marital Trust shall consist of that portion of the Marital Trust which is not treated as qualified terminable interest property.

(c) If such division of the Marital Trust is made, then, notwithstanding the provisions of Article IX hereof, any distribution of the principal of the Marital Trust to or for the benefit of Surviving Trustor shall be made first from the Nonexempt Elected Marital Trust (as described in Paragraph 11.10), to the extent the principal of the Nonexempt Elected Marital Trust may be then reasonably used therefor, up to and including the whole thereof, then from the Exempt Elected Marital Trust (as described in Paragraph 11.10) to the extent the principal of the Exempt Elected Marital Trust may be then reasonably used therefor, up to and including the whole thereof, and then from the Nonelected Marital Trust.

(d) If the Elected Marital Trust and the Nonelected Marital Trust are created, all references to the Marital Trust in this Declaration of Trust shall be deemed to refer to either and/or both the Elected Marital Trust and the Nonelected Marital Trust, as the context may require.

6.05 THE DISCLAIMER TRUST

(a) If Surviving Trustor survives Deceased Trustor but disclaims all or any part of Surviving Trustor's interest in both the income and the principal of the Exemption Trust and/or of the Marital Trust, Trustee shall set aside such disclaimed property as a separate trust (known as the "Disclaimer Trust"). As used herein, the term "disclaimer" shall refer to and include, but shall not be limited to, any disclaimer that is effective under California law at the time of the Deceased Trustor's death and/or under IRC Section 2518.

(b) If the Disclaimer Trust shall be established, it shall be held, administered and distributed in accordance with the provisions of the Exemption Trust which would have been applicable if Surviving Trustor had predeceased Deceased Trustor, as if such provisions were fully set forth in this Paragraph, but exclusive of any specific gifts set forth therein and exclusive of any power of appointment granted to Surviving Trustor therein.

ARTICLE VII

DISTRIBUTION OF INCOME AND PRINCIPAL FROM SURVIVOR'S TRUST

7.01 SCOPE OF ARTICLE

The income and principal of the Survivor's Trust shall be administered and distributed in accordance with the provisions of this Article VII.

7.02 NET INCOME TO SURVIVING TRUSTOR

The net income from the Survivor's Trust shall be distributed to or for the use and benefit of Surviving Trustor, in monthly or other convenient installments during Surviving Trustor's lifetime, but not less frequently than annually.

7.03 DISTRIBUTION OF PRINCIPAL TO SURVIVING TRUSTOR

If at any time during Surviving Trustor's lifetime Surviving Trustor should be in need of funds for his or her health, support and comfort taking into consideration any income and financial resources available to Surviving Trustor which are known to Trustee, Trustee, in its discretion, may pay to or apply for the use and benefit of Surviving Trustor, from time to time, such amounts of principal of the Survivor's Trust, up to the whole thereof.

7.04 RIGHT OF SURVIVING TRUSTOR TO WITHDRAW PRINCIPAL

During Surviving Trustor's lifetime, Surviving Trustor, by a writing delivered to Trustee, at any time and from time to time, shall have the absolute right to withdraw any portion of the principal of the Survivor's Trust, up to and including the whole thereof.

7.05 DISTRIBUTIONS UPON INCOMPETENCY OF TRUSTOR

Should Surviving Trustor be incompetent, a successor Trustee or Co-Trustee shall have the power to distribute income and principal to or on behalf of said Trustor in such amounts as Trustee may determine as necessary for the health, support and comfort of said Trustor.

7.06 RIGHT TO REVOKE AND AMEND SURVIVOR'S TRUST

During Surviving Trustor's lifetime, the Survivor's Trust may be revoked, amended or altered, in whole or in part, by written notice signed by Surviving Trustor and delivered to Trustee.

7.07 GENERAL POWER OF APPOINTMENT

(a) During Surviving Trustor's lifetime, the principal and undistributed income of the Survivor's Trust shall be subject to a lifetime general power of appointment, exercisable in a writing expressly referring to and exercising the same, and delivered to Trustee while Surviving Trustor is living. The writing delivered to Trustee and bearing the date nearest preceding the death of Surviving Trustor shall be controlling.

(b) Upon Surviving Trustor's death, all remaining principal and undistributed income of the Survivor's Trust shall be subject to a testamentary general power of appointment.

(c) If no such appointment is in effect at the death of Surviving Trustor or to the extent that any appointment purported to be made during Surviving Trustor's lifetime shall be ineffective, the power of appointment may be exercised by Surviving Trustor's last Will, referring specifically to this power of appointment. Unless, within ninety (90) days after the death of Surviving Trustor, Trustee acquires knowledge of the existence of a Will which purports to exercise said general power of appointment, it shall be deemed for all purposes hereunder that such power of appointment was not exercised.

(d) Said general powers of appointment shall be exercisable in favor of any person or entity, including Surviving Trustor, Surviving Trustor's estate, Surviving Trustor's creditors and the creditors of Surviving Trustor's estate.

7.08 DISPOSITION OF TRUST ESTATE IF POWERS NOT EXERCISED

To the extent that the Surviving Trustor does not exercise the powers of appointment granted to him or her, as hereinabove provided, the principal of Trust A and any accrued or undistributed income thereon shall be divided into multiple shares as follow:

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(a) The first share shall be set aside for Trustors' grandchildren and shall be held, administered and distributed pursuant to the terms of Paragraph 10.03 hereinbelow. The grandchildren's share shall be in an amount that, when added to gifts being made to Trustors' grandchildren from the Exemption Trust and the Marital Trust, will equal twenty-five percent (25%) of the entire net DAY FAMILY TRUST Estate as of the date of the death of Surviving Trustor (after taking into account the value of the Survivor's Trust, the Exemption Trust and the Marital Trust), but before allocation of federal estate or state inheritance taxes.

(b) The balance of the Survivor's Trust shall be allocated to Trustors' daughter and shall be held, administered and distributed pursuant to the provisions of Paragraph 10.02 hereinbelow.

ARTICLE VIII

DISTRIBUTION OF INCOME AND PRINCIPAL FROM EXEMPTION TRUST

8.01 SCOPE OF ARTICLE

The income and principal of the Exemption Trust shall be administered and distributed in accordance with the provisions of this Article VIII.

8.02 DISTRIBUTION OF INCOME

The net income from the Exemption Trust shall be distributed to or for the benefit of Surviving Trustor, in monthly or other convenient installments, but not less frequently than annually.

8.03 DISCRETIONARY DISTRIBUTION OF PRINCIPAL

(a) If at any time during Surviving Trustor's lifetime Surviving Trustor should be in need of funds for his or her health, support or maintenance, taking into consideration any income and financial resources available to Surviving Trustor which are known to Trustee, Trustee, in its discretion, may pay to or apply for the use and benefit of Surviving Trustor, from time to time, amounts of principal of the Exemption Trust, up to the whole thereof.

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(b) Trustee shall, in addition, pay to Surviving Trustor during his or her life, from the principal of the Exemption Trust, such amounts as said beneficiary may from time to time request in writing, not exceeding in any calendar year the greater of Five Thousand Dollars (\$5,000) or five percent (5%) of the value of the principal of the Trust, determined as of the end of the prior calendar year. This right of withdrawal is noncumulative so that if said beneficiary does not withdraw during any calendar year the full amount to which he or she is entitled under this provision, his or her right to withdraw the amount not withdrawn shall lapse at the end of that calendar year.

8.04 DISTRIBUTIONS FROM THE EXEMPTION TRUST UPON DEATH OF SURVIVING TRUSTOR

Upon the death of Surviving Trustor, Trustee shall allocate the Exemption Trust, to the extent that it does not exceed twenty-five percent (25%) of the value of the entire net DAY FAMILY TRUST ESTATE as of the date of the death of Surviving Trustor, but before allocation of federal estate or state inheritance taxes, to be divided equally among Trustors' grandchildren who are then living at the date of Surviving Trustor's death. The portion allocated to Trustor's grandchildren shall be held, administered and distributed pursuant to the terms of Paragraph 10.03 below. The excess, if any, shall be allocated to Trustors' daughter and shall be held, administered and distributed pursuant to the provisions of Paragraph 10.02 hereinbelow.

ARTICLE IX
DISTRIBUTION OF INCOME AND PRINCIPAL FROM
MARITAL TRUST

9.01 INCOME TO SURVIVING TRUSTOR

Upon the death of either Trustor survived by the other Trustor, the net income from the Marital Trust (if the Trust Estate has been so divided as above provided) shall be distributed to or for the benefit of Surviving Trustor, in convenient installments not less frequently than quarterly, during his or her lifetime.

Surviving Trustor shall have the power to compel Trustee to dispose of any assets in the Marital Trust that fail to provide a reasonable income to Surviving Trustor as income beneficiary.

9.02 DISCRETIONARY DISTRIBUTION TO SURVIVING TRUSTOR

If at any time during Surviving Trustor's lifetime Surviving Trustor should be in need of funds for his or her health, support or maintenance, taking into consideration any income and financial resources available to Surviving Trustor, so far as known to Trustee, Trustee, in its discretion, may pay to or apply for the use and benefit of Surviving Trustor such amounts of principal of the Marital Trust, up to the whole thereof, as Trustee may from time to time deem necessary or advisable.

9.03 DISTRIBUTION FROM THE MARITAL TRUST UPON DEATH OF SURVIVING TRUSTOR

Upon the death of Surviving Trustor, any accrued and undistributed income of the Marital Trust shall be distributed to the estate of Surviving Trustor. The remaining principal of the Marital Trust Estate shall be divided into multiple shares as follows:

(a) The first share shall be set aside for Trustors' grandchildren and shall be held, administered and distributed pursuant to the terms of Paragraph 10.03 hereinbelow. The grandchildren's share shall be in an amount that, when added to gifts being made to Trustors' grandchildren from the Exemption Trust will equal twenty-five percent (25%) of the entire net DAY FAMILY TRUST Estate as of the date of the death of Surviving Trustor (after taking into account the value of the Survivor's Trust, the Exemption Trust and the Marital Trust), but before allocation of federal estate or state inheritance taxes.

(b) The balance of the Marital Trust, if any, shall be allocated to Trustors' daughter and shall be held, administered and distributed pursuant to the provisions of Paragraph 10.02 hereinbelow.

ARTICLE X

DISTRIBUTION TO BENEFICIARIES FOLLOWING DEATHS OF TRUSTORS

10.01 SCOPE OF ARTICLE

This Article describes the manner in which principal and income shall be distributed to beneficiaries other than Trustors.

10.02 DISTRIBUTION TO TRUSTORS' DAUGHTER

The share of this Trust allocated to Trustors' daughter, JANNA, shall be retained, administered and distributed by Trustee as follows:

(a) The share allocated for Trustors' daughter shall include Trustors' residence located at 22223 Carbon Mesa Road, Malibu, California (as legally described in Individual Grant Deed recorded as Instrument No. 79-1378254 on December 7, 1979, in records of Los Angeles County Recorder's Office), if said residence is an asset of this trust at the date of death of Surviving Trustor. If said residence is not an asset of this Trust at the date of the death of Surviving Trustor, no alternate residence shall be included as a substitute therefor in the portion of the Trust Estate allocated for Trustors' daughter. Trustee shall allow Trustors' daughter the use of said residence rent free during the period a Trust hereunder is being administered for the benefit of Trustors' daughter, and Trustee is relieved of any liability for not making said asset income producing. Trustee shall maintain said residence and pay all taxes, insurance and other expenses pertinent to said residence, with the amount of said expenses being a charge against income (or principal, if necessary) from Trustors' daughter's trust.

(b) Additionally, any automobile owned by Surviving Trustor at the date of his or her death shall be allocated to the share of the Trust Estate set aside for Trustors' daughter, and said automobile or automobiles shall be distributed outright to Trustors' daughter.

(c) Trustee shall pay to or apply for JANNA's benefit all of the net income of JANNA's share of the Trust Estate, with

payments in monthly or other convenient installments, but no less often than quarterly.

(d) If the individual Co-Trustee shall deem the income distributable pursuant to subparagraph (c) above to be insufficient, Trustee shall also pay to or apply for JANNA's benefit as much of the income and/or principal of JANNA's share of the Trust Estate as the individual Co-Trustee, in the individual Co-Trustee's reasonable discretion, shall deem necessary for JANNA's proper health, support, maintenance and education, after taking into consideration, to the extent Trustee shall deem advisable, any income or other resources JANNA has available, including any income from other Trusts established for her benefit.

(e) When JANNA attains the age of forty-five (45) years, Trustee shall distribute to her one-third (1/3) of the principal of her share of the Trust Estate as then constituted. When JANNA attains the age of fifty-five (55) years, Trustee shall distribute one-half (1/2) of the remaining principal of her share of the Trust Estate as then constituted. When JANNA attains the age of sixty (60) years, Trustee shall distribute the remaining principal of her share of the Trust Estate. If JANNA has already attained the age of forty-five (45), fifty-five (55), or sixty (60) years at the time the Trust estate is divided into separate shares, or at such time as JANNA attains age forty-five (45) years, fifty-five (55) or sixty (60) years, Trustee shall, upon making the division, distribute to her one-third (1/3), one-half (1/2) or all of her share, respectively.

(d) If JANNA dies before becoming entitled to receive distribution of her entire share of the Trust Estate, then the undistributed balance of her share shall be subject to the following powers of appointment over the exempt and nonexempt portions thereof (as described in Paragraph 11.10):

(1) Upon JANNA's death, any remaining principal and undistributed income of JANNA's exempt share shall be subject to a testamentary limited power of appointment exercisable in favor of JANNA's issue and/or charities organized under IRC Section 501(c)(3), upon such terms and conditions, with such powers, in

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such manner and at such times as JANNA appoints and directs in her last Will, referring specifically to this limited power of appointment.

(2) Upon JANNA's death, any remaining principal and undistributed income of beneficiary's nonexempt share shall be subject to a testamentary general power of appointment exercisable in favor of any person or entity, including JANNA, JANNA's estate, JANNA's creditors and the creditors of JANNA's estate.

(3) Each power of appointment granted herein may be exercised by JANNA's last Will, referring specifically to the power of appointment to be exercised. Unless, within ninety (90) days after the death of JANNA, Trustee acquires knowledge of a Will which purports to exercise either such power of appointment, it shall be deemed for all purposes hereunder that such power of appointment was not exercised.

(4) If and to the extent JANNA has not exercised either power of appointment granted herein, then upon the death of JANNA, the undistributed balance of JANNA's share of the Trust Estate shall be divided into shares for the benefit of JANNA's issue, by right of representation. Any share of the Trust Estate allocated under this Paragraph shall be held and administered in accordance with the provisions of Paragraph 10.03 below.

(e) If under the foregoing provisions a portion of the Trust Estate shall be undisposed of, such undisposed of portion shall be distributed in accordance with the provisions of Paragraph 10.04 hereinbelow.

10.03 DISTRIBUTION TO GRANDCHILDREN AND MORE REMOTE ISSUE

Each share allocated to a grandchild or more remote issue of Trustors shall be distributed or retained in trust as follows:

(a) If the beneficiary is twenty-one (21) years of age and is then attending or has graduated from an accredited four (4) year college or university, or if the beneficiary is twenty-five (25) years of age or older, Trustee shall pay to or apply for the benefit of such beneficiary all of the net income of that beneficiary's share of the Trust Estate, in monthly or other convenient installments, but not less often than quarterly.

(b) If the beneficiary is under the age of twenty-five (25) years and is not then attending or a graduate of a college as specified above, or if the beneficiary is under the age of twenty-one (21) years, Trustee shall pay to or apply for the benefit of the beneficiary, in Trustee's sole discretion, only as much of the income of the beneficiary's share of the Trust Estate as Trustee shall deem necessary for the beneficiary's proper support, care, maintenance and education, in monthly or other convenient installments, but no less often than quarterly. All income not distributed shall be added to principal. In exercising its discretion, Trustee shall take into consideration the income available for the beneficiary's support, etc., from any other trust established by Trustors for the benefit of the beneficiary. When the beneficiary reaches age twenty-one (21) and/or twenty-five (25), respectively, Trustee shall commence making income payments to him or her in accordance with the terms of Paragraph 10.03(a) above.

(c) If Trustee shall deem the income to be insufficient, Trustee shall also pay to or apply for the benefit of the beneficiary as much of the principal of the beneficiary's share of the Trust Estate as Trustee, in Trustee's sole discretion, shall deem necessary for the beneficiary's proper health, support, maintenance and education, after taking into consideration, to the extent Trustee shall deem advisable, any income or other resources of the beneficiary, including any income from other Trusts established for the benefit of the beneficiary.

(d) Whenever provision is made in this paragraph for payment for the education of a beneficiary, the term "education" shall be construed to include college and post-graduate study so long as pursued to advantage by the beneficiary at an institution of the beneficiary's choice; and in determining payments to be made for such college or postgraduate education, Trustee shall take into consideration the beneficiary's related living expenses to the extent that they are reasonable.

(e) When the beneficiary attains age thirty-five (35) years, Trustee shall distribute to the beneficiary one-third (1/3) of the principal of that beneficiary's share of the Trust Estate as

then constituted. When the beneficiary attains age forty-five (45) years, Trustee shall distribute one-half (1/2) of the remaining principal of the beneficiary's share the Trust Estate as then constituted. When the beneficiary attains age fifty-five (55) years, Trustee shall distribute the remaining principal of his or her share of the Trust Estate. If the beneficiary has already attained the age of thirty-five (35) years, forty-five (45) years or fifty-five (55) years at the time the Trust Estate is divided into separate shares, or at such time as the beneficiary attains age thirty-five (35) years, forty-five (45) years or fifty-five (55) years, Trustee shall, upon making the division, distribute to the beneficiary one-third (1/3), one-half (1/2) or all of his or her share of the Trust Estate, respectively.

(f) If a beneficiary dies before becoming entitled to receive distribution of beneficiary's entire share of the Trust Estate, then the undistributed balance of beneficiary's share shall be subject to the following powers of appointment over the exempt and nonexempt portions thereof (as described in Paragraph 11.10):

(1) Upon the beneficiary's death, any remaining principal and undistributed income of beneficiary's exempt share shall be subject to a testamentary limited power of appointment exercisable in favor of beneficiary's siblings, issue and/or charities organized under IRC Section 501(c)(3), upon such terms and conditions, with such powers, in such manner and at such times as beneficiary appoints and directs in beneficiary's last Will, referring specifically to this limited power of appointment.

(2) Upon beneficiary's death, any remaining principal and undistributed income of beneficiary's nonexempt share shall be subject to a testamentary general power of appointment exercisable in favor of any person or entity, including beneficiary, beneficiary's estate, beneficiary's creditors and the creditors of beneficiary's estate.

(3) Each power of appointment granted herein may be exercised by beneficiary's last Will, referring specifically to the power of appointment to be exercised. Unless, within ninety (90) days after the death of beneficiary, Trustee acquires knowledge of

a Will which purports to exercise either such power of appointment, it shall be deemed for all purposes hereunder that such power of appointment was not exercised.

(4) If and to the extent beneficiary has not exercised either power of appointment granted herein, then upon the death of beneficiary, the undistributed balance of beneficiary's share of the Trust Estate shall be divided into shares for the benefit of beneficiary's issue, by right of representation. If there are no such issue then living, the share of the deceased beneficiary shall pass to such beneficiary's siblings, in equal shares, or if there are no such siblings, the share of the deceased beneficiary shall pass to Trustors' remaining issue, by right of representation. Any share of the Trust Estate allocated under this Paragraph shall be held and administered in accordance with the provisions of this Paragraph 10.03.

10.04 UNDISPOSED PORTION OF TRUST AND TERMINATION

If, under the foregoing provisions, a portion of the Trust Estate shall be undisposed (that is, if Trustors are not survived by any issue, e.g., their child, grandchildren, or great-grandchildren, etc.), then such undisposed portion of the Trust Estate shall be distributed to Wife Trustor's sister, NANCY H. CHAPEL, of Parma, Michigan, if she is then living, and if not, to her then living issue by right of representation.

ARTICLE XI

POWERS AND DISCRETIONS OF TRUSTEE

11.01 GRANT OF POWERS AND DISCRETIONS

In addition to all other powers and discretions granted to or vested in Trustee by law or by this instrument, Trustee has the powers and discretions set forth below. So long as Trustors are also acting as Co-Trustees, either Trustor, in his or her capacity as Trustee, may act independent of the other Trustee to bind the Trust Estate or commit Trust funds.

Subject to the provisions of Paragraph 11.10 below, Trustee shall have the power to merge the assets of any Trust allocated to a beneficiary named herein with any other Trust established by Trustors for the benefit of said beneficiary if the dispositive provisions of said Trust(s) are substantially similar.

11.03 INVESTMENT POWERS, INVESTMENT DISCRETION; FIDUCIARY STANDARDS

The grant of powers and discretions and general powers vested in the Trustee of this Trust in Paragraphs 11.04 and 11.05 of this Article XI shall be exercised subject to and in a manner consistent with the terms of this Paragraph. During such time as the Trustors, or either of them, is serving as a Trustee of this Trust, the fiduciary standards shall be broadly interpreted in the Trustor's favor, providing maximum flexibility and discretion to the Trustors in such matters. However, once the Trustors are no longer serving as Trustees of this Trust, then the Trustee shall be obligated to exercise the judgment and care under the circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. In investing, reinvesting, purchasing, acquiring, exchanging and selling property for the benefit of this Trust, any successor Trustee shall be mindful of the following:

(a) The Trustors desire that the Trust Estate be conservatively managed to produce a fair return on invested assets while fully protecting the capital. The investment diversification and asset allocation policies should focus on a balance between current income and long term preservation of capital. The Trustee and its investment department should be encouraged to emphasize the long term nature of the Trust investment goals and encourage a focus on the long term horizon versus short term investment results.

(b) Trustors express and would encourage the successor Trustee to emphasize investment in a diversified portfolio emphasizing top grade tax exempt bonds, with a preference for such securities which are exempt from both federal and California taxes (rated AAA or better and pertaining primarily to utilities, schools, etc., excluding revenue bonds).

11.04 SPECIFIC POWERS

Trustee's general powers shall include, without limiting the generality thereof, the power to do each of the following:

(a) Acquire, Sell and Exchange

To purchase, grant, sell, convey, exchange or convert any real or personal property, wherever located, including within or outside the United States; and to comply with the terms of any buy-sell agreement covering assets owned by the Trust or Trustors, which was entered into prior to either Trustor's death;

(b) Acquire, Own and Operate Business

To retain and operate an interest in any family business of Trustors or beneficiaries of the Trust, whether corporate, partnership or proprietorship; to form or cause to be formed such corporation, partnership or other business organization as Trustee, in its discretion, may deem advisable;

(c) Establish Qualified Subchapter S Trusts

To modify any subtrust established under this Trust Instrument that is in substantially the form of a trust that would qualify as an eligible shareholder of a subchapter S corporation as described in Sections 1361(c)(2)(A)(i) or 1361(d)(3) of the Code, to enable any such subtrust created pursuant to this instrument to so qualify, as the case may be;

(d) Lease

To lease for terms either within or beyond the duration of this Trust;

(e) Mineral Rights

To enter into oil, gas and other mineral leases on such terms as it may deem proper;

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(f) Subdivide and Improve

To assign, partition, divide, subdivide and improve any properties;

(g) Loan and Invest

To loan, reloan, invest and reinvest the Trust Estate or any part thereof;

(h) Vote Stock

To vote stock, give proxies, pay calls for assessments, sell or exercise stock subscription or conversion rights;

(i) Reorganizations

To participate in foreclosures, reorganizations, consolidations, mergers, liquidations, pooling agreements and voting trusts, assent to corporate sales and other acts and, in connection therewith, to deposit securities with and transfer title to any protective or other committee under such terms as Trustee may deem advisable;

(j) Nominee

To hold securities or other property in its own name or in the name of its nominee without disclosing any fiduciary relation;

(k) Insurance

To procure and carry at the expense of the Trust Estate insurance of such kind and in such form and amount as Trustee deems advisable to protect Trustee and the Trust Estate against any hazard;

(l) Borrow Money

To borrow money for any Trust purpose; hypothecate and encumber the Trust Estate or any part thereof; and replace, renew and extend any encumbrance thereon upon such terms, conditions and security as may be determined by Trustee; to pay loans or other obligations of the Trust Estate as Trustee, in its sole and absolute discretion, deems advisable; in addition, to buy, sell and trade in securities of any nature. As used in this instrument, the term "Trust purpose" shall include the power to encumber Trust assets for the purpose of securing loans made payable to or for the

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benefit of Trustors and extended during either or both of their lifetimes;

(m) Guarantee Loans

To guarantee loans made by third parties to Trustors, or either of them, or to any corporation or partnership in which the Trust and/or Trustors, or either of them, have a direct or indirect interest; and to directly or indirectly pledge or hypothecate Trust assets as collateral for any such loans;

(n) Commence or Defend Litigation

To commence or defend at the expense of any Trust provided for in this Trust such litigation with respect to any such Trust or any property of the Trust Estate as it may deem advisable;

(o) Compromise Claims

To compromise, submit to arbitration, release with or without consideration and otherwise adjust any claims in favor of or against any Trust provided for in this Trust;

(p) To Designate Attorneys-In-Fact

To designate an attorney or attorneys-in-fact with all of the powers described herein, unless limited by the instrument designating such attorney or attorneys-in-fact; and

(q) Other Powers

Subject to any limitations expressly set forth in this Trust and the faithful performance of its fiduciary obligations, to do all such acts, take all such proceedings and exercise all such rights and privileges as could be done, taken or exercised by an absolute owner of the Trust property.

11.05 RETENTION OF ASSETS

Trustee is expressly authorized to hold and retain any securities, properties or other investments, and to continue to hold, manage and operate any property, business or enterprise received or acquired at any time hereunder as long as in its discretion it elects to do so, the profits or losses therefrom, if any, to inure to or be chargeable against the Trust Estate and not Trustee. Such retention of assets shall also include the right to purchase or retain unproductive or underproductive property, provided, however, and notwithstanding anything else in this Trust

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to the contrary, that unproductive or underproductive property shall not be retained as an asset of any trust established for Surviving Trustor's benefit during Surviving Trustor's lifetime without Surviving Trustor's consent.

11.06 ALLOCATION OF PRINCIPAL AND INCOME

(a) Except as otherwise specifically provided in this instrument, the determination of all matters with respect to what is principal and income of the Trust Estate and the apportionment and allocation of receipts and expenses between these accounts shall be governed by the provisions of the California Revised Uniform Principal and Income Act from time to time existing. Any such matter not provided for either in this Trust or in the California Revised Uniform Principal and Income Act shall be determined by Trustee, in Trustee's discretion.

(b) Notwithstanding any other provisions of this instrument or of the California Revised Uniform Principal and Income Act, so long as the Trustee hereunder is a Trustor or an income beneficiary, the following requirements shall be observed by the Trustee:

(1) A reasonable reserve for depreciation of all income-producing depreciable real and personal property, and capital improvements and extraordinary repairs on income-producing property, shall be charged to income from time to time;

(2) A reasonable reserve for depletion of all depletable natural resources, including, but not limited to, oil, gas and mineral and timber property, shall be charged to income from time to time;

(3) Distributions by mutual funds and similar entities of gains from the sale or other disposition of property shall be credited to principal;

(4) A reasonable reserve for amortization of all intangible property having a limited economic life, including, but not limited to, patents and copyrights, shall be charged to income from time to time;

(5) All premiums paid and all discounts received in connection with the purchase of any bond or other obligation shall

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be amortized by making an appropriate charge or credit to income, as the case may be.

11.07 FACILITY OF PAYMENT

If at any time or from time to time any beneficiary entitled to receive income or principal hereunder shall be a minor or an incompetent, Trustee may make such payments, in its discretion, in any one of the following ways:

- (a) Directly to such beneficiary;
- (b) To the natural guardian or the legally appointed guardian, conservator or other fiduciary of the person or the estate of such beneficiary;
- (c) To any person or organization providing for the health, support, maintenance or education of such beneficiary;
- (d) By itself making expenditures directly for the health, support, maintenance or education of such beneficiary. Trustee shall not be required to see to the application of any funds so paid or applied, and the receipt by such payee shall constitute a full release of Trustee. The decision of Trustee as to direct payments or application of funds shall be conclusive and binding upon all parties in interest.

11.08 PAYMENT OF DEATH TAXES, EXPENSES AND DEBTS

(a) Payment of Expenses and Debts

Upon the death of a Trustor, the Trustee shall pay from the Exemption Trust on the death of Deceased Trustor and from the Survivor's Trust on the death of Surviving Trustor, subject to the exercise of any power of appointment granted to Surviving Trustor, to the extent the Trustee determines such amounts have not been otherwise paid or provided for, from such Trust as a whole and without apportionment, deduction or adjustment among the beneficiaries of such Trust, the following:

- (1) Last illness and funeral expenses of such Trustor;
- (2) Bona fide debts then due of such Trustor (chargeable against such Trust in accordance with California law in effect at the date of such Trustor's death); and

(3) Expenses of administration incurred in administering such Trustor's probate estate.

(b) Payment of Death Taxes

Upon the death of a Trustor, Trustee shall pay, or reserve sufficient funds to pay, any federal estate taxes and state death or inheritance taxes, together with any interest and penalties relating thereto (hereinafter collectively referred to as "death taxes"), attributable to assets included in that Trustor's gross estate, to the extent Trustee determines such amounts have not been otherwise paid or provided for, as provided in Paragraph 11.08(c) below.

(c) Allocation of Taxes by Proration

Except as otherwise specifically provided in this Declaration of Trust, or as may be required under federal law, any death taxes shall be equitably prorated among the persons interested in the estate of Deceased Trustor or Surviving Trustor, as the case may be, including those who have received an interest from the Trust Estate and those who have received an interest from that Trustor outside the Trust Estate (referred to collectively as "beneficiary").

(1) Proration to Total Value of Property in Each Trust

The proration of any death tax, interest on extension of taxes and interest and penalties on any deficiency shall be made in the proportion that the value of the property received by a beneficiary bears to the total value of all property received by all beneficiaries of that Trustor's estate.

(2) Allowances for Credits, Exemptions and Deductions; Interests and Penalties

(i) In making a proration of the federal estate tax, allowances shall be made for credits allowed for state or foreign death taxes in determining the federal tax payable and for exemptions and deductions allowed for the purpose of determining the taxable estate. The available Unified Tax Credit shall be allocated to the beneficiaries of the residue of Surviving

Trustor's Trust Estate or of the Exemption Trust upon the death of Deceased Trustor, as the case may be.

(ii) In making a proration of the California estate tax, allowances shall be made for credits (other than the credit for state death taxes paid) allowed by the federal estate tax law and attributable to property located in this state, and exemptions and deductions allowed by the federal estate tax law for the purpose of determining the taxable estate attributable to property located in this state.

(iii) In making a proration of an estate tax, interest on extension of taxes and interest and penalties on any deficiency shall be charged to equitably reflect the benefits and burdens of the extension or deficiency and of any tax deductions associated with the interest and penalties.

(iv) If the federal estate tax is increased under IRC Section 4980A(d) for excess retirement accumulation, such increase shall be equitably prorated among all the persons who receive interests in retirement benefits to which the excess retirement accumulation is attributable.

(v) In allocating the burden of any death tax attributable to qualified terminable interest property includible in Surviving Trustor's estate by reason of IRC Section 2044, such tax shall be apportioned against and recovered from that property (or its distributees unless otherwise provided herein) on a pro rata basis computed without benefit of Surviving Trustor's available Unified Tax Credit.

(vi) Notwithstanding the above, Trustee shall not apportion the death tax attributable to, nor seek collection from the beneficiaries of, the following:

(A) any additional death tax imposed under IRC Section 2032A; and/or

(B) any assets for which the federal marital deduction would have been allowed but for Trustee's (or executor's) decision not to make the election under IRC Section 2056(b)(7).

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(3) Tax on Interest and Remainder

If a Trust is created or other provision made whereby a beneficiary is given an interest in the income of, an estate for years or for life, or other temporary interest in any property, the death tax on the temporary interest and on the remainder thereafter shall be equitably prorated as between the remainder and temporary estates.

(4) Recovery From Beneficiaries Where Property Does Not Come Into Possession of Trustee; Amounts Not Recoverable

(i) If all property does not come into the possession of Trustee and/or if taxable gifts have been made during Trustor's lifetimes, Trustee shall be entitled, and shall have the duty, to recover from the beneficiaries of a Trustor's estate the proportionate share of the death tax allocable to such beneficiary.

(ii) If Trustee cannot collect from a beneficiary of a Trustor's estate the share of the death tax apportioned to the beneficiary, the amount not recoverable shall be equitably prorated among the other beneficiaries of that Trustor's estate who are subject to proration.

(5) Right of Reimbursement

(i) If a beneficiary is charged with or required to pay death tax greater than the amount prorated to that beneficiary because another beneficiary does not pay the amount of death tax prorated to the other beneficiary, the beneficiary charged with or required to pay the greater amount has a right of reimbursement against the other beneficiary.

(ii) The right of reimbursement may be enforced through Trustee, in the discretion of Trustee, or may be enforced directly by the beneficiary charged with or required to pay the greater amount, and for the purpose of direct enforcement the beneficiary is subrogated to the position of Trustee.

(iii) Trustee or beneficiary who has a right of reimbursement may commence a proceeding to have a court determine the right of reimbursement.

(d) Payment and Application

The Trustee may make any payments provided for in this Article directly or to a personal representative or other fiduciary and the Trustee may rely upon a written statement of the fiduciary as to the amount and propriety of the taxes, interest, penalties and other costs, and shall be under no duty to see to the application of any funds so paid. The Trustee shall have no liability for any action taken or omitted to be taken by such personal representative or other fiduciary in protesting or failing to protest the legality, propriety or amount of such taxes, interest, penalties and other costs.

(e) Purchase of Certain U.S. Treasury Bonds to Pay Death Tax

At all times during either Trustor's lifetime, whether or not either Trustor is then incapacitated, any then Trustee hereunder is authorized, in such Trustee's sole and absolute discretion, acting alone, to purchase and retain as assets of such Trust United States of America treasury bonds, which may be redeemed at par in payment of federal estate tax; to borrow funds from anyone for the purpose of purchasing such bonds; and to secure any such borrowing by pledge of the bonds so purchased, by pledge of any other Trust assets and/or by any other security arrangement which such Trustee determines to be feasible. The interest on such borrowings may be at such rate, if any, as such Trustee agrees with the lender (even if one or more Trustees hereunder is a lender). Should it at any time appear that either Trustor is seriously ill, each Trustee is requested to resolve doubts in favor of the exercise of this discretion and to overestimate rather than underestimate the amount of such bonds to be purchased.

11.09 PAYMENT OF GENERATION-SKIPPING TRANSFER TAXES

(a) Generation-Skipping Transfer Taxes - Direct Skips

All generation-skipping transfer taxes attributable to a direct skip occasioned by a Trustor's death and with respect to which such Trustor is the transferor shall be paid by the Trustee out of and charged against the transferred property as provided in IRC Sections 2603(a)(2), 2603(a)(3) and 2603(b).

(b) Generation-Skipping Transfer Taxes - Taxable Distributions and Taxable Terminations

All generation-skipping transfer taxes attributable to a taxable distribution occurring with respect to any trust established hereunder shall be paid by the transferee thereof and charged against the transferred property as provided in IRC Sections 2603(a)(1) and 2603(b), and all generation-skipping transfer taxes attributable to a taxable termination occurring with respect to any trust established hereunder shall be paid by the Trustee and charged against the transferred property as provided in IRC Sections 2603(a)(2) and 2603(b).

11.10 GENERATION-SKIPPING PROVISIONS

(a) Definitions

The expression "generation-skipping" as used herein relates or refers to the federal generation-skipping transfer tax in Chapter 13 of the IRC and is used hereafter in terminology associated with various provisions of that tax; for example, "generation-skipping exemption" refers to the exemption from that tax provided in IRC Section 2631(a), and "generation-skipping 'reverse QTIP election'" (or simply "reverse QTIP election") refers to the election provided for qualified terminable interest property under IRC Section 2652(a)(3). In this Article, and in the generation-skipping context throughout this Trust:

(1) The term "exempt" refers to (or "Exempt" may be added to the title of) a trust or property that has a generation-skipping inclusion ratio of zero (that is, an applicable fraction of one); and the adjective "nonexempt" (or the additional titling "Nonexempt") indicates a trust or property that has a generation-skipping inclusion ratio of one (applicable fraction of zero);

(2) References to "trusts" refer also to arrangements that are treated as trusts for generation-skipping purposes and to separate shares of a trust, when appropriate to the context, if the shares are, as "substantially separate and independent shares of different beneficiaries" or otherwise, entitled to be treated as separate trusts for generation-skipping purposes; and

(3) The term "executor" refers to the person or persons authorized by IRC provisions or Treasury regulations to make the reverse QTIP election under IRC Section 2652(a)(3) and to allocate the exemption under IRC Section 2631(a).

(4) The term "Unused GST Exemption" shall mean the amount of a Trustor's GST Exemption that has not been otherwise allocated.

(b) Exemption Allocation

In allocating a Trustor's Unused GST Exemption, Trustee may include in or exclude from that allocation any property of which said Trustor is the transferor for generation-skipping purposes, including property transferred prior to a Trustor's death. These decisions may be based on transfers, gift tax returns, and other information known to Trustee, with a requirement of good faith but no requirement that allocations benefit various transferees or beneficiaries of such property equally, proportionately, or in any other particular manner.

No person acting as Trustee, however, shall make or participate in any generation-skipping election or allocation decision if the power to do so would result in his or her having a general power of appointment (for federal estate and gift tax purposes) over property with respect to which he or she would (or might) not otherwise have such a general power; should this prohibition leave no person able to make such an election or allocation, the office of Trustee for this limited purpose shall be filled in the manner that other vacancies in the office of Trustee of this Trust would be filled.

(c) Dividing and Funding Exempt and Nonexempt Trusts

(1) IRC Section 2652(a)(3) Election

If an election is to be made to qualify all or part of the Marital Trust for the federal estate tax marital deduction, and if a generation-skipping reverse QTIP election is to be made, all or that part of the Marital Trust so qualified shall, if and as necessary, be divided and established as two (2) separate Trusts rather than one in order to permit the reverse QTIP election to be made with respect to one of those Trusts (the "Exempt Marital

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Trust," of which Deceased Trustor rather than Surviving Trustor will be transferor for generation-skipping purposes) but not with respect to the other (still, simply, the "Nonexempt Marital Trust"). The Exempt Marital Trust shall be funded with the minimum dollar amount necessary to utilize Deceased Trustor's Unused GST Exemption.

(2) Separate Trusts: 0 or 1 Inclusion Ratios

If some or all of Deceased Trustor's generation-skipping exemption is to be allocated to any trust that is otherwise to be established under this Declaration of Trust, or if some or all of Surviving Trustor's generation-skipping exemption is later to be allocated to any such trust of which Surviving Trustor is the transferor for generation-skipping purposes, unless the trust in question will thereby have a generation-skipping inclusion ratio of zero, that trust shall be divided and two (2) separate trusts shall instead be established so that each will have a generation-skipping inclusion ratio of either zero (an "exempt" trust) or one (a "nonexempt" trust).

(3) Manner of Division: Satisfying Pecuniary Requests in Kind; Payment of Interest

Unless otherwise expressly provided in this Declaration of Trust, any bequest or funding requirement of a dollar (i.e., pecuniary) amount under this Paragraph or any other provision of this Trust may be satisfied in cash or in kind, in undivided interests, or partly in each; any assets that are used to satisfy the dollar amount shall be valued for this purpose at their date or dates of distribution; and each such dollar amount bequest or funding requirement in this Trust shall, if required under applicable state or federal law, bear interest from the date specified under such law. The foregoing interest requirement shall be interpreted and adapted to meet the "appropriate interest" requirement imposed by applicable proposed or final generation-skipping regulations (or by substitute or successor provisions of the IRC or regulations).

(4) QTIP Taxes

Except as Surviving Trustor directs otherwise in accordance with IRC Section 2207A, any estate or gift tax or other transfer tax attributable to the Exempt Marital Trust, by reason of Surviving Trustor's death or an assignment by Surviving Trustor, shall be paid or recovered, entirely or to the extent possible, first (i) from any or proportionately from all nonexempt trust(s) (inclusion ratio of one) created under this Declaration of Trust of which Deceased Trustor is the transferor for generation-skipping purposes, and then (ii) if necessary, from the Nonexempt Marital Trust, if any, rather than from the Exempt Marital Trust (inclusion ratio of zero) or its distributee(s).

(d) Separateness of Exempt and Nonexempt Trusts

Except as otherwise expressly provided in this Declaration of Trust:

(1) When a trust is divided under the provisions of this Article into exempt and nonexempt trusts or otherwise into separate trusts, each trust shall have the same provisions as the original trust (the "divided trust") from which it is established, and references in this Declaration of Trust to that divided trust shall collectively refer to the separate trusts derived from it; nevertheless Trustee may exercise administrative and distributive discretion, and donees of powers of appointment may exercise their powers, differently with respect to each of the separate trusts (even otherwise identical trusts) derived from the divided trust.

(2) On termination, partial termination, division, subdivision or distribution of any of the various trusts created hereunder, and when it is provided (or appears to be provided) herein that various trusts are to be combined, the nonexempt (inclusion ratio of one) or exempt (zero inclusion ratio) or even partially exempt (should any have an inclusion ratio between zero and one) generation-skipping character of the property of the trusts shall be preserved.

(3) Accordingly, when property is to be added or combined with the property of another trust or other trusts, or when additional trusts are to be established from one or more

sources, nonexempt property or trusts shall not be added to or combined with exempt property or trusts, even if this requires additional separate trusts to be established with the same terms and provisions. (If, for example, the terms of a divided trust direct that on termination, or on nonexercise of a power of appointment, the trust property is to be added to another trust, then the exempt property of a separate trust that had been derived from the terminating trust shall be added only to an exempt trust derived from the recipient trust, and nonexempt property shall be similarly added only to a nonexempt recipient trust; and if no appropriate recipient trust exists for either exempt or nonexempt property, then a new trust of that character shall be established with the same terms and provisions as those of the trust that would otherwise have received that property.) Furthermore, in any case not covered by the foregoing directions (such as that of a partially exempt trust), if the generation-skipping inclusion ratio of any property that is to be added to or combined with a trust has a different inclusion ratio from that trust, the Trustee shall refrain from making the addition or combination and shall instead establish for that property a trust with provisions identical to those of the trust to or with which the property would have been added or combined.

(e) Authority to Combine or Divide

The Trustee of any trust shall have sole discretionary authority to combine that trust with any other trust or trusts having the same inclusion ratio, including trusts established (during life or at death) by Deceased Trustor or Surviving Trustor or any Issue of Deceased Trustor or Surviving Trustor; and Trustee shall establish shares within a trust if and as necessary to preserve the rights and protect the interests of the various beneficiaries (such as when trusts being combined do not have identical terms) or if Trustee otherwise believes that separate shares are desirable (such as because different portions of the trust have different perpetuities periods). Conversely, Trustee shall have sole discretionary authority to divide and administer them as separate trusts. In addition (and as an exception to the

immediately preceding paragraph), trusts with different generation-skipping inclusion ratios may be combined if Trustee makes a discretionary judgment that economic efficiency or other considerations justify sacrificing their separate generation-skipping characteristics. These powers to combine and divide trusts may be exercised from time to time, and may be used to modify or reverse their prior exercise. In deciding whether and how to exercise the authority granted in this paragraph, Trustee may take account of efficiencies of administration, generation-skipping and other transfer tax considerations, income tax factors affecting the various trusts and their beneficiaries, present and future financial and other objectives of the trusts and beneficiaries, the need or desirability of having the same or different trustees for various trusts or shares, and any other considerations Trustee may deem appropriate to these decisions.

(f) Efficient and Tax-Conscious Administration

It is Trustors' intention to encourage Trustee to administer separate trusts created hereunder in ways that, in the long run, are intended to reduce unnecessary income and transfer taxation among trusts and their beneficiaries and to make efficient utilization of available tax privileges, such as generation-skipping exemptions. Without limiting the foregoing, Trustors particularly authorize (but do not require) Trustee, in administering different trusts wholly or in part for the benefit of a particular beneficiary or group of beneficiaries, to adopt different investment strategies and objectives for different trusts based on their generation-skipping ratios, and to prefer making distributions from nonexempt trusts to beneficiaries who are non-skip persons for generation-skipping purposes and from exempt trusts to those who are skip persons. Consistent with these objectives, the Trustee of any trust may share information, consult, and in all reasonable ways coordinate decisions and actions with other trustees and with Trustors' personal representatives, under other dispositions made by Trustors, and under the Wills and trusts of others when the various trusts or estates have, in whole or in part, similar beneficiaries or objectives.

(g) "Favorable Interpretation" Clause

All provisions of this Declaration of Trust, except to the extent inconsistent with the marital deduction objectives of the Marital Trust, shall be construed to provide for or to permit division, distribution and administration of trusts and other dispositions in a timely manner consistent with objectives of efficiently using available generation-skipping exemptions and of establishing and maintaining trusts that have inclusion ratios of either zero or one and are thus entirely exempt or entirely nonexempt.

11.11 COORDINATION WITH EITHER TRUSTOR'S PROBATE ESTATE

(a) Discretionary Trust Distributions to Either Trustor's Probate Estate

At any time during the continuance of the original Trust hereunder after either Trustor's death, Trustee may distribute to either Trustor's probate estate, as a beneficiary of such Trust, cash and/or other property out of any assets then held by such Trust, including any which are classified as post-death Trust income, to whatever extent such Trustee, in its sole and uncontrolled discretion, deems advisable in the best interests of either Trustor's beneficiaries generally. Specifically, Trustee is authorized to distribute to a Trustor's estate the stock or interest in a closely held business in order to qualify for extended payments of a Trustor's estate taxes under IRC Section 6166.

(b) Disposition of Personal and Household Articles on Either Trustor's Death

If any personal and/or household articles are held in the original Trust hereunder at the time of either Trustor's death, such articles shall be promptly distributed by Trustee of such Trust to such person or persons, as to the item or items or proportions specified, as either Trustor may at any time or times appoint by written instrument executed with all the formalities of a deed and delivered to the then Trustee hereunder prior to either Trustor's death. To the extent that any such articles are not disposed of by such appointment, such undisposed of articles shall

be disposed of by Trustee of such Trust in exactly the same manner as such articles would have been disposed of under the terms and provisions of either Trustor's Last Will and Testament (including any Codicil thereto) had such articles been included in either Trustor's probate estate. Only to the extent such articles are not thus disposed of by the exercise of such inter vivos or testamentary powers of appointment shall they be disposed of as a part of the other Trust assets hereunder.

(c) Certain Distributions by Either Trustor's Probate Estate to be Treated as Advances

If the executor of either Trustor's probate estate makes any discretionary distribution (as authorized by either Trustor's Will) directly:

(1) to any Trust which is to come into existence under the terms of this instrument as a result of either Trustor's death, or

(2) to any individual beneficiary of such a Trust, the amount of such distribution shall be treated as an advance on the allocation ultimately required hereunder to be made to that Trust.

11.12 GUARDIAN'S EXPENDITURES

Trustors do not desire that any guardian of any minor beneficiary should incur personal expense in the support and maintenance of such beneficiary. Trustee is authorized to disburse funds from such beneficiary's Trust Estate for the purpose of reimbursing such guardian for reasonable expenses incurred in accommodating such beneficiary. Trustee shall construe Trustee's authority liberally to permit payments reasonably necessary to ease the financial burden on such guardian of the person of any minor beneficiary or other suitable individual with whom such beneficiary resides and on such guardian's family, resulting from such beneficiary's presence in such guardian's household.

11.13 PARTIAL TERMINATION BY TRUSTEE

In the event that the share or separate Trust held for any income beneficiary other than the surviving spouse of this Trust has, at any time, in the opinion of Trustee, a fair market

value of Twenty Thousand Dollars (\$20,000) or less, Trustee may, in its discretion, but is not required to, terminate such Trust and, regardless of the age of such beneficiary, distribute the principal and any accrued or undistributed net income thereon to or for the benefit of such beneficiary.

11.14 TRANSACTIONS AMONG TRUSTS AND/OR SHARES

Trustee may sell assets among any of the Trusts established by this instrument or among separate shares or between the probate estate of Trustors and this Trust, as may exist from time to time, on such terms and at such fair values as Trustee may determine.

11.15 BUDGET INCOME AND EXPENSES

Trustee shall have the power to budget the estimated annual income and expenses of the Trust in such manner as to equalize, as far as possible, periodic income payments to the beneficiaries.

11.16 TRUSTEE'S ADVANCES

Trustee may loan or advance its own funds for any Trust purpose to this Trust, said loans or advances to bear interest at the then current rate from date of advancement until paid and, together with interest, to constitute a first lien upon the entire Trust Estate until paid.

11.17 DIVISION AND DISTRIBUTION IN KIND

Except as may be otherwise expressly provided in this Declaration of Trust, upon any division of the Trust Estate into separate Trusts or shares, and upon any distribution, Trustee may apportion and allocate assets of the Trust Estate in cash or in kind, or partly in cash and partly in kind, or in undivided interests, in such manner as Trustee in its discretion deems advisable. Trustee may sell such property as it deems necessary to make such division or distributions. After any division of the Trust Estate, Trustee may make joint investments with funds from some or all of the several shares or Trusts.

11.18 RIGHT TO RETAIN ADVISORS

Trustee is authorized to retain, at the expense of the Trust Estate, such professional, independent and disinterested

investment counsel as Trustee selects for the purpose of reviewing and rendering advice and counsel in connection with trust investments, with Trustee having the discretionary power not to implement such recommendations, and when Trustee does elect to implement the recommendations of such counsel, Trustee shall not be held liable or otherwise surcharged for losses directly attributable to investments made on the advice or recommendation of the investment counsel; and to employ any other counsel for general or specific purposes, including legal, tax, financial, accounting or other professional or technical services in connection with any trust purpose or function. In addition, Trustee may employ any custodian, accountant, corporate fiduciary, appraiser or other experts and legal counsel, agents, clerks and other assistants, and to remunerate any and all of such persons and pay their expenses.

ARTICLE XII

INSURANCE

12.01 RIGHTS RESERVED IN LIFE INSURANCE POLICIES AND EMPLOYEE BENEFIT PLANS

In the event that either of Trustors is an owner of a life insurance policy or a participant in any employee benefit plan in which this Trust is a beneficiary, said Trustor reserves, during his or her lifetime, all of the rights and powers granted to him or her in any of said life insurance policies or retirement benefit plans, to be exercised by him or her alone without the consent or participation of Trustee or any beneficiary of this Trust, including, without limiting the generality of the terms, the following:

(1) To receive or apply dividends, distributive shares of surplus, disability benefits, premium refunds, proceeds or matured policies, loan or surrender or commuted values or any other sums due under any such policies or plans;

(2) To obtain and receive cash advances or loans as may be available under any such policies or plans;

(3) To exercise any options or privileges granted in any such policies or plans;

(4) To sell, assign or pledge any such policies or their respective interests in such plans;

(5) To change the beneficiaries of any such policies or plans, provided that any change of beneficiary having the effect of making the proceeds of any such policies or plans payable to any beneficiary other than Trustee, shall, upon becoming effective with the issuing company or Trustee of such plan, revoke the Trust as to such policies or plans.

12.02 COLLECTION OF INSURANCE PROCEEDS AT DEATH OF TRUSTOR

Upon receipt by Trustee of actual notice of the death of either of Trustors, Trustee shall make claim or claims for and receive the proceeds of any policy or policies or retirement benefit plans in force or institute suits and actions to enforce payment of the proceeds of any such policies or the interests in any such plans. It may do and perform any and all other acts deemed necessary for the purpose of collecting any sums which may be deemed due and payable under the terms of such policies or plans, provided, however, that Trustee shall be under no duty to enter into or entertain any litigation to enforce the payment of any sums deemed due under such policies or plans until it shall have been indemnified to its satisfaction against all expenses, including attorneys' fees and liabilities to which, in its judgment, it may be subjected by such action on its part. Trustee is authorized to compromise and adjust any claims arising out of any such policies or plans upon terms and conditions which it deems satisfactory, and the decision of Trustee shall be conclusive and binding upon all beneficiaries, persons and corporations interested therein.

12.03 INSURER PROTECTED FOR PAYMENT TO TRUSTEE

No insurance company and no Trustee of any retirement benefit plan shall be under any duty to see to the performance of the terms of this Trust or to see to the application of any death benefits or other funds paid to Trustee under any such policies or plans subject to the terms of this Trust, and the receipt by

Trustee for any such payment shall constitute a release to the company or Trustee of any plan making such payment.

12.04 EXERCISE OF INCIDENTS OF POLICY OWNERSHIP

If this Trust Estate or any Trust created by this Trust shall now contain or hereafter acquire a life insurance policy which is the separate property of the uninsured Trustor and said Trustor shall die leaving the insured Trustor surviving, then this Paragraph 12.04 shall apply. Notwithstanding any other provision to the contrary, Surviving Trustor shall exercise no incidents of ownership over any such life insurance policy, including the power to designate or change beneficiaries, select the method or mode of payment, borrow any cash value or sell, assign or pledge such policy. All such powers and privileges shall be exercised by Trustee of this Trust except that if Surviving Trustor is Trustee, such power shall be exercised by the successor Trustee. Surviving Trustor shall be treated as if he or she was then deceased or incompetent and thus incapable of exercising any powers, including the power to remove a Trustee or appoint a successor. Any insurance company shall be entitled to rely on the representation of the successor Trustee of said Trustee's authority over all policies covered by this paragraph.

ARTICLE XIII

ADMINISTRATIVE AND GENERAL PROVISIONS

13.01 ACCRUED AND UNDISTRIBUTED INCOME

Upon the death of any beneficiary for whom a Trust is held, any accrued or undistributed net income thereon shall be held and accounted for or distributed in the same manner as if it had been accrued or received after the death of such beneficiary, provided, however, that accrued or undistributed income of the Survivor's Trust shall be distributed upon the death of Surviving Trustor as above provided in Article VII, and accrued and undistributed income of the Marital Trust shall be distributed upon the death of Surviving Trustor as above provided in Article IX.

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13.02 NOTICE TO TRUSTEE

Until Trustee shall receive from some person interested in this Trust written notice of any death, birth, marriage or other event upon which the right to receive income or principal of the Trust Estate may depend, Trustee shall incur no liability for any disbursements or distributions made or omitted in good faith.

13.03 EFFECT OF TRUSTEE'S ACTS

(a) So long as Trustors are acting as Co-Trustees of the Trust Estate, either one of Trustors may sign documents or checks or do other acts that may bind the Trust Estate as if both of them, acting as Co-Trustees, had signed or so acted.

(b) Any instrument executed by Trustee or by a Co-Trustee shall be binding upon all parties hereto and on all beneficiaries hereunder. No person paying money to Trustee need see to the application of the money so paid.

13.04 SPENDTHRIFT PROVISION

The interest of any beneficiary in the principal or income of this Trust shall not be subject to claims of his or her creditors or others or liable to attachment, execution or other process of law; and no beneficiary shall have any right to encumber, hypothecate or alienate his or her interest in this Trust in any manner except as provided for elsewhere herein. Trustee may, however, deposit in any bank designated in writing by a beneficiary to his or her credit, income or principal payable to such beneficiary.

13.05 ACCOUNTING

(a) During the lifetime of either Trustor, an independent Trustee need account only to the Trustors or the Survivor, upon their demand, and their written approval shall be final and conclusive in respect to transactions disclosed in the account as to all beneficiaries of the Trust, including unborn and contingent beneficiaries. After the deaths of both Trustors, the Trustee shall, in addition to any accounting required under applicable trust law, render an accounting, from time to time but not less frequently than one year after any prior accounting. For purposes of this instrument, an accounting shall consist of copies of a

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trust's annual federal and state income tax returns filed by the Trustee and a copy of the schedule of income and disbursements of a trust for the subject taxable year.

(b) Accountings shall be made by delivering a written accounting to each beneficiary entitled to current income distribution, or, if there are no current income beneficiaries, to each beneficiary entitled to current distribution out of income or principal in the Trustee's discretion, and to each remainderman in being. If any person entitled to receive an accounting is a minor or is under a disability, the accounting shall be delivered to his parents or the guardian of his person if he is a minor, or the conservator of his person if he is under a disability. Unless any beneficiary, including parents, guardians or conservators of beneficiaries, shall deliver a written objection to the Trustee within sixty (60) days after receipt of the Trustee's account, the account shall be final and conclusive with respect to transactions disclosed in the account as to all beneficiaries of any trust created hereunder, including unborn and unascertained beneficiaries. After settlement of the account by agreement of the parties objecting to it, or by expiration of the sixty (60) day period, the Trustee shall no longer be liable to any beneficiary of the trust, including unborn and unascertained beneficiaries, with respect to transactions disclosed in the account, except for the Trustee's intentional wrongdoing or fraud.

(c) Any accounting provided for herein may be waived if all adult beneficiaries and all parents, guardians or conservators of minor or disabled beneficiaries so agree.

13.06 CHARACTER AND NATURE OF PROPERTY

Any and all community or separate property transferred by Trustors to this Trust shall retain its character as community or separate property for the purposes of allocation thereof among the Trusts, for the purposes of determining the nature and character of the property in the event the Trust is terminated or partially revoked and assets distributed to Trustors or Surviving Trustor, and for the purpose of determining applicable income, gift, estate or inheritance taxes. It is the intent of Trustors that said

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property and the earnings, proceeds or avails thereof shall retain its character as community or separate property, as the case may be.

13.07 CONSTRUCTION

The primary purpose of this instrument is to provide for the income beneficiaries, and the rights and interests of remaindermen are subordinate to that purpose. The provisions of this instrument shall be construed liberally in the interests of and for the benefit of the income beneficiaries.

13.08 SURVIVAL

Whenever in this Trust it is provided that any person, other than either Trustor, shall benefit if he or she survives either Trustor, that person shall be deemed not to survive if he or she dies within thirty (30) days after the death of such Trustor, dies at the same time as such Trustor, dies in a common disaster with such Trustor, or dies under such circumstances that it is difficult or impossible to determine which has died first. As between the Trustors, if the title to property or the devolution of property depends upon priority of death, a Trustor shall be deemed not to survive if he or she dies within one hundred twenty (120) hours after the death of the other Trustor; however, if it cannot be established by clear and convincing evidence that one Trustor survived the other by at least one hundred twenty (120) hours, then each Trustor shall be deemed to have predeceased the other Trustor, but only as to each Trustor's share of his or her separate and community property.

13.09 NO CONTEST

If any beneficiary under this Declaration of Trust or any devisee, legatee or beneficiary under either Trustor's last Will, or any heir of either Trustor or any person claiming under this Trust, either Trustor's estate, or any other trust established by either Trustor, whether directly or indirectly:

(a) contests or in any manner attacks or seeks to impair or invalidate any of the provisions of any of the above;

(b) objects in any manner to any action taken or proposed to be taken in good faith by the trustee of that instrument

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or by the executor of a Trustor's estate (including, without limitation, the good faith exercise or non-exercise of a discretion granted to the trustee or executor), whether said trustee or executor is acting under court order, notice of proposed action or otherwise;

(c) objects to any construction or interpretation of any instrument described above that is adopted or proposed in good faith by the trustee of that instrument or by the executor;

(d) successfully or unsuccessfully attacks or seeks to impair or invalidate any of the following: any designation of beneficiaries for any insurance policy on either Trustor's life; any designation of beneficiaries for any pension plan or IRA account of either Trustor; any trust which either Trustor has created during that Trustor's lifetime; or any gift which either Trustor has made during that Trustor's lifetime; provided, however, that nothing herein shall apply to the claim of Surviving Trustor to Surviving Trustor's interest in such property; or

(e) conspires with or voluntarily assists anyone attempting to do any of these things;

then, in that event, all such legacies, bequests, devises and interests given under this Declaration of Trust or either Trustor's Will to that person shall be forfeited as though he or she predeceased both Trustors without issue.

Expenses to resist any contest or other attack of any nature upon any provision of this Trust or either Trustor's Will shall be paid from the Trust Estate as expenses of administration.

In the event that any provision of this Paragraph is held to be invalid, void or illegal, the same shall be deemed severable from the remainder of the provisions of this Paragraph and shall in no way affect, impair or invalidate any other provision in this Paragraph. If such provision shall be deemed invalid due to its scope and breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

13.10. SEPARATE TRUSTS

Each share into which the Trust Estate is divided pursuant to the provisions hereof shall constitute and be administered

as a separate trust. There need be no physical segregation or division of the various trusts established hereunder except as segregation or division may be required by the termination of any of the trusts, but the Trustee shall keep separate accounts for the different undivided interests.

13.11 DISINHERITANCE

Except as expressly provided herein, the Trustors have intentionally omitted to provide for persons who may be the Trustors' heirs, whether or not now in being.

13.12 RULE AGAINST PERPETUITIES

Unless sooner terminated in accordance with the provisions of this instrument, or the provisions of any instrument created by exercise of a power of appointment conferred by this instrument, each trust established hereby and each trust established by the exercise of any such power of appointment shall terminate twenty-one (21) years after the death of the last survivor of the beneficiaries in being on the date of death of the first Trustor to die. Upon such termination, Trustee shall distribute outright and free of trust the entire remaining balance of such trust to the person or persons then entitled to receive income from such trust in the proportions as they are entitled to receive income from such trust immediately prior to such termination date, provided, however, if the rights to income are not fixed at such termination date by the terms of the Trust, the entire remaining balance of such trust shall be distributed in equal shares to those persons who, in the sole discretion of Trustee, are entitled or authorized to receive income payments immediately prior to such termination. If no such persons are then living, the balance then remaining shall be distributed, outright and free of trust as provided in the paragraph entitled "Undisposed Portion of Trust and Termination."

13.13 DISCLAIMED PROPERTY

Notwithstanding any other provision of this Declaration of Trust, no limited power of appointment granted hereunder to Surviving Trustor shall be exercisable with respect to any property

of the Trust Estate he or she has disclaimed, or with respect to any property of the Trust Estate traceable to such disclaimed property.

ARTICLE XIV
DEFINITIONS

As used herein, the terms described below shall be defined as follows:

14.01 "BENEFICIARY" DEFINED

The term "beneficiary" shall mean an individual who has the current right or a vested or contingent future right to receive principal or income under one or more provisions of this Trust, as the context requires.

14.02 "CHILDREN OF TRUSTORS" DEFINED

The terms "child of Trustors" and "children of Trustors" as used herein shall refer only to the children mentioned in Paragraph 2.01 above.

14.03 "COMFORT" DEFINED

The term "comfort" shall mean happiness, benefit, consolation, enjoyment, pleasure, relaxation and freedom from care.

14.04 "COMMUNITY PROPERTY" DEFINED

"Community property" shall mean property determined to be "community property" under the laws of the State of California.

14.05 "DEATH TAXES" DEFINED

"Death taxes" refers to all estate, inheritance or other taxes, including any interest and penalties thereon, arising by reason of a Trustor's death. The term, however, does not include generation-skipping transfer taxes.

14.06 "DECEASED TRUSTOR" DEFINED

"Deceased Trustor" shall mean the first Trustor to die.

14.07 "DISCLAIMER" DEFINED

"Disclaimer" shall mean a written, irrevocable and unqualified refusal by the beneficiary to accept the interest

disclaimed. Said disclaimer shall be made in accordance with the terms and conditions of IRC Section 2518.

14.08 "DISCRETION OF TRUSTEE" DEFINED

The term "discretion of trustee" shall be based on a reasonableness standard unless the specific language of the Trust also confers "absolute," "sole," or "uncontrolled" discretion to Trustee. Should the Trust confer "absolute," "sole," or "uncontrolled" discretion to Trustee, such discretion shall nevertheless be subject to a good faith standard to be applied by Trustee.

14.09 "EDUCATION" DEFINED

Unless defined elsewhere in this Trust, the term "education" shall be construed to include preschool, primary and secondary private education as well as education at an accredited public or private college or university and postgraduate study and technical, vocational, music, art, religious or trade school so long as pursued to advantage by a beneficiary at an institution of the beneficiary's choice.

(a) Trustee may establish reasonable criteria for the beneficiary to achieve, including maintaining a minimum grade point average, minimum class schedule and acceptable standards of behavior at school.

(b) The costs of education which may be paid or supported by Trustee shall include, but not be limited to, tuition, room, board, books, supplies, student fees, travel costs to or from the institution, overseas or domestic travel directly related to furtherance of the educational program and living expenses incurred in connection with the educational program. The costs of education that are part of the support obligations of a parent of a beneficiary shall not be paid.

(c) Trustee shall have the option to distribute funds directly to or on behalf of the beneficiary for the above purposes, or to loan funds to the beneficiary, under such terms and conditions as Trustee deems reasonable and appropriate.

(d) Payments made on behalf of a beneficiary shall be paid to the guardian, legal representative, institution, or other third party for the benefit of the beneficiary.

14.10 "GST EXEMPTION" DEFINED

"GST Exemption" refers to the generation-skipping transfer tax exemption allowable under IRC Section 2631.

14.11 "HEALTH" DEFINED

Unless defined elsewhere in this Trust, the term "health," shall mean any and all inpatient or outpatient medical or mental health services, drugs and medically necessary devices or supplies, including, without limitation, accommodations in a hospital, medical center, nursing home or any other short, intermediate or long-term health care facility, ancillary health care services, substance-abuse program services, detoxification services, dietary services, physical conditioning services, x-ray and laboratory services, medication management services, drugs and medicines, any outpatient aftercare program services following inpatient stays for rehabilitation, and ambulance or other transportation services.

14.12 "HUSBAND TRUSTOR" DEFINED

Husband Trustor shall refer to FRANK P. DAY.

14.13 "INCOME" DEFINED

"Income" shall mean the property described in California Probate Code Section 16303(b), or any subsequent provision of the California Revised Uniform Principal and Income Act.

14.14 "INCOME BENEFICIARY" DEFINED

The term "income beneficiary" as used herein shall mean an individual who has the current right to receive income under one or more provisions of this Trust.

14.15 "INCOMPETENT" DEFINED

(a) An individual shall be deemed to be incompetent if any Trustee or any beneficiary hereunder comes into possession of any of the following:

(1) A court order, which such Trustee or beneficiary deems to be jurisdictionally proper and still currently

applicable, holding a person to be legally incompetent to act in his or her own behalf or appointing a guardian to act for him or her;

(2) Duly executed, witnessed and acknowledged written certificates, at least one of which is then unrevoked, of two (2) licensed physicians (each of whom represents that he or she is certified by a recognized medical board), each certifying that such physician has examined a person and has concluded that by reason of accident, physical or mental illness, progressive or intermittent physical or mental deterioration or other similar cause, such person had, at the date thereof, become incapacitated to act rationally and prudently in his or her own financial best interests; or

(3) Evidence which such Trustee or beneficiary deems to be creditable and still currently applicable that a person has disappeared, is unaccountably absent or is being detained under duress where he or she is unable effectively and prudently to look after his or her own financial best interests, then in that event and under those circumstances, such person shall be deemed to have thereupon become incompetent as that term is used in and for all of the purposes of this instrument.

(b) Upon a determination that a person is incompetent such incompetent shall be deemed to continue until such court order, certificates and/or circumstances described above have become inapplicable or have been revoked. Any physician's aforesaid certificate may be revoked by a similar certificate to the effect that that person is no longer thus incompetent, executed either (i) by the originally certifying physician or (ii) by two (2) other licensed, board-certified physicians.

(c) No Trustee shall be under any duty to institute any inquiry into a person's possible incompetence, but the expense of any such inquiry reasonably instituted may be paid from Trust assets.

(d) Each person who signs this instrument or an acceptance of trusteeship hereunder does, by so signing, waive all

provisions of law relating to disclosure of confidential medical information insofar as that disclosure would be pertinent to any inquiry under this paragraph.

14.16 REFERENCES TO "IRC" OR THE "CODE"

References to "IRC" or the "Code" shall mean the Internal Revenue Code of 1986, as amended at any time, and references to any chapter or section of said Code shall be deemed also to refer to the comparable provisions of any subsequent revenue law.

14.17 "ISSUE" DEFINED

"Issue" shall mean children as well as other lineal descendants of whatever degree. It shall also include persons who shall have been legally adopted prior to reaching the age of eighteen (18) years as well as any children or lineal descendants (including any so adopted) of any such adopted persons to the same extent as if each such adopted person had been born to such person's adoptive parents. Such term shall also include a child in gestation who is later born alive, who shall be considered in being throughout the gestation.

14.18 "MAINTENANCE" DEFINED

"Maintenance" shall have the same meaning as "support," whether used separately or in conjunction with the term "support."

14.19 "MINOR" DEFINED

"Minor" shall mean any person who shall not have attained the age of eighteen (18) years.

14.20 "NET INCOME" DEFINED

"Net income" shall mean the income available for distribution after payment or reservation of sufficient funds to pay all expenses of management and administration of the Trust Estate, including the compensation of Trustee and taxes.

14.21 "PRINCIPAL" DEFINED

"Principal" shall mean the property described in California Probate Code Section 16303(b), or any subsequent provision of the California Revised Uniform Principal and Income Act.

14.22 "QUASI-COMMUNITY PROPERTY" DEFINED

"Quasi-community property" shall mean property determined to be "quasi-community property" under the laws of the State of California.

14.23 "RATABLY" DEFINED

"Ratably" shall mean a fraction determined as followed: the numerator shall represent a specific beneficiary's percentage interest and the denominator shall represent the total of all beneficiaries' percentage interests.

14.24 "RESIDUE" DEFINED

"Residue" shall mean that portion of the Trust Estate remaining after debts and specific gifts have been discharged.

14.25 "SEPARATE PROPERTY" DEFINED

"Separate property" shall mean property determined to be "separate property" under the laws of the State of California.

14.26 "SUPPORT" DEFINED

Unless defined elsewhere in this Trust, the term "support" shall refer to provision of food, clothing and shelter sufficient to maintain a beneficiary's accustomed standard of living. "Maintenance" shall have the same meaning as "support," whether used separately or in conjunction with the term "support."

14.27 "SURVIVING TRUSTOR" DEFINED

"Surviving Trustor," shall mean Trustor living at the death of the first of Trustors to die.

14.28 "TERMINABLE INTEREST" DEFINED

"Terminable Interest" shall mean an interest which qualifies for the marital deduction under IRC 2056(b)(7).

14.29 "TRUST ESTATE" DEFINED

"Trust Estate" shall mean the property originally transferred to Trustee by Trustors or by either Trustor and any cash, securities or other property which Trustee may, at any time, hold or acquire for the uses and purposes and upon the terms and conditions set forth in this Trust.

14.30 TRUST REFERENCES

"Trust," "Family Trust," "Declaration of Trust," "Trust Instrument" and "Trust Agreement" shall all refer to this Declaration of Trust, and the Trust created hereunder shall be known as the DAY FAMILY TRUST. Notwithstanding the foregoing, where the context requires, the term "Trust" may also refer to any subtrust created under this Declaration of Trust.

14.31 "UNIFIED TAX CREDIT" DEFINED

"Unified Tax Credit" shall mean that amount which is allowed as a credit against the federal tax imposed under IRC Section 2001 or Section 2501.

14.32 "UNINSURED CATASTROPHIC HEALTH EXPENSE" DEFINED

"Uninsured Catastrophic Health Expense" means those uninsured health expenditures of an unusually large amount or peculiar nature resulting from a serious medical condition.

14.33 "WIFE TRUSTOR" DEFINED

"Wife Trustor" shall refer to JANICE E. DAY.

ARTICLE XV

MISCELLANEOUS

15.01 HEADINGS

The headings in this Trust are inserted for convenience of reference and are not to be considered in the construction of the provisions hereof.

15.02 CONFLICT OF LAWS

(a) The meaning and effect of the terms of this Trust instrument and of any other Trust instrument related hereto shall be governed by the laws of the state of California.

(b) The administration of each Trust hereunder shall be governed by the laws of the state in which that Trust is then being administered (based on the location of the principal office of Trustee then having custody of that Trust's principal assets and records), which state's courts shall have exclusive jurisdiction over the administration of that Trust with respect to any period during which it was thus being administered in that state.

(c) The foregoing shall apply even though the situs of some Trust assets or the home of either Trustor, a Trustee or a beneficiary may at some time or times be elsewhere.

15.03 INVALIDITY

If any provision of this Trust shall be invalid or unenforceable, the remaining provisions thereof shall nevertheless continue to be fully effective.

IN WITNESS WHEREOF, Trustors have executed this Sixth Amendment and Restatement of Trust of the DAY FAMILY TRUST dated May 24, 1985, on the 15 day of December, 1993.

Frank P. Day
FRANK P. DAY, Trustor

Janice E. Day
JANICE E. DAY, Trustor

01/20/2017

CERTIFICATION OF TRUSTEE

The undersigned, acting Trustees of the within Trust, do hereby certify that they have read said Amendment and Restatement of Trust and that they will continue to act as Trustees under the terms, provisions and conditions therein.

DATED: Dec. 15, 1993

Frank P. Day
FRANK P. DAY, Trustee

DATED: Dec. 15, 1993

Janice E. Day
JANICE E. DAY, Trustee

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STATE OF CALIFORNIA)
COUNTY OF Los Angeles) ss.

On December 15, 1993, before me, FRAN LEITNER, a Notary Public of the State of California, personally appeared FRANK P. DAY and JANICE E. DAY, ~~personally known to me~~ (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

[Seal]



Fran Leitner

Notary Public in and for said
County and State

04/20/2017

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EXHIBIT 2

EXHIBIT 2

**SEVENTH AMENDMENT TO
DECLARATION OF TRUST
OF
DAY FAMILY TRUST**

Prepared By:

**Freeman, Freeman & Smiley
3415 Sepulveda Boulevard
Penthouse, Suite 1200
Los Angeles, California 90034
(310) 398-6227**

01/20/2017

SEVENTH AMENDMENT TO
DECLARATION OF TRUST
OF
DAY FAMILY TRUST

This SEVENTH AMENDMENT TO THE DAY FAMILY TRUST, dated May 24, 1985, is entered into pursuant to Paragraph 3.03 thereof.

ONE: Paragraph 7.08 is hereby deleted in its entirety and the following substituted in its place:

"7.08 DISPOSITION OF TRUST ESTATE IF POWERS NOT
EXERCISED

To the extent that the Surviving Trustor does not exercise the powers of appointment granted to him or her, as hereinabove provided, the principal of Trust A and any accrued or undistributed income thereon shall be divided into multiple shares as follow:

(a) The first share shall be set aside for Trustors' grandchildren and shall be held, administered and distributed pursuant to the terms of Paragraph 10.03 below. The grandchildren's share shall be equal to the lesser of (i) Two Million Dollars (\$2,000,000); or (ii) an amount that, when added to gifts being made to Trustors' grandchildren from the Exemption Trust and the Marital Trust, will equal twenty percent (20%) of the entire net DAY FAMILY TRUST Estate as of the date of the death of Surviving Trustor (after taking into account the value of the Survivor's Trust, the Exemption Trust and the Marital Trust), but before allocation of federal estate or state inheritance taxes;

(b) The balance of the Survivor's Trust shall be allocated to Trustors' daughter, JANNA, if then living, and shall be held, administered and distributed pursuant to the provisions of Paragraph 10.02 below. If JANNA is not then living, then the gift shall be divided into equal shares for the benefit of JANNA's issue who are then living, by right of representation, and each

*Amended
11-2-85*

such share shall be held, administered and distributed in accordance with the provisions of Paragraph 10.03 below."

TWO: Paragraph 8.04 is hereby deleted in its entirety and the following substituted in its place:

**"8.04 DISTRIBUTIONS FROM THE EXEMPTION TRUST UPON
DEATH OF SURVIVING TRUSTOR**

Upon the death of Surviving Trustor, Trustee shall allocate the Exemption Trust as follows:

(a) To Trustors' grandchildren, to be held administered and distributed pursuant to the terms of Paragraph 10.03 below, the lesser of (i) Two Million Dollars (\$2,000,000); or (ii) twenty percent (20%) of the value of the entire net DAY FAMILY TRUST Estate as of the date of the death of Surviving Trustor, but before allocation of federal estate or state inheritance taxes;

(b) The excess, if any, shall be allocated to Trustors' daughter, if then living, and shall be held, administered and distributed pursuant to the terms of Paragraph 10.02 below. If JANNA is not then living, then the gift shall be divided into equal shares for the benefit of JANNA's issue who are then living, by right of representation, and each such share shall be held, administered and distributed in accordance with the provisions of Paragraph 10.03 below."

THREE: Paragraph 9.03 is hereby deleted in its entirety and the following substituted in its place:

**"9.03 DISTRIBUTION FROM THE MARITAL TRUST UPON
DEATH OF SURVIVING TRUSTOR**

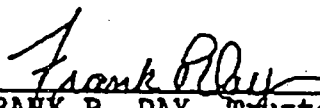
Upon the death of Surviving Trustor, any accrued and undistributed income of the Marital Trust shall be distributed to the estate of Surviving Trustor. The remaining principal of the Marital Trust Estate shall be divided into multiple shares as follows:

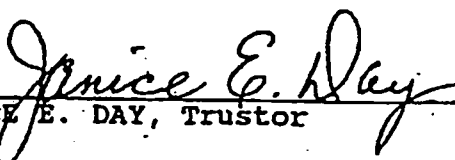
(a) The first share shall be set aside for Trustors' grandchildren out of the Exempt Marital Trust and shall be held, administered and distributed pursuant to the terms of Paragraph 10.03 below. The grandchildren's share shall be in an amount that, when added to gifts being made to Trustors' grandchildren from the Exemption Trust, will equal the lesser of (i) Two Million Dollars (\$2,000,000); or (ii) twenty percent (20%) of the entire net DAY FAMILY TRUST Estate as of the date of the death of Surviving Trustor (after taking into account the value of the Survivor's Trust, the Exemption Trust and both the Exempt and Non-Exempt portions of the Marital Trust), but before allocation of federal estate or state inheritance taxes;

(b) The balance of the Marital Trust, if any, shall be allocated to Trustors' daughter, JANNA, if then living, and shall be held, administered and distributed pursuant to the terms of Paragraph 10.02 below. If JANNA is not then living, then the gift shall be divided into equal shares for the benefit of JANNA's issue who are then living, by right of representation, and each such share shall be held, administered and distributed in accordance with the provisions of Paragraph 10.03 below."

FOUR: In all other respects, the DAY FAMILY TRUST shall remain in full force and effect.

IN WITNESS WHEREOF, Trustors have executed this Seventh Amendment this 19th day of September, 1994.


FRANK P. DAY, Trustor


JANICE E. DAY, Trustor

ACCEPTED BY TRUSTEES:

Frank P. Day
FRANK P. DAY, Trustee

Janice E. Day
JANICE E. DAY, Trustee

2017
01/26
01/26

2090.400\30609.1

STATE OF CALIFORNIA

COUNTY OF Los Angeles

) ss.

On Sept. 19, 1994, before me, Fran LEITNER, a Notary Public of the State of California, personally appeared FRANK P. DAY and JANICE E. DAY, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

Fran Leitner

Notary Public in and for said
County and State

[Seal]

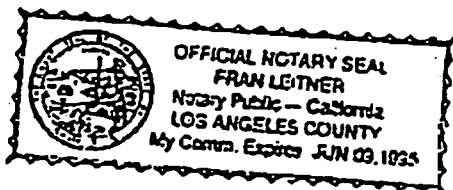


EXHIBIT 3

EXHIBIT 3

EIGHTH AMENDMENT TO THE DAY FAMILY TRUST
(AMENDMENT OF SURVIVOR'S TRUST)

Prepared by:

REISH & LUFTMAN
ATTORNEYS AT LAW
11755 Wilshire Boulevard
10th Floor
Los Angeles, CA 90025-1516
(310) 478-5656

04/20/2017 14777.DOC

EX 3

EIGHTH AMENDMENT TO THE DAY FAMILY TRUST

Preamble. FRANK P. DAY and JANICE E. DAY were the Trustors and Trustees of THE DAY FAMILY TRUST, created under the original declaration dated May 24, 1985, restated by the Sixth Amendment on December 15, 1993, and subsequently amended by the Seventh Amendment on September 19, 1994. FRANK P. DAY died on June 15, 1995, and pursuant to Section 4.01 of THE DAY FAMILY TRUST, the surviving Trustee, JANICE E. DAY, is serving as sole Trustee.

Pursuant to Section 6.01 of THE DAY FAMILY TRUST, upon the death of one of the Trustors, a portion of THE DAY FAMILY TRUST shall be allocated to Trust A, also known as THE SURVIVOR'S TRUST OF THE DAY FAMILY TRUST. In Section 7.06 of that declaration, the right to amend THE SURVIVOR'S TRUST is reserved for the Surviving Trustor, in the following language:

During Survivor Trustor's Lifetime, the Survivor's Trust may be revoked, amended or altered, in whole or in part, by written notice signed by Surviving Trustor and delivered to Trustee.

The Surviving Trustor now wishes to exercise her right of amendment and, to that end, does hereby amend that declaration in the manner stated below. The Trustee hereby consents to the terms of this amendment.

1. Amendment of Section 7.08. Section 7.08 of that declaration is amended to read as follows:

"7.08

"7.08

"7.08

"7.08

"7.08

"7.08

ACKNOWLEDGMENT

State of California)
) ss
County of Los Angeles)

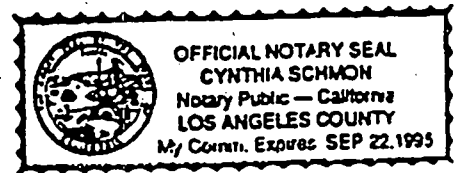
On September 1, 1995 before me, CYNTHIA SCHMON,
a notary public in and for the State of California, personally
appeared JANICE E. DAY, personally known to me (or proved to me on
the basis of satisfactory evidence) to be the person whose name is
subscribed to the within instrument and acknowledged to me that she
executed the same in her authorized capacity, and that by her
signature on the instrument, the person, or the entity upon behalf
of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature

Cynthia Schmon

(SEAL)



EIGHTH ACKNOWLEDGMENT TO DAY FAMILY TRUST

01/20/2017

THE DAY FAMILY TRUST

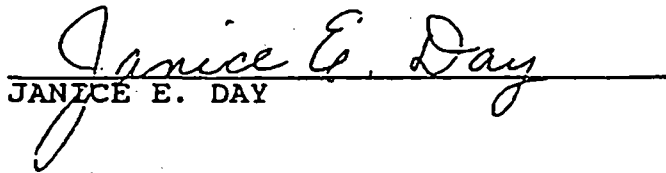
RESIGNATION OF TRUSTEE AND APPOINTMENT OF SUCCESSOR TRUSTEES

Pursuant to Section 4.02 of THE DAY FAMILY TRUST, as restated and amended, effective the date herein, I, JANICE E. DAY, do hereby resign as Trustee of THE DAY FAMILY TRUST dated May 24, 1985, as subsequently restated and amended including the EIGHTH AMENDMENT of THE DAY FAMILY TRUST executed before this resignation. This resignation shall apply to all resulting trusts of THE DAY FAMILY TRUST, including but not limited to: TRUST A, THE SURVIVORS TRUST; TRUST B, THE EXEMPTION TRUST; TRUST C, THE MARITAL TRUST; THE DISCLAIMER TRUST (6.05); TRUST FOR JANNA (10.02); and TRUST FOR GRANDCHILDREN AND MORE REMOTE ISSUE (10.03).

Pursuant to Section 4.03 of THE DAY FAMILY TRUST, as restated and amended, I exercise my power to appoint successor Trustees. I name JANNA DAY and DAVID BOSKA, M.D. as successor Co-Trustees of THE DAY FAMILY TRUST. This appointment shall apply to all resulting trusts of THE DAY FAMILY TRUST, including but not limited to: TRUST A, THE SURVIVORS TRUST; TRUST B, THE EXEMPTION TRUST; TRUST C, THE MARITAL TRUST; THE DISCLAIMER TRUST (6.05); TRUST FOR JANNA (10.02); and TRUST FOR GRANDCHILDREN AND MORE REMOTE ISSUE (10.03).

Pursuant to Section 4.02, the successor co-trustees and I have agreed to waive the 60-day notice period for my resignation as Trustee.

Dated: September 1, 1995

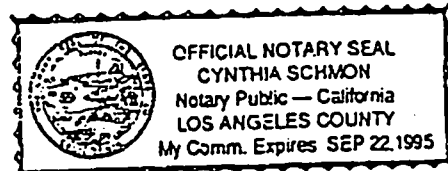

JANICE E. DAY

RESOLUTION OF TRUST

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On September 1, 1995 before me, CYNTHIA SCHMON, a notary public in and for the State of California, personally appeared JANICE E. DAY, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Signature Cynthia Schmon

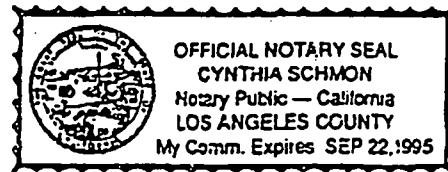
(SEAL)

ACCEPTANCE OF TRUST

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On September 1, 1995 before me, CYNTHIA SCHMON, a notary public in and for the State of California, personally appeared JANNA DAY, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Signature Cynthia Schmon

(SEAL)

DAY FAMILY TRUST

NINTH AMENDMENT - THE SURVIVOR'S TRUST ONLY

Prepared by:

Snow & Snow
11661 San Vicente Boulevard, Suite 206
Los Angeles, CA 90049-5110
310-826-0046

01/12/2017

DAY FAMILY TRUST

NINTH AMENDMENT - THE SURVIVOR'S TRUST ONLY

The Day Family Trust was created by Frank P. Day and Janice E. Day on May 24, 1985. The trust was completely restated on December 15, 1993, a Seventh Amendment was made on September 19, 1994, and an Eighth Amendment, affecting the Survivor's Trust only, was made on September 1, 1995. Frank P. Day died on June 15, 1995, and since that time Janice E. Day has been the sole surviving trustor.

Section 6.01 of the Day Family Trust provides that the Survivor's Trust, also know as "Trust A" is created at the death of Frank P. Day, and Section 7.06 provides that Janice E. Day as surviving trustor has the right to amend the Survivor's Trust at any time by written notice signed by the surviving trustor and delivered to the trustee.

Janice E. Day is now the sole trustee of the Day Family Trust, and acknowledges receipt of this Ninth Amendment.

Janice E. Day as survivor trustor now exercises her right to amend the provisions of the Day Family Trust pertaining to the Survivor's Trust in the following manner:

1. The Eighth Amendment to the Day Family Trust is hereby revoked in its entirety.
2. Section 7.08 of the Day Family Trust is amended to read in its entirety as follows:

"7.08 DISPOSITION OF TRUST ESTATE IF POWERS NOT EXERCISED.

"To the extent that the surviving trustor does not exercise the powers of appointment granted to her in the Day Family Trust, the principal of the Survivor's Trust (Trust A) and any accrued or undistributed income thereon at the date of death of Janice E. Day shall be retained in the Survivor's Trust for the benefit of Janna Day and her issue. Substantial trusts are being established for Janna and her three children in other portions of the Day Family Trust. It is the purpose of Janice E. Day that the assets in the Survivor's Trust be used to provide financial security for Janna and her children throughout their lifetimes regardless of any market reverses, improvident investment of funds, or improvident use of funds that may occur.

"After the death of Janice E. Day all of the net income produced from the Survivor's Trust shall be paid to Janna Day in quarterly or other convenient installments during her lifetime.

"Upon the death of the survivor of Janice E. Day and Janna Day the Survivor's Trust shall be divided into separate trust funds for the descendants of Janna Day then surviving, by right of representation. Each of these funds established for one of Janna's descendants shall be treated as a separate trust, and the net income produced from each trust fund shall be distributed to the beneficiary thereof in quarter annual or other convenient installments for such beneficiary's lifetime.

"The trustee is granted the power to invade the trust funds established for Janna Day and each of her descendants to provide for the necessary support, health and education of such beneficiary. As the purpose of the Survivor's Trust is to provide financial security for the beneficiaries, this invasionary power may not be used to maintain any established standard of living of the beneficiaries. Instead it shall be based upon a standard of living equivalent to \$5,000 per month before tax in the month of August, 1996, subject to consumer price index increases for all subsequent years. The current consumer price index, 1982-84 = 100, for the Los Angeles Metropolitan Area in August, 1996, is 157.3, and this shall be used as a base for all consumer price index adjustments in the future.

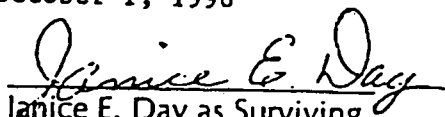
"Janna Day and each of her descendants who is a beneficiary of a share of the Survivor's Trust is granted a testamentary general power of appointment over his or her share of the Survivor's Trust. This power of appointment may be exercised only in a validly executed Will which specifically states the intention of exercising the power of appointment in this Survivor's Trust. This power of appointment cannot be exercised by any general residuary clause which does not make specific reference to this Survivor's Trust. This power of appointment may be exercised in favor of any person whomsoever, including the probate estate of the person exercising the power. ?

"If any of Janna Day's descendants who is a beneficiary of the Survivor's Trust fails to exercise the testamentary general power of appointment created above, then upon the death of such beneficiary his or her share of the Survivor's Trust shall be redivided among his or her issue by right of representation, and the share established for each of such issue shall be subject to all of the terms hereof relating to income, powers of appointment, and invasion as provided for Janna Day. ?

"Notwithstanding any provision hereunto the contrary, the Survivor's Trust and all of the funds created from it shall terminate and the assets in each fund shall be distributed to the current income beneficiary thereof on the twenty-first anniversary of the death of the last survivor of the descendants of Janice E. Day who are living at the time of death of Janice E. Day."

3. In every other respect Janice E. Day confirms and ratifies the terms of the Day Family Trust, as amended, as such provisions pertain to the Survivor's Trust.

Executed in Los Angeles, California on: October 1, 1996


Janice E. Day as Surviving
Trustor and Trustee

CALIFORNIA ALL PURPOSE ACKNOWLEDGEMENT

State of California

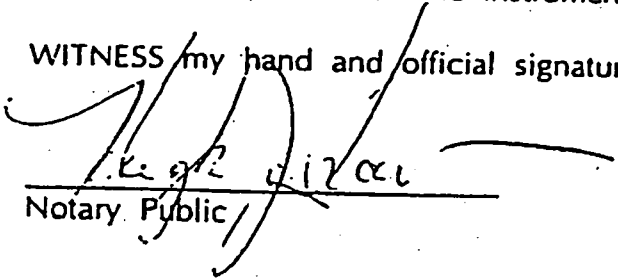
County of Los Angeles

On October 1, 1996 before me, Hugh J. Snow, a notary public, personally appeared Janice E. Day

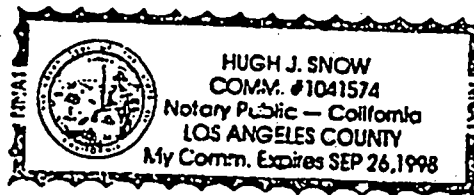
☒ personally known to me OR

☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official signature.


Notary Public

Official seal:



01/12/2017

THE DAY FAMILY TRUST

TENTH AMENDMENT - THE SURVIVOR'S TRUST ONLY

The Day Family Trust was created by Frank P. Day and Janice E. Day on May 24, 1985. The Trust was completely restated on December 15, 1993, which was the Sixth Amendment. Thereafter the following events have occurred:

Seventh Amendment dated September 19, 1994

Frank P. Day died on June 15, 1995, at which time the Marital Trust became irrevocable.

Eighth Amendment affecting Survivor's Trust only was made on September 1, 1995.

Ninth Amendment - The Survivor's Trust only was made on October 1, 1996

Change of Trustee was made on October 3, 1996

Section 6.01 of The Day Family Trust provides that the Survivor's Trust, also known as "Trust A", is created at the death of Frank P. Day, and Section 7.06 provides that Janice E. Day as surviving Trustor has the right to amend the Survivor's Trust at any time by written notice signed by the surviving Trustor and delivered to the Trustee.

Janice E. Day as surviving Trustor now exercises her right to amend the provisions of the Day Family Trust pertaining to the Survivor's Trust in the following manner:

Paragraph 7.02 is amended in its entirety to read as follows:

"Paragraph 7.02 NET INCOME TO SURVIVING TRUSTOR

"The net income from the Survivor's Trust shall be accumulated for the benefit of the surviving Trustor and shall be distributed only in accordance with the instructions of the surviving Trustor."

In all other respects Janice E. Day confirms and ratifies the terms of the Day Family Trust, as amended, as such provisions pertain to the Survivor's Trust.

Executed in Los Angeles, California on: *January 6, 1997*

Janice E. Day
Janice E. Day
as Surviving Trustor

014120012017

EXHIBIT 4

EXHIBIT 4

DAY FAMILY TRUST

ELEVENTH AMENDMENT - THE SURVIVOR'S TRUST ONLY

The Day Family Trust was created by Frank P. Day and Janice E. Day on May 24, 1985. The trust was completely restated on December 15, 1993, a Seventh Amendment was made on September 19, 1994, an Eighth Amendment, affecting the Survivor's Trust only, was made on September 1, 1995, a Ninth Amendment affecting the Survivor's Trust only, was made on October 1, 1996, and a Tenth Amendment affecting the Survivor's Trust only was made on January 6, 1997. Frank P. Day died on June 15, 1995, and since that time Janice E. Day has been the sole surviving trustor.

Section 6.01 of the Day Family Trust provides that the Survivor's Trust, also know as "Trust A" is created at the death of Frank P. Day, and Section 7.06 provides that Janice E. Day as surviving trustor has the right to amend the Survivor's Trust at any time by written notice signed by the surviving trustor and delivered to the trustee.

Janice E. Day as survivor trustor now exercises her right to amend the provisions of the Day Family Trust pertaining to the Survivor's Trust in the following manner:

1. The Eighth and Ninth Amendments to the Day Family Trust referred to above are hereby revoked in their entirety.
2. Section 7.08 of the Day Family Trust is amended to read in its entirety as follows:

"7.08 DISPOSITION OF TRUST ESTATE IF POWERS NOT EXERCISED.

"To the extent that the surviving trustor does not exercise the powers of appointment granted to her in the Day Family Trust, the principal of the Survivor's Trust (Trust A) and any accrued or undistributed income thereon at the date of death of Janice E. Day shall be retained or distributed as provided herein. Substantial trusts are being established for Janna Day and her three children in other portions of the Day Family Trust. It is the purpose of Janice E. Day that the assets in the Survivor's Trust be used to provide financial security for Janna and her children throughout their lifetimes regardless of any market reverses, improvident investment of funds, or improvident use of funds that may occur.

"Upon the death of Janice E. Day assets with a value of \$500,000 shall be distributed to the President and Fellows of Middlebury College, a Vermont educational corporation in Middlebury, Vermont.

"After the death of Janice E. Day and after the payment of all debts and death taxes due at the death of Janice E. Day, assets with a value equal to the entire generation skipping transfer tax exemption of one million dollars (\$1,000,000) that remains after any consumption of said exemption during the lifetime of Janice E. Day shall be divided into separate trust funds for the descendants then surviving of Janna by right of representation of Janna, although it is assumed that Janna will be living at that time.

"From the income produced by each trust fund established for a descendant of Janna the Trustee shall distribute to the beneficiary thereof at the end of each calendar quarter an amount equal to the gross earnings of the beneficiary during such calendar quarter from such beneficiary's employment, personal services, or net income from a business owned and personally managed by such beneficiary. Any remaining net income shall be accumulated and added to principal. The purpose of this provision is to reward Janna's descendants for their diligent exercise of their abilities to be productive and earn income. The trustee shall administer this provision in a manner that is best suited to accomplish this objective.

"The Trustee is granted the power to invade each of the trust funds established for a descendant of Janna to provide for the necessary support, health, and education of such beneficiary. As the purpose of these trust funds is to provide financial security for the beneficiaries for their lifetimes, this invasionary power may not be used to maintain any established standard of living of the beneficiaries. This invasionary power shall be used only when the Trustee determines that all other assets available for the support of the beneficiary are inadequate to provide what the Trustee in its sole discretion considers to be a reasonable standard of living for the beneficiary when the beneficiary is unable, by his diligent employment, to provide such support for himself.

"Each of Janna's descendants for whom a trust fund is established is granted a testamentary general power of appointment over his or her share of the Survivor's Trust. This power of appointment may be exercised only in a validly executed Will which specifically states the intention of exercising the power of appointment in this Survivor's Trust. This power of appointment cannot be exercised by any general residuary clause which does not make specific reference to this Survivor's Trust. This power of appointment may be exercised in favor of any person whomsoever, including the probate estate of the person exercising the power.

3

"If any of Janna's descendants who is a beneficiary of the Survivor's Trust fails to exercise the testamentary general power of appointment created above, then upon the death of such beneficiary his or her share of the Survivor's Trust shall be redivided among his or her issue by right of representation, and the share established for each of such issue shall be subject to all of the terms hereof relating to income, powers of appointment, and invasion as provided for Janna.

"All of the net income produced from the rest of the Survivor's Trust shall be paid to Janna in quarterly or other convenient installments during her lifetime.

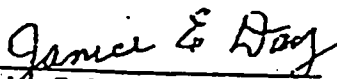
"Upon the death of the survivor of Janice E. Day and Janna the fund of the Survivor's Trust from which Janna received income for life shall be divided into separate trust funds for the descendants of Janna then surviving, by right of representation. Each of these funds established for one of Janna's descendants shall be added to the trust funds already established for said descendant from the Survivor's Trust and shall be administered under the terms thereof.

"The trustee is granted the power to invade the trust fund established for Janna to provide for her necessary support. As the purpose of the Survivor's Trust is to provide financial security for Janna, this invasionary power may not be used to maintain any established standard of living. Instead it shall be based upon a standard of living equivalent to \$5,000 per month before tax in the month of August, 1996, subject to consumer price index increases for all subsequent years. The current consumer price index, 1982-84 = 100, for the Los Angeles Metropolitan Area in August, 1996, was 157.3, and this shall be used as a base for all consumer price index adjustments in the future.

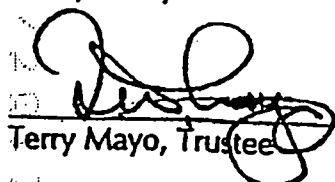
"Notwithstanding any provision hereunto the contrary, the Survivor's Trust and all of the funds created from it shall terminate and the assets in each fund shall be distributed to the current income beneficiary thereof on the twenty-first anniversary of the death of the last survivor of the descendants of Janice E. Day who are living at the time of death of Janice E. Day."

3. In every other respect Janice E. Day confirms and ratifies the terms of the Day Family Trust, as amended, as such provisions pertain to the Survivor's Trust.

Executed in Los Angeles, California on June 24, 1997.


Janice E. Day as Surviving
Trustor and Trustee

Accepted by:

 7/1/97
Terry Mayo, Trustee


Foster Rains, Trustee

CALIFORNIA ALL PURPOSE ACKNOWLEDGEMENT

State of California

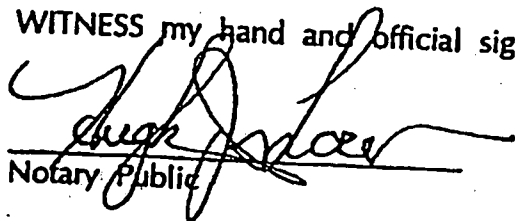
County of Los Angeles

On June 24, 1997 before me, Hugh J. Snow, a notary public, personally appeared Janice E. Day

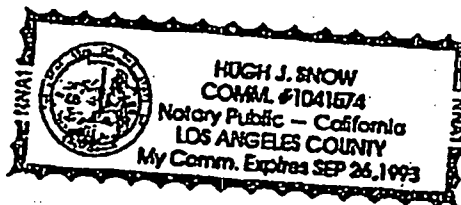
☒ personally known to me OR

☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official signature.


Notary Public

Official seal:



01/12/2017

EXHIBIT 5

EXHIBIT 5

DAY FAMILY TRUST
CHANGE OF TRUSTEE

Section 4.03(b) of the Day Family Trust provide that since the death of Frank P. Day the surviving trustor Janice E. Day has the full and unrestricted power and authority to remove trustees and appoint successor trustees.

Janice E. Day is the surviving trustor, and under Section 7.06 of the Day Family Trust Janice E. Day is given the authority to amend the Survivor's Trust.

The authority granted in both Section 4.03(b) and Section 7.06 is exercised by Janice E. Day as surviving trustor in taking the following actions:

1. Paul P. Denzer is removed as a successor Trustee and shall not serve at any time.
2. Boston Safe Deposit & Trust Company of California is removed as a successor Trustee and shall not serve at any time.
3. Janice E. Day hereby resigns as Trustee and is removed from that office.
4. Terry Mayo of Middlebury, Vermont, is appointed to act as Trustee of the Day Family Trust. Mr. Mayo is given the power to appoint a trustee to succeed himself, and the power to delegate to any successor trustee a similar power to designate his successor trustee. Mr. Mayo is also given the power to appoint and remove a co-trustee from time to time, and Mr. Mayo is given the power to delegate this power to appoint and remove co-trustees to any successor trustee that he may appoint. Mr. Mayo shall receive \$5,000 each month that he serves as Trustee.
5. Foster Rains of Malibu, California, is appointed to act as co-trustee to serve with Terry Mayo. Mr. Rains shall receive \$2,500 each month that he serves as Trustee.
6. Whenever two co-trustees are acting, one signature from either of the Trustees shall be sufficient for any trust transaction, unless the co-trustees agree to the contrary.

Dated: 3 October 1996

Janice E. Day
Janice E. Day, Trustor

The foregoing appointment is accepted, and the undersigned agree to serve as Trustees.

Terry D. Mayo
Terry D. Mayo

October 9, 1996
Date

Foster Rains
Foster Rains

OCTOBER 3, 1996
Date

ETB

EXHIBIT 6

EXHIBIT 6

DECLARATION OF HOLLY MILES

Holly Miles Declares:

1. I am the daughter of Janna Day, the granddaughter of Janice E. Day and Frank Day and a beneficiary of the Day Family Trust, including the Day Family Survivor's Trust. The following facts are stated from my personal knowledge and if called as a witness, I would so testify.

2. For all the reasons set forth in the foregoing Petition, I support said PETITION FOR INSTRUCTIONS AND ORDER REGARDING DISTRIBUTION OF REAL PROPERTY TO JANNA DAY AND FOR ORDER IMPOSING SURCHARGE AND OTHER REMEDIES.

3. I strongly support the outright distribution of the trust property at 22223 Carbon Mesa Road, Malibu, CA 90265 (the "Malibu Property"), immediately to my mother, Janna Day.

4. To any extent the Petition for distribution of the Malibu Property might conflict with my own trust and/or inheritance interests, I regardless support this Petition as it represents the intentions of my grandparents and is in the overall best interests of my family, including myself.

5. I believe that keeping the Malibu Property within the family is the best means of providing financial security for my Mother and myself, whereas selling the property will likely cause the trust assets to be significantly or entirely depleted due to continuing trust expenses, administrative fees and taxes, leaving me less or even nothing to inherit.

6. I have had the opportunity to seek advice of legal counsel, and willingly seek to waive all my all my rights and interest as a contingent beneficiary in the Malibu Property, freely agreeing to release the Malibu Property from its current status as an asset of the Survivor's Trust in order that the Malibu Property be conveyed to my mother, Janna Day.

7. If the Malibu Property is promptly distributed to Janna Day, I am willing to agree to hold the Trustee harmless after re-transferring and distributing the Malibu Property to her because it is, in my view, the best means of paying off existing trust debts while securing the long-term financial interests of myself as a contingent beneficiary.

8. I understand this waiver significantly effects my financial interest as a contingent beneficiary of the Survivor's Trust. In making this waiver, I am confident any appropriate compensatory payments for the distribution of the Malibu Property to my Mother can better be worked out directly with my Mother after the Malibu Property is transferred to her.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed this 29th day of July 2022, in Agoura Hills, California.

Holly Miles
HOLLY MILES,
Declarant/Beneficiary

EXHIBIT 7

EXHIBIT 7

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6. I have had the opportunity to seek advice of legal counsel, and willingly seek to waive all my all my rights and interest as a contingent beneficiary in the Malibu Property, freely agreeing to release the Malibu Property from its current status as an asset of the Survivor's Trust in order that the Malibu Property be conveyed to my mother, Janna Day.

7. If the Malibu Property is promptly distributed to Janna Day, I am willing to agree to hold the Trustee harmless after re-transferring and distributing the Malibu Property to her because it is, in my view, the best means of paying off existing trust debts while securing the long-term financial interests of myself as a contingent beneficiary.

8. I understand this waiver significantly effects my financial interest as a contingent beneficiary of the Survivor's Trust. In making this waiver, I am confident any appropriate compensatory payments for the distribution of the Malibu Property to my mother can better be worked out directly with my Mother after the Malibu Property is transferred to her.

9. To any extent applicable, I also assert further support for this Petition on behalf of my seven year old son, Archer Miles, for the same reasons.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed this 27th day of July 2022, in Agoura Hills, California.

KIP MILES
Declarant/Beneficiary

EXHIBIT 8

EXHIBIT 8

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1. I am the grandson of Janna Day, the great-grandson of Janice E. and Frank Day and a contingent beneficiary of the Day Family Survivor's Trust. The following facts are stated from my personal knowledge and if called as a witness, I would so testify.

3. To any extent the Petition for distribution of the Malibu Property might conflict with my own trust and/or inheritance interests, I regardless support this Petition as it represents the intentions of my great-grandparents and I believe is in the overall best interests of my family, including myself.

4. For these reasons and the reasons set forth in the foregoing Petition, I waive all objections to the distribution of the Malibu Property to Janna Day and support said PETITION FOR INSTRUCTIONS AND ORDER REGARDING DISTRIBUTION OF REAL PROPERTY TO JANNA DAY AND FOR ORDER IMPOSING SURCHARGE AND OTHER REMEDIES.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed this 29th day of July 2022, in Agoura Hills, California.

Brenda Y. Allen

BRANDON MILES GOLDSTEIN,
Declarant/Contingent Beneficiary

EXHIBIT 9

EXHIBIT 9

DECLARATION OF JANNA DAY

Janna Day Declares:

1. I am the daughter of Janice E. Day and Frank Day and the primary beneficiary of the Day Family Trust, including the Day Family Survivor's Trust. The following facts are stated from my personal knowledge and if called as a witness, I would so testify.

2. I grew up in the house at 22223 Carbon Mesa Road ("Malibu Property"), all my children grew up in the house and my grandchildren grew up in that house. My parents spent both of their lifetimes of working and saving to leave the house to our family. I watched my parents build their business out of our house.

3. Since the time when I moved into the House, when I was seven years old, my parents told me the house was the family legacy. They always told me the house was our most valuable asset and that it would be passed down to me. I intend to reside at the Malibu Property to the extent possible, while also renting out a portion of the property to produce income.

4. Prior to 2008, at no time do I ever recall any counsel or any trustee of the Day Family Trust discussing notifying me or mentioning that my parents plans for me to inherit the house had been revised. The co-trustees decision to transfer the Malibu Property at 2223 Carbon Mesa Road from the Marital Trust to the Survivor's Trust was never directly explained to me by co-trustees Mayo and Rains prior to making the transfer or even thereafter. I certainly at no time ever knowingly agreed to give up my right to inherit the Malibu Property.

5. Even after 2008, my understanding has always been that the trustees were reconsidering and would revisit the issue of the Malibu Property remaining in the Marital Trust so that my inheritance of the Malibu Property would remain intact.

1 6. After Terry Mayo resigned as trustee, we wanted Jason Rubin as trustee because
2 he indicated he would take out a loan and then use the proceeds to renovate the Malibu Property
3 and then rent it out to pay for the improvements and generate income.

4
5 7. Mr. Rubin convinced me to dismiss the earlier-filed petition for distribution,
6 without prejudice to achieve the new plans. In trustee's "Letter of Agreement" signed on April
7 19, 2017, Mr. Rubin required the earlier petition for distribution dismissed without prejudice, but
8 that after 18 months that "a new petition seeking to transfer the Property to Janna Day can be
9 brought, as long as part of the relief sought from said petition includes compensation to the
10 Survivor's Trust for the value of the Property being transferred out of the Trust, said value to be
11 determined by the Court." A true and correct copy of the trustee's Letter of Agreement is
12 attached as Exhibit 14.

13
14 8. However, Mr. Rubin subsequently defaulted on his promise to make the necessary
15 repairs and spent far less than the anticipated \$400,000, which currently leaves the Malibu
16 Property with an estimated \$100,00 - \$200,000 in repairs required before it can be rented to a
17 residential tenant.

18
19 9. I (along with all my children) met with the Trustee and his attorney on March 28,
20 2022, to discuss the Malibu Property and to meet and confer about re-filing this petition for
21 distribution.

22
23 10. Not long after the March 2022 meeting the Trustee apparently unilaterally decided
24 selling the Malibu Property was the only option he would consider and filed his Petition with the
25 Court. However, the Trustee has not, to date, given me any information on plans or as to the
26 expected net proceeds that could be estimated from a sale of the Malibu Property.

27
28 ///

11. Selling the House is not in my best interest of myself or that of my children, to whom I intend to pass on the legacy. So far, our family has been the only ones capable of bringing any income to the house. My daughter, Pamela Estelle Rumph and I have been conducting due diligence on the necessary financing, contractor costs and market income potential in order to proceed with making the Malibu Property income producing, while also retaining my ability to remain in residence on a portion of the property.

12. I warrant that if distributed to me, I intend to use the Malibu Property largely to benefit the future of my children and grandchildren and, as soon as practical due to taxation and long-term logistical concerns, reimburse any equitable amounts due to them from the conversion of the Malibu Property from the Marital Trust to the Survivor's Trust. I agree to compensate the Survivor's Trust to any extent determined equitable by the Court.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed this 29th day of July 2022, in Malibu, California.



JANNA DAY,
Declarant/Beneficiary

EXHIBIT 10

EXHIBIT 10

From: JJOC-OFFICE 714-953-2840

11/13/2008 12:57

#551 P.003/039

Stephen P. McCarthy, CSB No. 119378
mccarthys@lanepowell.com
LANE POWELL PC
601 SW Second Avenue, Suite 2100
Portland, Oregon 97204-3158
Telephone: 503.778.2100
Facsimile: 503.778.2200

Attorneys for Petitioners Terry D. Mayo and Foster Rains

FILED
LOS ANGELES SUPERIOR COURT
ENTERED
SUSTAIN
NOV 13 2008
JOHN A. CLARKE, CLERK
BY J. DENHAM, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CENTRAL DISTRICT

In Re the Day Family Marital

Case No. SP 006 368

Trust FBO Janna Day,

PETITION FOR INSTRUCTIONS
REGARDING HOLD ON PARTIAL
DISTRIBUTION

Established May 24, 1985

BY FAX

Terry D. Mayo And Foster Rains,

Petitioners,

DATE OF HEARING
JAN 09 2009 9:15 am

v.

Janna Day,

IN DEPT. WE

Respondent.

Foster Rains and Terry D. Mayo, Co-Trustees of the Day Family Marital Trust FBO Janna Day (hereinafter referred to as the "Trustees") Petition for Instructions Regarding Hold on Partial Distribution (hereinafter referred to as the "Petition") as follows:

INTRODUCTION

1. Since October 3, 1996, the Trustees have served as the co-trustees of the Day Family Marital Trust FBO Janna Day (hereinafter referred to as the "Marital Trust"), one of eight separate trusts established under the "DAY FAMILY TRUST RESTATED DECLARATION OF

708190.0009/748920.1

PETITION FOR INSTRUCTIONS REGARDING
HOLD ON PARTIAL DISTRIBUTION

From: JJOC-OFFICE 714-953-2840

11/13/2008 12:58

#551 P.004/039

1 TRUST DATED DECEMBER 15, 1993, AS AMENDED" which was established by Frank P.
2 Day and Janice E. Day (as finally amended by the 11th Amendment, hereinafter referred to as the
3 "Trust Agreement").

4 2. Frank Day died on June 15, 1995 and Janice Day died on July 4, 1997. Frank and
5 Janice Day had one child, Janna E. Day (hereinafter referred to as "Janna Day" or "Janna") and
6 Janna has three children, Holly Day Miles (hereinafter referred to as "Holly") and Kip Anthony
7 Miles (hereinafter referred to as "Kip") from Janna's first marriage, and Pamela Estelle Rumph
8 (hereinafter referred to as "Estelle") from Janna's second marriage. Janna is now married to
9 Philip Day. Holly currently has one child, Brandon Miles-Goldstein. Estelle and Kip currently
10 do not have any children. We refer to the members of the Day family by their first names for
11 clarity and intend no disrespect thereby.

12 MARITAL TRUST

13 PARTIAL DISTRIBUTION REQUIREMENT

14 3. The administration of the Marital Trust is governed by Section 10 of the Trust
15 Agreement. The Marital Trust has Janna Day as the sole, current beneficiary. Net income of the
16 Marital Trust is distributable to Janna on at least a quarterly basis. If the Trustees deem the
17 income distributions to be insufficient, the Trustees, in their reasonable discretion, may distribute
18 principal to Janna if the Trustees determine that the distribution is necessary for her proper health,
19 support, maintenance and education, after taking into consideration, to the extent the Trustees
20 deem it advisable, any income or other resources Janna has available, including income from other
21 trusts for her benefit. (See Section 10.02(c) and (d) of the Trust Agreement, an excerpt of which
22 is attached as Exhibit A).

23 4. Pursuant to Section 10.02(e) of the Trust Agreement, the Trustees distributed one-
24 third of the principal of the Marital Trust to Janna after she reached the age of forty-five (45)
25 years. The Trustees are required to distribute one-half of the remaining principal of the Marital
26 Trust to Janna after she reaches the age of fifty-five (55) years, and the balance of the principal of
27 the Marital Trust to Janna after she reaches the age of sixty (60) years. (See Section 10.02(e) of
28 the Trust Agreement, an excerpt of which is attached as Exhibit A).

2

708190.0009/748920.1

PETITION FOR INSTRUCTIONS REGARDING
HOLD ON PARTIAL DISTRIBUTION

5. The Trustees are informed and believe that Janna celebrated her fifty-fifth (55th) birthday on November 9, 2008. Accordingly, after the Trustees complete an accounting for the Marital Trust as of November 9, 2008, the Trustees are required to distribute one-half of the remaining principal of the Marital Trust to Janna Day. Janna has already received a \$100,000 advance of this partial distribution.

6. The Trustees are preparing a November 9, 2008, accounting for the Marital Trust.

SURVIVOR'S TRUST

7. Janna Day also is a beneficiary of the Day Family Survivor's Trust FBO Janna Day (hereinafter referred to as the "Survivor's Trust"), the trustees of which are also Foster Rains and Terry D. Mayo and the administration of which is governed by Section 7.08 of the same Trust Agreement that governs the administration of the Marital Trust.

8. The Survivor's Trust has Janna as the sole, current beneficiary. Pursuant to Section 7.08 of the Trust Agreement, the net income of the Survivor's Trust is distributable to Janna for her lifetime "in quarterly or other convenient installments." With respect to the principal of the Survivor's Trust, Section 7.08 provides that the Trustees are "granted the power to invade the trust fund established for Janna to provide for her necessary support," provided, however, that the Trustees may not invade the trust fund to "maintain any established standard of living" for Janna as "the purpose of the Survivor's Trust is to provide financial security for Janna."

After Janna's death, the Trustees are required to distribute the remaining principal to certain "incentive" trusts for Janna's surviving descendants. There are currently three such incentive trusts for the benefit of Holly, Kip and Estelle, respectively. Net income from such incentive trusts is distributable to the respective beneficiaries as a "match" of the beneficiary's periodic income. Under the terms of such incentive trusts, principal can be invaded to provide for a beneficiary's "necessary support, health and education" only if the Trustees determine "that all other assets available for the support of the beneficiary are inadequate to provide what the Trustee in its sole discretion considers to be a reasonable standard of living for the beneficiary when the

From: JJOC-OFFICE 714-953-2840

11/13/2008 12:59

#551 P.006/039

beneficiary is unable, by his diligent employment, to provide such support for himself." (See Section 7.08 of the Trust Agreement, an excerpt of which is attached as Exhibit B).

**TRANSFER OF THE DAY RESIDENCE
TO THE SURVIVOR'S TRUST**

9. "The Day Residence" is the residential property of the settlors, consisting of the buildings, land and other property located at 22223 Carbon Mesa Road, Malibu, California.

10. Pursuant to Section 10.02(u) of the Trust Agreement, a governing provision of the Marital Trust, Janna Day has the right to live rent-free in the Day Residence during the duration of the Marital Trust. With respect to Janna, the termination date for the Marital Trust generally is the earlier of the date of Janna's death or November 9, 2013, the date Janna reaches the age of sixty (60) years. (See Section 10.02(a)-(e) of the Trust Agreement, an excerpt of which is attached as Exhibit A).

11. Given the funding of the Marital Trust, it could have been necessary to distribute the Day Residence to Janna Day on or after her fifty-fifth (55th) or sixtieth (60th) birthday rather than hold the Day Residence in trust for her lifetime benefit. This created a potential conflict between Section 10.02(a) of the Trust Agreement providing for trust ownership of the Day Residence for Janna's lifetime benefit and Section 10.02(e) of the Trust Agreement requiring mandatory distributions of trust principal to Janna and termination of the Marital Trust by Janna's sixtieth (60th) birthday.

12. Based on information and belief, the Trustees and Janna Day, directly and through counsel for the Trustees and counsel for Janna, had multiple conferences concerning the disposition of the Day Residence and the parties ultimately agreed, based on the advice of counsel, to transfer the Day Residence from the Marital Trust to the Survivor's Trust so that the Day Residence could be held in trust for Janna's lifetime benefit. (See the August 20, 1997 letter from Attorney Snow to Attorney Lawrence T. Sorensen, counsel for Janna Day, memorializing their discussions and the decision to transfer the Day Residence, a copy of which is attached as Exhibit C).

708190.0009/748920.1

4

PETITION FOR INSTRUCTIONS REGARDING
HOLD ON PARTIAL DISTRIBUTION

13. The transfer was completed in 1998 with the Marital Trust transferring the Day Residence to the Survivor's Trust for securities and/or other trust assets with a fair market value up to \$1.5 million (See 1997 and 1998 beginning and year end balance sheets for the First Account Current and Report for the Marital Trust and the 1998 beginning and year end balance sheets for the First Account Current and Report for the Survivor's Trust, an excerpt of which is attached as Exhibit D). The Day Residence had an appraised value of \$1.5 million on July 4, 1997, the date of death of Janice E. Day (See the July 4, 1997 Appraisal, an excerpt of which is attached as Exhibit E).

ACCOUNTINGS

14. The Trustees filed a First Account Current and Report for the Day Family Trusts, including the Survivor's Trust and the Marital Trust, for the period from June 15, 1995 through December 31, 2004. The accounting was reviewed by John E. Rogers, Jr., Esq., the court-appointed probate volunteer panelist attorney, who filed a detailed report finding no objections with the accounting. The Court approved the accounting and all acts of the Trustees in its order dated July 15, 2005.

15. The Trustees filed a Second Account Current and Report for the Day Family Trusts, including the Survivor's Trust and the Marital Trust, for the period from January 1, 2005 through September 30, 2006, which was approved by the Court on January 26, 2007.

16. The Trustees provided the beneficiaries of the Survivor's Trust and the Marital Trust with annual accountings for the 2006 and 2007 calendar years.

OCTOBER 31, 2008 HEARING

17. At an October 31, 2008 hearing on California Superior Court, Los Angeles County (Santa Monica) Case Number SP 006 992 concerning the Survivor's Trust, the Court raised an issue concerning whether Section 10.02(a) of the Trust Agreement is a governing provision of the Survivor's Trust and whether the Day Residence should be the property of the Marital Trust and distributable to Janna Day as all or a part of the partial distribution she is entitled to receive after November 9, 2008. The Court's questions are the subject of a separate petition for instructions being filed in Case Number SP 006 992.

From: JJOC-OFFICE 714-953-2840

11/13/2008 13:01

#551 P.008/039

REQUEST FOR COURT INSTRUCTION

REGARDING HOLD ON PARTIAL DISTRIBUTION

18. Janna Day is entitled to receive a distribution of one-half of the principal of the Marital Trust as she has reached the age of fifty-five (55) years. Janna has already received a \$100,000 advance of this partial distribution.

19. The Trustees respectfully request the Court's instruction as to whether the Trustees may delay the remaining partial distribution to Janna Day until it is determined whether the Day Residence is an asset of the Marital Trust distributable outright to Janna and, if so, how much the Marital Trust may owe the Survivor's Trust with respect to the Day Residence.

WHEREFORE the Trustees pray for the following relief:

- (1) That the Court instruct the Trustees as requested in this Petition.
- (2) That the Court grant such additional relief as is appropriate.

DATED: November 13, 2008

LANE POWELL PC

By

Stephen P. McCarthy, CSB No. 119378
Attorneys for Petitioners Terry D. Mayo and
Foster Rains

LANE POWELL PC
601 SW SECOND AVENUE, SUITE 2100
PORTLAND, OREGON 97204-3158
TELEPHONE: 503.778.2100 FACSIMILE: 503.778.2200

From: JJOC-OFFICE 714-953-2840

11/13/2008 13:02

#551 P.010/039

11/12/2008 18:20 FAX

002

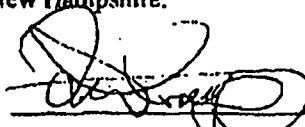
VERIFICATION

State of New Hampshire, County of Hillsborough

I have read the foregoing PETITION FOR INSTRUCTIONS REGARDING HOLD ON PARTIAL DISTRIBUTION and know its contents. I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of New Hampshire that the foregoing is true and correct.

Executed on November 12, 2008, at Amherst, New Hampshire.


Terry D. Mayo, Co-Trustee

LANE POWELL PC
631 SW SECOND AVENUE, SUITE 2100
PORTLAND, OREGON 97204-3118
TELEPHONE: 503.778.2100 FACSIMILE: 503.778.2100

EXHIBIT 11

EXHIBIT 11

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 01/09/09

HONORABLE CRAIG D. KARLAN
P-6
HONORABLE

JUDGE

F. HINOJOSA

DEPT. WEN

DEPUTY CLERK

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

J. MORGAN, CT ASST

Deputy Sheriff

T. MCCOWAN, CSR# 10147

Reporter

9:15 am

SP006368

In Re the Matter of:
DAY, FRANK P. and JANICE E. -
TRUST

Counsel for

TODD M. BEUTLER (X)

Petitioner:

STEPHEN P. MCCARTHY (X)

KEVIN FELDMAN (X)

NATURE OF PROCEEDINGS:

PETN FOR INSTRUCTIONS REGARDING HOLD ON PARTIAL
DISTRIBUTION;

☒ (X) ATTORNEY ORDER

☐ () MATTER IS CONTINUED TO 00/00/0000 AT 0:00AM IN
DEPARTMENT WE-S.

☐ () CALENDARED IN ERROR ☐ () NO APPEARANCES

☒ (X) OFF CALENDAR, AT REQUEST OF MOVING PARTY.

☐ () Petition Granted

☐ () Petition Denied

☐ () As Supplemented.

☐ () Citee Discharged ☐ () New Citation to issue.

☐ () Citee(s) Ordered Back

☐ () To Give Notice ☐ () Notice Waived

☐ () \$ Bond...\$ Surety

(OR AS OTHERWISE PROVIDED BY LAW)

Page 1 of 1 DEPT. WEN

MINUTES ENTERED
01/09/09
COUNTY CLERK

EX-11

EXHIBIT 12

EXHIBIT 12

**DAY FAMILY SURVIVOR'S TRUST
ACCOUNT SUMMARY – INCOME TAX BASIS
FOR THE PERIOD ENDED MARCH 31, 2013**

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

Note A – Summary of Significant Accounting Policies (Continued):

Real Estate Property Issue

There is ongoing litigation concerning whether the real estate property held in the Trust is beneficially owned by the Day Family Marital Trust. There is also litigation concerning the maintenance of the real estate property and related liabilities. The most recent appraisal of the real estate property held by the Trust was dated February 28, 2007.

Attorney's Fees

The Trust has incurred attorney's fees during the year which were still outstanding as of March 31, 2013. Such attorney fees can only be paid on court order after a noticed petition.

Trustee's Fees

The Trust has incurred Trustee's fees during the year which were still outstanding as of March 31, 2013.

Subsequent Events

Subsequent events have been evaluated through June 18, 2013, which is the date the financial statements were available to be issued.

See accountants' report.

ET 12

01/20/2017

EXHIBIT 13

EXHIBIT 13

Day Family Marital Trust
Account Summary - Income Tax Basis
For the Period January 1, 1996 Through December 31, 1996

Assets on Hand, End of Period

	<u>Principal</u>	<u>Income</u>	<u>Total</u>
Cash			
Bank of America a/c 05828-30866	19,440.46		19,440.46
Wells Fargo a/c 6876-057290	950.59		950.59
Wells Fargo a/c 8046-200478	16,463.11		16,463.11
Total Cash	<u>36,854.16</u>	<u>0.00</u>	<u>36,854.16</u>
Mutual Funds and Stocks			
Smith Barney Brokerage a/c 418-00253-16	7,682,348.16	(18,468.38)	7,663,879.78
Smith Barney Brokerage a/c 418-04576-18	(3,768.36)		(3,768.36)
Merrill Lynch a/c 223-55595	(1,222.96)		(1,222.96)
Prudential Securities a/c OYG-194936-39	(29,153.28)		(29,153.28)
Stanford C. Bernstein a/c 041-03529	505,497.13		505,497.13
Other Assets			
Survivors Trust Receivables	(311,963.19)		(311,963.19)
<u>Real Estate</u>			
22223 Carbon Mesa Road	1,290,425.50		1,290,425.50
Assets on Hand, End of Period	<u><u>9,169,017.16</u></u>	<u><u>(18,468.38)</u></u>	<u><u>9,150,548.78</u></u>

Day Family Marital Trust
 Account Summary - Income Tax Basis
 For the Period January 1, 1996 Through December 31, 1996

Adjustments to Principal

<u>Date</u>	<u>Description</u>		<u>Principal</u>	<u>Income</u>	<u>Total</u>
12/11/96	Day Family Survivor's Trust 41307 Park Avenue, Improved		150,000.00		150,000.00
12/11/96	Day Family Survivor's Trust 41307 Park Avenue, Unimproved		35,000.00		35,000.00
12/11/96	Day Family Survivor's Trust Smith Barney a/c 418-00253-16		605,000.00		605,000.00
Total Adjustments to Principal			<u>790,000.00</u>	<u>0.00</u>	<u>790,000.00</u>

Day Family Marital Trust
Account Summary - Income Tax Basis
For the Period January 1, 1996 Through December 31, 1996

Losses on Sales or Other Dispositions of Assets

Description	Date Purchased	Date Sold	Proceeds	Cost	Principal	Income	Total
\$50,000 CA State G/O Var Purp	10/06/95	04/01/96	25,000.00	25,577.68	577.68		577.68
\$250,000 LA CA Dept Wtr & Pwr 7.1	06/15/95	04/15/96	128,750.00	131,846.25	3,096.25		3,096.25
\$50,000 LA CA Dept Wtr & Pwr 7.3	08/15/95	04/15/96	25,750.00	26,394.55	644.55		644.55
\$135,000 Anaheim CA Refin 7.5%	06/15/95	05/01/96	68,850.00	70,772.13	1,922.13		1,922.13
\$50,000 Northern CA 7%	06/15/95	07/01/96	20,000.00	20,588.62	588.62		588.62
\$30,000 San Jose CA 7.5%	06/15/95	08/01/96	15,300.00	15,842.01	542.01		542.01
\$50,000 Salinas CA 6.6%	06/15/95	08/01/96	25,500.00	25,593.05	93.05		93.05
5,000 shs Boise Cascade	04/04/96	10/07/96	82,605.76	105,595.35	22,989.59		22,989.59
3,000 shs AT& T Corp	03/11/96	10/10/96	59,385.74	98,717.54	39,331.80		39,331.80
5,000 shs BellSouth Corp	03/11/96	10/10/96	97,203.47	101,558.46	4,354.99		4,354.99
2,400 shs Boise Cascade	09/06/96	10/10/96	37,285.76	40,103.82	2,818.07		2,818.07
2,600 shs Boise Cascade	09/06/96	10/10/96	40,715.60	43,445.81	2,730.21		2,730.21
1,000 shs Excel Communication Inc	09/06/96	10/10/96	12,520.78	14,514.63	1,993.85		1,993.85
Total Losses					81,682.78	0.00	81,682.78

Day Family Marital Trust
Account Summary - Income Tax Basis
For the Period January 1, 1996 Through December 31, 1996

Distributions

<u>Date</u>	<u>Description</u>	<u>Principal</u>	<u>Income</u>	<u>Total</u>
04/11/96	Janice E. Day IRS-estimated taxes for 1996	7,500.00		7,500.00
04/11/96	Janice E. Day FTB-estimated taxes for 1996	2,500.00		2,500.00
04/11/96	Janice E. Day IRS-taxes for 1995	17,553.00		17,553.00
04/11/96	Janice E. Day FTB-taxes for 1995	6,161.00		6,161.00
06/12/96	Janice E. Day IRS-estimated taxes for 1996	7,500.00		7,500.00
06/12/96	Janice E. Day FTB-estimated taxes for 1996	2,500.00		2,500.00
07/16/96	Janice E. Day Safeco Insurance Co.	(414.24)		(414.24)
07/17/96	Janice E. Day distribution	37.60		37.60
09/14/96	Janice E. Day FTB-taxes for 1996	1,719.00		1,719.00
09/14/96	Janice E. Day IRS-estimated taxes for 1996	7,500.00		7,500.00
09/14/96	Janice E. Day FTB-estimated taxes for 1996	2,500.00		2,500.00
Total Distributions		<u>55,056.36</u>	<u>0.00</u>	<u>55,056.36</u>

Day Family Marital Trust
Account Summary - Income Tax Basis
For the Period January 1, 1996 Through December 31, 1996

Disbursements

<u>Date</u>	<u>Description</u>	<u>Principal</u>	<u>Income</u>	<u>Total</u>
01/17/96	Stanford C. Bernstein administrative expense		25.00	25.00
02/27/96	Lisa M. Urrunaga fees - accounting	1,250.00	1,250.00	2,500.00
03/13/96	Internal Revenue Service taxes	290,000.00		290,000.00
03/13/96	California State Treasurer taxes	10,000.00		10,000.00
04/05/96	Lisa M. Urrunaga fees - accounting	1,250.00	1,250.00	2,500.00
04/05/96	Winn & Fields fees -legal	20,000.00		20,000.00
04/11/96	Internal Revenue Service taxes	21,600.00		21,600.00
04/11/96	Franchise Tax Board taxes	7,200.00		7,200.00
04/11/96	Internal Revenue Service taxes	41,035.00		41,035.00
04/11/96	Franchise Tax Board taxes	14,402.00		14,402.00
04/19/96	Prudential Securities administrative expense		5.00	5.00
04/29/96	Prudential Securities administrative expense		4.03	4.03
04/29/96	Prudential Securities administrative expense		10.00	10.00
05/03/96	Franchise Tax Board taxes	3.96		3.96
06/12/96	Lisa M. Urrunaga fees - accounting	625.00	625.00	1,250.00
06/12/96	Internal Revenue Service taxes	21,600.00		21,600.00
06/12/96	Franchise Tax Board taxes	7,200.00		7,200.00
06/12/96	Franchise Tax Board taxes	41,000.00		41,000.00
07/02/96	Merrill Lynch administrative expense	25.00	25.00	50.00
07/16/96	Nesen administrative expense	11,331.69	11,331.68	22,663.37
07/16/96	Nesen administrative expense		20.50	20.50
09/14/96	California State Treasurer taxes	13,468.00		13,468.00
09/14/96	United States Treasury taxes	(233,038.00)		(233,038.00)
09/14/96	M& A Consultants fees -legal	22,000.00		22,000.00
09/14/96	Franchise Tax Board taxes	4,017.00		4,017.00
09/14/96	Internal Revenue Service taxes	21,600.00		21,600.00
09/14/96	Franchise Tax Board taxes	7,200.00		7,200.00
09/20/96	Snow & Snow fees -legal	1,750.73		1,750.73
12/20/96	Nelson, Pope & Roh administrative expense	500.00		500.00
12/30/96	Wells Fargo Bank miscellaneous		(0.28)	(0.28)
12/31/96	Wells Fargo Bank bank charge		59.95	59.95
Total Disbursements		326,020.38	14,605.88	340,626.26

Day Family Marital Trust
Account Summary - Income Tax Basis
For the Period January 1, 1996 Through December 31, 1996

Gains on Sales or Other Dispositions of Assets

Description	Date Purchased	Date Sold	Proceeds	Cost	Principal	Income	Total
401.145 shs SmithBarney CA Municipal Fund C	12/29/95	01/02/96	3,299.42	3,297.41	2.01		2.01
131,410.758 shs SmithBarney CA Municipal Fund C	10/19/95	01/12/96	1,064,440.00	1,058,150.29	6,289.71		6,289.71
132,338.162 shs American Funds Tx Exmpt Ser II	10/19/95	01/18/96	1,064,660.52	1,059,269.71	5,390.81		5,390.81
84,710 shs Gillette	06/15/95	02/12/96	2,289,321.42	1,777,583.70	511,737.72		511,737.72
3,000 shs Georgia Pacific Corp	03/06/96	12/12/96	101,920.18	97,774.34	4,145.84		4,145.84
7,600 shs Excel Communication Inc	05/15/96	05/22/96	119,503.05	110,311.17	9,191.88		9,191.88
400 shs Excel Communication Inc	05/15/96	05/22/96	6,337.30	5,805.85	531.45		531.45
Franklin California Tax Free		06/14/96	8,208.60	0.00	8,208.60		8,208.60
3,500 shs Intel Corp	03/11/96	07/18/96	121,001.50	98,025.00	22,976.50		22,976.50
Lucent Technologies Inc-cash in lieu		10/08/96	0.72	0.00	0.72		0.72
Lucent Technologies Inc-cash in lieu		10/08/96	10.96	0.00	10.96		10.96
Total Gains					568,486.20	0.00	568,486.20

Day Family Marital Trust
 Account Summary - Income Tax Basis
 For the Period January 1, 1996 Through December 31, 1996

Receipts

<u>Date</u>	<u>Description</u>	<u>Type</u>	<u>Principal</u>	<u>Income</u>	<u>Total</u>
					0.00
	Total Receipts		0.00	0.00	0.00

Day Family Marital Trust
Account Summary - Income Tax Basis
For the Period January 1, 1996 Through December 31, 1996

Adjustments to Principal

<u>Date</u>	<u>Description</u>	<u>Principal</u>	<u>Income</u>	<u>Total</u>
12/11/96	Day Family Survivor's Trust 1/2 22223 Carbon Mesa Rd.	645,212.75		645,212.75
12/11/96	Day Family Survivor's Trust excess stock on exchange	144,787.25		144,787.25
Total Adjustments to Principal		790,000.00	-	790,000.00

Day Family Marital Trust
Account Summary - Income Tax Basis
For the Period January 1, 1996 Through December 31, 1996

Assets on Hand, Beginning of Period

	<u>Principal</u>	<u>Income</u>	<u>Total</u>
Cash			
Bank of America a/c 05828-30866	19,440.46		19,440.46
Wells Fargo a/c 6876-057290	950.59		950.59
Wells Fargo a/c 8046-200478	16,463.11		16,463.11
Total Cash	<u>36,854.16</u>	<u>0.00</u>	<u>36,854.16</u>
Mutual Funds and Stocks			
Smith Barney Brokerage a/c 418-00253-16	8,261,061.74	(3,862.50)	8,257,199.24
Smith Barney Brokerage a/c 418-04576-18	(3,770.37)		(3,770.37)
Other Assets			
Survivors Trust Receivables	(15,855.05)		(15,855.05)
<u>Real Estate</u>			
22223 Carbon Mesa Road	600,000.00		600,000.00
41307 Park Avenue, Improved	150,000.00		150,000.00
41307 Park Avenue, Unimproved	35,000.00		35,000.00
Assets on Hand, Beginning of Period	<u>9,063,290.48</u>	<u>(3,862.50)</u>	<u>9,059,427.98</u>

Day Family Marital Trust

Account Summary - Income Tax Basis

For the Period January 1, 1996 Through December 31, 1996

CHARGES

	Principal	Income	Total
Assets on Hand, Beginning of Period (Schedule A)	9,063,290.48	(3,862.50)	9,059,427.98
Adjustments to Principal (Schedule B)	790,000.00	0.00	790,000.00
Receipts (Schedule C)	0.00	0.00	0.00
Gains on Sales or Other Dispositions of Assets (Schedule D)	568,486.20	0.00	568,486.20
Total Charges	10,421,776.68	(3,862.50)	10,417,914.18

CREDITS

Disbursements (Schedule E)	326,020.38	14,605.88	340,626.26
Distributions of assets (Schedule F)	55,056.36	0.00	55,056.36
Losses on Sales or Other Dispositions of Assets (Schedule G)	81,682.78	0.00	81,682.78
Adjustments to Principal (Schedule H)	790,000.00	0.00	790,000.00
Assets on Hand, End of Period (Schedule I)	9,169,017.16	(18,468.38)	9,150,548.78
Total Credits	10,421,776.68	(3,862.50)	10,417,914.18

WARD R. NYHUS, JR. & CO.

11861 SAN VICENTE BOULEVARD

SUITE 310

LOS ANGELES, CALIFORNIA 90049

TELEPHONE (310) 207-1186

FACSIMILE (310) 207-0065

Accountants' Compilation Report

**To Terry Mayo and Foster Rains, Co-Trustees
Day Family Marital Trust**

We have compiled the accompanying Account Summary - Income Tax Basis of the Day Family Marital Trust and the related schedules A through I - Income Tax Basis as of December 31, 1996 and for the period January 1, 1996 to December 31, 1996, in accordance with Statements on Standards for Accounting and Review services issued by the American Institute of Certified Public Accountants.

A compilation is limited to presenting in the form of financial statements information that is the representation of the trustees of the Day Family Marital Trust. We have not audited or reviewed the accompanying financial statements and, accordingly, do not express an opinion or any other form of assurance on them.

We are not independent with respect to the Day Family Marital Trust.

November 27, 2002

Day Family Marital Trust
Account Summary - Income Tax Basis

For the Period January 1, 1996 Through December 31, 1996

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Distributions	Schedule F
Losses on Sales or Other Dispositions of Assets	Schedule G
Adjustments to Principal	Schedule H
Assets on Hand, End of Period	Schedule I

Day Family Marital Trust

Account Summary - Income Tax Basis

For the Period January 1, 1996 Through December 31, 1996

EXHIBIT 14

EXHIBIT 14

LETTER OF AGREEMENT

Re: The Restated Day Family Declaration of Trust dated December 15, 1993, and all trusts or sub-trusts created thereunder, including The Day Family Survivor's Trust and The Day Family Marital Trust (the "Trusts")


Between: Jason Rubin, Trustee (the "Trustee")

and

Janna Day, Beneficiary; Pamela Estelle Rumph, Beneficiary/Residual Beneficiary; Holly Miles, Beneficiary/Residual Beneficiary, on behalf of herself and her minor son Brandon Goldstein; Kip Anthony Miles, Beneficiary/Residual Beneficiary, on behalf of himself and his minor son Archer Miles (collectively referred to as "Beneficiaries")

Jason Rubin, a California licensed Private Professional Fiduciary, License No. 417, agrees to Consent to Act as Successor Trustee of the Trusts based upon and subject to the following terms of agreement with the Beneficiaries of the Trusts:

1. The Survivor's Trust currently owns the real property commonly known as 22223 Carbon Mesa Road, Malibu, CA 90265 (the "Property"). With regard to the Property, the Parties agree as follows:
 - a. The Trustee agrees that it is the goal of the Trust administration to reasonably improve the Property so that its income-producing value can be maximized. To that end, the Trustee agrees to work with the Beneficiaries in obtaining a commercial and/or residential tenant for the property and procuring a lease agreement on reasonable terms consistent with common practice in the industry, which may include substantial tenant improvements. The Parties expect those tenant improvements to cost approximately \$400,000.
 - b. The Trustee also agrees to work with and solicit input from the Beneficiaries with regard to the tenant improvements, but understand that such tenant improvements are ultimately a matter to be negotiated between the Trustee as Owner and the Lessee.
 - c. The Parties understand and agree that a loan will need to be taken out against the Property in order to pay for the contemplated improvements to the Property as well as other outstanding Trust liabilities.

- i. The Parties agree to cooperate in this loan process and agree that the Borrowers and/or Guarantors may include not only the Trust, but also Janna Day and/or any LLC or other entity currently owning the Property as discussed below. Part of the loan proceeds will need to be preserved in order to service the debt until such time as the Property starts to generate income.
 - ii. The Parties agree that there is approximately \$750,000 in liquid assets currently owned by the subtrusts for beneficiaries Kip Miles, Holly Miles and Pamela Estelle Rumph. The parties agree that an initial amount of \$150,000 may be loaned to the Survivor's Trust and used by the Trustee to cover the expenses of the Survivor's Trust before the loan against the Property is funded. Additional monies may be further loaned to the Survivor's Trust, at the Trustee's discretion, if valid factors require more liquidity in the Survivor's Trust prior to securing the loan on the property or if a petition for distribution is filed. Once the Survivor's Trust obtains sufficient liquidity to be self-sustaining, then these loans will be repaid pursuant to a reasonable payment schedule agreed to among the Parties.
- d. If, after a reasonable period of time not to exceed 12 months from the date of the Trustee's appointment, a tenant cannot be secured for the Property, the Trustee agrees to work with and solicit input from the Beneficiaries on improvements to the Property to be made in order to make it more marketable to potential tenants.
- e. Janna agrees to vacate the Property by no later than 30 days after a lease has been fully executed for the Property with a third party, ~~or 12 months after the Trustee's appointment, which is sooner. Such period may be extended at the Trustee's discretion if a petition for distribution is filed.~~ 
- f. The Parties agree that the Property may be transferred to a LLC or other mutually-agreeable new entity that will be wholly owned by the Trust. However, the Parties agree that the Trustee will be the sole managing member of any such entity.
- g. If, for any reason, after a period not to exceed 18 months after the Trustee's appointment, the Property has not been leased and the Trustee determines, in his sole discretion, that it is imprudent to continue to improve and/or attempt to lease the Property, then the Parties shall meet and confer on the next steps to take, including the possible sale of the property. Regardless of the outcome of those meet and confer

efforts, the Trustee agrees that a new petition seeking to transfer the Property to Janna Day can be brought, as long as part of the relief sought from said petition includes compensation to the Survivor's Trust for the value of the Property being transferred out of the Trust, said value to be determined by the Court. The Parties specifically agree that there shall be no transfer of the Property out of the Survivor's Trust without compensation at the Court-determined value.

2. The Parties acknowledge and agree that the Trustee has a duty to abide by the Uniform Prudent Investor Act (UPIA), Cal. Probate Code §§16045 et seq. in his acts and transactions with regard to all assets of the Trusts, including the Property. Thus, the leasing and improvement decisions with regard to the Property will have to meet the Trustee's obligations under UPIA at all times, in his sole and absolute discretion.
3. The Parties understand and agree that the Trustee, while allowed and encouraged to solicit and consider input from the Beneficiaries, is the final decision-maker as to all acts and transactions of the Trust.
4. The Petition for Instructions and Order Regarding Distribution of Real Property, filed on January 19, 2017, by Janna Day and Pamela Estelle Rumph, shall be dismissed without prejudice. The Beneficiaries agree to meet and confer with the Trustee before any future petition is filed seeking similar relief, i.e. the distribution of the Property to Janna herself.
5. The Beneficiaries agree and consent to the Trustee's fees being paid in an amount according to his most current regularly-published Trustee Fee Schedule, the 2017 version of which has been provided to the Beneficiaries.
6. Except as otherwise agreed, all other terms of the Trusts shall apply and be binding upon the Parties.

IT IS SO AGREED:

Dated: 4/19, 2017

"Trustee"

By: 


Jason Rubin

"Beneficiaries"

Dated: _____, 2017

By: _____
Janna Day

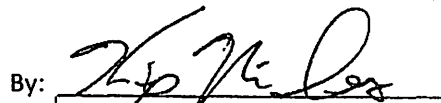
Dated: MARCH 30, 2017

By: 
Pamela Estelle Rumph,
Beneficiary/Residual Beneficiary

Dated: _____, 2017

By: _____
Holly Miles,
Beneficiary/Residual Beneficiary,
on behalf of herself and her minor son
Brandon Goldstein

Dated: MARCH 30, 2017

By: 
Kip Anthony Miles,
Beneficiary/Residual Beneficiary,
on behalf of himself and his minor son
Archer Miles

Dated: April 18, 2017

By: Janna Day
Janna Day

Dated: _____, 2017

By: _____
Pamela Estelle Rumph,
Beneficiary/Residual Beneficiary

Dated: _____, 2017

By: _____
Holly Miles,
Beneficiary/Residual Beneficiary,
on behalf of herself and her minor son
Brandon Goldstein

Dated: _____, 2017

By: _____
Kip Anthony Miles,
Beneficiary/Residual Beneficiary,
on behalf of himself and his minor son
Archer Miles

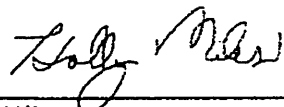
Dated: _____, 2017

By: _____
Janna Day

Dated: _____, 2017

By: _____
Pamela Estelle Rumph,
Beneficiary/Residual Beneficiary

Dated: APRIL 18, 2017

By:  _____
Holly Miles,
Beneficiary/Residual Beneficiary,
on behalf of herself and her minor son
Brandon Goldstein

Dated: _____, 2017

By: _____
Kip Anthony Miles,
Beneficiary/Residual Beneficiary,
on behalf of himself and his minor son
Archer Miles

EXHIBIT 15

EXHIBIT 15

RECORDING REQUESTED BY
FREEMAN, FREEMAN & SMILEY
A Partnership Including
Law Corporations

85 1240911

AND WHEN RECORDED MAIL TO

Name Mr. & Mrs. Frank P. Day
Street Address P. O. Box 1085
City & State Malibu, CA 90265

RECORDED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
31 MIN. 2 P.M. OCT 21 1985
PAST.

MAIL TAX STATEMENTS TO

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Name Mr. & Mrs. Frank P. Day
Street Address P. O. Box 1085
City & State Malibu, CA 90265

FEE \$7 D
2

00 668 HC

Residence

Quitclaim Deed

181819

THIS FORM FURNISHED BY TRUSTORS SECURITY SERVICE

The undersigned grantor(s) declare(s):

DOCUMENTARY TRANSFER TAX \$ -0-
() computed on full value of property conveyed, or
() computed on full value less value of liens and encumbrances remaining at time of sale.
(X) Unincorporated area: () City of _____ and

Conveyance transfers grantors' interest
into their revocable living trust
pursuant to R & T 11911

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

FRANK P. DAY AND JANICE E. DAY

hereby REMISE(S), RELEASE(S) AND FOREVER QUITCLAIM(S) to

FRANK P. DAY AND JANICE E. DAY, TRUSTEES OF THE DAY FAMILY TRUST dated May 24, 1985

the following described real property in the unincorporated area county of Los Angeles
state of California:

See Exhibit "A" attached hereto and incorporated by reference

Exempt from reassessment pursuant
to Revenue and Taxation Code Section 62

Dated

10/13/85

FRANK P. DAY

JANICE E. DAY

State of California

Los Angeles

County of

On this the

19

day of

October

1985

before me,

Carlene U. Laird, Notary Public, personally appeared

the undersigned

Frank P. Day and Janice E. Day

who

are personally known to me

or

proved to me on the basis of satisfactory evidence

to be the person(s)

whose name(s) are subscribed to the

within instrument, and acknowledged that they executed it

WITNESS my hand and official seal.

Carlene U. Laird

Notary's Signature



OFFICIAL SEAL
CARLENE U LAIRD
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
My Comm. expires APR 29, 1989

If executed by a Corporation the Corporation Form
of Acknowledgment must be used.

(This area for official notarial seal)

Title Order No.

Escrow, Loan or Attorney File No.

MAIL TAX STATEMENTS AS DIRECTED ABOVE

95 1737202

Recording requested by:
JAMES R. MCDANIEL, Esq.

When recorded, mail to:
JAMES R. MCDANIEL, Esq.
REISH & LUTTMAN
11755 Wilshire Boulevard, 10th Flr.
Los Angeles, CA 90025-1516

Mail statements to:
Janna Day, Trustee
22223 Carbon Mesa Rd.
Malibu, CA 90265

RECORDED/FILED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA

10:21 AM OCT 26 1995

AFFIDAVIT REGARDING DEATH OF TRUSTEE:
RESIGNATION OF TRUSTEE AND APPOINTMENT OF TRUSTEE

ASSESSOR'S PARCEL NUMBER: 4451-012-022

STATE OF CALIFORNIA,

County of Los Angeles

FEE \$25

P

2

JANNA DAY, of legal age, being first duly sworn, deposes and says:

That FRANK P. DAY and JANICE E. DAY, named as co-trustees of the Day Family Trust U/T/D dated May 24, 1995 are the grantees under the Grand Deed-to Trust in the document, recorded as instrument number 85-1240911 on October 21, 1985 date of Official Records of Los Angeles County, California covering the following described property situated in the County of Los Angeles, State of California:

A parcel of land in Los Angeles county, state of California, being a portion of the Rancho Topanga Malibu Sequit, as confirmed to Matthew Keller by Patent recorded in book 1 page 407, et seq., of Patents in the office of the county recorder of said county, particularly described as follows:

Beginning at a point in the center line of Easement No. 3 (Carbon Mesa Road) as described in the declaration of easements recorded June 23, 1947 in book 24753 page 15, Official Records, said point of beginning being the westerly extremity of the center line course described in said Easement No. 3 as South 89° 53' 32" West 21.65 feet; thence following the center line of said Easement No. 3, westerly 78.71 feet along the arc of a curve, tangent to said last mentioned course and concave northerly with a radius of 179.34 feet; thence tangent North 64° 57' 38" West 38.72 feet to the beginning of a tangent curve concave northeasterly with a radius of 120.06 feet; thence northwesterly 94.75 feet along the arc of said curve; thence tangent North 19° 44' 28" West 8.52 feet; thence leaving the center line of said Easement No. 3, thence tangent North 70° 15' 32" East 25 feet; thence North 20° 22' 15" East 581.34 feet to a point in the northerly boundary of Rancho Topanga Malibu Sequit, as said boundary is shown on County Surveyor's Map No. B-1205, Sheet 3; thence North 89° 50' 50" East 331.56 feet along said northerly boundary of said rancho; thence South 30° 49' 14" West 743.85 feet; thence South 0° 06' 28" East 25 feet to the point of beginning.

EXCEPT therefrom all minerals, oil, petroleum, asphaltum, gas, coal and other hydro-carbon substances in, on, within and under said lands and every part thereof, but without surface right of entry, as reserved by Marblehead Land Company in deed recorded October 21, 1947.

The above described land is shown as parcel 3 on a Record of Survey filed in book 59 pages 14, 15, 16 and 17, Record of Surveys, in the office of the county recorder of said county.

ALSO EXCEPT all water in or under said land.

Also commonly known as 22223 Carbon Mesa Road, Malibu California 90265.

FRANK P. DAY named as Trustee in the above-mentioned Trust and Grant Deed is the same person as FRANK P. DAY, the decedent in the attached copy of Certificate of Death (Exhibit A). Under Section 4.01 of the Day Family Trust, upon the death of one of the original co-trustees, the other co-trustee was to serve as sole trustee. On September 1, 1995, JANICE E. DAY did resign as Trustee of the Day Family Trust and appoint JANNA DAY and DAVID BOSKA, M.D., as successor co-trustees. Attached is a true and correct copy of the Resignation of Trustee and Appointment of Successor Trustees (attached as Exhibit B), wherein it provides the authority for the appointment of successor trustees. JANNA DAY and DAVID BOSKA, M.D. did accept the appointment as successor co-trustees and a true and correct copy of the acceptance of trustee is attached (Exhibit B). The aforementioned property is now held in the name of JANNA DAY and DAVID BOSKA, M.D., as trustees of the Day Family Trust (U/T/D) dated May 24, 1985.

Dated: Oct 24, 1995

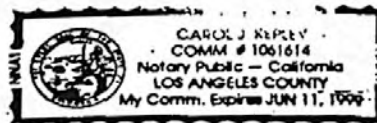
Janna Day
Attest: JANNA DAY

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

)
) SS.
)

Subscribed and sworn to before me this 24th day of October, 1995, by JANNA DAY.

Carol J. Kepley (Seal)
Carol J. Kepley



95 1737202

CERTIFICATION OF VITAL RECORD
COUNTY OF LOS ANGELES • REGISTRAR-RECORDER/COUNTY CLERK

CERTIFICATE OF DEATH

39519025889

1. NAME OF DECEASED - First Name FRANK		2. NAME OF DECEASED - Last Name PERRETT		3. LAST NAME DAY	
4. DATE OF BIRTH 03/31/1916		5. AGE 79		6. SEX MALE	
7. DATE OF DEATH 06/13/1995		8. TIME OF DEATH 0825		9. PLACE OF DEATH 0825	
10. STATE OF BIRTH CANADA		11. SOCIAL SECURITY NO. -3452		12. MARRIAGE STATUS MARRIED	
13. RACE CAUCASIAN		14. SEX OF DECEASED MALE		15. SELF - JAPRA COSMETICS	
16. OCCUPATION PRESIDENT		17. TYPE OF DEATH COBNETICS		18. TIME OF DEATH 20	
19. ADDRESS OF DECEASED 22223 CARMON MESA					
20. CITY MALIBU		21. COUNTY LOS ANGELES		22. STATE CALIFORNIA	
23. NAME OF DECEASED JAMICE DAY					
24. ADDRESS OF DECEASED 22223 CARMON MESA, MALIBU, CA 90265					
25. NAME OF DECEASED JAMICE		26. NAME OF DECEASED TRIPS		27. NAME OF DECEASED ELIZABETH	
28. NAME OF DECEASED FRANK		29. NAME OF DECEASED PERRETT		30. NAME OF DECEASED ADRIAN	
31. NAME OF DECEASED FAIRY		32. NAME OF DECEASED WILLIAM		33. NAME OF DECEASED ENGLAND	
34. DATE OF BIRTH 06/21/1935					
35. ADDRESS OF DECEASED PIERCE BROS. WESTWOOD VILLAGE					
36. CITY WESTWOOD					
37. COUNTY LOS ANGELES					
38. STATE CALIFORNIA					
39. DATE OF DEATH 06/20/1995					
40. PLACE OF DEATH MALIBU					
41. NAME OF DECEASED HYPOGLYCEMIA					
42. NAME OF DECEASED CORONARY					
43. NAME OF DECEASED BACKING PROBLEMS					
44. NAME OF DECEASED NO					
45. NAME OF DECEASED NO					
46. NAME OF DECEASED NO					
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69. NAME OF DECEASED NO					
70. NAME OF DECEASED NO					

This is to certify that this document is a true copy of the official record filed with the Registrar-Recorder/County Clerk.

95 1737202

OCT 10 1995
19-030186

This copy not valid unless prepared on engraved border displaying the Seal of the Registrar-Recorder/County Clerk.



THE DAY FAMILY TRUST

RESIGNATION OF TRUSTEE AND APPOINTMENT OF SUCCESSOR TRUSTEES

Pursuant to Section 4.02 of THE DAY FAMILY TRUST, as restated and amended, effective the date herein, I, JANICE E. DAY, do hereby resign as Trustee of THE DAY FAMILY TRUST dated May 24, 1985, as subsequently restated and amended including the EIGHTH AMENDMENT of THE DAY FAMILY TRUST executed before this resignation. This resignation shall apply to all resulting trusts of THE DAY FAMILY TRUST, including but not limited to: TRUST A, THE SURVIVORS TRUST; TRUST B, THE EXEMPTION TRUST; TRUST C, THE MARITAL TRUST; THE DISCLAIMER TRUST (6.05); TRUST FOR JANNA (10.02); and TRUST FOR GRANDCHILDREN AND MORE REMOTE ISSUE (10.03).

Pursuant to Section 4.03 of THE DAY FAMILY TRUST, as restated and amended, I exercise my power to appoint successor Trustees. I name JANNA DAY and DAVID BOSKA, M.D. as successor Co-Trustees of THE DAY FAMILY TRUST. This appointment shall apply to all resulting trusts of THE DAY FAMILY TRUST, including but not limited to: TRUST A, THE SURVIVORS TRUST; TRUST B, THE EXEMPTION TRUST; TRUST C, THE MARITAL TRUST; THE DISCLAIMER TRUST (6.05); TRUST FOR JANNA (10.02); and TRUST FOR GRANDCHILDREN AND MORE REMOTE ISSUE (10.03).

Pursuant to Section 4.02, the successor co-trustees and I have agreed to waive the 60-day notice period for my resignation as Trustee.

Dated: September 1, 1995

Janice E. Day
JANICE E. DAY

95 1737202

5

ACCEPTANCE OF TRUSTEE

Whereas JANICE E. DAY has resigned as Trustee of THE DAY FAMILY TRUST dated May 24, 1985, as restated and amended, as well as all resulting trusts thereunder. I, JANNA DAY, and I, DAVID BOSKA, M.D., do hereby accept the position of Co-Trustees of the DAY FAMILY TRUST, including but not limited to: TRUST A, THE SURVIVORS TRUST; TRUST B, THE EXEMPTION TRUST; TRUST C, THE MARITAL TRUST; THE DISCLAIMER TRUST (6.05); TRUST FOR JANNA (10.02); and TRUST FOR GRANDCHILDREN AND MORE REMOTE ISSUE (10.03) and do hereby agree to be bound by the terms therein.

Pursuant to Section 4.02, we have agreed to waive the 60-day notice period for Janice E. Day's resignation as Trustee.

Dated: September 1, 1995

Janne Day
JANNA DAY

Dated: September 1, 1995

David Boska M.D.
DAVID BOSKA, M.D.

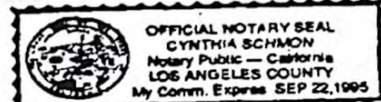
95 1737202

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

ss.

On September 1, 1995 before me, CYNTHIA SCHMON, a notary public in and for the State of California, personally appeared JANICE E. DAY, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Signature

Cynthia Schmon

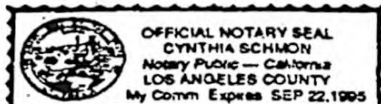
(SEAL)

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

ss.

On September 1, 1995 before me, CYNTHIA SCHMON, a notary public in and for the State of California, personally appeared JANNA DAY, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Signature

Cynthia Schmon

(SEAL)

95 1737202

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

ss.

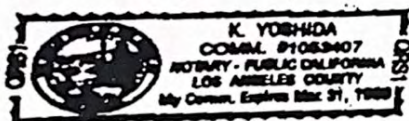
On September 4, 1995 before me, K. Yoshida, a notary public in and for the State of California, personally appeared DAVID BOSKA, M.D., personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature

[Signature]

(SEAL)



95 1737202

74280



This is a true and correct copy of the record
It bears the seal, imprinted in purple ink,
of the Registrar-Recorder/County Clerk

JUL 0 1 2025

David Boska
REGISTRAR-RECORDER/COUNTY CLERK
LOS ANGELES COUNTY, CALIFORNIA

RECORDING REQUESTED BY
AND
WHEN RECORDED MAIL TO:

Marc L. Samson
SAMSON & SAMSON
Attorneys at Law
9220 Crocus Avenue
Fountain Valley, CA 92708



SUPERIOR COURT OF THE STATE OF CALIFORNIA
THE COUNTY OF LOS ANGELES - WEST JUDICIAL DISTRICT

IN RE THE DAY FAMILY'S TRUSTOR'S
ESTATE PRO JANNA DAY, ESTABLISHED
MAY 14, 1985

Case No. SP080972

SPACE ABOVE THIS LINE RESERVED FOR RECORDERS USE

APN 4451 012 022
22223 Carbon Mesa Road, Malibu, CA 90265

PROPOSED ORDER
APPOINTING CITY NATIONAL
BANK AS SUCCESSOR
TRUSTEE

TITLE

ORDER APPOINTING CITY NATIONAL BANK AS SUCCESSOR TRUSTEE

A Decree of the Court regarding "appointment of a new successor trustee, following the court's post-trust order" came on regularly for hearing on March 21, 2013, in Department "A" of the Probate and Trust Court, the Honorable David S. Anderson, Judge Presiding.

David S. Anderson appeared on behalf of Plaintiff, JENNIFER DAY.

For Defendant, appeared on behalf of Defendant, JENNIFER DAY and FOSTER

DAY.

Defendants, JENNIFER DAY and FOSTER DAY, appeared in person, while JENNIFER DAY

submitted a declaration supporting appointment of City National Bank as successor trustee.

PROPOSED ORDER APPOINTING CITY NATIONAL BANK AS SUCCESSOR TRUSTEE

1 DAVID R AKIN (SB NO 212425)
2 Law Offices of David R. Akin
3 12011 San Vicente Blvd, Ste 540
4 Los Angeles, CA 90049
5 Telephone (213) 359-8300; Fax (310) 921-5695
6 Attorney for Petitioner,
7 PAMELA ESTELLE RUMPH
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FILED
ENTERED LOS ANGELES SUPERIOR COURT
SUSTAIN MAR 21 2013
JOHN A CLARKE, CLERK
C. Heard
BY C HEARD, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
THE COUNTY OF LOS ANGELES - WEST JUDICIAL DISTRICT

IN RE THE DAY FAMILY SURVIVOR'S)
TRUST FBO JANNA DAY, ESTABLISHED)
MAY 24, 1985)

Case No. SP006992

[Assigned to Dept A,
Hon Joseph S. Biderman]

Pamela Estelle Rumph,

Petitioner

v

Terry D May and Foster Rains, Co-Trustees,

Respondents

[PROPOSED] ORDER
APPOINTING CITY NATIONAL
BANK AS SUCCESSOR
TRUSTEE

A continued hearing regarding "appointment of a new corporate trustee, following this court's post-trial order" came on regularly for hearing on March 21, 2013, in Department "A" of the above entitled Court, the Honorable Joseph S Biderman, Judge Presiding,

David R Akin appeared on behalf of Petitioner, PAMELA ESTELLE RUMPH,

Terry Franklin appeared on behalf of Respondents, TERRY MAYO and FOSTER

RAINS

Beneficiaries, JANNA DAY and KIP MILES appeared in pro per, while HOLLY MILES submitted a declaration supporting nomination of City National Bank as successor trustee

///

-1-

[PROPOSED] ORDER APPOINTING CITY NATIONAL BANK AS SUCCESSOR
TRUSTEE

04/05/2013

1 Whereas City National Bank is the only qualified "corporate" trustee that has agreed in
2 writing to act as successor trustee of the Day Family Trust (Declaration of Trust dated May 25,
3 1985, and as amended), and all subtrusts thereunder, and where all beneficiaries of the Day Trust
4 are in agreement and strongly urge the Court immediately appoint City National Bank as trustee
5

6 IT IS ORDERED that

7 1 City National Bank is appointed as temporary trustee of the Day Family Trust
8 (Declaration of Trust dated May 25, 1985, and as amended)), and all subtrusts thereunder, with
9 all powers and obligations conferred by the trust instrument and its amendments. City National
10 Bank's appointment shall become permanent upon finality of judgment or any appeal, if
11 applicable

12 2 Outgoing co-trustees, Foster Rains and Terry Mayo, shall immediately cease to act as
13 trustees except as necessary to turn over responsibilities to the new Trustee, including providing
14 all applicable Day Trust documents, records, books and accountings and prepare a final
15 accounting for each sub-trust

16 3 It is further ordered

24
25 DATED March 21 2013

26
27 JOSEPH S. BIDERMAN
28 JUDGE OF THE SUPERIOR COURT

-2-

[PROPOSED] ORDER APPOINTING CITY NATIONAL BANK AS SUCCESSOR
TRUSTEE

04/05/2013



THE INSTRUMENT TO WHICH THIS CERTIFICATE IS ATTACHED IS A FULL, TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE AND OF RECORD IN MY OFFICE.

ATTEST
JOHN A. CLARKE, CLERK
of the Superior Court of California, County of Los Angeles

[Signature] DEPUTY

V. Gills

This is a true and certified copy of the record as the same is on file and of record in my office.

JUL 10 2013

Francisco J. Gills
REGISTER-RECORDS COUNTY CLERK
LOS ANGELES COUNTY, CALIFORNIA

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO
Marc L. Samson, Esq.
SAMSON & SAMSON
9220 Crocus Avenue
Fountain Valley, CA 92708

MAIL TAX STATEMENTS TO
Terry Mayo,
Trustee of the Day Family Survivor's Trust
93 Boston Post Road
Amherst, NH 03031

SPACE ABOVE FOR RECORDER'S USE

APN: 4451 012 022

QUITCLAIM DEED

THE UNDERSIGNED GRANTOR DECLARES: Documentary Transfer Tax is None. This is a court ordered conveyance or decree that is not pursuant to sale. R&T 11911*

FOR NO CONSIDERATION, City National Bank, successor trustee of The Day Family Survivor's Trust, which took title as successor trustee pursuant to "Order Appointing City National Bank as Successor Trustee," Los Angeles County Superior Court Case No. SP006992, recorded on May 23, 2013 as Document Number 2013778266, Official Records, Los Angeles County, California, does hereby REMISE, RELEASE AND FOREVER QUITCLAIM to Terry Mayo, trustee of The Day Family Survivor's Trust, the following described real property in the County of Los Angeles, State of California:

LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "A"

Commonly known as 22223 Carbon Mesa Road, Malibu, CA 90265

*Terry Mayo was reinstated as trustee pursuant to Order of the Court of Appeal of the State of California, Second Appellate District, Division Five, Case No. B248765, dated July 10, 2014.

Date: October 24, 2014

City National Bank

by [Signature]
Claudia Ng, Vice President/Sr. Trust Real Estate Officer, Trustee

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)

On October 24, 2014, 2014 before me, Nicole Sequeira, a Notary Public, personally appeared Claudia Ng who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

(Seal)



MAIL TAX STATEMENTS AS DIRECTED ABOVE

APN: 4451 012 022

EXHIBIT "A"

A parcel of land in Los Angeles County, State of California, being a portion of the Rancho Topanga Malibu Sequit, as confirmed to Matthew Keller by Patent recorded in book 1 page 407 et. seq. of Patents in the office of the county recorder of said county, particularly described as follows:

Beginning at a point in the center line of Easement No. 3 (Carbon Mesa Road) as described in the declaration of easements recorded June 23, 1947 in book 24753 page 15, Official Records, said point of beginning being the westerly extremity of the center line course described in said Easement No. 3 as South 89° 53' 32" West 21.65 feet; thence following the center line of said Easement No. 3 westerly 78.71 feet along the arc of a curve, tangent to said last mentioned course and concave northerly with a radius of 179.34 feet; thence tangent North 64° 57' 38" West 38.72 feet to the beginning of a tangent curve concave northeasterly with a radius of 120.06 feet; thence northwesterly 94.75 feet along the arc of said curve; thence tangent North 19° 44' 28" West 8.52 feet; thence leaving the center line of said Easement No. 3 North 70° 15' 32" East 25 feet; thence North 20° 22' 15" East 581.34 feet to a point in the northerly boundary of Rancho Topanga Malibu Sequit, as said boundary is shown on County Surveyor's Map No. B-1205, Sheet 3; thence North 89° 50' 50" East 331.56 feet along said northerly boundary of said rancho; thence South 30° 49' 14" West 743.85 feet; thence South 0° 06' 28" East 25 feet to the point of beginning.

Except therefrom all mineral, oil petroleum, asphaltum, gas, coal and other hydro-carbon substances in, on or within and under said lands and every part thereof, but without surface right of entry, as reserved by Marblehead Land company in deed recorded October 21, 1947.

The above described land is shown as parcel 3 on a Record of Survey filed in book 59 pages 14, 15, 16, and 17, Record of Surveys, in the office of the county recorder of said county.

ALSO EXCEPT all water in or under said land.



This is a true and certified copy of the record
it bears the seal, impressed in purple ink,
of the Registrar-Recorder/County Clerk

JUL 0 1 2022

Deane L. Jones
LOS ANGELES COUNTY, CALIFORNIA
REGISTER-RECORDERS/CLERK

Recording requested by
Chicago Title Company-SD

RECORDING REQUEST BY:
Lauriann Wright

WHEN RECORDED RETURN TO:
Lauriann Wright
WRIGHT KIM DOUGLAS APC
130 South Jackson Street
Glendale, CA 91205

MAIL TAX STATEMENTS TO:
Jason Rubin, Successor Trustee
21731 Ventura Blvd. Suite 390
Woodland Hills, CA 91364

SPACE ABOVE THIS LINE FOR RECORDERS'S USE ONLY

73717010746

AFFIDAVIT - CHANGE OF TRUSTEE
(Probate Code Section 18105)

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

Jason Rubin, of legal age, being first duly sworn, hereby certifies and declares:

1. The name of the Trust to which this affidavit applies is the DAY FAMILY SURVIVOR'S TRUST DATED May 24, 1985 (the "TRUST").
2. Jason Rubin was appointed Successor Trustee of the TRUST beginning on May 1, 2017 by COURT ORDER (See Order Paragraph 5) dated April 13, 2017. A true, genuine, and certified copy of the ORDER Appointing Successor Trustee is attached hereto. *See Attached Exhibit B*
3. This Affidavit - Change of Trustee covers the following property in the County of Los Angeles:

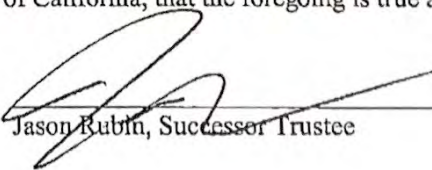
Common Address: 22223 Carbon Mesa Road, Malibu, CA 90265, and further described as follows:

LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "A"

APN: 4451-012-022

This affidavit is being signed below by all of the currently acting Trustee(s) of the Trust who declare, under penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

DATED: 10/26/17


Jason Rubin, Successor Trustee

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT - CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

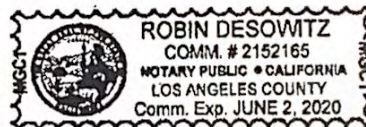
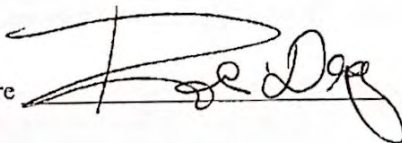
State of California)
)
County of Los Angeles)

On October 26, 2017 before me, Robin Desowitz, Notary Public,
personally appeared Jason Rubin, who proved to me on the basis of satisfactory evidence to be the person(s)
whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the
same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph
is true and correct.

WITNESS my hand and official seal.

Signature



(Place Notary Seal Above)

EXHIBIT A

Order No.: 73717010746

For APN/Parcel ID(s): 4451-012-022

A PARCEL OF LAND IN LOS ANGELES COUNTY, STATE OF CALIFORNIA, BEING A PORTION OF THE RANCHO TOPANGA MALIBU SEQUIT, AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK PAGE 407 ET. SEQ. OF PATENTS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER LINE OF EASEMENT NO.3 (CARBON MESA ROAD) AS DESCRIBED IN THE DECLARATION OF EASEMENTS RECORDED JUNE 23, 1947 IN BOOK 24753 PAGE 15, OFFICIAL RECORDS, SAID POINT OF BEGINNING BEING THE WESTERLY EXTREMITY OF THE CENTER LINE COURSE DESCRIBED IN SAID EASEMENT NO. 3 AS SOUTH 89° 53' 32" WEST 21.65 FEET; THENCE FOLLOWING THE CENTER LINE OF SAID EASEMENT NO. 3 WESTERLY 78.71 FEET ALONG THE ARC OF A CURVE, TANGENT TO SAID LAST MENTIONED COURSE AND CONCAVE NORTHERLY WITH A RADIUS OF 179.34 FEET; THENCE TANGENT NORTH 64° 57' 38" WEST 38.72 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY WITH A RADIUS OF 120.06 FEET; THENCE NORTHWESTERLY 94.75 FEET ALONG THE ARC OF SAID CURVE; THENCE TANGENT NORTH 19° 44' 28" WEST 8.52 FEET; THENCE LEAVING THE CENTER LINE OF SAID EASEMENT NO.3 NORTH 70° 15' 32" EAST 25 FEET; THENCE NORTH 20° 22' 15" EAST 581.34 FEET TO A POINT IN THE NORTHERLY BOUNDARY OF RANCHO TOPANGA MALIBU SEQUIT, AS SAID BOUNDARY IS SHOWN ON COUNTY SURVEYOR'S MAP NO. 8-1205, SHEET 3; THENCE NORTH 89° 50' 50" EAST 331.56 FEET ALONG SAID NORTHERLY BOUNDARY OF SAID RANCHO; THENCE SOUTH 30° 49' 14" WEST 743.85 FEET; THENCE SOUTH 0° 06' 28" EAST 25 FEET TO THE POINT OF BEGINNING.

EXCEPT THEREFROM ALL MINERAL, OIL PETROLEUM, ASPHALTUM, GAS, COAL AND OTHER HYDRO-CARBON SUBSTANCES IN, ON OR WITHIN AND UNDER SAID LANDS AND EVERY PART THEREOF, BUT WITHOUT SURFACE RIGHT OF ENTRY, AS RESERVED BY MARBLEHEAD LAND COMPANY IN DEED RECORDED OCTOBER 21, 1947.

THE ABOVE DESCRIBED LAND IS SHOWN AS PARCEL 3 ON A RECORD OF SURVEY FILED IN BOOK 59 PAGES 14, 15, 16, AND 17, RECORD OF SURVEYS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

ALSO EXCEPT ALL WATER IN OR UNDER SAID LAND.

○ Exhibit B ○

1 G. Lisa Wick, SBN 233715
2 WICK LAW, a Professional Corporation
25350 Magic Mountain Parkway, Suite 300
Valencia, CA 91355
3 Telephone: (661) 505-8255
4 Facsimile: (661) 252-1812
Email: lisa@wicklawcorp.com

5 Attorney for Terry D. Mayo, Trustee

CONFIRMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles
APR 13 2017
Sheri R. Carter, Executive Officer/Clerk
By: Josie Haertel, Deputy

6
7
8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

10 In the Matter of:

Case No.: SP006992

11
12 THE DAY FAMILY TRUST

13 } **[PROPOSED] ORDER APPROVING EX**
14 } **PARTE PETITION FOR ORDER**
15 } **ACCEPTING RESIGNATION OF TRUSTEE;**
16 } **FOR APPOINTMENT OF SUCCESSOR**
17 } **TRUSTEE (PROB C §15640); AND TO SET**
18 } **BOND**

19 The verified *EX PARTE* PETITION FOR ORDER ACCEPTING RESIGNATION OF
20 TRUSTEE; FOR APPOINTMENT OF SUCCESSOR TRUSTEE (PROB C §15640); AND TO SET
21 BOND of Terry D. Mayo, as Trustee of the Day Family Trusts dated May 24, 1985, was duly presented
22 to the Court.

23 On proof made to the satisfaction of the Court, the Court finds that all notices of hearing have
24 been given as required by law and that the allegations in the petition are true; and that, good cause
25 appearing, the Court grants the *Ex Parte* Petition as follows:

1 IT IS ORDERED that:

2 1. Jason Rubin shall obtain a bond in the amount of \$800,000 by Friday April 21, 2017.
3 Mr. Rubin shall file proof with the Court that he has obtained such bond by April 24, 2017. Mr. Rubin
4 is further ordered to deliver proof of said bond to all parties by April 25, 2017.

5 2. Terry D. Mayo's tender of resignation is effective April 30, 2017.

6 3. The Successor Trustee is authorized and directed to hold a reserve of \$15,000 00 to pay
7 Terry D. Mayo's attorney(s) fees in connection with the preparation and approval of his final
8 accounting.

9 4. Terry D. Mayo is discharged and released as Trustee of all the Day Family Trusts and
10 subtrusts effective April 30, 2017.

11 5. Jason Rubin is hereby appointed Successor Trustee of the Day Family Trusts and all
12 subtrusts beginning on May 1, 2017, provided the appropriate bond has been attained.

13
14 Date: 4-13-17

Mary Thornton House

Judge of the Superior Court

LIBERTY MUTUAL INSURANCE COMPANY

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

APR 19 2017

Sherri R. Carter, Executive Officer/Clerk
By: Michelle Butcher, Deputy

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES

Bond No. _____
Premium: \$2,360.00
Per Annum

IN THE MATTER OF

THE DAY FAMILY TRUST

Case No. SP006992

All papers and notices may be served at:
Liberty Mutual Insurance Company
790 The City Drive South, Suite 200
Orange, CA 92668

Bond Services Copy

☒ Bond Upon Qualifying ☐ Additional Bond

KNOW ALL MEN BY THESE PRESENTS:

That we, Jason Rubin as Principal and the LIBERTY MUTUAL INSURANCE COMPANY as Surety, are held and firmly bound unto THE ABOVE NAMED TRUST in the sum of EIGHT HUNDRED THOUSAND AND 00/100*** Dollars (\$ 800,000.00) for which payment, well and truly to be made, we bind ourselves, our heirs, executors, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH THAT,
WHEREAS, an order was duly made and entered by the Superior Court of the State of California, for the County of LOS ANGELES on 4-13-17.

☒ Appointing the above Principal, SUCCESSOR TRUSTEE of the estate of THE DAY FAMILY TRUST.

☐ Directing the said Principal to execute an additional bond according to law in sum above named.

NOW, THEREFORE, if the said Principal shall faithfully execute the duties of the trust according to law, then this obligation shall be void, otherwise to remain in full force and effect.

Executed at LOS ANGELES, California on APRIL 18, 2017

Jason Rubin, As Principal
_____, As Principal

LIBERTY MUTUAL INSURANCE COMPANY

IN WITNESS WHEREOF, The corporate seal and name of said Surety Company is hereto affixed and attested by OSCAR GALLEGOS who declares under penalty of perjury that he is duly authorized Attorney-in-Fact acting under an unrevoked power of attorney on file with the Clerk of the County in which above entitled Court is located.

OSCAR GALLEGOS, Attorney-In-Fact

1 **DAVID R. AKIN** (SB NO. 212425)
2 **Law Offices of David R. Akin**
3 848 9th Street, #1
4 Santa Monica, CA 90403
5 Tel: (213) 359-8300
6 Fax: (310) 921-5695
7 E-mail: akinlawoffice@gmail.com

8 Attorneys for Beneficiaries, JANNA DAY and
9 PAMELA ESTELLE RUMPH

FILED
Superior Court of California
County of Los Angeles

MAR 30 2017

Anna Trejo, Deputy Clerk
Anna Trejo Deputy

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF LOS ANGELES - UNLIMITED CIVIL**

12 **IN RE:**

CASE NO. SP 006992

[Assigned to Hon. Mary Thornton
House, Dept. 29]

13 **THE DAY FAMILY SURVIVOR'S**
14 **TRUST FBO JANNA DAY,**
15 **CREATED JULY 4, 1997**

[PROPOSED] ORDER

Hearing Date: March 30, 2017
Time: 8:30 a.m.
Dept.: 29

16 The ex parte application of Janna Day, for the immediate appointment of Jason
17 Rubin as successor trustee of the Day Family Trust(s), came on for hearing on March
18 30, 2017 at 8:30 a.m., in Department "29" of this Court, located at 111 N. Hill Street,
19 Los Angeles, CA 90012.

20 Lisa Wick appeared for current trustee, Terry D. Mayo. David R. Akin
21 appeared for beneficiary and moving applicant, Janna Day.

22 ///

23 ///

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27
28
[PROPOSED] ORDER

1 Having read the ex parte application, the Settlement Agreement, the
2 memoranda, declarations and exhibits filed by the applicant, and having opportunity for
3 oral argument of counsel, this Court finds good cause to approve the immediate
4 appointment of Jason Rubin as successor trustee of the Day Family Trust, including all
5 trusts or sub-trusts created under the Restated Declaration of the Day Family Trust,
6 dated December, 15, 1993.

7
8 IT IS HEREBY ORDERED THAT:

9 1. Jason Rubin is approved by the Court and authorized to ^{succeed Terry D. Mayo} act as trustee of
10 the Day Family Trust (including all trusts or sub-trusts created under the Restated
11 Declaration of the Day Family Trust, dated December, 15, 1993), beginning

12 2017.

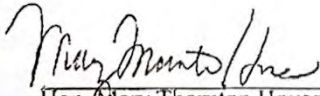
13
14 2. Current trustee, Terry D. Mayo, will wrap up his administration of the
15 Day Family Trust (including all trusts or sub-trusts created under the Restated
16 Declaration of the Day Family Trust, dated December, 15, 1993), and provide the
17 beneficiaries and incoming trustee with an informal final accounting on or before

18 2017.

19
20 3. Terry D. Mayo will cease authority to act as trustee or co-trustee of the
21 Day Family Trust (including all trusts or sub-trusts created under the Restated
22 Declaration of the Day Family Trust, dated December, 15, 1993), effective

23 2017.

24
25 DATED: March 30, 2017

26 
27 Hon. Mary Thornton House
28 Judge of the Superior Court

2
[PROPOSED] ORDER

Declaration of a True Copy

San Diego

File Number

I certify under penalty of perjury that the material is a true copy of the original material contained in this document.

I certify that this is a true and correct copy of the original order on file in this office consisting of 2 pages.

Sherril R. Carter, Executive Officer / Clerk of the Superior Court of California,

County of Los Angeles

Date: 10/10/17 by: Deputy

to: Wade

10/10/17
Date


Signature of Declarant

No True Copy

Type or Print Name



I certify that this is a true and correct copy of the original ORDER on file in this office consisting of 2 pages.

SHERRIL R. CARTER, Executive Officer / Clerk of the Superior Court of California, County of Los Angeles.

OCT 10 2017 By: Deputy

D. WADE

TRUE COPY CERTIFICATION

(Government Code 27361.7)

San Diego

Place of Execution

I certify under penalty of perjury that this material is a true copy of the original material contained in this document.


I certify that this is a true and correct copy of the original order on file in this office consisting of 2 pages.

Sherri R. Carter, Executive Officer/ Clerk of the Superior Court of California,
County of Los Angeles

Date: OCT 10 2017 by: _____, Deputy

D. Wade

11 / 1 / 17
Date


Signature of Declarant

Melissa Gerson
Type or Print Name



This is a true and certified copy of the record
If it bears the seal, imprinted in purple ink,
of the Registrar-Recorder/County Clerk

JUL 10 2025

Dave L. Jones
REGISTRAR-RECORDER/COUNTY CLERK
LOS ANGELES COUNTY, CALIFORNIA

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

*Chicago
Time-SD*
Lauriann Wright, Esq.
WRIGHT KIM DOUGLAS, ALC
130 South Jackson Street
Glendale, CA 91205

MAIL TAX STATEMENTS TO:

Jason Rubin, Successor Trustee
21731 Ventura Blvd. Suite 390
Woodland Hills, CA 91364

QUITCLAIM DEED

APN: 4451-012-022

THE UNDERSIGNED GRANTOR DECLARES: DOCUMENTARY TRANSFER TAX IS \$ 0.00*

* "This conveyance confirms a change of Name, and the Grantor and Grantee are the Same" R&T 11911

Computed on full value of property conveyed, or

Computed on full value less liens and encumbrances remaining at time of sale.

Unincorporated area ☒ City of Malibu

*This conveyance transfers the survivor's trust interest to sub-trust due to settlor's death. R&T 11930.

Signature of Declarant or Agent Determining Tax:

By: 

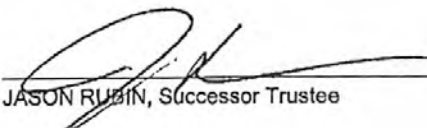
Jason Rubin, Successor Trustee

FOR NO CONSIDERATION, I JASON RUBIN, Successor Trustee of the Day Family Survivor's Trust, do hereby REMISE, RELEASE AND FOREVER QUITCLAIM to JASON RUBIN, Successor Trustee of the Day Family Survivor's Trust dated May 24, 1985, FBO Janna Day, the real property situated in the County of Los Angeles, State of California, more particularly described as follows:

LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "A"

Commonly known as 22223 Carbon Mesa Road, Malibu, CA 90265.

Dated: 10/26/17


JASON RUBIN, Successor Trustee

{NOTARY ACKNOWLEDGMENT OF FOLLOWING PAGE}

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Los Angeles)

On October 26, 2017, before me, Robin Desowitz, Notary Public, personally appeared JASON RUBIN, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in his authorized capacities, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument. his

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

Attachment

(Place Notary Seal Above)

California All-Purpose Certificate of Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Los Angeles

S.S.

On October 26, 2017 before me, Robin Desowitz, Notary Public

personally appeared Jason Rubin

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Signature]
Signature



OPTIONAL INFORMATION

Although the information in this acknowledgment is true and correct, I am not responsible for its accuracy.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of Quitclaim

Deed

APN 4451-012-022

containing 1 pages, and dated 10/26/2017

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
☐ Attorney-in-fact
☐ Corporate Officer(s)

- ☐ Guardian/Conservator
☒ Partner - Limited/General
☒ Trustee(s)
☐ Other:

representing: _____

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

☒ Form(s) of Identification ; credible witness(es)

Notarial event is detailed in notary journal on:

Page # 32 Entry # 111

Notary contact: 818-421-1834

Other

Additional Signer ; ; Signer(s) Thumbprints(s)

EXHIBIT A

Order No.: 73717010746

For APN/Parcel ID(s): 4451-012-022

A PARCEL OF LAND IN LOS ANGELES COUNTY, STATE OF CALIFORNIA, BEING A PORTION OF THE RANCHO TOPANGA MALIBU SEQUIT, AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK PAGE 407 ET. SEQ. OF PATENTS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER LINE OF EASEMENT NO.3 (CARBON MESA ROAD) AS DESCRIBED IN THE DECLARATION OF EASEMENTS RECORDED JUNE 23, 1947 IN BOOK 24753 PAGE 15, OFFICIAL RECORDS, SAID POINT OF BEGINNING BEING THE WESTERLY EXTREMITY OF THE CENTER LINE COURSE DESCRIBED IN SAID EASEMENT NO. 3 AS SOUTH 89° 53' 32" WEST 21.65 FEET; THENCE FOLLOWING THE CENTER LINE OF SAID EASEMENT NO. 3 WESTERLY 78.71 FEET ALONG THE ARC OF A CURVE, TANGENT TO SAID LAST MENTIONED COURSE AND CONCAVE NORTHERLY WITH A RADIUS OF 179.34 FEET; THENCE TANGENT NORTH 64° 57' 38" WEST 38.72 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY WITH A RADIUS OF 120.06 FEET; THENCE NORTHWESTERLY 94.75 FEET ALONG THE ARC OF SAID CURVE; THENCE TANGENT NORTH 19° 44' 28" WEST 8.52 FEET; THENCE LEAVING THE CENTER LINE OF SAID EASEMENT NO.3 NORTH 70° 15' 32" EAST 25 FEET; THENCE NORTH 20° 22' 15" EAST 581.34 FEET TO A POINT IN THE NORTHERLY BOUNDARY OF RANCHO TOPANGA MALIBU SEQUIT, AS SAID BOUNDARY IS SHOWN ON COUNTY SURVEYOR'S MAP NO. 8-1205, SHEET 3; THENCE NORTH 89° 50' 50" EAST 331.56 FEET ALONG SAID NORTHERLY BOUNDARY OF SAID RANCHO; THENCE SOUTH 30° 49' 14" WEST 743.85 FEET; THENCE SOUTH 0° 06' 28" EAST 25 FEET TO THE POINT OF BEGINNING.

EXCEPT THEREFROM ALL MINERAL, OIL PETROLEUM, ASPHALTUM, GAS, COAL AND OTHER HYDRO-CARBON SUBSTANCES IN, ON OR WITHIN AND UNDER SAID LANDS AND EVERY PART THEREOF, BUT WITHOUT SURFACE RIGHT OF ENTRY, AS RESERVED BY MARBLEHEAD LAND COMPANY IN DEED RECORDED OCTOBER 21, 1947.

THE ABOVE DESCRIBED LAND IS SHOWN AS PARCEL 3 ON A RECORD OF SURVEY FILED IN BOOK 59 PAGES 14, 15, 16, AND 17, RECORD OF SURVEYS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

ALSO EXCEPT ALL WATER IN OR UNDER SAID LAND.



This is a true and certified copy of the record
it bears the seal, imprinted in purple ink,
of the Registrar-Recorder/County Clerk

JUL 10 2022

Deane J. ...
LOS ANGELES COUNTY, CALIFORNIA
REGISTER-RECORDER COUNTY CLERK

EXHIBIT 16

EXHIBIT 16

1 JOHN E. ROGERS JR., ESQ.
State Bar No.: 199341
2 FEINBERG MINDEL BRANDT KLEIN & KLINE, LLP
12400 Wilshire Boulevard
3 Suite 900
Los Angeles, California 90025
4 Telephone: (310) 447-8675
Facsimile: (310) 447-8678

5 Referee Appointed Pursuant to
6 Probate Code Sec. 11002(b)

7
8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF LOS ANGELES**

11 In The Matter of the:) Case No. SP 006 368
12)
13 DAY FAMILY TRUST) **REFeree'S REPORT AND**
RESTATED DECLARATION) **RECOMMENDATIONS**
14 OF TRUST DATED) Date: July 8, 2005
12/15/93, AS AMENDED.) Time: 9:15 a.m.
15) Dept: F
16)

17 I, John E. Rogers, Jr., submit my verified report as follows:

18 1. **Summary of Findings:**

19 (A) The First Account Current and Report of Trustees
20 and Petition for Approval of Attorneys' Fees of
21 Former and of Current Attorneys (the "FAC") of
22 Petitioners Terry D. Mayo and Foster Rains (the
23 "Trustees") should be APPROVED, but not as prayed
24 (see "B", below).

25 (B) The prayer in the FAC for the payment of Attorney's
26 Fees to Mary Creutz, counsel for the Trustees, in
27 the amount \$16,225 should be increased to \$24,200.

28 (C) My fees of \$7,987.50 should be ordered paid by the

Trustees of the Day Family Trust Restated
Declaration of Trust Dated 12/15/93, As Amended.

(D) I should be discharged.

2. **Required Allegations:** I am an attorney licensed to practice law in the State of California and am an active member of the State Bar of California. Carmen Alberio appointed me from the Probate Volunteer Panel to act as a Referee under Probate Code section 11002 (b) for the purpose of evaluating the instant FAC and making recommendations to the Court based upon said evaluation. No disciplinary proceedings have ever been filed against me. I have professional liability insurance coverage in effect. I do not, and have not, represented any party to this proceeding.

3. **Documentation Reviewed:** I reviewed eight distinct accounting regimes; each regime with its own separate and discrete schedules for each particular yearly period. See thumbnail summaries below for specifics.

4. **Overall Summary of Trusts:** This encapsulation, and the ones that immediately follow it, are paraphrases of, and at times verbatim excerpts from, the "Terms of the Trust" letters which accompany the FAC schedules, as drafted by Ward Nyhus, the Trusts' CPA. I believe Mr. Nyhus' distillation of the Trusts does an excellent job providing their governing frameworks and operational terms. The Day Family Trust was created on May 24, 1985, and was amended seven times by the original Trustors Frank P. and Janice E. Day. Upon the death of Frank P.

Day on June 15, 1995, the trust called for a division of the Day Family Trust into two trusts. The two trusts were to be called the Day Family Marital Trust and the Day Family Survivor's Trust. Both of these trusts called for the establishment of sub-trusts for the benefit of the Day grandchildren - which were to be funded upon the death of the surviving spouse.

5. Summary of the Survivor's Trust: The Day Family Survivor's Trust became irrevocable upon the death of Janice E. Day on July 4, 1997. Upon the death of Janice E. Day, three sub-trusts were funded for the benefit of the Day grandchildren with a portion of the assets owned by the trust. The remaining assets were held in trust for the benefit of Janna Day (the sole child of the Trustors; at times "Janna" and at times "Janna Day"). The terms of the Day Family Survivor's Trust require the Trustees to distribute to Janna Day all of the net income produced by the Trust in quarterly or other convenient installments during Janna's lifetime. The Trustees were granted the power to invade the principal of the trust fund established for Janna to provide for her necessary support. As the purpose of the Day Family Survivor's Trust is to provide financial security for Janna, this invasion power may not be used to maintain any established standard of living. Upon Janna's death, the portion of the Day Family Survivor's Trust from which Janna received income for life is to be divided into separate trust funds for Janna's descendants then

1 surviving, by right of representation. Each of these
2 trust funds established for one of Janna's descendants is
3 to be added to the trust funds already created for said
4 descendant from the Day Family Survivor's Trust and are
5 be administered under the terms thereof. The Survivor's
6 Trust and all of the trust funds created from it will
7 terminate and the assets in each trust fund will be
8 distributed to the current income beneficiary thereof on
9 the twenty-first anniversary of the death of the last
10 survivor of the descendants of Janice E. Day who are
11 living at the time of death of Janice E. Day.

- 12 6. Summary of the Marital Trust: The Day Marital Trust
13 became irrevocable upon the passing of Frank P. Day on
14 June 15, 2005. Janice E. Day exercised her power to amend
15 the Survivor's Trust during her life and amended said
16 trust four times with the Eleventh Amendment being the
17 final amendment. The share of the Day Family Trust
18 allocated to Janna is to be administered and distributed
19 by the Trustees as follows: (A) Trustees shall pay to or
20 apply for Janna's benefit all of the net income of
21 Janna's share of the Trust Estate, with payments in
22 monthly or other convenient installments, but no less
23 than quarterly. (B) If the Trustees deem the income to be
24 insufficient, Trustees shall also pay to or apply for
25 Janna's benefit as much of the income and/or principal of
26 Janna's share of the Trust Estate as the Trustees, in the
27 Trustee's sole discretion, shall deem necessary for
28 Janna's proper health, support, maintenance and

1 education. (C) Portions of the trust principal shall be
2 paid to Janna upon her attaining age forty-five and age
3 fifty-five. When Janna attains the age sixty-five,
4 trustees shall distribute the remaining principal of her
5 share of the Trust Estate. Lastly, Janna is granted a
6 general power of appointment over the nonexempt portion
7 of the trust estate. This power of appointment may be
8 exercised only by a validly executed will which
9 specifically states the intention of exercising the power
10 of appointment in this Marital Trust. If Janna does not
11 exercise the power of appointment, then upon her death,
12 the undistributed balance of her share of the Trust
13 Estate shall be divided into shares for the benefit of
14 her issue, by right of representation.

- 15 7. Summary of Survivor's Sub-Trusts: There are three
16 grandchildren; Pamela E. Rumph, Holly D. Miles, and Kip
17 A. Miles. The Day Grandchildren's Trusts FBO each
18 grandchild under the Survivor's Trust were funded upon
19 the death of Janice E. Day on July 4, 1997. The terms of
20 this trust require that the Trustees distribute to the
21 beneficiary from the income of the Trust at the end of
22 each calendar quarter an amount equal to the gross
23 earnings of the beneficiary during such calendar quarter
24 from such beneficiary's employment, personal services or
25 net income from a business owned and personally managed
26 by such beneficiary. Any remaining net income shall be
27 accumulated and added to principal. The purpose of the
28 provision was to reward the beneficiaries for their

1 diligent exercise of their abilities to be productive and
2 earn income. The trustees were granted the power to
3 invade the principal of the trust estate to provide for
4 the necessary support, health and education of the such
5 beneficiary. This invasion power may not be used to
6 maintain any established standard of living of the
7 beneficiaries. Each grandchild was granted a testamentary
8 general power of appointment over his or her share of the
9 Survivor's Trust. This power of appointment may be
10 exercised only in a validly executed will which
11 specifically states the intention of exercising the power
12 of appointment in this Survivor's Trust. If any
13 beneficiary fails to exercise the testamentary general
14 power of appointment, the upon the death of such
15 beneficiary his or her share of the Survivor's Trust
16 shall be re-divided among his or her issue by right of
17 representation, and the share established for each of
18 such issue shall be subject to all of the terms contained
19 in the Eleventh Amendment to the Survivor's Trust
20 relating to income, power of appointment and invasion.

- 21 8. Summary of Marital Sub-Trusts: The Day Children's Trusts
22 FBO each grandchild were funded upon the death of Janice
23 E. Day on July 4, 1997. The terms of these trusts
24 require that the Trustees distribute net income to the
25 beneficiaries of the trust as follows: (A) If the
26 beneficiary is twenty-one years of age and is then
27 attending or has graduated from an accredited four year
28 college or university, or if the beneficiary is twenty

1 five years of age or older, Trustees shall pay to apply
2 for the benefit of such beneficiary all of the net income
3 of that beneficiary's share of the Trust Estate, in
4 monthly or other convenient installments, but not less
5 than quarterly. (B) If the beneficiary is under age 25
6 and is not then attending or a graduate of college or if
7 the beneficiary is under age 21, Trustees shall pay to or
8 apply for the benefit of the beneficiary, in Trustees'
9 sole discretion, only as much of the income of the trust
10 estate as the Trustees shall deem necessary for the
11 beneficiary's proper support, care, maintenance and
12 education, in monthly or other convenient installments,
13 but no less often than quarterly. All income not
14 distributed shall be added to principal. (C) If the
15 Trustees deem the income to be insufficient, Trustees
16 shall pay to or apply for the benefit of the beneficiary
17 as much of the principal of the beneficiary's share of
18 the trust estate as the Trustees, in the Trustees' sole
19 discretion, shall deem necessary for the beneficiary's
20 proper health, support, maintenance and education.

- 21 9. **Trustees:** Terry D. Mayo is an administrator for
22 Middlebury College in Vermont and has significant
23 fiduciary management experience. Deceased Trustor Janice
24 E. Day attended Middlebury College, and the Trust
25 specifically gifts Middlebury College \$500,000 (already
26 distributed), hence the connection. Foster Rains is a
27 homicide detective for the Los Angeles Police Department.
28 I believe that credential speaks for itself.

11. Sub-Trusts: I do not provide individual thumbnail analyses of the account periods of the six grandchildren's sub-trusts. However, I attest here that I reviewed each and every term, and each and every schedule thereof, and have found them satisfactory.
12. Interviews: I met with Ward Nyhus, CPA on Wednesday, June 22, 2005 and explored the issues and underpinnings of the trusts at some length with him. I have interviewed Mary Creutz, the attorney for the Trustees, several times telephonically.
13. Prior Counsel Hugh Snow's Fees: The agreement reached with Hugh Snow's Estate for the reduction of his fees from \$155,628 down to \$100,000 benefits the Trust and its beneficiaries. Mr. Snow's negotiated fees of \$100,000 should be ordered paid by the Trustees.
14. Mary Creutz's Attorney Fees: After examining in detail the voluminous paperwork herein, and assessing the complexities and difficulties endemic to the instant FAC due to its size and duration, I have concluded that Mary Creutz, the attorney for the Trustees, has performed at the highest possible level of expertise herein and should be paid for all of her hours spent - that is: 88 hours, not the 55 originally cited. Thus, I ask that the Court order the Trustees to pay Ms. Creutz \$24,200 in attorneys fees, not the \$16,225 requested.

///

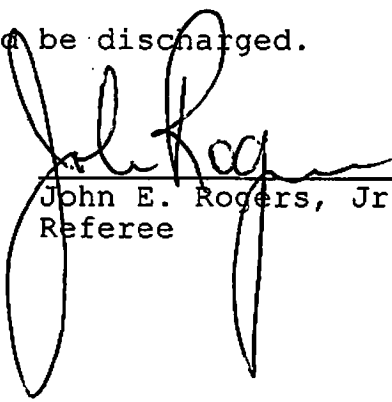
///

///

1 15. Referee's Fees: My fees come to \$7,987.50, representing
2 35.5 hours of work done at \$225 per hour. Please see my
3 Fee Declaration attached as Exhibit 1.

4 16. Discharge: I should be discharged.

5
6 Date: July 5, 2005



John E. Rogers, Jr.
Referee

7
8
9
10
11 VERIFICATION

12 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

13 I have read the attached REFEREE'S REPORT AND RECOMMENDATIONS
14 and know its contents. I am the REFEREE herein. The matters stated
15 in my aforesaid Report are true of my own knowledge except as to
16 those matters which are stated on information and belief, and as to
17 those matters I believe them to be true.

18 I declare under penalty of perjury under the laws of the State
19 of California that the foregoing is true and correct.

20 Executed on July 5, 2005, at Los Angeles, California.

21
22 

JOHN E. ROGERS, JR.

10. Thumbnail Summaries of Discrete Accounting Periods of
Survivor's and Marital Trusts, with Analytical
Commentary:

Survivor's Trust: 1/1/04 through 12/31/04

Assets on Hand (Beginning) ("AOHB"):	\$3,950,8964.48
Adjustments to Principal ("AdP"):	0.00
Receipts ("Rec"):	100,992.59
Gains:	145,039.66
Total Charges ("TotCh"):	4,196,926.73
Disbursements ("Disb"):	51,594.66
Distributions ("Dist"):	69,755.78
Losses:	35,129.86
AdJ:	0.00
Assets on Hand (End) ("AOHE"):	4,040,446.43
Total Credits ("TotCr"):	4,196,926.73

Trustees' Fees: approx. \$18,000 total
Accountant's Fees: Reasonable
Losses: Explained and Acceptable
Investments: Reviewed, Researched and Acceptable
Other Expenditures: Explained and Acceptable
NOTES: none.

Survivor's Trust: 1/1/03 through 12/31/03

AOHB:	\$3,761,258.26
AdP:	656,022.24
Rec:	99,113.65
Gains:	70,461.02
TotCh:	4,586,855.17
Disb:	61,301.48
Dist:	443,631.82
Losses:	131,027.39
AdJ:	0.00
AOHE:	3,950,894.48
TotCr:	4,586,855.17

Trustees' Fees: approx. \$18,000 total (OK)
Accountant's Fees: Reasonable
Losses: Explained and Acceptable
Investments: Reviewed, Researched and Acceptable
Other Expenditures: Explained and Acceptable
NOTES: The only item of concern here is the adjustment to principal (upward) of \$656,022.24, which was combination of three principal events: 1) the transfer of \$69,022.24 from the Janice Day Estate tp the Survivor's Trust; 2) the transfer of \$201,941.88 from the Marital Trust of accumulated income owing to Janice Day to the Survivor's Trust and lastly 3) an internal relocation of \$385,070.13 of accumulated Survivor's Trust income to principal. This adjustment is thus fully

explicated.

Survivor's Trust: 1/1/02 through 12/31/02

AOHB:	\$3,946,231.12
AdP:	0.00
Rec:	89,558.44
Gains:	71,598.94
TotCh:	<u>4,107,388.50</u>
Disb:	51,517.19
Dist:	70,000.00
Losses:	224,613.05
AdJ:	0.00
AOHE:	3,761,258.26
TotCr:	<u>4,107,388.50</u>

Trustees' Fees: approx. \$20,000 total (OK)

Accountant's Fees: Reasonable

Losses: Explained and Acceptable

Investments: Reviewed, Researched and Acceptable

Other Expenditures: Explained and Acceptable

NOTES: none.

Survivor's Trust: 1/1/01 through 12/31/01

AOHB:	\$3,939,271.85
AdP:	0.00
Rec:	149,571.84
Gains:	116,512.05
TotCh:	<u>4,205,355.74</u>
Disb:	37,203.07
Dist:	94,647.11
Losses:	127,274.44
AdJ:	0.00
AOHE:	3,946,231.12
TotCr:	<u>4,205,355.74</u>

Trustees' Fees: approx. \$20,000 total (OK)

Accountant's Fees: Reasonable

Losses: Explained and Acceptable

Investments: Reviewed, Researched and Acceptable

Other Expenditures: Explained and Acceptable

NOTES: none.

Survivor's Trust: 1/1/00 through 12/31/00

AOHB:	\$4,018,711.07
AdP:	0.00
Rec:	94,487.03
Gains:	72,130.22
TotCh:	<u>4,185,328.32</u>
Disb:	74,930.81
Dist:	68,023.46
Losses:	103,102.20
AdJ:	0.00
AOHE:	3,939,271.85
TotCr:	<u>4,185,328.32</u>

Trustees' Fees: approx. \$20,000 total (OK)
Accountant's Fees: Reasonable
Losses: Explained and Acceptable
Investments: Reviewed, Researched and Acceptable
Other Expenditures: Explained and Acceptable
NOTES: none.

Survivor's Trust: 1/1/99 through 12/31/99

AOHB:	\$4,228,572.13
AdP:	197.95
Rec:	150,455.22
Gains:	248,723.87
TotCh:	<u>4,627,949.17</u>
Disb:	490,291.99
Dist:	36,971.77
Losses:	81,974.34
AdJ:	0.00
AOHE:	4,018,711.07
TotCr:	<u>4,627,949.17</u>

Trustees' Fees: approx. \$20,000 total (OK)
Accountant's Fees: Reasonable
Losses: Explained and Acceptable
Investments: Reviewed, Researched and Acceptable
Other Expenditures: Explained and Acceptable
NOTE: Disbursements are very large during this term. This is due to the payment of significant federal and state taxes. (OK)

Survivor's Trust: 1/1/98 through 12/31/98

AOHB:	\$8,602,406.88
AdP:	883,450.47
Rec:	130,617.23
Gains:	675,258.89
TotCh:	<u>10,291,733.47</u>
Disb:	5,904,527.02
Dist:	119,833.41
Losses:	38,800.91
AdJ:	0.00
AOHE:	4,228,572.13
TotCr:	<u>10,291,733.47</u>

Trustees's Fees: approx. \$20,000 total (OK)
Accountant's Fees: Reasonable
Losses: Explained and Acceptable
Investments: Reviewed, Researched and Acceptable
Other Expenditures: Explained and Acceptable
NOTE: Disbursements are extraordinarily large during this term. This is due primarily to the payment of \$9,292,657.23 in Federal Estate Tax, and \$2,680,030.45 in California Estate Tax, with a disbursement-offset of \$6,000,000 coming back in as reimbursement from the Marital Trust.

65%
WERE ALL EXCLUSIONS EXHAUSTED
DID WE CLAIM AND
TAX CREDIT ? 625, 675.

Survivor's Trust: 7/5/97 through 12/31/97

AOHB:	\$9,618,950.48
AdP:	379,777.93
Rec:	232,357.66
Gains:	178,620.94
TotCh:	<u>10,409,706.41</u>
Disb:	71,622.24
Dist:	1,725,236.82
Losses:	10,440.47
AdJ:	0.00
AOHE:	8,602,406.88
TotCr:	<u>10,409,706.41</u>

Trustees Fees: approx. \$19,000 total (OK)

Accountant's Fees: Reasonable

Losses: Explained and Acceptable

Investments: Reviewed, Researched and Acceptable

Other Expenditures: Explained and Acceptable

NOTE: Distributions are large in this period due primarily to the creation of three sub-trusts, each with a starting balance of \$333,333.33 (that is: coming to one million dollars); and a \$500,000 specific gift to Middlebury College. All distributions are mandated by the Trust itself and proper.

Survivor's Trust: 1/1/97 through 7/4/97 (Survivor's Death)

AOHB:	\$10,190,469.26
AdP:	11,302.97
Rec:	434,359.93
Gains:	164,656.52
TotCh:	<u>10,800,788.70</u>
Disb:	30,084.70
Dist:	460,378.99
Losses:	201.35
AdJ:	691,173.18
AOHE:	9,618,950.48
TotCr:	<u>10,800,788.70</u>

Trustees' Fees: approx. \$14,000 total (OK)

Accountant's Fees: Reasonable

Losses: Explained and Acceptable

Investments: Reviewed, Researched and Acceptable

Other Expenditures: Explained and Acceptable

NOTE: This period marks the death of the Survivor, Janice E. Day (on July 4, 1997) - hence the broken aspect of the 1997 period. Distributions are large in this period due primarily to the transfer of two properties, 41307 Park Avenue improved, valued at \$300,000 and 41307 Park Avenue, unimproved, valued at \$70,000 to Janna Day, income beneficiary of the Trust on 3/18/97. This transfer is permitted by the Trust itself. Also, there was a \$691,173.18 downward reconciliation (as an adjustment to principal) with the prior attorney Hugh Snow's

records. This has been satisfactorily explained by Ward Nyhus, CPA.

Survivor's Trust: 1/1/96 through 12/31/96

AOHB:	\$ 9,173,640.59
AdP:	790,000.00
Rec:	1,058,881.33
Gains:	568,486.22
TotCh:	<u>11,591,008.14</u>
Disb:	312,524.63
Dist:	216,331.45
Losses:	81,682.78
AdJ:	790,000.00
AOHE:	10,190,469.28
TotCr:	<u>11,591,008.14</u>

Trustees Fees: n/a (Survivor still alive)

Losses: Explained and Acceptable

Investments: Reviewed, Researched and Acceptable

Other Fees/Expenditures: Explained and Acceptable

NOTE: This was a very profitable period for the Trust. The only non-standard issue was the counter-balancing adjustment to principal of one-half of the Park Avenue properties and one-half of a Smith Barney brokerage account, for bookkeeping purposes.

Survivor's Trust: 6/15/95 through 12/31/95

AOHB:	\$17,689,043.43
AdP:	0.00
Rec:	259,905.31
Gains:	271,623.98
TotCh:	<u>18,220,572.72</u>
Disb:	7,675.00
Dist:	153,872.77
Losses:	6,812.65
AdJ:	8,878,571.71
AOHE:	9,173,640.59
TotCr:	<u>18,220,572.72</u>

Trustees' Fees: n/a (Survivor still alive)

Accountant's Fees: Reasonable

Losses: Explained and Acceptable

Investments: Reviewed, Researched and Acceptable

Other Expenditures: Explained and Acceptable

NOTE: This term marked the creation of the Survivor's Trust with \$8,810,471.71 in adjusted principal - drawn from the Survivor's Trust. The first Trustor to die, Frank P. Day died on June 15, 1995 - hence the starting point hereof and the related principal adjustment.

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1 Marital Trust: 1/1/04 through 12/31/04

2 Assets on Hand (Beginning) ("AOHB"): \$ 2,215,838.14

3 Adjustments to Principal ("AdP"): 1,000.00

4 Receipts ("Rec"): 93,177.19

5 Gains: 132,225.57

6 Total Charges ("TotCh"): 2,442,240.90

7 Disbursements ("Disb"): 21,805.73

8 Distributions ("Dist"): 97,953.82

9 Losses: 37,859.04

10 AdJ: 0.00

11 Assets on Hand (End) ("AOHE"): 2,284,622.31

12 Total Credits ("TotCr"): 2,442,240.90

13 Trustees' Fees: approx. \$18,000 total (OK)

14 Accountant's Fees: Reasonable

15 Losses: Explained and Acceptable

16 Investments: Reviewed, Researched and Acceptable

17 Other Expenditures: Explained and Acceptable

18 NOTES: none.

19 Marital Trust: 1/1/03 through 12/31/03

20 AOHB: \$2,532,851.55

21 AdP: 0.00

22 Rec: 107,787.14

23 Gains: 79,771.27

24 TotCh: 2,720,409.96

25 Disb: 41,651.04

26 Dist: 336,692.42

27 Losses: 126,228.36

28 AdJ: 0.00

29 AOHE: 2,215,838.14

30 TotCr: 2,720,409.96

31 Trustees' Fees: approx. \$20,000 total (OK)

32 Accountant's Fees: Reasonable

33 Losses: Explained and Acceptable

34 Investments: Reviewed, Researched and Acceptable

35 Other Expenditures: Explained and Acceptable

36 NOTES: The only issue in this term is a transfer of

37 accumulated income in the amount of \$201,941.88

38 made from the Marital Trust to the Survivor's Trust

39 on 7/29/03. This was permissible and has been fully

40 explained by Ward Nyhus, CPA.

41 Marital Trust: 1/1/02 through 12/31/02

42 AOHB: \$2,693,754.42

43 AdP: 0.00

44 Rec: 97,975.55

45 Gains: 86,475.10

46 TotCh: 2,878,205.07

47 Disb: 40,193.64

48 Dist: 70,000.00

49 Losses: 235,159.88

50 AdJ: 0.00

51 AOHE: 2,532,851.55

TotCr: 2,878,205.07

Trustees' Fees: approx. \$21,000 total (OK)
Accountant's Fees: Reasonable
Losses: Explained and Acceptable
Investments: Reviewed, Researched and Acceptable
Other Expenditures: Explained and Acceptable
NOTES: There is nothing irregular or noteworthy
about this period.

Marital Trust: 1/1/01 through 12/31/01

AOHB:	\$2,744,035.29
AdP:	0.00
Rec:	103,995.62
Gains:	178,954.84
TotCh:	<u>3,026,985.75</u>
Disb:	78,822.65
Dist:	122,500.00
Losses:	131,908.68
AdJ:	0.00
AOHE:	2,693,754.42
TotCr:	<u>3,026,985.75</u>

Trustees' Fees: approx. \$21,000 total (OK)
Accountant's Fees: Reasonable
Losses: Explained and Acceptable
Investments: Reviewed, Researched and Acceptable
Other Expenditures: Explained and Acceptable
NOTES: There is nothing irregular or noteworthy
about this period, other than in general the
investments paid well and the lifetime beneficiary
Janna Day received a better yearly distribution
than was typical.

Marital Trust: 1/1/00 through 12/31/00

AOHB:	\$2,601,663.10
AdP:	0.00
Rec:	96,992.25
Gains:	221,282.06
TotCh:	<u>4,185,328.32</u>
Disb:	50,725.51
Dist:	0.00
Losses:	125,176.61
AdJ:	0.00
AOHE:	2,744,035.29
TotCr:	<u>2,919,937.29</u>

Trustees' Fees: approx. \$21,000 total (OK)
Accountant's Fees: Reasonable
Losses: Explained and Acceptable
Investments: Reviewed, Researched and Acceptable
Other Expenditures: Explained and Acceptable
NOTES: There were no distributions to Janna Day
during this period. Other than that, there is
nothing irregular or noteworthy in this period.

1	<u>Marital Trust: 1/1/99 through 12/31/99</u>	
2	AOHB:	\$3,569,073.66
3	AdP:	0.00
4	Rec:	233,315.50
5	Gains:	328,911.41
6	TotCh:	<u>4,131,300.57</u>
7	Disb:	379,109.35
8	Dist:	1,060,697.95
9	Losses:	89,830.17
10	AdJ:	0.00
11	AOHE:	2,601,663.10
12	TotCr:	<u>4,131,300.57</u>

Trustees' Fees: None paid, since double-fees were paid in 1998.
 Accountant's Fees: Reasonable
 Losses: Explained and Acceptable
 Investments: Reviewed, Researched and Acceptable
 Other Expenditures: Explained and Acceptable
 NOTE: Distributions were very large in this period due primarily to at \$904,000 payment to Janna Day, the Trust's lifetime beneficiary. This sizable distribution to Janna Day was made because she had attained (on 11/9/98) the age where 33.3% of Marital Trust Corpus could be distributed to her. I have reviewed the schedule showing the breakdown of this significant distribution, and the governing terms of the Trust which permit it, and find the event fully explicated.

16	<u>Marital Trust: 1/1/98 through 12/31/98</u>	
17	AOHB:	\$10,030,668.98
18	AdP:	0.00
19	Rec:	100,723.21
20	Gains:	706,552.14
21	TotCh:	<u>10,837,944.33</u>
22	Disb:	5,745,236.54
23	Dist:	712,500.00
24	Losses:	20,335.62
25	AdJ:	910,215.63
26	AOHE:	3,449,656.55
27	TotCr:	<u>10,837,944.33</u>

Trustees' Fees: approx. \$43,000 (Larger than normal, but see next year for counter-balancing zero-pay).
 Accountant's Fees: Reasonable
 Losses: Explained and Acceptable
 Investments: Reviewed, Researched and Acceptable
 Other Fees/Expenditures: Explained and Acceptable
 NOTE: Disbursements are extraordinarily large during this term. This is due primarily to the payment of \$4,000,000 in Federal Estate Tax, and \$2,000,000 in California Estate Tax, with a disbursement-offset of about \$1,000,000 coming back

in as reimbursement from Janice E. Day and the three Marital sub-trusts. In the Distributions, Janna Day received a single-time payout of \$412,968.47 - due to her passing of another age-based distributive milestone.

Marital Trust: 7/5/97 through 12/31/97

AOHB:	\$10,077,144.96
AdP:	707,504.08
Rec:	205,563.65
Gains:	188,888.76
TotCh:	<u>11,179,101.45</u>
Disb:	139,084.95
Dist:	999,999.99
Losses:	9,347.53
AdJ:	0.00
AOHE:	10,030,668.98
TotCr:	<u>11,179,101.45</u>

Trustees' Fees: None ????

Accountant's Fees: Reasonable

Losses: Explained and Acceptable

Investments: Reviewed, Researched and Acceptable

Other Fees/Expenditures: Explained and Acceptable

NOTES: This is a bifurcated year, as the survivor - Janice E. Day - died on July 4, 1997. During this latter half of the bifurcated year, the only aspects of this period that are noteworthy are 1) the creation of the three identical grandchildren's sub-trusts, with each receiving \$333,333.33 (coming to a total of \$999,999.99); and 2) the fact that Janna Day received no distribution at all during this period.

Marital Trust: 1/1/97 through 7/4/97 (Survivor's Death)

AOHB:	\$ 9,150,548.78
AdP:	691,173.18
Rec:	302,528.43
Gains:	57,971.60
TotCh:	<u>10,202,221.99</u>
Disb:	34,679.79
Dist:	0.00
Losses:	90,397.24
AdJ:	0.00
AOHE:	10,077,144.96
TotCr:	<u>10,202,221.99</u>

Trustees' Fees: approx. \$13,000 total (OK)

Accountant's Fees: Reasonable

Losses: Explained and Acceptable

Investments: Reviewed, Researched and Acceptable

Other Fees/Expenditures: Explained and Acceptable

NOTE: This period marks the death of the Survivor, Janice E. Day (on July 4, 1997) - hence the broken or bifurcated aspect of the 1997 period. The only

1 irregular item is the \$691,173.18 principal
2 adjustment (upwards) on February 11, 1997 made to
3 reconcile books (that is: Ward Nyhus' books with
the prior attorney Hugh Snow's Quick books).

Marital Trust: 1/1/96 through 12/31/96

4	AOHB:	\$ 9,059,427.98
	AdP:	790,000.00
5	Rec:	0.00
	Gains:	568,486.20
6	TotCh:	<u>10,417,914.18</u>
	Disb:	340,626.26
7	Dist:	55,056.36
	Losses:	81,682.78
8	AdJ:	790,000.00
	AOHE:	9,150,548.78
9	TotCr:	<u>10,417,914.18</u>

10 Trustees' Fees: n/a (Survivor still alive)

Accountant's Fees: Reasonable

11 Losses: Explained and Acceptable

Investments: Reviewed, Researched and Acceptable

12 Other Expenditures: Explained and Acceptable

13 NOTE: The only irregular item during this period is
the \$790,000 adjustment to principal made on
12/11/96. This is was done strategically to prepare
14 the Carbon Mesa property for eventual distribution
to Janna from the Marital Trust.

Marital Trust: 6/15/95 through 12/31/95

16	AOHB:	\$ 0.00
	AdP:	8,810,471.71
17	Rec:	0.00
	Gains:	271,623.98
18	TotCh:	<u>9,082,095.69</u>
	Disb:	7,939.00
19	Dist:	7,915.15
	Losses:	6,812.65
20	AdJ:	0.00
	AOHE:	9,059,427.98
21	TotCr:	<u>9,082,095.69</u>

22 Trustees' Fees: n/a (Survivor still alive)

Accountant's Fees: Reasonable

23 Losses: Explained and Acceptable

Investments: Reviewed, Researched and Acceptable

24 Other Fees/Expenditures: Explained and Acceptable

25 NOTE: This term marked the creation of the Marital
Trust with \$8,810,471.71 in adjusted principal -
26 drawn from the Survivor's Trust. The first Trustor
to die, Frank P. Day died on June 15, 1995 - hence
27 the starting point hereof and the related principal
adjustment.

EXHIBIT 1

DAY FAMILY TRUST ACCOUNTING
SP 006 368

Referee's Fee Declaration

July 2, 2005

I, John E. Rogers, Jr. declare that the following hours and listings are true and accurate:

6/3/05	Review pleadings; read trusts; commence detailed review of Survivor's trust schedules (2004 through 2002) 3.5 Hours
6/8/05	Review and annotate Survivor's trust schedules for 2001; complete scan of income, gain, distributions, disbursements, principal adjustments, losses, fees and other costs 1.5 Hours
6/9/05	Review and annotate Survivor's trust schedules for 2000; complete scan of income, gain, distributions, disbursements, principal adjustments, losses, fees and other costs 2.0 Hours
6/10/05	Review and annotate Survivor's trust schedules for 1999 and 1998; complete scan of income, gain, distributions, disbursements, principal adjustments, losses, fees and other costs 1.5 Hours
6/14/05	Review and annotate Survivor's trust schedules for 1997 and 1996; complete scan of income, gain, distributions, disbursements, principal adjustments, losses, fees and other costs 1.5 Hours
6/17/05	Review and annotate Survivor's trust schedules for 1995; complete scan of income, gain, distributions, disbursements, principal adjustments, losses, fees and other costs 1.0 Hours
6/18/05	Reread trust provisions re: Marital trust operations; distribution; commence Marital trust schedules review (2004 through 2002); complete scan of income, gain, distributions, disbursements, principal adjustments, losses, fees and other costs 4.5 Hours

6/20/05	Review and annotate Marital trust schedules for 2001; complete scan of income, gain, distributions, disbursements, principal adjustments, losses, fees and other costs	1.5 Hours
6/21/05	Review and annotate Marital trust schedules for 2000; complete scan of income, gain, distributions, disbursements, principal adjustments, losses, fees and other costs	1.5 Hours
6/22/05	Meet with Ward Nyhus, CPA; discuss questions surrounding principal adjustments, distributions, fees.	1.5 Hours
6/23/05	Review and annotate Marital trust schedules for 1999; complete scan of income, gain, distributions, disbursements, principal adjustments, losses, fees and other costs	1.5 Hours
6/24/05	Review and annotate Marital trust schedules for 1998; complete scan of income, gain, distributions, disbursements, principal adjustments, losses, fee and other costs	1.5 Hours
6/25/05	Review and annotate Marital trust schedules for 1997 and 1996; commence review of grandchildren's subtrusts; complete scan of income, gain, distributions, disbursements, principal adjustments, losses, fees and other costs	2.5 Hours
6/26/05	Review and annotate Marital trust schedules for 1995; continue review of grandchildren's subtrusts; complete scan of income, gain, distributions, disbursements, principal adjustments, losses, fees and other costs	2.5 Hours
6/28/05	Draft report	3.5 Hours
7/1/05	Revise report - based on W. Nyhus' input	1.5 Hours
7/2/05	Finish report	1.0 Hour

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7/8/05

ANTICIPATED - appearance in Santa Monica Court
1.5 Hours

TOTAL TIME: 35.5 Hours

HOURLY RATE: \$225 (standard private PVP rate)

CALCULATION: $35.5 \times \$225 = \$7,987.50$

TOTAL DUE: \$7,987.50

Declared under penalty of perjury under the laws of the State of California at Los Angeles, California on July 2, 2005.



JOHN E. ROGERS, JR., ESQ.

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA)
3) SS:
4 COUNTY OF LOS ANGELES)

5 I am employed in the County of Los Angeles, State of
6 California. I am over the age of 18 and not a party to the within
7 action; my business address is 11845 West Olympic Boulevard, Suite
8 1270, Los Angeles, California 90064.

9 On July 5, 2005 I served the foregoing document described as
10 Report and Recommendations of Referee on interested parties in this
11 action, as follows:

12 SEE ATTACHED LIST

13 [X] BY MAIL: I am familiar with the business practice for
14 collection and processing of correspondence for mailing with the
15 United States Postal Service. I know that the correspondence is
16 deposited with the United States Postal Service on the same day
17 this declaration was executed, in the ordinary course of business.
18 I know the envelope was sealed and, with postage thereon fully
19 prepaid, placed for collection and mailing on this date, following
20 ordinary business practices, in the United States mail at Los
21 Angeles, California; and

22 [] BY FAX: I caused the above-referenced document(s) to be
23 transmitted to the below-named person at the following telecopier
24 number:

25 [] BY OVERNIGHT COURIER: I caused the above-referenced
26 document(s) to be delivered to an overnight courier service
27 (Federal Express) for delivery to the above addressee(s).

28 I declare under penalty of perjury, under the laws of the
State of California, that the foregoing is true and correct.

Executed at Los Angeles, California, on July 5, 2005.


PATRICIA AGUIRRE

DAY FAMILY TRUST
SP 006 368
SERVICE LIST

Mary G. Cruetz
Attorney at Law
11661 San Vicente Bl., Suite 206
Los Angeles, California 90049-5178

Ward R. Nyhus, Jr., Esq., CPA
11661 San Vicente Bl., Suite 310
Los Angeles, California 90049

(310) 207 1186

Janice E. Day (aka Janna Day)
22223 Carbon Mesa Road
Malibu, California 90265

Kip A. Miles
6224 Emerald Cove Dr.
Long Beach, California 90803

Holly D. Miles
21847 Canon Dr.
Topanga, California 90290

Pamela E. Rumph
98 North 7th Street, Second Floor
Brooklyn, New York 11211

Margaret J. Snow
c/o LUCE FORWARD HAMILTON & SCRIPPS LLP
Attn: Phillip J. Sullivan, Esq.
600 West Broadway, Suite 2600
San Diego, California 92101

EXHIBIT 17

EXHIBIT 17

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1 a deal between our non-profit charity, the Jan & Frank Day Foundation, and the company my
2 grandparents founded, JAFRA, to use the house for charitable means and to honor my
3 grandparents, the trustors of the Day Family Trust. The Jan & Frank Day Foundation rented the
4 house from the trust between June 2019 and July 2020 and JAFRA subletted from our Foundation
5 during this time. As a result, I brought the trust a rental income of over \$250K during this time
6 period, and also paid for the maintenance on the house.

7 7. In 2020 the pandemic hit, causing shutdowns etc. so that JAFRA and the
8 Foundation could no longer use the house and the Foundation did not renew the lease after July
9 2020. However, I personally continued to pay the monthly maintenance and repairs for the
10 Property after July 2020 through November 2021 as Mr. Rubin refused to pay with trust funds.

11 8. After the shutdowns from Covid-19 lifted, we were still in the same predicament:
12 we could not rent the house to residential tenants because the trustee refused to invest the money
13 to completely renovate it.

14 9. I have no knowledge of Mr. Rubin consulting with any real estate professionals
15 (other than the failed listing), having any discussions with potential renters or making any type of
16 proposal ever for renting the Property, including after the expiration of the Foundation lease in
17 July 2020. The one other exception was around November 2021 he mentioned the possibility of
18 another residential rental listing with a broker, but the family objected because of the needed
19 renovations. He never asked myself or to my knowledge, my Mom, to allow him possession of
20 the property or access to rent the Property to a prospective tenant or daily occupant prior to 2022.
21 In fact, the Trustee has never brought in any income from the House.

22 10. The Trustee's position after 2019 was always that if the family couldn't produce
23 income from the Property, it would need to be sold, but that he had no intention of utilizing trust
24 funds to further improve the Property.

25 11. Because of the Trustee's threat to sell, in 2021, I continued to use my resources
26 and connections to explore ways of renting the house to generate income. The ideal income
27 potential was from residential rental, but that was impossible because the Trustee refused to use
28 funds to make the necessary repairs.

1 12. One option, without additional investment was to generate income through the
2 filming sublets. I came up with a 3-year plan, which also itemized all the outstanding renovations
3 the trustee still needed to make on the house, however, we could not implement any effective plan
4 as the Trustee would not complete the needed renovations.

5 13. Around the end of 2021, I abandoned serious efforts to produce income from the
6 House as Mr. Rubin had begun to become hostile with me and refused to reimburse me for most
7 of the ongoing maintenance and repairs for the House since 2020, which was hurting me
8 financially. Also, he continued to show no interest in assisting me with producing income from
9 the House and I had grown weary.

10 14. Despite the lack of assistance or cooperation from the Trustee, I am assisting my
11 Mother in due diligence with real estate agents, contractors and loan brokers. I have consulted
12 with multiple real estate professionals in the area who assure me the Property can rent for \$25,000
13 if the minimal steps are taken to make the House fit for a residential rental in the Carbon Beach
14 micro-market. Based upon all the information gathered from professionals, if the property is
15 distributed to her, I can assist my Mother to repair and rent out the Malibu Property to pay off the
16 loans and make a significant profit.

17 15. I was never given any notification before the previous trustees unilaterally decided
18 not to honor the trust terms stating the Malibu Property was to be distributed to my mom when
19 she turned 60. It has been my understanding since 2008 that the issue was left open by the co-
20 trustees and then subsequently Jason Rubin but has not been heard.

21 16. Although Mayo and Rains became co-trustees in 1996, they did not provide me or
22 any of the beneficiaries with an accounting until 2005, when they filed a First Account Current.

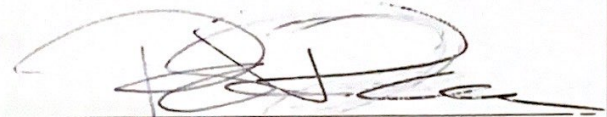
23 17. I join in this Petition for Distribution to my Mother and seek to waive all my all
24 my rights and interest as a contingent beneficiary in the Malibu Property, freely agreeing to
25 release the Malibu Property from its current status as an asset of the Survivor's Trust in order that
26 the Malibu Property be conveyed to my mother, Janna Day.

27
28 ///

1 18. If the Malibu Property is promptly distributed to Janna Day, I will agree to hold
2 the Trustee harmless after re-transferring and distributing the Malibu Property to her because it is
3 the best means of paying off existing trust debts while securing the long-term financial interests
4 of myself as a contingent beneficiary.

5 19. On July 1, 2022, I went to the Los Angeles County Recorder's office and obtained
6 all deeds and recordings related to the Malibu Property from 1985 to the date of request. True
7 and correct certified copies of all recorded documents for the Malibu Property from October 1,
8 1985 to July 1, 2022 are attached as Exhibit 15.

9
10 I declare under penalty of perjury under the laws of the State of California that the
11 foregoing is true and correct and that this declaration was executed this 29th day of July 2022, in
12 Malibu, California.

A handwritten signature in black ink, appearing to read 'P. Rumph', is written over a horizontal line.

PAMELA ESTELLE RUMPH,
Declarant/Beneficiary

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PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 1262 S. Ferris Ave., Los Angeles, CA 90022-3806.

On August 3, 2022, I served the foregoing documents:

**PETITION FOR INSTRUCTIONS AND ORDER
REGARDING DISTRIBUTION OF REAL PROPERTY TO JANNA DAY; AND
FOR ORDER IMPOSING SURCHARGE AND OTHER REMEDIES; [EXHIBITS
1-17]** on all parties appearing in the action as follows:

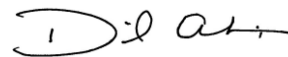
SEE ATTACHED SERVICE LIST

☐ BY ELECTRONIC SERVICE (via electronic filing service provider): By electronically transmitting the document(s) listed above to California Court Filing, an electronic filing service contracting with the Los Angeles Superior Court and with a web address at www.courtfilling.net. The document(s) was/were served electronically at the time of filing and the electronic service was reported to be complete and without error.

☒ BY EMAIL: an email was sent on August 3, 2022 to the known email addresses of the interested parties, as specified on the attached service list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 3, 2022, at Los Angeles, California.



By: _____
DAVID R. AKIN

SERVICE LIST

Terrence M. Franklin, attorney for trustee, Jason Rubin
Sacks, Glazier, Franklin & Lodise LLP
350 South Grand Avenue, Suite 3500
Los Angeles, CA 90071
tfranklin@trustlitigation.la

Holly Miles, beneficiary (grandchild of Settlers)
5307 Argos Street
Agoura Hills, CA 91301
holly.miles@sbcglobal.net

Brandon Goldstein, beneficiary (great-grandchild of Settlers)
5307 Argos Street
Agoura Hills, CA 91301
brandgolds1@gmail.com

Kip Miles, beneficiary (grandchild of Settlers)
5321 Argos St.
Agoura Hills, CA 91301
kip.miles@icloud.com

Mr. Timothy G. Mishler, guardian ad litem for
Archer Anthony Miles, beneficiary (great-grandchild of Settlers)
814 W Foothill Blvd
Monrovia, CA 91016
timmishler@hdmlawyers.com

Pamela Estelle Rumph & Janna Day, Petitioners
c/o attorney David R. Akin
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