

# INSTRUCTIONS FOR ESTABLISHING A TESTAMENTARY TRUST

These instructions are intended as a guideline only and should not be relied upon as a comprehensive list of duties in a testamentary trust.

A testamentary trust is established through a Last Will and Testament of a decedent.

A fee of \$105.00 deposit is required at the time of filing. Please confirm the amount with the Cashier since filing fees may have changed subsequent to the publication of the instruction sheet. **This fee must be paid in cash, money order, certified check, MasterCard, Discover, or American Express. No personal checks will be accepted.**

The forms may be obtained from the Issue Desk on the 9<sup>th</sup> floor of the Probate Court, 230 E. 9<sup>th</sup> Street, Cincinnati, Ohio or by downloading the forms from the web site.

## PROCEDURAL STEPS

<b>Step 1: Complete the following forms</b>	
Trust Beneficiaries (H.C. 54.0) <ul style="list-style-type: none"> <li>- Complete form.</li> <li>- Be sure to specify <i>complete</i> addresses of all of those listed.</li> </ul>	At the time of filing
Application for Appointment of a Trustee (H.C. 54.1) <ul style="list-style-type: none"> <li>- Complete form.</li> <li>- Attach copy of will to application.</li> <li>- <b>This application will be given a new case number.</b></li> <li>- If the applicant is not named in the will then attach or file a separate Memorandum in support of the application prior to hearing before Judge.</li> </ul>	At the time of filing
Entry Setting Hearing (H.C. Form 202.00) <ul style="list-style-type: none"> <li>- Only required if applicant is not named in the will. Hearing will be set before the Judge.</li> <li>- Fill in the name of the decedent only.</li> <li>- The clerk will fill in the hearing date &amp; time and initial the entry.</li> <li>- The form must be taken to the Assignment Desk on the 10<sup>th</sup> floor of the Probate Court to obtain a hearing date of the Judge's calendar.</li> </ul>	At the time of filing, if needed
Trustee's Bond (H.C. 54.3) <ul style="list-style-type: none"> <li>- When applying to be appointed trustee, the applicant is required to execute a bond unless applicant is named in the will and the bond is waived by the testator.</li> <li>- Applicant must execute and date form.</li> <li>- <b>Bond must be executed by a surety company in front of the court personnel.</b></li> <li>- The bond shall be twice the value of the assets funding the trust, with a minimum bond requirement of \$20,000.</li> </ul>	Once signed by the applicant, the bond form needs to be left with the Court in order for the agent of the surety company to execute the bond in the presence of the clerk.  May be left with the Court anytime prior to the hearing.

<p>Application for Release of Funds to Custodial Depository in Lieu of Bond (H.C.204.05)</p> <ul style="list-style-type: none"> <li>- Complete form.</li> <li>- Filed when there is not an attorney and applicant does not want to obtain one.</li> <li>- Filed to dispense with requirement of joint control with an attorney, posting of a bond and filing of yearly accounts.</li> </ul>	Normally the day of the hearing
<p>Entry Releasing Funds to Custodial Depository in Lieu of Bond (H.C. 204.06)</p> <ul style="list-style-type: none"> <li>- Complete form.</li> <li>- Make sure you have obtained an account number from the bank.</li> </ul>	Normally the day of the hearing
<p>Verification of Receipt and Deposit of Custodial Depository (H.C. 204.07)</p> <ul style="list-style-type: none"> <li>- A bank clerk completes form once the funds are in the account.</li> <li>- Normally the bank sends the form to the court.</li> </ul>	Filed by the bank, normally within 30 days from filing of Entry Releasing Funds to Custodial Depository
<p>Entry Appointing Trustee;Letters of Authority (H.C. 54.4)</p> <ul style="list-style-type: none"> <li>- Complete form.</li> <li>- If the Judge grants the application and everything is in order, he will sign the letters.</li> </ul>	Preferably at the time of initial filing, if not, day of hearing.
<b>THE NEXT GROUP OF FORMS IS NOT NEEDED AT THE INITIAL FILING.</b>	
<p>Trustee's Inventory (H.C. Form 54.5)</p> <ul style="list-style-type: none"> <li>- The trustee must file an inventory specifically listing the assets of the trust and the value of those assets.</li> </ul>	3 months from date of appointment
<p>Trustee's Account (H.C. Form 54.8)</p> <ul style="list-style-type: none"> <li>- From the date of appointment, the trustee is responsible for filing an account every 2 years.</li> <li>- On back of Trustee's Account (form 54.8), have an employee of each bank where trust funds are deposited complete a bank certificate.</li> <li>- Trustee must sign form.</li> </ul>	Every 2 years starting with date of appointment
<p>Receipts and Disbursements (H.C. Form 54.81)</p> <ul style="list-style-type: none"> <li>- Specifically list the assets of the trust that were listed on the Inventory (54.5) plus all income and disbursements made.</li> </ul>	Filed with account
<p>Assets Remaining in Trustee's Hands (H.C. Form 54.82)</p> <ul style="list-style-type: none"> <li>- Complete form if filing a current account.</li> <li>- Specifically describe those assets of the trust remaining in trustee's hands.</li> </ul>	
<p>Entry Setting Hearing on Account (H.C. 213.8)</p> <ul style="list-style-type: none"> <li>- Fill in the caption and have attorney sign.</li> <li>- The account clerk will fill in hearing date &amp; time and sign &amp; date the form.</li> </ul>	Filed with account.

<p>Notice of Hearing on Account (H.C. 13.5)  Waiver of Notice of Hearing (H.C. 13.7)</p> <ul style="list-style-type: none"> <li>- When filing a <i>current</i> account, all <i>income</i> beneficiaries are entitled to be notified of the hearing on the account.</li> <li>- When filing a <i>final</i> account, all <i>trust</i> beneficiaries are entitled to be notified of the hearing on the account.</li> <li>- You must either obtain a waiver from each individual (H.C. 13.7) or perfect certified mail notice (H.C. 13.5) on each individual. See Local Rule 64.1(D)</li> <li>- If certified mail notice is used, present certified mail return (green card) and a copy of the notice that was sent to each individual to the magistrate assigned to your case.</li> </ul>	
<p>Entry Approving and Settling Account (H.C. 13.3)</p> <ul style="list-style-type: none"> <li>- Fill in name of the decedent and case number.</li> <li>- Magistrate will complete form on the day of the account hearing.</li> </ul>	
<p><b>STEP 2: ASSIGNING OF MAGISTRATE, REVIEWING OF FORMS, AND SETTING HEARING DATE.</b></p>	
<p>When all forms have been completed, present them to the magistrate’s assistant at the information desk on the 9<sup>th</sup> Floor of Probate Court where the clerk will write the initials of the magistrate who has been handling the estate on the form. If the appointment is for a successor trustee and a magistrate is already assigned, you may take the forms directly to the assigned magistrate to be reviewed.</p>	
<p><b>STEP 3: FILING OF FORMS WITH CASHIER</b></p>	
<p>All forms are taken to the cashier who will assign a case number. At this time, the cashier will require the payment of the filing fee of <b>\$105.00</b>. The cashier will stamp the case number on all the papers plus one set of copies, if provided, and clock in the original forms that can be docketed that day. After clocking in the forms, the cashier will place the forms in a file folder and take it to the Issue Desk. If the magistrate approved the letters; the clerk will certify a letter of appointment and return it to you. If the application was set for hearing the clerk will docket the appropriate pleadings.</p>	

<b>STEP 4: THE HEARING – WHAT TO EXPECT (IF NEEDED)</b>	
<p>At the date and time of the hearing, you (and your attorney, if attorney is obtained) should report to the 9<sup>th</sup> Floor of the Probate Court. (The magistrate will already have the file with the forms you initially filed.)</p> <p>If you had to obtain waivers or serve notices of the hearing you will give them to the magistrate.</p> <p>The magistrate will conduct the hearing, and if he approves the appointment, he will sign the Entry Appointing Trustee; Letters of Authority (H.C. 54.4) if the bond is signed, depository is set up (if not posting a bond) or the applicant is a bank.</p> <p>You will then go to the Issue Desk and have the clerk certify a copy of the Entry Appointing Trustee; Letters of Authority signed by the magistrate or if unable to issue on the day of the hearing the file will be returned to the clerk until the letters are able to be issued.</p>	