

LETTERHEAD

[Date]

[Name and address]

Re: Estate Settlement Program Engagement Agreement

Dear [Name]:

This correspondence is a separate writing with the intent to review and come to an understanding regarding our firm's services in relation to the trust administration of your [name].

Together, we will be following The Estate Settlement Program™, working through the seven modules to satisfy your responsibilities under Florida law. We will also be coordinating our efforts with your CPA and financial advisors to ensure that all legal, tax and financial aspects are both reviewed and acted upon. We will Program you through the process, including the legal requirements of the administration, to limit your liability and ensure that all aspects of the administration are successfully completed.

Of importance is the question as to "How much will this cost?" This is a fair question, as we feel it is important to advise our clients in the area of fees and explain to them the scope of our duties and responsibilities. With that in mind, I furnish you with the following:

Qualifications & Requirement of an Attorney

As you may know, I am Board Certified by the Florida Bar in the areas of Wills, Trusts, and Estates. I routinely handle these types of matters, and I look forward to assisting you in your capacity as Personal Representative and Trustee of the Trust.

The law requires that a personal representative (you) have an attorney in an estate settlement. It also provides that the attorney for a personal representative and the attorney for a trustee (you are the Trustee) are entitled to be paid a reasonable fee from the assets of the estate (and trust), even absent any specific agreement.

Statute Governing Attorney's Fees

Florida Statute §733.6171 is the controlling statute for probate estates. I am providing you with a copy of that statute for your review. The information which follows also applies to Florida Statute §736.1007 is very similar in scope and operation but relates to fees for an attorney in a trust administration.

The attorney and the client may find it mutually beneficial to determine the fee, at least for ordinary legal services, by agreement at the outset. This removes the uncertainty for both parties. The client and the beneficiaries will then know "up front" what their costs will be, and the attorney knows that the fee amount is agreed and predetermined.

A few of the statutory provisions which you may find of interest include:

- The law permits the attorney and the client to agree to any fee amount or the method of determining the fee amount even if different from the method provided by the statute, so long as the client and the beneficiaries who will ultimately bear the burden of the fee all concur. If less than all concur, no advance agreement is possible;
- The statute provides a formula for determining a fee that is presumed by law to be reasonable, but allows the client to request the court to determine a smaller fee and allows the attorney to request the court to determine a higher fee, than that presumed to be reasonable;
- Legal services relating to an estate (or trust) administration are divided by law into "ordinary legal services" and "extraordinary services". The "presumed reasonable fee" is for *ordinary* legal services only. If only ordinary legal services are required of an attorney, only a fee for ordinary services is allowed. If some "extraordinary legal services" are required, the attorney is permitted to receive additional fees for those services. An example of an extraordinary service is representation in connection with an audit, or any proceeding for adjustment, determination or collection of taxes. Many administrations may find that no extraordinary services are required; however, more complex estates (which may have more complex assets or dispositive provisions, for example) may require extraordinary services.
- Legal fees may be determined by agreement, at the outset, or at the conclusion. If there is a disagreement regarding the fee, the court will hear the matter and set the fee at the conclusion of the administration using the statutory formula for determining the presumed reasonable fee, and if there is a good reason to do so, may either increase or decrease that amount.

Representation Agreement

With that said, I would propose that the following apply to our firm's representation of the estate in these matters: I will represent you in your capacity as personal representative of the probate estate, if required and trustee of the trust estate.

Ordinary Services

I will perform all ordinary legal services required by law. Those ordinary services are referenced in the statute, but include the following:

- Review, analysis and interpretation of testamentary documents or trust instrument including amendments, and explanation of the dispositive provisions and procedures relating thereto;

- Advise client regarding inter-relationships of any trust created by decedent with the probate estate, and duties and obligations between the office of personal representative and the office of trustee;
- Obtain your appointment as personal representative and/or as trustee of the trust;
- Review your legal duties and responsibilities as outlined in The Estate Settlement Snapshot™ - Module 1 of the Estate Settlement Program;
- Discuss your goals and concerns as outlined in Module 1;
- Advise on avoidance of self-dealing, conflicts of interest, duty of impartiality and obligations to creditors and beneficiaries;
- Prepare pleadings and notices as prescribed under Florida Chapter 733 and Florida Chapter 736 as outlined in Module 2 of The Estate Settlement Program;
- Upon your gathering of the assets, our coordination and efforts as outlined in Module 3 of The Estate Settlement Program™ including:
 - Establishment of probate/trust administrative accounts;
 - Assisting with request for date of death values and step up in tax cost basis;
 - Conference regarding preservation of assets, prudent investor duties,
 - Discussing any special liquidity needs for taxes or beneficiaries' living expenses;
 - Discussion of IRA/RMD issues (as noted below); and
 - Assist in coordinating appraisals as necessary;
- Advise regarding the duty to locate and notify creditors, duty owed by Client to creditors and procedures and priorities in payment or compromise of claims and payment and reimbursement of expenses of administration as provided under Module 4 of The Estate Settlement Program™;
- Advise as to estate and income tax issues present in the administration as provided in Module 5 of The Estate Settlement Program™, although it is our understanding that you are competent and will be conducting on your own all work related to:
 - Review of IRA minimum required distributions, if applicable;
 - Review of IRA rollover and Inherited IRA issues, including, if applicable, coordination with your financial advisor;

- Coordination with CPA regarding estate tax issues. Your CPA will file all necessary income and estate tax returns. We will advise and assist where directed by your tax return team. We will also discuss, as applicable, tax decisions and elections;
 - Review of state tax issues, as necessary
 - Review of QSST issues, as applicable and necessary;
- We will also advise and assist client with accountings, obtaining of consents, and finalizing distributions, including the distribution of specific devises as well as the creation of testamentary trusts as provided in Module 6 of The Estate Settlement Program™ including:
 - requirements to inform and account to interested persons;
 - explanation of the distribution process;
 - payment and reserves for professional fees, deductibility of same;
 - explanation of distribution schematic;
 - preparation of schedule of distribution
 - preparation of consents to accounting and schedule of distribution;
 - Wrap up the administration as provided in Module 7 of The Estate Settlement Program™ including discussions on any open points, opportunities moving forward and creation of action items to be implemented by the family as applicable.

Fee Statute

We will not be charging you according to the fee statute, but you should have a familiarity with what that statute says. Florida Statute §733.6171 provides that for a probate administration, a reasonable attorney's fee is calculated as follows:

- 3% up to a value of \$1 million
- 2.5% on the next \$2 million
- 2% on the next \$2 million
- 1.5% on the next \$5 million
- 1% on all in excess of \$10 million

The fees for ordinary services with regard to the assets subject to the trust administration are based on that statute, but the trust statute (§736.1007) provides that the above probate fee schedule under §733.6171 should be discounted by twenty five percent (25%) in determining the attorney's fee for the services related to accomplishing the legal requirements of a trust administration.

If you were to calculate that fee under your mother's administration, it would approximate Nineteen Thousand Dollars (\$19,000.00). Here, however, you are a CPA who will be handling a majority of the tax work, and there are only two brokerage accounts.

We will therefore set our fee as our minimum for a trust administration, which is Seven Thousand Eight Hundred Fifty Dollars (\$7,850.00). This is for all ordinary services regarding your mother's trust administration.

Services Relating to Irrevocable Trusts

We may assist with advice and action on irrevocable trusts, such as life insurance trusts, trusts that were created by third parties over which the decedent was a beneficiary or has exercised a power of appointment will be one-half of one percent (.5%) of the value of said trust, with a minimum fee of Seven Thousand Five Hundred Dollars (\$7,500.00) regardless of the calculation.

We understand that you do not require any work on our part related to any other irrevocable trusts.

Extraordinary Services

Extraordinary services will be performed if required. In the unlikely event matters should arise which would require specialized counsel, such as trial counsel for litigation disputes, then such counsel may be retained. You would certainly be notified and included in the decision-making process if this should ever become necessary.

Extraordinary services are defined under the statute as including, but not limited to, the following services:

- Trust construction or trust contest matters;
- Proceedings to determine beneficiaries;
- Apportionment of estate tax issues;
- Postmortem tax advice planning (such as with disclaimers);
- Dealing with disputes, whether threatened or filed, between beneficiaries or government, including taxing authorities;
- Involvement in fiduciary, attorney or professional compensation issues.

Extraordinary services (as defined by the statute) will be billed at my hourly rate which is currently \$450.00. We will agree not to perform extraordinary services unless you have been previously notified and have consented to the requirement for such services. In some instance, separate counsel may be necessary to perform extraordinary services. In such event, that attorney's fees and costs will also be separate and apart from this engagement.

Engagement Agreement
Estate Administration of [Name]
July 8, 2019
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Costs

Costs incurred by this firm and/or forwarded on behalf of the file, such as filing fees with the probate court, legal publication costs with the local newspaper, long distance telephone, Federal Express, fax, etc., are billed separately and in addition to the attorney's fees.

Invoicing

With regard to ordinary services, we will be forwarding an invoice for approximately one-half (1/2) of the anticipated fees after we hold the Module 2 conference regarding Legal Matters. The final billing will occur on or about the time that schedule of proposed distributions are forwarded to the beneficiaries, or if no such schedule is necessary then the final invoice will be forwarded on or about the time that the final distributions are made. Costs and/or extraordinary services will be billed as incurred.

Our Commitment

We will expeditiously work to complete this administration in due course, and provide the estate, to the best of my abilities, the legal counsel you will require in order to complete this administration.

If you should have any questions regarding this correspondence, or on any matter during the administration, please feel free to contact me. Assuming you find these terms satisfactory, please sign the bottom of the copy of this correspondence. If you would like to review these terms with independent counsel, you are more than welcome to do so prior to signing the below agreement on same.

I thank you for your attention to these matters.

Kind regards,

SHEPPARD, BRETT, STEWART, HERSCH & KINSEY, P.A.

[Attorney's Name]

[Attorney initials/bjk]

Enclosures

Our File No.

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Estate Administration of [Name]
July 8, 2019
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ACKNOWLEDGMENT AND AGREEMENT

I acknowledge having read the above and agree to the terms as provided for herein.

Dated this _____ day of _____, 2016.

Christopher J. Boers, Individually, and as Successor
Trustee of the ELIZABETH L. BOERS REVOCABLE
LIVING TRUST, dated May 29, 2001, restated May 20,
2009 and as Personal Representative of the ESTATE OF
ELIZABETH L. BOERS