

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Representing Self or Lawyer for: _____
Lawyer Bar Number: _____
Licensed Fiduciary Number: _____

For Clerk's Use Only

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

In the Matter of the Estate of

Case Number: _____

Deceased

**ORDER TO PERSONAL
REPRESENTATIVE**

(Assigned Judicial Officer)

Warning: Your appointment is not effective until the Clerk of the Superior Court has issued letters appointing you as personal representative.

You have asked the court to appoint you as the personal representative of the Estate of the deceased ("decedent"). While you serve as the Estate's personal representative, you will be under this court's authority and supervision.

This Order generally explains your duties to the Estate and this court. You may have additional duties imposed by statutes, rules, or the court. By separate order, the court may modify or excuse you from performing a specific duty described below.

In Arizona, beneficiaries and creditors of an estate are expected to protect their own interests in the Estate. You must provide them with sufficient information to enable them to protect their interests. However, the court may review or supervise your actions if an interested person files a written request asking the court to do so. In addition, the court may hold you personally liable and responsible for any damage or loss to the Estate resulting from a violation of your duties.

YOUR DUTIES AS PERSONAL REPRESENTATIVE

Chapter 3, Title 14 of the Arizona Revised Statutes (A.R.S.) sets forth the powers and duties of a personal representative. You are responsible for knowing and performing your duties according to these statutes. The following is an outline of some of your duties as personal representative.

- 1. General Fiduciary Duties.** As a personal representative, you are a fiduciary and must observe the same standard of care applicable to trustees. A.R.S. § 14-3703(A). This means you have a legal duty of fairness and impartiality to the beneficiaries and the creditors of the Estate. *In re Estate of Fogleman*, 197 Ariz. 252, 258, ¶ 17, 3 P.3d 1172, 1178 (App. 2000). You must be cautious and prudent in dealing with Estate assets. The Estate assets do not belong to you, and you must never use them for your personal benefit or mix them with your assets or anyone else's assets. Arizona law prohibits a personal representative from participating in transactions that involve a conflict of interest between the personal representative's fiduciary obligations and the personal representative's individual interests. *See* A.R.S. § 14-3713. Other than receiving reasonable compensation for your services as personal representative, you may not profit from dealing with Estate assets.
- 2. Provide Required Notices.**
 - (a) Mail a Copy of this Order.** Within 30 days after the Clerk of the Superior Court issues your letters of appointment, you must mail a copy of this Order to Personal Representative to all the decedent's heirs and devisees and to any other person who has filed a demand for notice.
 - (b) Notice of Appointment.** Within 30 days after the Clerk of the Superior Court issues your letters of appointment, you must mail notice of your appointment to the heirs and devisees whose addresses are reasonably available to you. If your appointment was made in a formal proceeding, you do not need to give notice to those persons who were given notice of the formal appointment proceeding. A.R.S. § 14-3705.
 - (c) Notice of Admission of Will to Probate.** Within 30 days of the admission of the decedent's will to informal probate, you must provide all the decedent's heirs and devisees with both written notice of the will's admission to probate and a copy of the will. You must notify the heirs and devisees that they have 4 months from receipt of the notice to contest the probate. A.R.S. § 14-3306(B).
- 3. File Proof of Compliance.** Within 45 days after the Clerk of the Superior Court issues your letters of appointment, you must file with the court a sworn statement that you have complied with your obligations under paragraph 2. The statement must list the name and address of each person to whom you mailed the required document, the title of each document you sent that person, and the date you mailed the document to the person.

4. Notice to Creditors. Unless a predecessor personal representative already has fulfilled this duty or you were appointed more than two years after the decedent's date of death, you must publish a notice once a week for 3 consecutive weeks in a newspaper of general circulation in this county. The notice must announce your appointment as personal representative, provide your mailing address, and advise the Estate's creditors that their claims will be barred unless the creditors present those claims within 4 months after the date the notice is first published. In addition, you must mail or personally deliver a similar notice to all known or reasonably ascertainable creditors of the Estate. A.R.S. § 14-3801(A) and (B); *Tulsa Prof. Collection Servs., Inc. v. Pope*, 485 U.S. 487, 491 (1988).

5. General Duty to Gather and Manage Estate Assets.

(a) You must promptly identify and take possession of Estate assets and make proper arrangements to protect them. A.R.S. § 14-3709(A). Estate assets are property (real and personal) the decedent owned at the time of death. However, Estate assets do not include property that is nontestamentary in nature.

(b) An asset may be nontestamentary in nature if a contractual provision controls the disposition of the assets after the decedent's death, such as a life insurance policy, an annuity, or a retirement account that has a beneficiary designation other than the Estate. In addition, an asset owned by the decedent as "joint tenants with right of survivorship," "pay on death," or "transfer on death" may be nontestamentary in nature if any joint tenant or designated beneficiary survives the decedent. *See* A.R.S. § 14-6101.

(c) The Internal Revenue Service (IRS) requires each estate to have its own tax identification number because a decedent and that decedent's estate become two separate tax entities after the decedent's death. Thus, you will likely need to obtain a tax identification number for the Estate from the IRS.

(d) If you take possession of any cash or cash equivalents on behalf of the Estate, you should open a bank account for the Estate. The bank most likely will require the Estate's taxpayer identification number and a certified copy of your Letters of Personal Representative before it will open the account. The name on the account should be either "Estate of (decedent's name), by (your name), Personal Representative" or "(your name), Personal Representative, Estate of (decedent's name)." When you sign any documents, including checks, in your capacity as personal representative, you should be certain to sign your name as follows: "(your name), Personal Representative, Estate of (decedent's name)." Deposit all income, cash, or other receipts into the Estate's account. Similarly, all disbursements from the Estate should be made from that same account. Do NOT use your personal accounts to transact Estate business.

(e) Make all checks payable to a specific person or entity. Do NOT make any checks payable to "cash" or to "miscellaneous." You should make checks payable to yourself only to reimburse yourself for expenses or fees that have been itemized on a statement or receipt. You should make

a note on each check describing its purpose (e.g., rent payment). In addition, you should keep all receipts or other evidence relating to the payment. Likewise, be sure to keep all the monthly bank statements so they can be used to prepare the Estate accounting(s).

(f) Do **NOT** title Estate assets in your name individually or anyone else's name, or as a joint account, trust account ("in trust for"), or payable on death ("POD") account. Do not mix any Estate assets with your own assets or anyone else's assets.

6. Restricted Assets. If the court has entered an order restricting an account, you must file Form 10, Proof of Restricted Account from Financial Institution, within 30 days after the court's order, or as otherwise ordered by the court. Form 10 must be signed by an authorized representative of the financial institution. Ariz. R. Prob. P. 36(b)(2). If the court has restricted your authority over any real property located in Arizona, within 10 court days after issuance of your letters of appointment, you must record a certified copy of those letters of appointment in the county where that real property is located and, no later than 45 calendar days after the county recorder has recorded your letters of appointment, you must file a copy of the recorded letters with this court. Ariz. R. Prob. P. 39(f).

7. Inventory. Unless a predecessor personal representative already has fulfilled this duty, within 90 days after your letters of appointment are issued, you must prepare an inventory that lists with reasonable detail the property the decedent owned at the time of death and the fair market value of each item as of the date of the decedent's death. A.R.S. § 14-3706(A); Ariz. R. Prob. P. 50(a). You must either:

(a) file the inventory with the court and mail a copy of it to all interested persons who request a copy, or

(b) not file the inventory with the court but mail a copy of the inventory to each of the heirs if the decedent died intestate or to each of the devisees if the decedent's will was admitted to probate, and to any other interested person who requests a copy of the inventory.

A.R.S. § 14-3706(B). If you do not file the inventory with the court, you must file a sworn document that identifies each person to whom you provided the inventory and how and when you provided them with the inventory. Ariz. R. Prob. P. 50(a)(3).

If you discover an additional asset or discover that the value of an asset listed on the inventory is erroneous or misleading, you must prepare a supplementary inventory. If you filed the original inventory with the court, you must file the supplementary inventory with the court. If you mailed or delivered a copy of the original inventory to the heirs or devisees, you must do the same for the supplementary inventory. A.R.S. § 14-3708; Ariz. R. Prob. P. 50(a)(4).

8. Determine Statutory Allowances. You must determine whether any individual is entitled to statutory allowances under A.R.S. §§ 14-2402, -2403, and -2404. Statutory allowances include a homestead allowance, exempt property allowance, and family allowance.

- 9. Keep Detailed Records.** You must keep detailed records of your administration of the Estate. This includes a record of all funds and other assets you receive on the Estate's behalf and a record of all disbursements you make. You must keep receipts to prove out-of-pocket expenses.
- 10. Taxes.** You must determine what, if any, tax returns must be filed for the decedent and the Estate, file any necessary returns, and pay any taxes owed.
- 11. Pay Valid Claims and Expenses.** You must determine which claims against, and expenses of, the Estate are valid and should be paid. You must promptly provide written notice to any creditor whose claim is disallowed that the claim will not be paid or will not be paid in full. Failure to provide timely notice of the disallowance may result in allowance of the claim by default. *See* A.R.S. § 14-3806. If the Estate has enough assets to satisfy any statutory allowance and to pay all valid claims against the Estate, you must pay all valid claims against the Estate. If the Estate does not have enough assets to pay in full any statutory allowances and all allowed claims, you must determine the order in which the allowances and claims should be paid according to the law. *See* A.R.S. §§ 14-2402(B), 14-2403(D), 14-2404(B), and 14-3805. You may be personally liable if you pay an allowance or a claim that should not be paid.
- 12. Distribute Remaining Assets.** After payment of any statutory allowances and all allowed claims against the Estate, you must distribute the remaining Estate assets as directed in the decedent's probated will, or, if the court did not admit a will to probate, to the decedent's heirs in accordance with Arizona's intestacy statutes. If the Estate does not have enough assets to make the devises set forth in the decedent's probated will, you must determine how Arizona law requires the distributions to be made. *See* A.R.S. § 14-3902. You may be personally liable if you improperly distribute Estate assets.
- 13. Change of Address.** If your contact information changes during your appointment, you must file Form 13, Notice of Change of Fiduciary's Contact Information, no later than 10 court days after such a change occurs. Ariz. R. Prob. P. 13(c)(1)(A).
- 14. Compensation for Services as Personal Representative.** If you are a licensed fiduciary, are related by blood or marriage to the decedent, or are nominated in the decedent's will to serve as personal representative, you may be entitled to compensation for your services as personal representative of the Estate. *See* A.R.S. §§ 14-3719 and 14-5651. If you wish to be compensated for your services as personal representative, you should keep detailed records of the time you spend performing your duties. The time records should include the date you perform each task, a description of the task, the amount of time you spent on the task, and the hourly rate you are charging for that task. Read Rule 33, Arizona Rules of Probate Procedure, and Arizona Code of Judicial Administration § 3-303 for more information about compensation for personal representative services.

- 15. Court Involvement.** To reduce expenses, estates are administered, and estate claims and expenses are paid, with little court involvement. The court does not oversee the administration of a decedent's estate unless an interested person requests court intervention. *See* A.R.S. § 14-3704.
- 16. Close the Estate.** After you have fully administered the Estate and the Estate assets have been distributed, the Estate must be closed, either formally or informally. To informally close the Estate, you must file a closing statement with the court and send a copy of it to all distributees and to all creditors or other claimants of whom you are aware whose claims are not fully paid or barred. A.R.S. § 14-3933(A). To formally close the Estate, you must file a petition, obtain a hearing date, and provide notice of that hearing. A.R.S. §§ 14-3931 and 14-3932. Usually, an estate should be completely administered and closed within two years after the initial appointment of a personal representative. If you have not closed the Estate within two years after the initial appointment of a personal representative, the court may issue a notice stating that the Estate will be administratively closed and your appointment as personal representative will be terminated without a discharge from liability unless further action is taken. Ariz. R. Prob. P. 51.
- 17. Legal Advice.** You are responsible for obtaining proper legal advice about your duties. Failure to do so may result in personal financial liability for any losses. If you have any questions about the meaning of this order or the duties that the court's orders, statutes, and rules impose upon you by reason of your appointment as personal representative, you should consult an attorney or petition the court for instructions.
- 18. Forms.** Forms referred to in this order and other forms are available at <https://www.azcourts.gov/probate>.

Warning: Failure to obey this order, the other orders of this court, or the statutory provisions or rules relating to personal representatives may result in your removal as personal representative and other penalties. In some circumstances, you may be held in contempt of court, and your contempt may be punished by confinement in jail, a fine, or both. Ariz. R. Prob. P. 48.

DATED this _____ day of _____, 20_____.

Judicial Officer's Signature

Judicial Officer's Name (Type or Print Name)

ACKNOWLEDGEMENT

I (We), the undersigned, agree to be bound by the provisions of this order while serving as personal representative.

Date

Personal Representative Signature

Personal Representative Name (Type or Print Name)

Date

Personal Representative Signature

Personal Representative Name (Type or Print Name)

Date

Co-Personal Representative Signature (if any)

Co-Personal Representative Name (Type or Print Name)