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5 Attorney for Rusty Grant, Trustee

7 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO  
8 NORTH COUNTY JUDICIAL DISTRICT

9  
10 In the Matter of

Case No. 37-201100150239-PR-TR-NC  
(ROA 14)

11 SCHWICHTENBERG REVOCABLE  
12 FAMILY TRUST dated July 28,  
1982

) OBJECTIONS TO JENNIFER  
) GRANT'S PETITION FOR ORDERS (1)  
) REMOVING RUSTY GRANT AS  
) TRUSTEE OF TRUST A; (2)  
) APPOINTING TEMPORARY TRUSTEE  
) OF TRUST A AND DIRECTING  
) DELIVERY OF ASSETS TO  
) TEMPORARY TRUSTEE; (3)  
) CONFIRMING JENNIFER GRANT AS  
) TRUSTEE OF TRUST B AND C AND  
) DIRECTING DELIVERY OF ASSETS  
) TO HER; (4) PRECLUDING RUSTY  
) GRANT FROM USING TRUST A  
) ASSETS FOR TRUSTEE AND  
) ATTORNEY'S FEES AND COSTS  
) WITHOUT COURT ORDER; (5)  
) PRECLUDING RUSTY GRANT FROM  
) USING TRUST ASSETS TO PAY ANY  
) EXPENSES, TRUSTEE'S FEES OR  
) ATTORNEY'S FEES ASSOCIATED  
) WITH TRUST B OR TRUST C  
) WITHOUT COURT ORDER; (6)  
) SURCHARGING RUSTY GRANT FOR  
) PENALTIES, LATE FEES, INTEREST  
) AND OTHER COSTS AND EXPENSES  
) ATTRIBUTABLE TO HER NEGLIGENT  
) FAILURE TO  
) MAINTAIN TRUST PROPERTY AND  
) FAILURE TO FOLLOWING TERMS OF  
) TRUST AND (6) GRANTING  
) PETITIONERS COSTS INCLUDING  
) REASONABLE ATTORNEY FEES.

28 OBJECTIONS TO JENNIFER GRANT'S PETITION FOR ORDERS (1) REMOVING RUSTY GRANT AS  
TRUSTEE OF TRUST A; et. seq.

DATE: OCTOBER 7, 2011  
TIME: 9:30 AM  
DEPT: 23

Trustee Rusty Grant, submits the following Objections to beneficiary Jennifer Grant's Petition for Orders (1) Removing Rusty Grant as Trustee of Trust A; (2) Appointing Temporary Trustee of Trust a and Directing Delivery of Assets to Temporary Trustee; (3) Confirming Jennifer Grant as Trustee of Trust B and C and Directing Delivery of Assets to Her; (4) Precluding Rusty Grant from Using Trust a Assets for Trustee and Attorney's Fees and Costs Without Court Order; (5) Precluding Rusty Grant from Using Trust Assets to Pay Any Expenses, Trustee's Fees or Attorney's Fees Associated with Trust B or Trust C Without Court Order; (6) Surcharging Rusty Grant for Penalties, Late Fees, Interest and Other Costs and Expenses Attributable to Her Negligent Failure to Maintain Trust Property and Failure to Following Terms of Trust and (6) Granting Petitioners Costs Including Reasonable Attorney Fees as follows:

**Response to Section I of Petition entitled "Background"**

1. Trustee Rusty Grant, herein after "Grant", takes no position as to the interpretation of the trust provisions of the background information as set forth in paragraphs 1 through 14 of Jennifer Grant's petition other then a general denial of any and all allegations of breach of trust or that she is serving as Trustee without legal authority.

**Objections to Section III, A.1 - Removal of Rusty Grant Is Warranted in Light of Her Determined Refusal to Follow Terms of th Trust**

2. Grant denies the allegations contained in Paragraph 15 through 20 except as set forth below.

a. Grant was appointed successor trustee upon the death of Mary Schwichtenberg. Upon assuming the duties of Trustee, Grant took the following actions as Trustee: arranged for all of Settlor/decedent's funeral expenses be paid;

1 sent out the statutory notices to the Department of Health Services, taxing authorities  
2 and trust beneficiaries; retitled assets over into her name as successor trustee; filed  
3 the appropriate tax returns; and managed and maintained the real property in the  
4 estate.

5 b. Shortly after the Settlor Mary's death, contention arose among the four  
6 beneficiaries as to the terms of the various Schwichtenberg Trusts. Trustee's  
7 attorney engaged in numerous conversations with all of the Trust beneficiaries,  
8 including Jennifer Grant, in seeking a resolution of the beneficiaries' dispute. Out of  
9 these conversations an agreement was reached by the beneficiaries, including  
10 Jennifer Grant, that Grant would serve as Trustee of all the Schwichtenberg Trusts.  
11 During this period of time, Jennifer Grant was consulting with and was represented  
12 by legal counsel. Jennifer Grant knew or should have known she was the  
13 designated successor trustee of Schwichtenberg Trusts B and C. Grant alleges that  
14 she was installed as successor Trustee of Trust B by agreement of the trust  
15 beneficiaries. At no time did Jennifer Grant make any effort to assert herself as  
16 Trustee of Trust B or object to Ms. Grant serving as Trustee of Trust B until all  
17 settlement negotiations failed. Grant has not acted in any manner that is a detriment  
18 to the beneficiaries or to the assets in Trust B. The only action taken in regards to  
19 the Trust B financial accounts was the accounts were retitled over into Grant's name  
20 as successor trustee.

1                   Objections to Section III, A.2 - Rusty Grant Continues Her Effort to  
2                   Overturn a Bequest to Petitioner of a Life Estate in the Trustors' Residence

3                   3.       Grant denies the allegations contained in Paragraph 21 through 26 except as  
4 set forth below:

5                   a.       As Trustee, Grant has been fair and impartial to all trust  
6 beneficiaries. She provided an accounting to the beneficiaries, in probate  
7 format, in November 2010 and again in April 2011 and has received no  
8 objections to the accounting.

9                   b.       On information and belief, the trust beneficiaries entered into a  
10 tolling agreement concerning the 120 day statutory period set forth in Probate  
11 Code Section 16061.7,

12                  c.       Due to the ambiguity of the Trust documents and the  
13 disagreement of the Trust beneficiaries, Grant has sought the guidance of  
14 this court in seeking clarification of the terms of Trust A and is not trying to  
15 revise the terms of Trust A. . Pending a determination of the issues before  
16 the court, the residence cannot be distributed from the Trust estate.

17                  d.       Grant has never been advised by Jennifer grant that she would  
18 be willing to assume the burden of maintaining the life estate to the extent  
19 that Trust A funds become depleted and can no longer maintain the property

20                  e.       Grant was in the process of selling the Mercedes Benz  
21 automobile according to terms of the trust but stopped when ALL the  
22 beneficiaries, including Jennifer Grant, attempted to reach a settlement  
23 agreement of which the automobile was to be a part of that agreement. Any  
24 additional license or insurance fees were incurred as a result of all the  
25 beneficiaries advising Grant not to sale of the vehicle pending resolution of  
26 the settlement agreement between the parties.

1 Objections to Section III, B - Removal of Rusty Grant is Warranted Because  
2 Her Demonstrated Hostility Towards Petitioner and Bia in Favor of Bradd Is in  
3 Breach of Her Duty of Impartiality

4 4. Grant denies the allegations contained in Paragraph 27 through 29.

5 Objections to Section III, C - Removal of Rusty Grant is Warranted Because  
6 She Has Failed to Act to Protect Trust Property

7 5. Grant denies the allegations contained in Paragraph 30.

8 Objections to Section III, D - Rusty Grant Shoud BE Compelled to Surrender the  
9 Trust Real Property to a Temporary Trustee to Prevent Further Injury and Loss

10 6. Grant denies the allegations contained in Paragraph 31 through 36.

11 7. In regards to the request to appoint Donald Mess as successor trustee, Mr.  
12 Mess was Settlor Mary's accountant and, on information and belief, prepared the Federal  
13 Estate Tax Return when Settlor Norman died and all of the income tax returns for Mary  
14 during her lifetime. Mr. Mess may have given Settlor Mary advise in regards to the income  
15 and principal distributions from the various Schwichtenberg Trust and therefore will likely  
16 be a witness in this proceedings. As such, Mr. Mess is not an impartial person to these  
17 proceedings.  
18  
19

20 Objections to Section III, E - Petitioner Should Be Confirmed as  
21 Successor Trustee of Trust B and Trust C

22 8. Grant denies the allegations contained in Paragraph 37 through 40.

23 9. Grant admits the allegations contained in Paragraph 40 and 41.  
24

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1 WHEREFORE, Trustee Rusty Grant prays as follows:

2 1. Deny the Petition of Jennifer Grant in its entirety.

3 2. For such other and further relief as the Court deems just and proper.

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6 Respectfully Submitted:

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8 Dated: September 19, 2011

  
CONSTANCE J. LARSEN,  
Attorney for Trustee Rusty Grant

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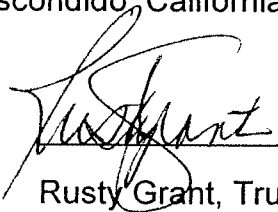
VERIFICATION

I, the undersigned, declare:

That I am the Petitioner in the above-entitled matter; that I have read the foregoing Objections to beneficiary Jennifer Grant's Petition for Orders (1) Removing Rusty Grant as Trustee of Trust A; (2) Appointing Temporary Trustee of Trust a and Directing Delivery of Assets to Temporary Trustee; (3) Confirming Jennifer Grant as Trustee of Trust B and C and Directing Delivery of Assets to Her; (4) Precluding Rusty Grant from Using Trust A Assets for Trustee and Attorney's Fees and Costs Without Court Order; (5) Precluding Rusty Grant from Using Trust Assets to Pay Any Expenses, Trustee's Fees or Attorney's Fees Associated with Trust B or Trust C Without Court Order; (6) Surcharging Rusty Grant for Penalties, Late Fees, Interest and Other Costs and Expenses Attributable to Her Negligent Failure to Maintain Trust Property and Failure to Following Terms of Trust and (6) Granting Petitioners Costs Including Reasonable Attorney Fees and know the contents thereof; that the same is true of my own knowledge, except as to the matters that I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Escondido, California.

Dated: September 19, 2011

  
\_\_\_\_\_  
Rusty Grant, Trustee

**PROOF OF SERVICE**

by U.S. Mail

San Diego Superior Court Case No. 37-201100150239-PR-TR-NC

I am self-employed in the County of San Diego, State of California. I am over the age of 18 years old, not a registered process server and not a party to this action. My business and business address is: LAW OFFICES OF CONSTANCE J. LARSEN, 345 W. 9<sup>th</sup> Avenue, Suite 102, Escondido, CA 92025.

On September 19, 2011, I served via U.S. First Class Mail by placing a copy thereof in a separate envelope for each addressee named hereafter, addressed to each such addressee respectively as follows:

OBJECTIONS TO JENNIFER GRANT'S PETITION FOR ORDERS (1) REMOVING RUSTY GRANT AS TRUSTEE OF TRUST A; (2) APPOINTING TEMPORARY TRUSTEE OF TRUST A AND DIRECTING DELIVERY OF ASSETS TO TEMPORARY TRUSTEE; (3) CONFIRMING JENNIFER GRANT AS TRUSTEE OF TRUST B AND C AND DIRECTING DELIVERY OF ASSETS TO HER; (4) PRECLUDING RUSTY GRANT FROM USING TRUST A ASSETS FOR TRUSTEE AND ATTORNEY'S FEES AND COSTS WITHOUT COURT ORDER; (5) PRECLUDING RUSTY GRANT FROM USING TRUST ASSETS TO PAY ANY EXPENSES, TRUSTEE'S FEES OR ATTORNEY'S FEES ASSOCIATED WITH TRUST B OR TRUST C WITHOUT COURT ORDER; (6) SURCHARGING RUSTY GRANT FOR PENALTIES, LATE FEES, INTEREST AND OTHER COSTS AND EXPENSES ATTRIBUTABLE TO HER NEGLIGENT FAILURE TO MAINTAIN TRUST PROPERTY AND FAILURE TO FOLLOWING TERMS OF TRUST AND (6) GRANTING PETITIONERS COSTS INCLUDING REASONABLE ATTORNEY FEES

by enclosing the document(s) in an envelope for collection and mailing on the date and at the place indicated above following our ordinary business practices. I am readily familiar with this business's practice for faxing documents and then collecting and processing correspondence for mailing. On the same day that the document is faxed, the correspondence is placed for collection and mailing by depositing in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid to:

Betty M. Huffman  
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Minda McConnell  
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Oceanside, CA 92057



Irma Arroyo  
1755 Boyle Place  
Escondido, CA 92025

Merrily Sue Schwichtenberg (aka Jennifer Grant)  
840 Haverford #2  
Pacific Palisades, CA 90272

Melody Underwood  
P.O. Box 2611  
Crestline, CA 92335

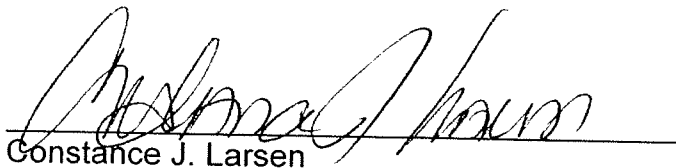
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attorney for Bradd Schwichtenberg

I declare under penalty of perjury under the laws of the State of California,  
the foregoing is true and correct. Executed this 19 day of September, 2011, in  
Escondido, California.

  
Constance J. Larsen