

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
7/12/2024 11:40 AM  
BY ERIN L. LENNON  
CLERK

**IN THE SUPREME COURT OF THE STATE OF  
WASHINGTON**

**SUPREME COURT NO. 1031696**

(Court of Appeals, Division One No. 855166)  
(Whatcom County Court Case No. 22-4-01238-37)

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**DONALD HOTH**, Appellant,

VS.

**EDWARD HOTH**, Respondent.

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**RESPONDENT EDWARD HOTH'S ANSWER TO  
APPELLANT'S PETITION FOR REVIEW**

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Douglas R. Shepherd, WSBA #9514  
Kyle S. Mitchell, WSBA #47344  
Shepherd and Allen  
2011 Young Street, Ste. 202  
Bellingham, WA 98225  
(360) 733-3773

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July 12, 2024

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## **I – IDENTITY OF RESPONDING PARTY**

COMES NOW Edward Hoth (Edward) through his attorneys of record, Shepherd and Allen, and responds to the Petition of Donald Hoth (Donald). Donald and Edward are brothers.

## **II – RELIEF REQUESTED**

Donald's Petition for Review should be denied. Attorney fees should be awarded to Edward and against Donald, under RCW 11.96A.150 and as sanctions, under RAP 18.9(a).

## **III – RELEVANT FACTS**

After their mother's death, Donald has repeatedly falsely and unsuccessfully accused Edward of legal misconduct, without providing any evidence of the alleged misconduct or claiming the misconduct caused Donald any

damages.<sup>1</sup> Donald's 2022 TEDRA Petition, dismissed on summary judgment, made the following claim against Edward, while acting as Power of Attorney for his mother, who died in 2016, six years earlier.

Ed has never been subject to any oversight or accountability because the only fiduciary agent was Ed himself, and up until now there has been no personal representative. The cause of this claim is that there are many unanswered questions which raise suspicions of Ed . . . .  
DAMAGES Not Applicable.

See Appendix 1.

This appeal involves Donald's fourth lawsuit against Edward. In his Petition to this Court, Donald repeatedly argues the intended spirit of TEDRA prohibits court supervision of his rantings and TEDRA should allow his

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<sup>1</sup> Whatcom County Cause Numbers 19-4-00342-37; 22-2-00766-37; 22-4-01026-27; and, 22-4-01238-37; Division One Court of Appeals Cause No. 80284-4-I; and, Supreme Court Petition No. 993122.

rantings and frivolous accusations to continue in secret, outside the public record.<sup>2</sup>

Donald argues his Petition for Review should be granted because this Court should examine the TEDRA statute to see if it serves Donald's misguided beliefs about TEDRA.<sup>3</sup>

Edward's motion for summary judgment was supported by the following facts.

03. As stated before under oath, my brother Donald Hoth, has been angry for years about my being appointed by my parents to be the Trustee of their Trust(s).

04. Donald Hoth's allegations against me are misguided at best, and more likely resentful and only intended to harass, damage and injure me. They have no basis in fact or law. I never wrongfully took any money or benefits from the Trusts I managed.

---

<sup>2</sup> "The spirit of TEDRA affirms family values, and seeks to keep such disputes out of the courts and off public record." Petition for Review, at 4.

<sup>3</sup> "[D]o the current [statutory] standards for granting a petition, serve TEDRA's purposes?" Petition for Review, at 6.

05. As stated previously, mediation would benefit no one. Arbitration would not benefit anyone. There is no information I can provide to my brother Donald, which has not already been provided. There are no facts I can provide Donald which will satisfy him. I believe his only purpose is to harm me. I believe he knows there are no economic benefits to his ongoing litigations. I believe Donald meant it when he wrote to me that he hoped I would die. This is taking an emotional and economic toll on my wife and me. I believe Donald knows the harm he is causing. I believe Donald's purpose and sole intent for all his litigation is harm, not justice.

06. This matter should end at summary judgment and/or at the initial hearing ordered by this Court. . . .

08. . . . Again, Donald's "belief" in my alleged misconduct while acting as Power of Attorney for my mother is simply not true.

See Appendix 2.

Donald's response to the summary judgment motion was an apparent discovery complaint: "My only real 'allegation' is that Ed has snubbed my information requests . . . and rejected my calls for mediation / arbitration." See Appendix 3.

////

Donald then argued:

I have previously written the court at length my reasons for wanting a deeper look at Ed's transactions. I have intentionally stopped short of alleging self-dealing or misappropriation of assets, as the scant accounting information I have seen would never prove anything.

See Appendix 3.

#### **IV – APPLICABLE LAW**

A petition for review will be accepted by the Supreme

Court only:

- (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or
- (2) If the decision of the Court of Appeals is in conflict with a published decision of the Court of Appeals; or
- (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or
- (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

RAP 13.4(b).

[T]he petitioner must persuade [the Supreme Court] that either the decision below conflicts with a decision of this court or another division of

the Court of Appeals; that it presents a significant question of constitutional interest; or that it presents an issue of substantial public interest that should be decided by this court.

*In re Coats*, 173 Wn.2d 123, 132-33, 267 P.3d 324 (2011).

Donald's TEDRA Petition failed to survive summary judgment in the trial court. The trial court properly determined Edward was entitled to summary judgment as a matter of law. Summary judgment is allowed when there is no genuine issue of material. CR 56(c). Donald did not appeal that decision. He instead appealed the trial court's Orders denying his request for mediation and to disqualify counsel for Edward. The Court of Appeals, Division One, correctly affirmed the trial court's rulings.

Edward's motion and declaration disclosed to the trial court that a mediation would be useless. *Olympic Fish Prods., Inc. v. Lloyd*, 93 Wn.2d 596, 602, 611 P.2d 737 (1980). The trial court and Court of Appeals, Division One correctly determined Donald was not entitled to mediation,

for good cause shown. Donald points to no evidence of error by the trial court or Court of Appeals in determining mediation would be fruitless.

Donald made no attempt to provide a factual record supporting his fourth TEDRA Petition. *Lamon v. McDonnell Douglas Corp.*, 91 Wn.2d 345, 352, 588 P.2d 1346 (1979). Donald apparently incorrectly believes this Court should provide him mediation as a discovery device. Petition for Review, at 16-17.

Donald provides no argument or law supporting his argument that the Court of Appeals or this Court can ignore RCW 11.96A.300(3).<sup>4</sup>

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<sup>4</sup> “(3) Procedure when notice of mediation served after hearing set. If the written notice of mediation required in subsection (1)(b) of this section is timely filed and served by a party and another party objects to mediation, by petition or orally at the hearing, the court shall order that mediation proceed except for good cause shown. **Such order shall not be subject to appeal or revision. If the court determines that the matter should not be subject to mediation, the court shall dispose of the**

## **V – CONCLUSION**

This is Donald's fourth unsuccessful lawsuit against Edward. This is his second petition to this Court. In his TEDRA Petition, Donald admits he is not damaged by any actions of Edward as attorney-in-fact or trustee. He argues TEDRA should be changed by this Court to allow Donald to repeatedly complain about his dislike or distrust of his brother, Edward, in a private mediation.<sup>5</sup> "Justice in all cases shall be administered openly, and without unnecessary delay." Wash. Const. Art. 1, § 10.

Donald's Petition should be denied and fees awarded pursuant to RCW 11.96A.150 and/or RAP 18.9 as this is a frivolous appeal.

---

**matter by: (a) Deciding the matter at that hearing,** (b) requiring arbitration, or (c) directing other judicial proceedings." RCW 11.96A.300(3). (Emphasis added).

<sup>5</sup> "TEDRA seems to offer petitioners the promise of dispute resolution, only to spit them out with a stain upon their name." Petition for Review, at 17.

*Pursuant to RAP 18.17(c), I certify that Respondents' Answer contains 1,275 words, in compliance with RAP 18.17, exclusive of the Caption, certificate of compliance, the certificate of service, and signature blocks as calculated by the word processing software used to prepare this motion.*

Respectfully submitted this 12<sup>th</sup> day of July 2024.

SHEPHERD and ALLEN



---

Douglas R. Shepherd, WSBA #9514  
Kyle S. Mitchell, WSBA #47344

////

## DECLARATION OF SERVICE

I, Kyle S. Mitchell, declare that on July 12, 2024, I caused to be served a copy of the following document: **Edward Hoth's Answer to Appellant's Petition for Review**; and, this **Declaration of Service**, in the above matter, on the following persons, at the following addresses, in the manners described:

Donald Hoth	<input type="checkbox"/> U.S. Mail
2311 Woburn St. #4	<input type="checkbox"/> Fax
Bellingham, WA 98229	<input type="checkbox"/> Messenger Service
<a href="mailto:dfhbaby@yahoo.com">dfhbaby@yahoo.com</a>	<input type="checkbox"/> Hand Delivery
	<input checked="" type="checkbox"/> E-File/Delivery

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 12<sup>th</sup> day of July 2024.



---

Kyle S. Mitchell

# Appendix 1

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2022 DEC 30 PM 1: 24

WHATCOM COUNTY  
WASHINGTON

RECEIVED

CHEPHERD AND ALLEN  
via drop box

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF WHATCOM

THE ESTATE OF RUTH HOTH C/O

PERSONAL REPRESENTATIVE, DONALD HOTH,

Petitioner,

vs.

EDWARD HOTH,

Respondent

Case No.:

22 4 01238 37

TEDRA COMPLAINT / PETITION TO ORDER  
MEDIATION RE INFORMATION REQUESTS FROM  
EDWARD HOTH'S POWER OF ATTORNEY PHASE

**EVAN P. JONES**

NOW COMES petitioner, Donald Hoth, recently appointed by the Court as personal representative to the Estate of Ruth Hoth, with a complaint / petition against respondent Edward Hoth, who was Ruth Hoth's power of attorney agent from July 2, 2013 until her death on June 16, 2016. After that, Edward was also the trustee for the Living Trust of Carl and Ruth Hoth. This petition asks the Court to compel Edward into mediation to resolve various outstanding issues regarding information requests. Note that the litigants have already been before this Court earlier this year (See case no: 22-2-00766-37) and established that Donald would need to have standing as personal representative in order to hold Edward accountable for his actions as power of attorney agent, as in mediation.

Therefore, in a further previous petition, (See case no: 22-4-01026-37) Donald petitioned the Court to be appointed as personal representative. In a hearing in open court on November 18, 2022, the Court appointed Donald as personal representative (without nonintervention powers), pending notice of the TEDRA COMPLAINT / PETITION TO ORDER MEDIATION RE INFORMATION REQUESTS FROM EDWARD HOTH'S POWER OF ATTORNEY PHASE - I

1 other two siblings / trust beneficiaries, namely, Carl W. Hoth and Margaret L. Dare. In the interim, both  
2 siblings have now been notified and given 20 days to write back with any objections they may have  
3 concerning the appointment of a personal representative. (See Exhibit A; Package of Documents  
4 regarding Appointment of Personal Representative.) As expected, there have been no objections.  
5 Presumably the passage of these 20 days confirms the appointment.

6 Thus, in my newly-granted capacity as personal representative, I, Donald Hoth herewith petition this  
7 Court to order Edward Hoth into mediation to comply with information requests regarding transactions  
8 beginning with his appointment on July 2, 2013 and any transactions afterward using the agency of POA.

#### 9 10 **I. Authority of Jurisdiction**

11 1. This matter is brought before the Whatcom County Superior Court, WA under its original jurisdiction  
12 as indicated in RCW 2.08.010.

13 2. As personal representative (without nonintervention powers), Donald has standing to bring this  
14 petition under TEDRA rules.

15  
16 3. The statute of limitation has been discussed in previous petitions, particularly the October 14, 2022  
17 hearing for the Motion to Reconsider Summary Judgment (case 22-2-00766-37), when the Court made it  
18 crystal clear that the only thing hindering efforts to hold Edward accountable was the question of  
19 Donald's standing. Statute of limitations was not a hindrance.

#### 20 **II. Venue**

21 Whatcom County Superior Court, WA is the appropriate venue to hear this matter because:

22  
23 1. The trust principals, Carl and Ruth Hoth maintained a home in Bellingham, WA as their primary  
24 residence. (They also had a secondary residence in Sun City, AZ.)

25 2. The Will, Trust and estate documents in question were created in Bellingham, WA and administered  
26 with legal counsel from local law firm Barron Smith Daugert.

27  
28 TEDRA COMPLAINT / PETITION TO ORDER MEDIATION RE INFORMATION REQUESTS FROM  
EDWARD HOTH'S POWER OF ATTORNEY PHASE - 2

1 3. The Petitioner, Donald Hoth grew up in Bellingham and currently resides here.

2  
3 4. The Respondent, Edward Hoth, was formerly a resident of Whatcom County. (He now resides in Los  
4 Alamos, NM.) He has already been before Whatcom Superior Court (represented by counsel) for breach  
5 of fiduciary duty as trustee. The Court resolved that Edward's liability as power of attorney agent was  
6 separate from his liability as trustee. Thus, Ed is now petitioned as an individual (not as a trustee), by  
7 Donald Hoth, newly appointed as the personal representative of Ruth Hoth's estate.

8 **III. Background**

9 1.) July 2, 2013 - Unbeknownst to me, (Donald Hoth) at the time, Edward Hoth is named as eventual  
10 trustee in an unrecorded addendum to the "The Living Trust of Carl and Ruth Hoth". Trusteeship was to  
11 take effect upon the death of our mother, Ruth Hoth. On the same day, Ed is given power of attorney  
12 over all her assets, with immediate effect.

13 2.) June 16, 2016 - Ruth Hoth dies giving Ed agency as trustee.

14  
15 3.) November 14, 2016 - Almost five months after her passing, Ed finally records Ruth Hoth's death  
16 certificate in Maricopa County Recorder's Office, Arizona, officially ending his use of power of attorney.

17 4.) December 14, 2017 - All trust beneficiaries except Donald sign out of the trust, releasing Ed from  
18 further liability to them, with Donald as sole beneficiary of the remainder of a trust account consisting of  
19 just under \$17,000 in a money market account to offset potential legal fees.

20  
21 5.) June 14, 2019 - Donald files a pro se TEDRA petition in Whatcom County Superior Court charging  
22 trustee, Edward with breach of fiduciary duty for ignoring his information requests. The petition also  
23 asked for sourced, verifiable accounting records, which were not provided in full.

24 6.) July 5, 2019 - Ed's attorney and Donald appear for the TEDRA hearing. The Court resolves that Ed's  
25 liability for breach of fiduciary duty as power of attorney agent is separate from his liability as trustee.

26  
27  
28 TEDRA COMPLAINT / PETITION TO ORDER MEDIATION RE INFORMATION REQUESTS FROM  
EDWARD HOTH'S POWER OF ATTORNEY PHASE - 3

1 7.) June 24, 2022 – Donald files a pro se petition against Ed as an individual in Whatcom Superior Court  
2 charging breach of fiduciary duty for not providing requested accounting regarding transactions done  
3 using power of attorney.

4 8.) September 21, 2022 – Court rules that Donald, as a mere beneficiary, lacked standing to file this case.  
5

6 9.) October 20, 2022 – Donald files a pro se petition requesting the Court to appoint him as personal  
7 representative of the Ruth Hoth estate.  
8

9 10.) November 18, 2022 – At the hearing, Donald is provisionally appointed as personal representative  
10 (without nonintervention powers) pending notification of the other two siblings and a period of 20 days  
11 in which they have the opportunity to write back with any objection they may have to the appointment.

12 **IV. Claims and Causes of Action**

13 This claim / petition alleges that, as power of attorney agent, Ed has never been subject to any oversight  
14 or accountability because the only fiduciary agent was Ed himself, and up until now there has been no  
15 personal representative. The cause of this claim is that there are many unanswered questions which  
16 raise suspicions of Ed misappropriating assets, and committing other breaches of fiduciary duty. (For a  
17 more complete discussion of claims and causes please review case no: 22-2-00766-37.)

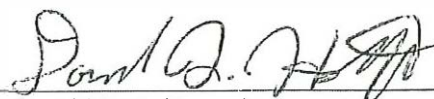
18 **V. Damages**

19 Not Applicable.  
20

21 **VI. Request for Relief**

22 To order Edward into mediation at the Whatcom Dispute Resolution Center  
23

24 Dated this 30th of December, 2022.

25  
26   
27 Donald Hoth (Pro se)

28 TEDRA COMPLAINT / PETITION TO ORDER MEDIATION RE INFORMATION REQUESTS FROM  
EDWARD HOTH'S POWER OF ATTORNEY PHASE - 4

## Appendix 2

COURT  
2023 MAR 31 PM 2:00

WHATCOM COUNTY  
WASHINGTON

**IN THE SUPERIOR COURT OF WASHINGTON FOR WHATCOM COUNTY**

ESTATE OF RUTH HOTH C/O

**Case No: 22-4-01238-37**

DONALD HOTH, Personal Representative

Petitioner,

**DECLARATION OF EDWARD HOTH  
RE: WORK AS POWER OF  
ATTORNEY**

vs.

EDWARD HOTH,

Respondent.

DECLARATION OF EDWARD HOTH  
RE WORK AS POWER OF  
ATTORNEY  
Page 1 of 4

***SHEPHERD AND ALLEN***

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[www.saalawoffice.com](http://www.saalawoffice.com)

1 I, Edward Hoth, declare under penalty of perjury under the laws of the  
2 state of Washington as follows:

3 01. I am over the age of 18, am competent to testify, and make this  
4 declaration based upon personal knowledge.

5 02. I am a respondent in the above captioned matter, and was a  
6 respondent Whatcom County Superior Court Cause Nos. 19-4-00342-37, 22-2-  
7 00766-37 and 22-4-01026-37, all of which were resolved in my favor.

8 03. As stated before under oath, my brother Donald Hoth, has been  
9 angry for years about my being appointed by my parents to be the Trustee of  
10 their Trust(s).

11 04. Donald Hoth's allegations against me are misguided at best, and  
12 more likely resentful and only intended to harass, damage and injure me. They  
13 have no basis in fact or law. I never wrongfully took any money or benefits from  
14 the Trusts I managed.

15 05. As stated previously, mediation would benefit no one. Arbitration  
16 would not benefit anyone. There is no information I can provide to my brother  
17 Donald, which has not already been provided. There are no facts I can provide  
18 Donald which will satisfy him. I believe his only purpose is to harm me. I  
19 believe he knows there are no economic benefits to his ongoing litigations. I  
20 believe Donald meant it when he wrote to me that he hoped I would die. This is  
21 taking an emotional and economic toll on my wife and me. I believe Donald  
22 knows the harm he is causing. I believe Donald's purpose and sole intent for all  
23 his litigation is harm, not justice.

24 06. This matter should end at summary judgment and/or at the initial  
25 hearing ordered by this Court.

DECLARATION OF EDWARD HOTH  
RE WORK AS POWER OF  
ATTORNEY  
Page 2 of 4

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1       07. As Trustee I managed three Trusts set up by my parents and other  
2 family members. The first two Trusts were terminated by distributions to the  
3 four beneficiaries (me and my siblings) on August 30, 2016, more than seven  
4 years ago. This information was again provided to Donald in June of 2019, in  
5 my declaration filed in Whatcom County Cause No. 19-4-00342-37. See Exhibit 1  
6 attached hereto and incorporated herein by this reference.

7       08. Distribution of the final Trust became difficult and the difficulty is  
8 outlined in the attached 2019 Declaration. Apparently, Donald continues to  
9 believe, or at least act like he believes, unknown or unidentified funds have not  
10 been accounted for. Again, Donald's "belief" in my alleged misconduct while  
11 acting as Power of Attorney for my mother is simply not true.

12       09. While Donald has never been satisfied with my final Trust accounting,  
13 the final accounting was approved by the Whatcom County Superior Court, in  
14 Cause No. 19-4-00342-37, on July 5, 2019. See Exhibit 2, attached hereto and  
15 incorporated herein by this reference.

16       10. I was appointed as power of attorney for my mother Ruth L. Hoth,  
17 in 2013. See Exhibit 3 attached hereto and incorporated herein by this  
18 reference. My mother died in 2016, more than seven (7) years ago. Her last will  
19 was filed in Whatcom County Superior Court, under Cause No. 16-4-00410-9.

20       11. Donald apparently believes I did something wrong while acting as  
21 Power of Attorney for my mother, Ruth L. Hoth, before she died. I did not.

22       12. I did not object to Donald being appointed as Personal  
23 Representative (PR) understanding that as PR, Donald would have the power to  
24 gather records from any source he wants to determine if I did something wrong  
25 years ago. Again, I did not. However, Donald is now the fiduciary with the

DECLARATION OF EDWARD HOTH  
RE WORK AS POWER OF  
ATTORNEY  
Page 3 of 4

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1 power and ability to gather or attempt to gather financial records to establish  
2 any alleged misconduct on my part. I have no way to obtain my mother's  
3 financial records from any source.

4 13. I believe Donald has not attempted to use his fiduciary power, as  
5 PR, to gather information because he knows there is no financial records  
6 available to establish his allegations of misconduct on my part as Power of  
7 Attorney. So, he is using his fiduciary power, as PR, simply to continue to harass  
8 me, torment me, and cost me money.

9  
10 Dated this <sup>27</sup> day of March, 2023, at Surprise, AZ.

11  
12 

13 \_\_\_\_\_  
14 Edward Hoth  
15  
16  
17  
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22  
23  
24  
25

DECLARATION OF EDWARD HOTH  
RE WORK AS POWER OF  
ATTORNEY  
Page 4 of 4

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## EXHIBIT 1



SCANNED 39

FILED  
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2019 JUN 28 PM 12:27

WHATCOM COUNTY  
WASHINGTON

BY \_\_\_\_\_

THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR WHATCOM COUNTY

DONALD HOTH,	No. 19-4-00342-37
Petitioner,	DECLARATION OF EDWARD HOTH IN SUPPORT OF THE RESPONSE TO PETITIONER'S MOTION TO APPROVE TRUSTEE'S REPORT AND ACCOUNTING
v.	JUDGE: DEBORRA GARRETT
EDWARD HOTH, TRUSTEE OF THE LIVING TRUST OF CARL L. AND RUTH L. HOTH,	
Respondent.	

I, EDWARD HOTH, declare as follows:

1. I am of lawful age, I have direct knowledge of the facts stated in this declaration, and I am competent to testify.
2. I am the Trustee of the Living Trust of Carl L. and Ruth L. Hoth dated May 9, 1986 and amended July 2, 2013 (the "Trust"). A true and correct copy of the Trust is attached hereto as Exhibit A.
3. Donald Hoth is my brother.
4. Donald's petition is the most recent development in an ongoing dispute regarding Donald's misperception of my actions as Trustee of the Trust.

DECLARATION OF EDWARD HOTH IN SUPPORT OF  
THE RESPONSE TO PETITIONER'S MOTION TO  
APPROVE TRUSTEE'S REPORT AND ACCOUNTING- 1

BARRON | SMITH | DAUGERT, PLLC

300 NORTH COMMERCIAL ♦ P.O. BOX 5008  
BELLINGHAM, WA 98227-5008  
TELEPHONE: (360) 733-0212 ♦ FAX: (360) 738-2341  
www.barronsmithlaw.com

1           5.       The Trust is one of three trusts created either by my parents or by other family  
2 members of which my three siblings and I became the beneficiaries upon the deaths of my parents.

3           6.       Donald Hoth is one of the four beneficiaries of these three trusts, along with me  
4 and my other siblings Carl W. Hoth and Margaret Hoth.

5           7.       On August 30, 2016, final distributions were made regarding two of these trusts,  
6 and each of the four beneficiaries—including Donald—signed a receipt and release in exchange  
7 for their distribution. True and correct copies of Donald's receipts and releases are attached hereto  
8 as Exhibit B.

9           8.       Those two trusts were terminated after making the final distributions in 2016. After  
10 the other two trusts were terminated, only the Trust remained of the original three.

11          9.       The Trust was created by my parents, Carl and Ruth Hoth, as both trustors and the  
12 initial trustees.

13          10.      The purpose of the Trust was to provide for Carl and Ruth while they were living.  
14 The Trust was funded by property Carl and Ruth owned as a married couple. Upon their deaths,  
15 the Trust's assets were to be distributed to their four children in equal shares.

16          11.      Carl died on November 27, 2011, and Ruth became the sole Trustee.

17          12.      Ruth died on June 16, 2016.

18          13.      On June 22, 2016, I was appointed as Successor Trustee.

19          14.      Following the death of Ruth Hoth, I coordinated the distributions of various Trust  
20 assets to the four designated beneficiaries (me and my three siblings) according to the terms of the  
21 Trust.

22          15.      At the time of Ruth Hoth's death, the Trust's assets consisted of an account with  
23 the Industrial Credit Union in Bellingham, an account with Wells Fargo, and an account with  
24 Ameriprise.

25  
26 DECLARATION OF EDWARD HOTH IN SUPPORT OF  
THE RESPONSE TO PETITIONER'S MOTION TO  
APPROVE TRUSTEE'S REPORT AND ACCOUNTING-2

BARRON | SMITH | DAUGERT LLC

300 NORTH COMMERCIAL ♦ P.O. BOX 5008  
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1           16.     Following Ruth's death, the Trust took title to her property and certain retirement  
2 accounts and stocks in her name.

3           17.     These assets are identified in the accounting attached hereto as Exhibit C.

4           18.     By November of 2017, the only Trust asset remaining to be distributed to the  
5 beneficiaries was an Ameriprise account, with each of the four beneficiaries entitled to receive  
6 \$33,880 as one fourth of the amount held in the account.

7           19.     On the advice of counsel, I offered the final distributions of the Ameriprise account  
8 to each of the four beneficiaries (including myself) on condition that the beneficiaries each sign a  
9 receipt and release of claims—which had been the practice established during the final distributions  
10 of Ruth's other two trusts.

11           20.     I and two of my siblings, Carl W. Hoth and Margaret Hoth, executed such releases  
12 and were accordingly distributed our share of the Trust's remaining assets on December 19, 2017.

13           21.     The fourth beneficiary, Donald, had alleged unspecified breaches of my obligations  
14 as a fiduciary and had manifested the intention to bring a claim against me as Trustee.

15           22.     Although I provided the Petitioner with the same accounting and accorded him the  
16 same transparency as my other siblings, Donald could not be convinced that his dispute with me  
17 was meritless, and he refused to sign the receipt and release as a condition of receiving his final  
18 distribution.

19           23.     On advice from counsel, I distributed half of Donald's final distribution,  
20 withholding the other half pending the execution of his release or the resolution of any questions  
21 or claims regarding the trust administration.

22           24.     I also held back a small amount (approximately \$800) in the Trust in anticipation  
23 of 2017 tax preparation fees—again on advice of counsel.

24           25.     I made payments to Barron Smith Daugert for the Trust's legal fees as they became  
25 due prior to the final distributions in December of 2017. However, I received (and paid) one invoice

26 DECLARATION OF EDWARD HOTH IN SUPPORT OF  
THE RESPONSE TO PETITIONER'S MOTION TO  
APPROVE TRUSTEE'S REPORT AND ACCOUNTING- 3

BARRON | SMITH | DAUGERT, PLLC

300 NORTH COMMERCIAL ♦ P.O. BOX 5008  
BELLINGHAM, WA 98227-5008  
TELEPHONE: (360) 733-0212 ♦ FAX: (360) 738-2341  
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1 from Barron Smith Daugert in January of 2018 in the amount of \$335, which, because distributions  
2 had already been made, was paid out of the \$800 I held back to cover such costs. This is identified  
3 in the accounting attached hereto as Exhibit C.

4 26. The \$800 proved to be insufficient to cover the total costs incurred by the Trust in  
5 2018. As a result, the current account balance is \$58.25 short of the \$16,940 that Donald would  
6 have received had his final distribution been made in December of 2017 (taking into account that  
7 some amount of interest has accrued since that date).

8 27. Donald never signed the release, and his portion of the final distribution (the half  
9 of his one quarter interest in the Ameriprise account that hasn't already been distributed to him)  
10 remains in the Trust as its only asset. The Ameriprise funds were transferred in early 2018 to a  
11 Moors & Cabot account and are identified as such in the accounting attached hereto as Exhibit C.

12 28. Donald's complaints have never been articulated to me with sufficient clarity to  
13 facilitate their resolution.

14 29. Essentially, it is my understanding that Donald believes that I have withheld  
15 information regarding Trust assets and accounting.

16 30. This is simply not true. I have provided Donald with all of the information that was  
17 reasonably available to me, including then-current versions of the accounting submitted to the  
18 Court with this declaration.

19 31. Unfortunately, my repeated attempts to convince Donald that no relevant  
20 information had been withheld from him were unsuccessful.

21 32. All legal fees incurred by the Trust from the date of the final distributions to the  
22 beneficiaries (December 23, 2017) to the present have been caused exclusively by Donald's  
23 baseless refusal to accept his final distribution. No portion of these fees has yet been paid by the  
24 Trust.

25  
26 DECLARATION OF EDWARD HOTH IN SUPPORT OF  
THE RESPONSE TO PETITIONER'S MOTION TO  
APPROVE TRUSTEE'S REPORT AND ACCOUNTING- 4

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1           33.     Until the trust's final accounting is approved by the Court, I believe the Trust will  
2 continue to incur legal fees in defending against Donald's meritless claims.

3           34.     Although I did not charge the Trust for my services as Trustee, administrative work  
4 for the Trust was performed by my wife, Shelly Hoth, whose fees are identified in the accounting  
5 attached hereto as Exhibit C. These fees totaled \$4,040 from June 16, 2016 through the present  
6 day, all of which was paid out of Trust assets prior to the final distributions in December of 2017.

7           35.     In the course of his disagreement with me, Donald engaged attorney Robert La  
8 Rocco to advise him.

9           36.     Mr. La Rocco subsequently filed a lien for unpaid attorney fees in the amount of  
10 \$1,431.00 pursuant to RCW 60.40.101(1) against Donald's interest in the Trust assets and provided  
11 notice of the lien to me as Trustee. The Notice provides that the lien encompasses the proceeds  
12 from any court action. A copy of the Notice of Attorney Lien is attached hereto as Exhibit D.

13           37.     This lien was never foreclosed and remains in place as of the date of this  
14 accounting.

15           38.     I received Donald's petition and other pleadings by mail on June 20, 2019.

16           39.     I was in the process of preparing a petition seeking the Court's approval of my  
17 accounting as Trustee at the time that Donald filed his petition, and I welcome the opportunity to  
18 have this dispute resolved by the Court.

19           40.     I believe the accounting attached hereto as Exhibit C to be accurate and my actions  
20 to be in compliance with my obligations as Trustee.

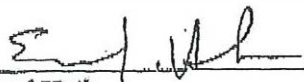
21           41.     I am therefore seeking approval of the final accounting by the Court in order to  
22 resolve this dispute, move forward with such final distributions to Donald as the Court may deem  
23 appropriate, and then terminate the Trust.

24  
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26 DECLARATION OF EDWARD HOTH IN SUPPORT OF  
THE RESPONSE TO PETITIONER'S MOTION TO  
APPROVE TRUSTEE'S REPORT AND ACCOUNTING- 5

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1 DATED this 27<sup>th</sup> day of JUNE, 2019.

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4   
5 Edward Hoth

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26 DECLARATION OF EDWARD HOTH IN SUPPORT OF  
THE RESPONSE TO PETITIONER'S MOTION TO  
APPROVE TRUSTEE'S REPORT AND ACCOUNTING- 6

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6  
7 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
8 IN AND FOR WHATCOM COUNTY

9  
10 DONALD HOTH,

11 Petitioner,

Case No. 19-4-00342-37

12 v.

GR 17 DECLARATION

13 EDWARD HOTH, TRUSTEE OF THE  
14 LIVING TRUST OF CARL L. AND  
RUTH L. HOTH,

15 Respondent.  
16

17 The undersigned declares under penalty of perjury under the laws of the State of  
18 Washington that I have examined the *Declaration of Edward Hoth* and determined that the  
19 document consists of 7 pages with the scanned/facsimile signature of Edward Hoth on page 6,  
20 and that the document is complete and legible.

21 Signed at Bellingham, Washington this 28 day of June, 2019.

22  
23   
24 SALLYE QUINN, WSBA #28659  
25 NOLAN DAVIDSON, WSBA #47682  
26

**FIRST AMENDMENT**

Dated July 2, 2013

TO THE

**LIVING TRUST OF CARL L. AND RUTH L. HOTH**

u/a May 9, 1986

THIS AMENDMENT is the First Amendment to the LIVING TRUST OF CARL L. AND RUTH L. HOTH dated May 9, 1986, by CARL L. HOTH and RUTH L. HOTH as Trustors and Trustees ("the Agreement"). Trustors retained the right to amend the Agreement in whole or in part.

IT IS MADE WITH REFERENCE TO THE FOLLOWING FACTS:

A. Trustor CARL L. HOTH is deceased, leaving RUTH L. HOTH as surviving Trustor and sole Trustee.

B. Section 3 of the trust agreement provides that the surviving Trustor reserves the same rights to amend or revoke the Agreement in whole or in part by written instrument delivered to the Trustee that both Trustors had during their joint lifetimes.

NOW, THEREFORE, the trust shall be amended as follows:

1. Article 5.1, specific bequest to IONE BICKLE, is stricken. She is deceased, date of death March 13, 1999.

2. NEW Article 5.1 is substituted, in its entirety, as follows:

5.1 Tangible Personal Property. The Trustee shall distribute items of tangible personal property as directed by a separate writing, as provided under RCW 11.12.260, if such writing is found within 60 days of the Trustor's death. The Trustee shall distribute all remaining items of tangible personal property to Trustors' children who survive in approximately equal shares as the Trustee determines appropriate, taking into account their needs and preferences and the preservation of family history.

RCW 11.12.260 defines "tangible personal property" as: "articles of personal or household use or ornament, for example, furniture, furnishings,

**BARRON | SMITH | DAUGERT**<sub>llc</sub>

ATTORNEYS AT LAW

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EXHIBIT A

**A19**

automobiles, boats, airplanes, and jewelry, as well as precious metals in any tangible form, for example, bullion or coins. The term includes articles even if held for investment purposes and encompasses tangible property that is not real property. The term does not include mobile homes or intangible property, for example, money that is normal currency or normal legal tender, evidences of indebtedness, bank accounts or other monetary deposits, documents of title, or securities."

**3. Article 10: Miscellaneous, sub-article 10.3 is amended to read in its entirety:**

**10.3 TRUSTEE:**

**10.3.1 General.** RUTH L. HOTH shall serve as Trustee. She may select an individual and/or a corporate Trustee to serve as Co-Trustee or Successor Trustee. A Co-Trustee or a Successor Trustee serving as Trustee at the time of RUTH L. HOTH's death or inability to serve shall continue to serve. If at any time there is no Trustee serving, then EDWARD J. HOTH shall serve as Successor Trustee. If EDWARD J. HOTH is unable or unwilling to serve, CARL W. HOTH shall serve as Successor Trustee. If at any time there would otherwise be a vacancy in the position of Trustee, then the last serving Trustee may appoint an individual or corporate Trustee. In the event there is no Successor Trustee available to act, any trust beneficiary may petition the Superior Court having jurisdiction over the trust for the appointment of a Successor Trustee under RCW 11.98.039.

**10.3.2 Resignation.** The Trustee or any Successor Trustee may resign at any time by providing written notice signed by the Trustee and filed with the trust records, to be effective upon the Trustee's discharge as provided in RCW 11.98.041.

**10.3.3 Removal.** If at any time a corporate Trustee is serving, such Trustee may be removed without court proceedings by delivery to it of a written notice of removal signed by a majority of the beneficiaries who are then entitled to receive or have the benefit of the income of the trust. Upon the removal or the resignation of a corporate Trustee, the majority of the beneficiaries who are then entitled to receive or have the benefit of the income of the trust shall select a successor corporate Trustee to serve as Trustee without court proceedings, and such selection shall be accomplished by a written statement acknowledged by the designated Successor Trustee. For purposes of this subsection, the Guardian of a beneficiary under a disability may act on behalf of such beneficiary.

**10.3.4 Limitation of Liability of Successor Trustee.** Any Successor Trustee taking office 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. No Successor Trustee shall have any duty to take action or obtain redress for breach of trust, unless it is requested to do so in writing by a person having a present or future beneficiary interest under this trust.

IN ALL OTHER RESPECTS, the trust declaration as executed shall remain unaltered.

DATED this 2<sup>nd</sup> day of July, 2013.

TRUSTOR and TRUSTEE:

Ruth L. Hoth  
RUTH L. HOTH

STATE OF WASHINGTON     )  
  ) ss:  
COUNTY OF WHATCOM     )

I certify that I know or have satisfactory evidence that **RUTH L. HOTH** signed this instrument and acknowledged it as her free and voluntary act for the uses and purposes mentioned in the instrument.

DATE: July 2, 2013.

(SEAL)



Aman Sekhon  
NOTARY PUBLIC  
Residing in Bellingham  
My Commission Expires: 2-12-17

LIVING TRUST

OF

CARL L. and RUTH L. HOTH

THIS AGREEMENT is between CARL L. HOTH and RUTH L. HOTH, husband and wife, the Trustors and CARL L. HOTH and RUTH L. HOTH, the Trustee,

W I T N E S S E T H :

1. Transfer of Property.

The Trustors have transferred and delivered to the Trustee the community property of Trustors itemized on Schedule A attached hereto. This property, together with other property which may be added to this Trust, shall be held, managed, and distributed by the Trustee as herein provided.

2. Identification of Family.

The family of the Trustors presently consists of the Trustors and their four (4) children, namely: EDWARD HOTH; CARL W. HOTH; MARGARET HOTH; and DONALD HOTH.

3. Rights Reserved by the Trustors.

3.1 While both Trustors live, each reserves the right to direct the distribution of all income from, and principal of, the property held in this Trust. Directions given hereunder shall be given orally or in writing, but if given orally shall be confirmed in writing by such Trustor, if the Trustee so requests.

3.2 While both Trustors live, they reserve the right jointly to amend or revoke this Agreement, in whole or in part, by instrument in writing delivered to the Trustee, provided, the powers and duties of the Trustee shall not be changed without its written consent.

3.3 With respect to the Survivor's Trust, the surviving Trustor (including his or her attorney-in-fact) reserves the same rights as are above reserved in Paragraphs 3.1 and 3.2, provided, however, if a guardian has exercised the surviving Trustor's election under Section 4 to add assets to the Survivor's Trust, such guardian shall have all powers reserved to the surviving Trustor under Paragraph 3.1 with regard to the assets contributed to the Survivor's Trust.

3.4 The Trustors or any other person may transfer, by Will or otherwise, additional property to this Trust which is acceptable to the Trustee, to be held under this Agreement, and may designate the trust to which the property shall be added.

#### 4. Distributions from the Trust Estate.

4.1 While both Trustors live, the Trustee shall pay to a Trustor, or his or her order, so much of the net income or principal, or both, as such Trustor shall direct.

4.2 Distributions after Death of First Trustor. Upon the death of the first Trustor, the decedent Trustor's portion of the community property shall be distributed outright, free of trust, to the surviving Trustor, provided, however, that the surviving Trustor or his or her attorney-in-fact may, at his or her election, direct the Trustee to add such property to the Survivor's Trust described below, for purposes of continued unified management of the assets, and provided, further, that if the surviving Trustor or his or her attorney-in-fact disclaims his or her interest in all or a portion of the property of the first Trustor to die, all of such disclaimed property shall be disposed of as a part of the Disclaimer Trust described below. A duly-appointed guardian of the estate and person of the surviving Trustor may exercise his or her election to transfer to the Survivor's Trust the property that has been received outright, free of trust, by the surviving Trustor.

4.3 Survivor's Trust. With respect to the Survivor's Trust, the Trustee shall pay to the surviving Trustor, or his or her order, so much of the net income and principal thereof as the surviving Trustor or his or her attorney-in-fact shall direct in writing. Upon the death of the surviving Trustor, the principal and undistributed income remaining in the Survivor's Trust (subject to the provisions of Sections 3 and 9) shall be disposed of pursuant to Section 5 (Provision for Children) below.

4.4 Disclaimer Trust. With respect to the Disclaimer Trust:

(a) The Trustee shall pay to the surviving Trustor, or apply for his or her benefit during his or her lifetime, the net income of the Disclaimer Trust, in convenient installments.

(b) The Trustee may also distribute to the surviving Trustor such portions of the principal from the Disclaimer Trust as the Trustee deems advisable at any time for the surviving Trustor's health and support. In making such distributions from principal of the Disclaimer Trust, the Trustee may, but is not required to, consider other income or assets available to the surviving Trustor, to such extent as it deems proper; and the Trustee may rely, should it elect to so consider such other income or assets, upon information concerning them which is known to the Trustee, and such as is furnished by the surviving Trustor, without making further inquiry. Each exercise of the Trustee's discretion in this regard shall be binding on all Beneficiaries.

(c) Upon the death of the surviving Trustor, the remainder of the Disclaimer Trust shall be disposed of as directed in Section 5 (Provision for Children).

5. Provision for Ione Bickle, Children and More Remote Descendants.

The property directed to be disposed of under the provisions of this Section 5, which property is referred to herein as "such property", shall be disposed of as follows:

5.1 Six Thousand Dollars (\$6,000.00) of such property shall be distributed to IONE BICKLE, provided she is then living. If she is not then living, such bequest shall lapse and become part of the residue to be distributed pursuant to Paragraph 5.2 below.

5.2 The remainder of such property shall be distributed in equal shares to the children of the Trustors. In the event that any child of the Trustors does not survive them, the share of such deceased child is to be distributed to his or her spouse and surviving issue, including step-children, if any, in equal shares, subject to the withholding provisions set forth in 5.3 below. If such deceased child does not leave surviving spouse and/or issue, including step-children, the share of such deceased child is to be distributed equally among the surviving children of the Trustors.

5.3 Withholding Provisions. If any descendant of a deceased child of Trustors is under the age of twenty one (21) years when the Trustee is directed to distribute property to him or her, such property shall be held in trust or continued in trust until he or she reaches that age, when it shall be distributed to him or her, free of trust. In the meantime, the Trustee shall use so much of the income and principal for his or her support, health and education as the Trustee determines to be reasonable for those purposes, adding to principal any income not so used. In case of any such descendant's death prior to reaching the age of twenty one (21) years, any part then so held by the Trustee shall be distributed to his or her estate.

6. Incapacity.

6.1 "Incapacity" with respect to a Trustor shall mean that the Trustor is, in the judgment of the Trustee, unable to manage his or her financial affairs, whether because of illness or for any other reason.

6.2 While both Trustors live:

(a) Should either Trustor be incapacitated, then the other spouse shall act as agent for the marital community in exercising the rights reserved to the Trustors by Section 3; provided, no amendment or direction concerning distributions shall impair the rights of the incapacitated spouse.

(b) During any period in which both Trustors are incapacitated, the Trustee is authorized to distribute to the Trustors, or for their benefit, so much of the net income or principal, or both,

as the Trustees deem best for the health and support in reasonable comfort of the Trustors. While such period lasts, the Trustee may discontinue payments directed by the Trustors jointly, or by either of them, and may disregard an attempted exercise of any right reserved by Section 3. However, an attorney-in-fact may exercise such rights.

6.3 During any period in which the surviving Trustor is incapacitated, the Trustee is authorized to distribute to him or her, or for his or her benefit, so much of the net income or principal or both of Survivor's Trust as the Trustee deems best for the health and support in reasonable comfort of the survivor. While such period lasts, the Trustee may discontinue payments directed by the survivor under authority of Section 3.3, and may disregard an attempted exercise of any other right reserved by said provision. However, an attorney-in-fact may exercise such rights.

## 7. Protective Provisions.

7.1 Neither the income nor the principal of the Disclaimer Trust or any trust arising after death of the surviving Trustor shall be alienable by any Beneficiary, whether income beneficiary or remainderman, either by assignment or by any other method, and the same shall not be subject to be taken by his or her creditors or by any representative thereof by any process whatever, including, but not limited to, proceedings in bankruptcy. This provision shall not limit the exercise of any power of appointment or the right to disclaim.

7.2 Should surviving Trustor exercise his or her right to disclaim all or part of an interest passing to him or her by right of survivorship under a community property agreement or joint tenancy agreement, he or she shall nevertheless receive any interest outright or in trust provided herein unless he or she specifically disclaims said interest.

## 8. Powers & Duties of the Trustee.

In addition to the duties, powers, and rights imposed and granted by law, the Trustee shall have the power, and the exercise of discretion in the application thereof, to:

8.1 Determine the allocation of receipts and expenses between income and principal in accordance with the Washington Principal & Income Act; provided, there is reserved to the Trustee the power to make such equitable allocation as may nevertheless be contrary to the terms of said Act with respect to allocations relating to unproductive property; depreciation; and trade, business, and farming operations.

8.2 Rely with acquittance on advice of counsel on questions of law;

8.3 Issue proxies to any of the adult Beneficiaries for the purpose of voting stock of any bank or bank holding company held in trust.

8.4 Merge or combine any trust hereunder with a trust or trusts otherwise established for the same person or class of persons and with substantially the same provisions and thereafter to administer and distribute such combined estate as one.

8.5 Appoint an ancillary Trustee or agent to facilitate management of assets located in another state or foreign county.

8.6 Make payments to Beneficiaries under a disability by payments directed to such Beneficiaries or to their parents, custodian, person with whom they reside, or legal guardian, or expend such payments for their benefit.

8.7 Terminate any trust hereunder by payment of the trust property to the persons then entitled to receive or have the benefit of income, if such trust has a market value (as determined by the Trustee) of Twenty Thousand Dollars (\$20,000.00) or less.

8.8 At any time to resign as Trustee of any trust created by this instrument, without court proceedings, by delivering a written notice of resignation to the Beneficiaries who are then entitled to trust income or for whom income is then being accumulated. The majority of the adult income Beneficiaries shall then be empowered to name a successor Trustee, without court proceedings.

8.9 Take such action as the Trustee deems best to collect the proceeds of life insurance payable to the Trustee, paying the expenses of collection from the trust estate, but the Trustee need not enter into or maintain any litigation to enforce payment on any policy until indemnified to the Trustee's satisfaction against all expenses and liabilities to which the Trustee might be subjected. The Trustee may release the insurance company from liability under any policy, and make any compromise that the Trustee deems proper.

8.10 Determine whether any transaction, if consummated, would violate, or might reasonably be expected to violate, any securities law, and to refrain from action accordingly, without liability to any Beneficiary.

8.11 Make distributions in cash or in kind or both in shares which may be composed differently and to do so without regard to the income tax basis of specific property allocated to any Beneficiary (including any trust).

8.12 The Trustee may invest and reinvest the trust property and acquire and sell any form of real or personal property. Without limiting the generality of the foregoing, the Trustee is authorized to buy and sell such property through brokers of his or her choice

(subject to using due care in the selection of such brokers) and to pay the usual and customary charges.

8.13 Exercise any necessary or desirable powers not otherwise granted in this instrument or given by law that the Trustee determines, in the Trustee's discretion, are consistent with the intentions of the Trustors.

#### 9. Protection of Estates.

9.1 Subject to the following specific provisions of this Paragraph 9.1, the Trustors direct that the Trustee cooperate with their respective personal representatives in the payment of expenses of last illness and funeral, estate settlement costs (including costs of ancillary administration), debts, and death taxes, to the end that such expenses, costs, debts and taxes are, in the case of each Trustor, suitably borne by both the trust estate and the probate estate, or, if the values and assets so suggest, all from one estate and none from the other. The decisions of the fiduciaries shall bind all Beneficiaries. If the trust estate is to contribute to such costs, expenses, debts and taxes, the Trustee shall pay such, or the necessary balance thereof, from principal of the appropriate share of community property at the death of the first Trustor and from the Survivor's Trust at the death of the surviving Trustor; provided:

(a) At the death of the first Trustor all estate and inheritance taxes or other death or succession taxes shall be paid first from the property (if any) to be allocated to the Disclaimer Trust; and

(b) At the death of the first Trustor, all other costs, expenses, and charges shall be paid first from the property (if any) to be allocated to the Disclaimer Trust, to the extent such items are not finally allowed as deductions in the federal estate tax proceeding relating to the estate of the first Trustor to die.

9.2 The Trustee may make such payment directly, or through the personal representative of such estate, or otherwise as the Trustee deems advisable, without seeking reimbursement for any payment so made. The Trustee need not determine the accuracy of the amounts certified to it by the personal representative but may rely upon such certification. Nor shall the Trustee have any duty to see to the application of such amounts paid to the personal representative. No compensatory adjustment shall be made for administration expense allowed as federal income rather than estate tax deduction.

9.3 The Trustee is authorized to purchase from the personal representative of the estate of either Trustor securities or other property, real or personal, and also to make loans or advancements, secured or unsecured, to such personal representative, even though the Trustee is the personal representative.

9.4 If either Trustor has no probate estate, the Trustee is authorized to apply for or demand, and to receive, hold, administer, and distribute as provided herein, any debt, claim, refund or rebate, premium, dividend, or other thing of value belonging to or accruing to either Trustor or his or her estate.

10. Miscellaneous.

10.1 All references to children and descendants shall include adopted persons.

10.2 Unless some other meaning and intent is apparent from the context, the plural shall include the singular and vice versa, and masculine, feminine, and neuter words shall be used interchangeably.

10.3 In the event that the named Trustees are unwilling or unable to serve as Trustees of any trust created herein, BELLINGHAM NATIONAL BANK shall serve as successor Trustee. Trustors or an attorney-in-fact may at any time designate any individual or qualified corporate Trustee to serve as successor Trustee during the term of this trust.

10.4 Any right or power granted to the Trustors or a Trustor herein may be exercised by the said Trustor's duly authorized attorney-in-fact.

IN WITNESS WHEREOF, CARL L. HOTH and RUTH L. HOTH, husband and wife, and CARL L. HOTH and RUTH L. HOTH, Trustees, have signed this Agreement.

DATED this 9<sup>th</sup> day of May, 1986.

Ruth L. Hoth  
RUTH L. HOTH, Trustor

Ruth L. Hoth  
RUTH L. HOTH, Trustee

Carl L. Hoth  
CARL L. HOTH, Trustor

Carl L. Hoth  
CARL L. HOTH, Trustee

STATE OF WASHINGTON )  
 )ss.  
COUNTY OF WHATCOM )

On this 9<sup>th</sup> day of May, 1986, personally appeared before me CARL L. HOTH and RUTH L. HOTH, to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged to me that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year first above written.

(SEAL)

Phyllis J. Langdale  
Notary Public  
My commission expires: 12/1/86.

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6  
7 In Re the Trust of )

8 RUTH L. HOTH TRUST, )  
9 CREATED UNDER TERMS OF )  
10 THE DECLARATION OF )  
11 REVOCABLE TRUST OF )  
12 ELWIN E. HARRIS AND )  
ESTHER L. HARRIS, DATED )  
7/17/70, )

RECEIPT AND RELEASE

13 The undersigned hereby acknowledges receipt from Edward J. Hoth and as  
14 Trustee of the Ruth L. Hoth Trust, Created under terms of The Declaration Of  
15 Revocable Trust of Elwin E. Harris and Esther L. Harris, dated 7/17/70, of distribution in  
16 full from said Trust of his/her full distributive share of the Trust and, in consideration  
17 thereof, releases said Trustee from any further liability.

18  
19 DATED at Bellingham, Washington, this 30<sup>th</sup> day  
20 of August, 2016.  
21

22 (Signature) Donald Hoth  
23 Print Name: Donald Hoth  
24 Address: 2311 Woburn Street #4  
Bellingham WA 98229

25  
26 Release and Receipt for Distribution

BARRON SMITH DAUGERT III  
300 NORTH COMMERCIAL + P.O. BOX 5000  
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6  
7 In Re the Trust of )

8 RUTH L. HOTH TRUST, )  
9 CREATED UNDER TERMS OF )  
10 THE ELWIN A. HARRIS )  
11 TRUST, DATED 6/4/2002, )  
12 )  
13 )

RECEIPT AND RELEASE

14 The undersigned hereby acknowledges receipt from Edward J. Hoth and as  
15 Trustee of the Ruth L. Hoth Trust, created under terms of The Elwin A. Harris Trust,  
16 dated 6/4/2002, of distribution in full from said Trust of his/her full distributive share of  
17 the Trust and, in consideration thereof, releases said Trustee from any further liability.

18 DATED at Bellingham, Washington, this 30th day  
19 of August, 2016.  
20

21 Donald Hoth  
(Signature)  
22 Print Name: Donald Hoth  
23 Address: 2311 Wolburn Street #4  
Bellingham WA 98229  
24  
25

26 Release and Receipt for Distribution

BARRON | SMITH | DAUBERT PLLC  
300 NORTH COMMERCIAL ♦ P.O. BOX 5008  
BELLINGHAM, WA 98227-5008  
TELEPHONE: (360) 733-0212 ♦ FAX: (360) 738-2341  
www.barronsmithlaw.com

# **CARL RUTH TRUST CASH TRANSACTION ACCOUNTING**

**6/16/2016 - 6/27/19**

Account: ICU = Industrial Credit Union, Bellingham, WA Local banking account			Closed and transferred to Trust		
WF = Wells Fargo, Sun City, AZ Local banking account			Closed and transferred to Trust		
AMP - C&R = Ameriprise, Sun City, AZ Carl & Ruth Hoth Trust account			Closed and transferred to Irrevocable Trust		
AMP - NEW = Ameriprise, Sun City, AZ created as result of Ruth's death			Irrevocable Trust		
M&C = Moors & Cabot, Phoenix, AZ			Irrevocable Trust - Financial Adviser changed firms		
Date	Account		Payee	Description	Amount
6/15/2016			TOTAL CASH BALANCE	ALL RUTH ACCOUNTS	\$29,526.92
6/20/2016	ICU	AUTO	Cascade Gas	Bellingham - Gas	-\$16.62
6/20/2016	ICU	AUTO	Garden Street United Methodist	Donation	-\$100.00
6/20/2016	WF - AZ	DEP	Unused cash	Return cash from Ruth Envelope	\$300.00
6/20/2016	WF - AZ	1001	Copper State Moving LLC	Movers from Brookdale to Pineaire	-\$420.00
6/21/2016	ICU	AUTO	APS	Sun City - Electric	-\$88.08
6/26/2016	ICU	AUTO	CenturyLink BH	Bellingham - Phone	-\$78.13
6/26/2016	ICU	AUTO	CenturyLink SC	Sun City - Phone	-\$67.92
6/27/2016	AMP - C&R	DIV	Elwin - Ruth Hoth Trust	Dividends from Elwin's trust	\$2,528.32
6/28/2016	ICU	AUTO	Epcor Water	Sun City- Water	-\$44.66
6/28/2016	WF - AZ	1002	Denielle Johnson (Pre-death Commitment)	Partial travel assist - meet Grt Granddaughter, Averie	-\$300.00
6/30/2016	AMP - C&R	DIV	Stock earnings	Dividend Income	\$5,144.17
6/30/2016	ICU	AUTO	Puget Sound Energy	Bellingham - Electric	-\$33.58
6/30/2016	ICU	INT	Interest Earned		\$0.39
6/30/2016	ICU - Savings	INT	Interest Earned		\$0.08
6/30/2016					\$36,350.89
7/1/2016	ICU	DEP	SS - In Error	Error, will be Reversed	\$1,283.10
7/1/2016	ICU	DEP	GP Pension - In Error	Error, will be reversed	\$95.38
7/1/2016	WF - AZ	1003	Edward J Hoth	Reimb Travel/lodging/misc house/Ruth costs	-\$1,978.50
7/3/2016	WF - AZ	1004	Shelly Hoth	Assist Trustee Bookkeeping/reports - May/June 201	-\$1,000.00
7/4/2016	ICU	3484	Carl W Hoth	Travel assistance for BH house sale	-\$500.00
7/4/2016	ICU	3485	Margaret Dare	Travel assistance for BH house sale	-\$500.00
7/4/2016	ICU	3486	Arizona Senior Care Pharmacy	RX and Personal Care	-\$28.21
7/5/2016	ICU	AUTO	Correction - GP Pension Reversal	Error, correction	-\$95.38
7/7/2016	AMP - NEW		Open New Trust Account	Trust status change - Death	

EXHIBIT C

# CARL RUTH TRUST CASH TRANSACTION ACCOUNTING

6/16/2016 - 6/27/19

7/7/2016	ICU	AUTO	Cascade Gas	Bellingham - Gas, Final billing	-\$18.21
7/8/2016	AMP - NEW	DEP	Sale Of Bellingham House	Net Proceeds (sale less escrow costs)	\$288,816.59
7/9/2016	ICU	AUTO	CenturyLink SC	Sun City - Phone Final Billing	-\$18.82
7/10/2016	ICU	AUTO	CenturyLink BH	Bellingham - Phone Final Billing	-\$52.79
7/21/2016	AMP - NEW	AUTO	APS	Sun City - Electric	-\$102.03
7/21/2016	AMP - NEW	2001	Archer Halliday	2016 Tax Preliminary	-\$80.00
7/21/2016	AMP - NEW	2002	Robin Kagan	Fire and Carbon-monoxide monitors	-\$108.67
7/21/2016	AMP - NEW	2003	Barron, Smith, Daugert, PLLC	Attorney's June - Death paperwork/filings	-\$1,150.00
7/21/2016	AMP - C&R	TXFR	Tfr To New R&C	Move to New Trust	-\$27,933.14
7/21/2016	AMP - NEW	TXFR	Tfr from old R&C	Move from old Trust Account	\$27,933.14
7/25/2016	AMP - C&R	DIV	Elwin - Ruth Hoth Trust	Dividends from Elwin	\$3,088.64
7/25/2016	ICU	AUTO	Correction - S S Reversal	Error, correction	-\$1,283.10
7/27/2016	AMP - NEW	AUTO	EpcorWater	Sun City - Water	-\$44.66
7/29/2016	AMP - NEW	DIV	Stock earnings	Dividend Income	\$1.97
7/29/2016	AMP - C&R	DIV	Stock earnings	Dividend Income	\$2,822.31
7/29/2016	AMP - C&R	RIV	Stock Bought	Reinvest	-\$108.00
7/30/2016	ICU	INT	Interest Earned		\$0.39
7/30/2016	ICU - Savings	INT	Interest Earned		\$0.09
7/31/2016	ICU	AUTO	Puget Sound Energy	Bellingham - Electric Final Billing	-\$14.88
BALANCE 7/31/2016					\$325,376.11
8/9/2016	AMP - NEW	REFUND	Refund - State Farm	Refund - Bellingham Homeowners	\$166.67
8/9/2016	AMP - NEW	REFUND	Refund - CenturyLink BH	Bellingham - Phone refund	\$25.34
8/9/2016	AMP - NEW	REFUND	Refund - CenturyLink SC	Sun City - Phone refund	\$28.85
8/9/2016	AMP - C&R	TXFR	Tfr to New C&R	Move to New Trust Account	-\$3,400.16
8/9/2016	AMP - NEW	TXFR	Tfr from C&R	Move from old Trust Account	\$3,400.16
8/15/2016	AMP - C&R	DIV	Stock earnings	Dividend Income	\$124.31
8/18/2016	AMP - NEW	SELL	Stock Sale	Securities Adjustment	\$32,129.46
8/20/2016	AMP - NEW	2004	Shelly Hoth - Multi	Reimb July Expenses - Neptune Soc/fax/mailings	-\$303.78
8/20/2016	AMP - NEW	2005	Shelly Hoth	Assist Trustee Bookkeeping/reports - July	-\$500.00
8/20/2016	AMP - NEW	2006	Barron, Smith, Daugert, PLLC	Attorney - July, Paperwork filings for all trusts	-\$2,157.50
8/22/2016	AMP - NEW	AUTO	APS	Sun City - Electric	-\$60.72
8/23/2016	AMP - NEW	REFUND	Refund - Arizona Hwys	Cancelled Subscription	\$8.00
8/23/2016	AMP - NEW	REFUND	Refund - Cox TV	Cancelled Sun City - TV	\$14.27

# CARL RUTH TRUST CASH TRANSACTION ACCOUNTING

6/16/2016 - 6/27/19

8/23/2016	AMP - NEW	DEP	Pay out - Banker's Life Annuity	Annuity - cash out due to death, earnings taxable in	\$12,698.99
8/24/2016	AMP - NEW	AUTO	Epcor Water	Sun City - Water	-\$39.19
8/25/2016	AMP - NEW	TXFR	Pay out - IRA	IRA - cash out due to death, taxable income to Trust	\$51,460.00
8/30/2016	ICU	INT	Interest Earned		\$0.24
8/30/2016	ICU - Savings	INT	Interest Earned		\$0.09
8/31/2016	AMP - NEW	DIV	Stock earnings	Dividend Income	\$1,182.64
8/31/2016	AMP - NEW	RIV	Stock Bought	Reinvest	-\$111.42
8/31/2016	AMP - NEW	DIV	Other Inc	Dividend Income	\$2.92
8/31/2016					<b>\$420,045.28</b>
9/6/2016	AMP - NEW	RIV	Stock Bought	Reinvest	-\$108.92
9/16/2016	ICU - Savings	TXFR	Trf to Checking For Close	Closing Savings	-\$503.94
9/16/2016	ICU	TXFR	Tfr From Savings For Close	Add to Checking/prepare for closing ICU	\$503.94
9/16/2016	ICU	BNK CHK	Edward J Hoth (to AMP-NEW)	Cashiers check to close ICU/txfr to AMP - NEW	-\$3,176.36
9/20/2016	AMP - NEW	AUTO	APS	Sun City - Electric	-\$64.77
9/26/2016	AMP - NEW	2007	Maricopa County Treasurer	Sun City - Property Tax	-\$808.74
9/26/2016	AMP - NEW	2008	Barron, Smith, Dugert, PLLC	Attorney - August, prep and conversation with Mr L	\$1,137.50
9/26/2016	AMP - NEW	2009	Shelly Hoth	Assist Trustee Bookkeeping/reports - August	-\$500.00
9/27/2016	AMP - NEW	AUTO	Epcor Water	Sun City - Water	-\$42.82
9/29/2016	AMP - NEW	DEP	(From ICU) Edward J Hoth	Cashiers Check from ICU	\$3,176.36
9/30/2016	AMP - NEW	DIV	Stock earnings	Stock Earnings	\$4,576.48
9/30/2016					<b>\$421,959.01</b>
10/5/2016	AMP - NEW	RIV	Stock Bought	Reinvest	-\$109.41
10/17/2016	AMP - NEW	VISA	Bellingham Herald	Obituary	-\$350.00
10/20/2016	AMP - NEW	AUTO	APS	Sun City - Electric	-\$55.69
10/20/2016	AMP - NEW	VISA	Arizona Republic	Obituary	-\$497.00
10/21/2016	AMP - NEW	VISA	Blooming Days	Flowers for Alter	\$375.42
10/24/2016	AMP - NEW	VISA	Independent News - Daily Sun	Obituary	-\$130.00
10/24/2016	WF - AZ	ATM	Cash Withdrawal	Jose Yard Maintenance	-\$300.00
10/25/2016	WF - AZ	1005	Climate Pro	Repair - A/C Not working	-\$257.00
10/25/2016	WF - AZ	1006	Wayne's Landscaping	Repair - Landscape watering Sun City/not working	-\$268.00
10/25/2016	WF - AZ	1007	AJF Engineering	Pre Inspection for Selling	-\$415.00
10/26/2016	WF - AZ	ATM	Cash Withdrawal	Repair - Subaru Battery/concrete/caulking	-\$120.00

**CARL RUTH TRUST CASH TRANSACTION ACCOUNTING**

**6/16/2016 - 6/27/19**

10/26/2016	WF - AZ	1008	Anthony's Plumbing	Repair - Toilet seals	-\$497.68
10/26/2016	WF - AZ	DEP	Subaru Sell (Don's Portion)	Cash deposited to write check to Don for his quarte	\$400.00
10/27/2016	AMP - NEW	2010	Rev Sande Kimbel	Minister for Memorial Service	-\$150.00
10/27/2016	AMP - NEW	2011	Shara-Dawn Chambers	Pianist for Memorial Service	-\$100.00
10/27/2016	AMP - NEW	2012	Jim Piland	Audio/Video Crew	-\$25.00
10/27/2016	AMP - NEW	2013	Peter Lee	Audio/Video Crew	-\$25.00
10/27/2016	AMP - NEW	2014	Willowbrook United Methodist	Food & Drink for Reception	-\$82.80
10/27/2016	AMP - NEW	2015	Willowbrook United Methodist	Donation to church	-\$1,000.00
10/28/2016	AMP - NEW	AUTO	Epcor Water	Sun City - Water	-\$42.82
10/28/2016	WF - AZ	1010	Donald F Hoth	1/4 sale of 93 Subaru	-\$400.00
10/31/2016	AMP - NEW	DIV	Stock earnings	Dividend Income	\$2,679.93
10/31/2016					<b>\$419,838.12</b>
11/1/2016	AMP - NEW	2016	Dry Star Remediation	Repair - Drying wall after water damage	-\$1,256.00
11/1/2016	AMP - NEW	2017	Miguel Ramirez	Restore wall after drying wall	-\$170.00
11/1/2016	WF - AZ	1009	Lourdes Garcia	Empty House Cleaning for Sale	-\$120.00
11/7/2016	AMP - NEW	SELL	Stock Sold	Stock Sold	\$208.90
11/15/2016	AMP - NEW	2018	Barron, Smith, Dugert, PLLC	Attorney's - Sept/Oct	-\$112.50
11/17/2016	AMP - NEW	REFUND	Refund - Hartford	Hartford Refund 93 Subaru Ins	\$111.00
11/17/2016	AMP - NEW	DEP	Sale Of Pineaire House	Net Proceeds (sale less escrow costs)	\$123,613.05
11/28/2016	AMP - NEW	AUTO	Epcor Water	Sun City - Water	-\$44.65
11/30/2016	AMP - NEW	DIV	Stock earnings	Dividends	\$61.75
11/30/2016	AMP - NEW	RIV	Stock Bought	Reinvest	-\$0.98
11/30/2016	AMP - NEW	REFUND	Refund - State Farm	Sun City - Home Insurance Refund	\$122.73
11/30/2016	WF - AZ	BNK CHK	Edward J Hoth (to AMP - NEW)	Cashiers Check to close Wells Fargo	-\$1,680.21
11/30/2016	AMP - NEW	DEP	(From WF - AZ) Edward J Hoth	Cashiers Check from Wells Fargo to Ameriprise Trus	\$1,680.21
11/30/2016					<b>\$542,251.42</b>
12/2/2016	AMP - NEW	AUTO	APS	Sun City - Electric, Final Billing	-\$100.05
12/8/2016	AMP - NEW	AUTO	Epcor Water	Sun City - Water, Final Billing	-\$16.45
12/15/2016	AMP - NEW	TXFR	Transfer To Chip Ameriprise account	Cash Distribution to Beneficiary	-\$100,000.00
12/15/2016	AMP - NEW	TXFR	Transfer To Peg Ameriprise account	Cash Distribution to Beneficiary	-\$100,000.00
12/15/2016	AMP - NEW	TXFR	Transfer To Ed Ameriprise account	Cash Distribution to Beneficiary	-\$100,000.00
12/17/2016	AMP - NEW	TXFR	Transfer To Don Ameriprise account	Cash Distribution to Beneficiary	-\$100,000.00

# **CARL RUTH TRUST CASH TRANSACTION ACCOUNTING**

**6/16/2016 - 6/27/19**

12/17/2016	AMP - NEW	2019	Shelly Hoth - Multi	Reimb Aug - Nov, mailings, fixes, fax	-\$199.81
12/17/2016	AMP - NEW	2020	Shelly Hoth	Assist Trustee Bookkeeping/reports - Sept & October	-\$1,000.00
12/30/2016	AMP - NEW	2021	Barron, Smith, Daugert, PLLC	Attorney's - November	-\$25.00
12/31/2016	AMP - NEW	Div	Stock earnings	Dividends	\$2.48
<b>BALANCE 12/31/2016</b>					<b>\$140,912.59</b>
2017 Ameriprise Carl & Ruth Trust only remaining account					
<b>Date</b>	<b>Account</b>		<b>Payee</b>	<b>Description</b>	<b>Amount</b>
1/27/2017	AMP	2022	Barron, Smith, Daugert, PLLC	Attorney's - December 2016	-\$200.00
1/30/2017	AMP	INT	Interest Earned		\$1.19
<b>BALANCE 1/31/2017</b>					<b>\$140,713.78</b>
2/21/2017	AMP	REFUND	Refund - magazine subscription		\$29.14
2/27/2017	AMP	2023	Barron, Smith, Daugert, PLLC	Attorney's - January 2017	-\$50.00
2/28/2017	AMP	INT	Interest Earned		\$1.08
<b>BALANCE 2/28/2017</b>					<b>\$140,694.00</b>
3/28/2017	AMP	INT	Interest Earned		\$1.20
<b>BALANCE 3/31/2017</b>					<b>\$140,695.20</b>
4/14/2017	AMP	VISA	Bob's Variety P.O.	Postage for Taxes, AZ & IRS	-\$52.71
4/27/2017	AMP	2024	Barron, Smith, Daugert, PLLC	Attorney's - February/March 2017	-\$150.00
4/28/2017	AMP	INT	Interest Earned		\$1.14
<b>BALANCE 4/30/2017</b>					<b>\$140,493.63</b>
5/19/2017	AMP	2025	Archer Halliday	2016 Tax Ruth Hoth Estate	-\$1,405.00
5/19/2017	AMP	2026	Archer Halliday	2016 Tax EE/EL Trust	-\$725.00
5/19/2017	AMP	2027	Archer Halliday	2016 Tax Ruth L Hoth Trust	-\$985.00
5/19/2017	AMP	2028	Archer Halliday	2016 Tax C&R Trust	-\$1,075.00
5/28/2017	AMP		Interest Earned		\$1.18
<b>BALANCE 5/31/2017</b>					<b>\$136,304.81</b>
6/6/2017	AMP	2029	Barron, Smith, Daugert, PLLC	Attorney's - May	-\$50.00
6/28/2017	AMP	INT	Interest Earned		\$1.57

**CARL RUTH TRUST CASH TRANSACTION ACCOUNTING**

**6/16/2016 - 6/27/19**

<b>BALANCE 6/30/2017</b>					<b>\$136,256.38</b>
7/12/2017	AMP	REFUND	AZ Refund For Ruth Estate	AZ Refund from 2016 Taxes	\$655.00
7/18/2017	AMP	2030	Barron, Smith, Daugert, PLLC	Attorney's - June	-\$75.00
7/18/2017	AMP	2031	Archer Halliday	Assistance proving Ed could accept refunds for Trust	-\$55.00
7/19/2017	AMP	REFUND	IRS Refund For Ruth Estate	IRS Refund from 2016 Taxes	\$1,560.00
7/19/2017	AMP	REFUND	IRS Refund For EE/EL	IRS Refund from 2016 Taxes	\$840.00
7/28/2017	AMP	INT	Interest Earned		\$4.60
<b>BALANCE 7/31/2017</b>					<b>\$139,185.98</b>
8/15/2017	AMP	2032	Barron, Smith, Daugert, PLLC	Attorney's - July	-\$737.50
8/28/2017	AMP	INT	Interest Earned		\$7.76
<b>BALANCE 8/31/2017</b>					<b>\$138,456.24</b>
9/28/2017	AMP	2033	Barron, Smith, Daugert, PLLC	Attorney's - August	-\$225.00
9/30/2017	AMP	INT	Interest Earned		\$7.97
<b>BALANCE 9/30/2017</b>					<b>\$138,239.21</b>
10/17/2017	AMP	2034	Barron, Smith, Daugert, PLLC	Attorney's - September	-\$37.50
10/17/2017	AMP	2035	Shelly Hoth (52 hrs @ \$20 hr), Work for Trustee, administer Trusts, Tax Prep, etc		-\$1,040.00
			2/8 - 2/24 - 30 hrs - Balancing , preparing reports for the 3 trusts/Estate, mailing to Halliday		
			4/12 - 2 hrs - Reviewing Halliday Tax Preparations, signing forms, copying		
			4/13 - 4 hrs - Verifying with Halliday, Attorney, Betty Proof of Ed as Receiver		
			4/14 - 1 hr - Finding paperwork for proof, final packet mailed off		
			6/3 - 1 hr - Reviewing letter from IRS regarding Ruth Estate, EE/EL refund check payee wrong		
			6/6 - 6 hrs - Construct letter to IRS for Ruth Estate and EE/EL refunds, search for add'l paperwork		
			7/5-7/10 - 2 hrs - Clarifications with Attorney for correct responses to Don questions, respond		
			8/15-8/19 - 3.5 hrs - Balance statements, prepare Excel Accounting Spreadsheet		
			10/16-17 - 2.5 hrs - Balance statements, prepare Accounting Spreadsheet to Close Trust		
10/31/2017	AMP	INT	Interest Earned		\$8.21
<b>BALANCE 10/31/2017</b>					<b>\$137,169.92</b>
11/25/2017	AMP	2036	Barron, Smith, Daugert, PLLC	Attorney's - October (intended Final)	-\$825.00
11/30/2017	AMP	INT	Interest Earned		\$7.89

# CARL RUTH TRUST CASH TRANSACTION ACCOUNTING

6/16/2016 - 6/27/19

BALANCE 11/30/2017					\$136,352.81
FINAL CASH DISBURSEMENT REQUESTED FOR EACH OF THE FOUR BENEFICIARIES - Requested 12/15/2017					
12/19/2017	AMP	TXFR	Edward, Signed Release & Receipt	Final Distribution Complete	-\$33,880.00
12/19/2017	AMP	TXFR	Carl W, Signed Release & Receipt	Final Distribution Complete	-\$33,880.00
12/19/2017	AMP	TXFR	Margaret, Signed Release & Receipt	Final Distribution Complete	-\$33,880.00
12/19/2017	AMP	TXFR	Donald, Refused to sign Release & Receipt	Partial Distribution - Complete	-\$16,940.00
12/23/2017	AMP	2037	Barron, Smith, Daugert, PLLC	Attorney's - November (Statue of Limitations work)	-\$335.00
12/31/2017	AMP	INT	Interest Earned		\$6.45
BALANCE 12/31/2017					\$17,444.26
2018 Ameriprise Carl & Ruth Trust moves to Moors & Cabot - Waiting on Release & Receipt from Donald Hoth to close Trust					
Date	Account		Payee	Description	Amount
1/31/2018	AMP	INT	Interest Earned		\$0.04
BALANCE 1/31/2018					\$17,444.30
2/9/2018	AMP	FEE	Ameriprise	Ameriprise Closing Fee	-\$125.00
2/9/2018	AMP	TXFR	Ameriprise	Transfer Funds to Moors & Cabot	-\$17,319.26
2/13/2018	AMP	INT	Interest Earned		-\$0.04
2/9/2018	M&C	TXFR		Transfer Funds from Ameriprise	\$17,319.26
2/13/2018	M&C	TXFR		Transfer Funds from Ameriprise	\$0.04
2/28/2018	M&C	INT	Interest Earned		\$1.23
BALANCE 2/28/2018					\$17,320.53
3/9/2018	M&C	REFUND	M&C	M&C Refund of Ameriprise Closing Fee	\$125.00
3/28/2018	M&C	INT	Interest Earned		\$1.92
BALANCE 3/31/2018					\$17,447.45
4/18/2018	M&C	FEE	Harlan Clarke	Checks for Moors & Cabot	-\$20.00
4/20/2018	M&C	142	Archer Halliday	2017 Tax Prep C&R Trust, WA/AZ	-\$595.00
4/30/2018	M&C	INT	Interest Earned		\$2.33
BALANCE 4/30/2018					\$16,834.78
5/31/2018	M&C	INT	Interest Earned		\$2.86

**CARL RUTH TRUST CASH TRANSACTION ACCOUNTING**

**6/16/2016 - 6/27/19**

<b>BALANCE 5/31/2018</b>					<b>\$16,837.64</b>
6/30/2018	M&C	INT	Interest Earned		\$2.77
<b>BALANCE 6/30/2018</b>					<b>\$16,840.41</b>
7/31/2018	M&C	INT	Interest Earned		\$3.23
<b>BALANCE 7/31/2018</b>					<b>\$16,843.64</b>
8/31/2018	M&C	INT	Interest Earned		\$3.58
<b>BALANCE 8/31/2018</b>					<b>\$16,847.22</b>
9/30/2018	M&C	INT	Interest Earned		\$3.46
<b>BALANCE 9/30/2018</b>					<b>\$16,850.68</b>
10/31/2018	M&C	INT	Interest Earned		\$3.58
<b>BALANCE 10/31/2018</b>					<b>\$16,854.26</b>
11/30/2018	M&C	INT	Interest Earned		\$3.46
<b>BALANCE 11/31/2018</b>					<b>\$16,857.72</b>
12/31/2018	M&C	INT	Interest Earned		\$3.58
<b>BALANCE 12/31/2018</b>					<b>\$16,861.30</b>
1/31/2019	M&C	INT	Interest Earned		\$3.58
<b>BALANCE 1/31/2019</b>					<b>\$18,864.88</b>
2/28/2019	M&C	INT	Interest Earned		\$3.23
<b>BALANCE 2/28/2019</b>					<b>\$16,868.11</b>
3/31/2019	M&C	INT	Interest Earned		\$3.58
<b>BALANCE 3/31/2019</b>					<b>\$16,871.69</b>
4/30/2019	M&C	INT	Interest Earned		\$3.47
<b>BALANCE 4/30/2019</b>					<b>\$16,875.16</b>

**CARL RUTH TRUST CASH TRANSACTION ACCOUNTING**

**6/16/2016 - 6/27/19**

5/31/2019	M&C	INT	Interest Earned		\$3.58
BALANCE 5/31/2019					\$16,878.74
6/20/2019	M&C	INT	Accumulating Month's Interest		\$3.01
BALANCE 6/20/2019					\$16,881.75

In re

Ruth L. Hoth Trust, created under Terms of  
the Declaration of Revocable Trust of  
Elwin E. Harris and Esther L. Harris, dated  
7/17/1970

**Notice of Attorney Lien**

and

Ruth L. Hoth Trust, created under the Elwin  
A. Harris Trust, dated June 4, 2002

and

Living Trust of Carl L. and Ruth L. Hoth u/a  
May, 1986 and amended July 2, 2013

**Notice of Attorney Lien**

To: Ruth L. Hoth Trust, created under Terms of the Declaration of Revocable  
Trust of Elwin E. Harris and Esther L. Harris, dated 7/17/1970

and to: Ruth L. Hoth Trust, created under the Elwin A. Harris Trust, dated June 4,  
2002

and to: Living Trust of Carl L. and Ruth L. Hoth u/a May, 1986 and amended July  
2, 2013

and to: J. Bruce Smith, Esq., c/o Barron Smith Daugert, PLLC

Notice of Attorney Lien

p. 1 of 2

EXHIBIT D

**A41**

**Legalities, PC**  
A Litigation Law Firm

1313 E. Maple Street, Suite 201-531  
Bellingham, WA 98225  
T (360) 603-9545 F (206) 452-5532

**Take Notice:**

Robert Joseph La Rocco has a lien, as described below, for compensation for services performed for Donald F. Hoth, such compensation based on a written fee agreement, a copy of which is attached together with an invoice and an authorization for disclosure and payment.

Lien Claimant: Robert Joseph La Rocco  
1255 Lakeview Street, Bellingham, WA 98229

Client: Donald F. Hoth  
2311 Woburn St Apt 4, Bellingham WA 98229

Stakeholders: Ruth L. Hoth Trust, created under Terms of the Declaration of Revocable Trust of Elwin E. Harris and Esther L. Harris, dated 7/17/1970, and  
Ruth L. Hoth Trust, created under the Elwin A. Harris Trust, dated June 4, 2002, and  
Living Trust of Carl L. and Ruth L. Hoth u/a May, 1986 and amended July 2, 2013, and  
J. Bruce Smith, Esq., c/o Barron Smith Daugert, PLLC

Subject Matter Liated: Money in the hands off the stakeholders or the stakeholders' attorney,  
and  
upon any action, including one pursued by arbitration or mediation, and its proceeds after the commencement thereof,

Authority for Lien: RCW 60.40.010(1)(c) and (d)

Lien Amount: \$ 1,431.00

Bellingham, on July 25, 2017

  
Robert Joseph La Rocco, WSBA 42536

# THE LA ROCCO LAW FIRM

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## **Legal Representation Agreement**

This letter confirms in writing the agreement that you, Donald Hoth (Client), and I, Robert Joseph La Rocco (Attorney), reached on 08/08/2016, regarding the representation in the estate, probate and trust matters listed below in Whatcom County:

1. Ruth L. Hoth Trust, created under the Declaration of Revocable Living Trust of Elwin E. Harris and Esther L. Harris, dated July 17, 1970
2. Ruth L. Hoth Trust, created under the Elwin A Harris Trust, dated June 4, 2002
3. Living Trust of Carl L. and Ruth L. Hoth u/a May, 1986 and amended July 2, 2013
4. Any probate proceedings related to any of the settlors in the trusts named under 1.) to 3.) above.

**Scope of Representation:** This agreement describes the rights and responsibilities between the Attorney and the Client. The Client understands that the Attorney's representation is limited to the above referenced matter(s). If the Client wishes to retain the Attorney to represent him/her after the after referenced proceeding(s) has concluded, or in any other matter, a separate agreement and payment of Attorney's fees will be required.

Within the scope of representation described above, the Client authorizes the Attorney to engage in legal representation, including giving oral or written advice, talking or writing to other people and attorneys, preparing and filing court papers, making efforts to settle the case, and any other action the Attorney believes is reasonably necessary and proper. The Attorney will make reasonable efforts to communicate to the Client any and all decisions made and the progress of the Client's case.

Certain aspects of the law are crisis-oriented, and on occasion, Attorneys are called to court on short notice or are required to stay in court longer than expected. Consequently, on occasion, appointments may have to be rescheduled or even cancelled on short notice; every effort will be made to provide you with as much notice as possible should that be necessary.

**Attorney's Fees and Expenses:** It is virtually impossible to predict the exact attorney's fees and costs that will be incurred in any legal matter. Each case is unique and must be dealt with on an

---

1313 E. MAPLE STREET

SUITE 201-531

BELLINGHAM WA 98225

TEL. (360) 603-9545

FAX (206) 452-5532

ROBERT@LAROCCOLAW.US

individual basis. The Client will be billed for attorney's fees, expenses, and litigation costs on a periodic basis as they occur.

The Attorney charges for the time he spends on your inquiries. Attorney's fees are the law firm's charges to the Client for the time and labor provided by the Attorneys, and by employees or agents of the Attorneys. The fees include, but are not limited to: consultations, phone calls, emails, file work, legal research, preparation of documents, travel, and court hearings at the following rates: Senior Attorney - \$270, Associate Attorney - \$210, Paralegals - \$180, and Legal Assistants - \$120 per hour.

There is a cost to you for every contact you have with your Attorney, so it is in your financial interest to make your contact with your Attorney valuable to both you and the firm. You should think of telephone calls with your Attorney as though they were long distance calls, for which you are billed by time.

Anytime the Client gives the firm a collection of documents it is in the Client's financial interest to put those documents in chronological order first, and to prepare an index or list of the materials given. This will reduce the work needed by the Firm to organize the material.

**Costs and Expenses:** Costs and expenses refer to the charges incurred, that relate to the case in (addition to attorney's fees). Costs usually include, but are not limited to: court filing fees, service of legal papers on the opposing party, expert witnesses, investigators, document copying, facsimiles, and transportation costs (if outside the County). Some cases necessitate the hiring of expert consultants such as: guardian ad litem, mediator, psychologist, appraiser, or an accountant. The fees charged by these experts are litigation costs. These expenses are either added to your bill or you are billed directly by the party providing the service. The Client agrees to pay all reasonable and necessary costs associated with this matter. The Attorney will incur only necessary expenses, and keep them to the minimum.

**Advance Fee Deposits and Additional Payments:** Client and Attorney agree that there shall be no advance payment. Attorney shall be paid from any proceeds the client receives in settlement of any trust naming the client as a beneficiary and from any proceeds the client receives from an inheritance.

The Client acknowledges that the Attorney has not given any other estimate of the fees that will be incurred in this case, including total fees, as each case is unique.

No payment to the attorney shall be construed in any way as flat fees or going to mediation or trial, nor does the Attorney provide the Client with an estimate regarding how much mediation, arbitration or trial will ultimately cost as each case is different.

At reasonable intervals, the Client will receive a billing statement documenting all accrued fees and costs owing. Statements may be delivered by any reasonable means to the Client or to any of the Client's last known addresses and, if mailed, shall be deemed received three (3) days after the date sent, excluding Saturdays, Sundays, and postal holidays. Statements sent by e-mail shall be deemed received the next business day. The Client has been advised to review his/her bill upon receipt and is urged to ask questions regarding the bill. If the Client does not object to a charge by a signed writing delivered to the Attorney within one week of statement receipt, the Client waives all further rights to dispute it, and the Client's trust funds, if any, will be transferred into the Attorney's operating account at that time. Charges documented by time-slips, receipts, or other evidence shall be presumed correct. The Client agrees that the Attorney shall have the right to cease legal work and to keep all funds received for legal services and costs up to the amount actually owed, in the event the Client does not pay his or her bill. There shall be a \$50 penalty/charge for each NSF check written to the Attorney by or on behalf of the Client.

Attorney fees and costs are the Client's responsibility. In the event that the opposing party agrees to, or is ordered by the court to, contribute to the attorney's fees and costs incurred in this case, such fees, if received, will be credited to the Client's account or reimbursed to the Client. The Client must keep in mind that regardless of whether the court orders an opposing party to contribute to the attorney's fees and costs incurred, his/her account with the Attorney is only credited with such funds when and if they are received. The primary responsibility for payment is still on the Client.

In the event that someone other than the Client pays all or part of the attorney's fees, acceptance of payment from others does not waive the attorney-client privilege. The Attorney's duty of loyalty and confidence to the Client will not be violated.

**Client Cooperation:** The Client fully understands that his/her cooperation in this case is essential. The Client agrees to accurately present the facts to the Attorney, and to inform the Attorney of any changes in address, telephone number, employment, or any other material circumstances which may have an effect on the Client's case. The Client further agrees that the Client will provide and return the requested information and documents as soon as reasonably possible. The Client will promptly meet with the Attorney when requested. The Client will also cooperate and comply with court orders.

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Client understands that his/her presence at a court hearing or trial is generally required. Attorney will not be able to assist with travel arrangements or travel costs. Court hearings or trial are sometimes preempted by the court, due to unforeseen circumstances. Please call the firm two days before the scheduled hearing or trial to confirm that the hearing or the trial will take place at the arranged time and place.

**Termination:** The Client authorizes the Attorney to withdraw effective immediately from representing the Client in this matter (regardless of the stage of the proceedings or any upcoming deadlines) in the event the Client breaches any provision of this agreement or fails to promptly remit payment for all services rendered and costs incurred, or fails to replenish the advance fee deposit set forth above. In the event of withdrawal or termination, the Client agrees to promptly remit payment for all fees then accrued together with reimbursed costs and late fees, if any.

**Client File and Documents:** Client acknowledges and agrees that Client's file and all papers received by or generated by Attorney are the property of Attorney although Client shall receive copies of all such documents as reasonably necessary or upon request. In the event that Client wants a copy of his or her file upon termination of representation (essentially, another copy due to the above referenced, ongoing receipt), Client agrees to pay Attorney's copy cost in making said copies, and to make arrangements for payment. In the event that no such arrangement has been made, Client agrees that the documents have been abandoned. Attorney may send the file to Storage. Client shall be responsible for the cost of retrieving the file from storage, and the fee therefor shall be \$75 (the cost of retrieval is in addition to any costs for copying the file at Client's request).

All property belonging to the Client which is in the possession of the Attorney will be returned when services are concluded, except as otherwise provided in this agreement. The Client understands that the La Rocco Law Firm, P.C. uses electronic (PDF) filing, and therefore that hard copies of documents in the file may not be available.

**Housekeeping:**

**Appointments:** In special circumstances, appointments may be available with the Attorney outside regular business hours. However, those appointments are the exception. Appointments outside regular business hours may not be available in the same week that Client requests such an appointment. Weekend and holiday appointments are not generally available. The Attorney is not available for consultation without appointments. Please don't drop in hoping to see the Attorney.

Communications with Third Parties: Please understand that we are not able to speak about your matter with third parties or speak with about your matter in the presence of third parties. Such communications destroy your Attorney-Client Privilege.

Children: If you have children, we ask you to arrange for child care during the time for which before you set up an appointment with the Attorney. It is in Client's best interest to protect his/her child from negative emotions and stress associated with a legal matter.

Telephone Communications and Voice Mails: The La Rocco Law Firm has a voice mail system where you can leave detailed confidential messages at times we are unable to answer your call. It is our policy that we will return phone calls if needed within 48 hours. The La Rocco Law Firm's receptionist will be able to take your questions. Your questions will be answered in the order they have been received and your answer will be e-mailed to the address you have provided. This procedure is in your financial interest, so that your legal fees are kept as reasonable as possible. If you see the need to speak to your Attorney directly, please call our office and arrange for an appointment.

Cost of Collection & Venue: The Client shall pay reasonable attorney's fees and all costs of collecting the Client's unpaid account balance. The attorney's fees shall be calculated at the same rate as that charged for services as reflected on page 2 of this agreement. Collection costs shall be paid whether incurred by a collection agent or as a result of legal action by or on behalf of the Attorney. The Client agrees that the Whatcom County District Court or Whatcom County Superior Court shall be a proper venue for a collection law suit. The Client agrees that the Attorney shall have a lien on any and all causes of action, proceeds, and judgments for the sums due to the Attorney for fees, costs and disbursements.

E-Mail Communication and Record Keeping: The La Rocco Law Firm, P.C. has found that communications with opposing counsel, Client, and others are greatly facilitated by the use of e-mail. However, although the Attorney will make reasonable efforts to keep information secure, Attorney cannot guarantee against, or rule out, the interception of information contained in e-mails or electronic records. Accordingly, because there is some degree of inherent risk in using e-mail communication, the La Rocco Law Firm, P.C. requires that each client specifically authorizes the Attorney to do so. The Client agrees to provide the Attorney with a reliable and reasonably secure e-mail address in order to facilitate the transfer of documents and other communications.

**Disclaimer:**

No Advice Regarding this Agreement: Attorney is not acting as the Client's counsel with respect to this agreement or the decision to enter into this agreement. If the Client wishes to be advised whether he/she should enter into this agreement, the Attorney recommends that the Client consults with an independent counsel of his/her choice.

Disclaimer of Guarantee: IMPORTANT – No guarantees have been made by the Attorney regarding the final outcome in this matter. Nothing in this agreement and nothing in the Attorney's statements to the Client will be construed as a promise or guarantee regarding the outcome of this matter, and the Attorney expressly makes no such promises or guarantees.

\*\*\*There can be no assurance that the Client will obtain the outcome he/she desires in this matter, and the Attorney can promise only to represent the Client's interest diligently and to his/her best ability. Any words or statements by the Attorney are opinions only.\*\*\*

Full Agreement: This agreement contains the entire agreement of the parties. No other agreement, statement, or promise made on or before the effective date of this agreement will be binding on the parties.

Applicable Law: This agreement has been made in Washington, under applicable Washington State Law, and is governed by Washington State Law.

Severability: If any provision of this agreement is held in whole or in part to be unenforceable for any reason, the remainder will be severable and remain in effect.

Modification: This agreement may be modified by subsequent agreements of the parties only by an instrument in writing that is signed by both parties.

Effective Date: This agreement will govern all legal services performed by the Attorney on behalf of the Client commencing with the date on which the Attorney first performed services. However, this agreement will not take effect, and the Attorney will not have an obligation to the Client to provide further legal services, until the Attorney receives from the Client a signed copy of this agreement and an initial deposit, if any, as set forth above. The dates at the conclusion of this document are for reference only.


I ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND THE ENTIRE AGREEMENT AND AGREE TO ALL OF ITS TERMS. I HAVE ASKED QUESTIONS AND RECEIVED SATISFACTORY ANSWERS. I UNDERSTAND ALL TERMS OF THIS DOCUMENT AND ENTER INTO THIS AGREEMENT FREELY.

I understand the terms of the fee agreement set forth above, and I agree to them.

Date: 8/8/2016

  
Robert Joseph La Rocco, WSBA # 42536

Date: 8/8/2016

  
Donald Hoth  
2311 WOBURN ST. APT 4  
Address: BELLINGHAM WA 98229  
Phone: (360) 922-2759  
Email: DFHBBBY@YAHOO.COM

**Authorization for Disclosure and Instruction to Pay**

In entering into the foregoing Representation Agreement, attorney and client intended that the attorney be paid for his efforts in the representation of the client from any proceeds the client receives as the result of the settlement of any trust which would result in a payment from the trust being made to the client, or from any estate from which a payment is made to the client. The following Authorization for Disclosure and Instruction to Pay serves that purpose.

I, Donald Hoth, hereby authorize Robert Joseph La Rocco and the La Rocco Law Firm, P.C., to disclose, to the extent considered reasonably necessary and prudent by Robert Joseph La Rocco and the La Rocco Law Firm, P.C., the contents of the foregoing Representation Agreement, including disclosure in full, for the purpose of Robert Joseph La Rocco or the La Rocco Law Firm, P.C., to receive payment for legal services and costs under the foregoing Representation Agreement.

I instruct the trustee of any trust to which I am a beneficiary or from which I am to receive any payment to pay any invoices in which I am billed by Robert Joseph La Rocco or the La Rocco Law Firm, P.C., from any payment I am to receive, before any payment is made to me and, to the greatest extent possible under the law, to anyone else.

I instruct the executor or executrix of any estate of which I am a beneficiary or from which I am to receive any payment to pay any invoices in which I am billed by Robert Joseph La Rocco or the La Rocco Law Firm, P.C., from any payment I am to receive, before any payment is made to me or, to the greatest extent possible under the law, to anyone else.

Date: 8/8/16

Donald Hoth  
Donald Hoth

## EXHIBIT 2

SCANNED 3



FILED IN OPEN COURT  
7-5 2019  
WHATCOM COUNTY CLERK

By Deputy

THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR WHATCOM COUNTY

DONALD HOTH,	No. 19-4-00342-37
Petitioner,	<del>PROPOSED</del>
v.	ORDER APPROVING TRUSTEE'S REPORT AND ACCOUNTING DATING FROM JUNE 16, 2016 TO THE PRESENT
EDWARD HOTH, TRUSTEE OF THE LIVING TRUST OF CARL L. AND RUTH L. HOTH,	JUDGE: DEBORRA GARRETT
Respondent.	

THIS MATTER having come before the Court on the Petition of Donald Hoth seeking, as beneficiary of the LIVING TRUST OF CARL L. AND RUTH L. HOTH u/a/d May 9, 1986 and amended July 2, 2013, an accounting of said Trust for the period dating from June 16, 2016 to the present, and the Court having reviewed the Petition and the Response of Respondent/Trustee Edward Hoth and supporting documents filed herein, and being fully advised in the premises, Now, Therefore

IT IS HEREBY ORDERED that:

1. The accounting, Trustee's fees of \$4,040, and attorney's fees of ~~\$13,165.50~~ <sup>13,055.05</sup> for the LIVING TRUST OF CARL L. AND RUTH L. HOTH, for the period dating from June 16, 2016 to the present date, are hereby approved and shall be paid out of Trust assets prior to the

~~PROPOSED~~  
ORDER APPROVING TRUST ACCOUNTING - I

BARRON | SMITH | DAUGERT, LLC

300 NORTH COMMERCIAL ♦ P.O. BOX 5008  
BELLINGHAM, WA 98227-5008  
TELEPHONE: (360) 733-0212 ♦ FAX: (360) 738-2341  
www.barronsmithlaw.com

1 final distribution of remaining assets to Petitioner Donald Hoth, subject to Paragraph 2.b of  
2 this Order, if applicable.

3 *sw* 2.a ~~Trust beneficiaries Carl V. Hoth, Margaret Hoth, and Edward Hoth are ordered~~  
4 ~~to each pay \$14.56 into the Trust assets to make it whole prior to any final distribution of Trust~~  
5 ~~assets.~~ *OK* *PH*

6 *OK*  
7 2.b. The difference between what Petitioner's final distribution would have been on  
8 December 31, 2017, and the amount that remains in the Trust's account as of the date of this  
9 order, which amount is \$58.25, shall be deducted from attorneys' fees to be paid out of Trust  
10 assets pursuant to Paragraph 1 of this Order.

11 *sw* 3.a. ~~The Trustee is directed to pay off the lien filed by attorney Robert La Rocco for~~  
12 ~~unpaid attorneys' fees incurred by Donald Hoth out of Trust assets prior to the final distribution~~  
13 ~~of remaining assets to Donald Hoth.~~ *OK* *PH*

14 *OK*  
15 3.b. The lien filed by Robert La Rocco against the Trust's assets is invalid as matter  
16 of law with respect to the Trust's assets due to the disbarment of Robert La Rocco.

17 4. Following these actions, the Trust shall be terminated by the Trustee.

18 *sw* 5. Entry of this order does not include any  
19 ruling by this court regarding the Trustee *Edward Hoth,*  
20 DONE IN OPEN COURT this 5 day of July, 2019. *actions*  
*as power*  
*of attorney*  
*for Ruth L. Rocco*  
*Hoth.*

21 *Deborra*  
22 The Honorable Deborra Garrett, Judge  
23  
24  
25  
26

-[PROPOSED]-

ORDER APPROVING TRUST ACCOUNTING - 2

BARRON | SMITH | DAUGERT, PLLC

300 NORTH COMMERCIAL ♦ P.O. BOX 5008  
BELLINGHAM, WA 98227-5008  
TELEPHONE: (360) 733-0212 ♦ FAX: (360) 738-2341  
www.barronsmithlaw.com

1 Presented by:

2 BARRON SMITH DAUGERT, PLLC

3   7/5/19  
4 SALLYE QUINN, WSBA #28659

5 NOLAN DAVIDSON, WSBA #47682

6 Attorneys for the Trustee

7  
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10 Reviewed By:

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[ PROPOSED ]  
ORDER APPROVING TRUST ACCOUNTING - 3

BARRON | SMITH | DAUGERT, PLLC  
300 NORTH COMMERCIAL ♦ P.O. BOX 5008  
BELLINGHAM, WA 98227-5008  
TELEPHONE: (360) 733-0212 ♦ FAX: (360) 738-2341  
www.barronsmithlaw.com

## EXHIBIT 3

COPY

After Recording Return To:

Barron Smith Daugert, PLLC  
P.O. Box 5008  
Bellingham, WA 98227-5008

DOCUMENT TITLE: **DURABLE POWER OF ATTORNEY FOR FINANCIAL MATTERS**  
REFERENCE NUMBER OF RELATED DOCUMENT:  
GRANTOR: **RUTH L. HOTH**  
GRANTEE: **EDWARD J. HOTH**  
ADDITIONAL GRANTEE(S) ON PAGE 8 OF DOCUMENT: **CARL W. HOTH, MARGARET DARE,  
DONALD F. HOTH**

---

### **DURABLE POWER OF ATTORNEY FOR FINANCIAL MATTERS**

THE UNDERSIGNED, RUTH L. HOTH (the "Principal") of Whatcom County, Washington, as authorized by the Revised Code of Washington, Chapter 11.94, designates the following named person as attorney-in-fact to act on her behalf, and hereby revokes all prior Powers of Attorney, except Powers of Attorney for Health Care.

#### **1. Designation.**

EDWARD J. HOTH is hereby designated as attorney-in-fact for the Principal.

If a guardianship or limited guardianship of the estate of the Principal is necessary, the Principal designates the attorney-in-fact as guardian of the estate, subject to the confirmation of the Court. If a guardianship of the person of the Principal is necessary, the Principal designates the person appointed by the Principal in a Power of Attorney for Health Care executed by the Principal.

///

**BARRON | SMITH | DAUGERT**  
ATTORNEYS AT LAW  
300 NORTH COMMERCIAL ♦ P.O. BOX 5008  
BELLINGHAM, WA 98227-5008  
TELEPHONE: (360) 733-0212 ♦ FAX: (360) 738-2341  
[www.barronsmithlaw.com](http://www.barronsmithlaw.com)

## 2. Powers.

The attorney-in-fact shall have the power to do all things with respect to the assets and liabilities of the Principal, real or personal, wherever located, as the Principal could do if present and competent, including, without limitation, the following specific powers:

a. **Support.** To make expenditures for the Principal's support, maintenance, health, general welfare, emergency care and urgent necessities of the disabled or incompetent Principal.

b. **Management.** To take possession of, manage, administer, operate, maintain, improve and control all the Principal's property, real and personal, to insure and keep the same insured, and to pay any and all taxes, charges and assessments that may be levied or imposed upon any thereof.

c. **Checks and Notes.** To sign, endorse, sell, discount, deliver and deposit checks, drafts, notes and negotiable or nonnegotiable instruments, including any payments to the Principal drawn on the Treasury of the U.S. or any State or governmental entity, and to accept drafts.

d. **Financial Accounts.** The attorney-in-fact shall have the authority to establish for the Principal accounts of all kinds, including checking and savings, with financial institutions of any kind, including but not limited to, banks and thrift institutions, to modify, terminate, make deposits to and write checks on or make withdrawals from, and grant security interests in, all accounts in the Principal's name or with respect to which the Principal is an authorized signatory (except accounts held by the Principal in a fiduciary capacity), whether or not such account was established by the Principal or by the attorney-in-fact, to negotiate, endorse, or transfer any checks or other instruments with respect to any such accounts; and to contract for any services rendered by any bank or financial institution.

e. **Securities and Investments.** To exercise all rights with respect to any corporate securities or other investments which the Principal now owns or may hereafter acquire, including specifically: (a) to effect purchases and sales (including short sales), to purchase, subscribe for and to trade in stocks, bonds, options, or other securities and investments, including annuities, or limited partnership interests or investments and trust units, whether or not in negotiable form, issued or unissued, foreign exchange, commodities, and contracts relating to the same (including commodity futures), on margin or otherwise, for the Principal's accounts, and risk; (b) to deliver to Principal's brokers, securities for the Principal's accounts, and to instruct the Principal's brokers to deliver securities for the Principal's accounts to the Principal's broker or to the Principal's attorney-in-fact or to others, and in such name and form as the Principal's attorney-in-fact shall direct; (c) to instruct the Principal's

brokers to make payment of moneys from the Principal's accounts with the Principal's brokers, and to receive and direct payments therefrom payable to the Principal's attorney-in-fact or to others; (d) to sell, assign, endorse and transfer any stocks, bonds, options or other securities of any nature, at any time standing in the Principal's name and to execute any documents necessary to effectuate the foregoing; (e) to receive statements of transactions made for the Principal's accounts; (f) to approve and confirm the same, to receive any and all notices, calls for margin, or other demands with reference to the Principal's accounts; and (g) to make any and all agreements with the Principal's brokers with reference thereto for the Principal and in the Principal's behalf.

**f. Retirement Accounts.** "Retirement Accounts" refers to any pension, profit sharing or stock bonus plan, Individual Retirement Account, Section 403(b) annuity or account, Section 457 Plan, or any other retirement plan, annuity or arrangement in which Principal is a participant, or of which Principal is a beneficiary (whether established by Principal's attorney-in-fact or otherwise), each of which is hereinafter referred to as "such Plan." With regard to each such Plan, Principal's attorney-in-fact shall have the following powers, in addition to all other applicable powers granted by this instrument:

1. To make contributions (including "roll over" contributions) or cause contributions to be made to such Plan with Principal's funds or otherwise on Principal's behalf.

2. To receive and endorse checks or other distributions to Principal from such Plan, or to arrange for the direct deposit of the same in any account in Principal's name or in the name of any revocable living trust established by Principal.

3. To elect a form of payment of benefits from such Plan, to withdraw benefits from such Plan, to make contributions to such Plan, and to make, exercise, waive or consent to any and all elections and/or options that Principal may have regarding the contributions to, investments or administration of, or distribution or form of benefits under such Plan.

4. To designate one or more beneficiaries or contingent beneficiaries for any benefits payable under such Plan on account of Principal's death, and to change any such prior designation of beneficiary made by Principal or by Principal's attorney-in-fact; provided, however, that Principal's attorney-in-fact shall have no power to designate Principal's attorney-in-fact directly or indirectly as a beneficiary or contingent beneficiary to receive a greater share or proportion of any such benefits than Principal's attorney-in-fact would have otherwise received, unless such change is consented to by all other beneficiaries who would have received the benefits but for the proposed change. This limitation shall not apply to any

designation of Principal's attorney-in-fact as beneficiary in a fiduciary capacity (such as trustee of a trust), with no beneficial interest.

g. **Debts.** To pay legally enforceable debts and other obligations of the Principal.

h. **Disposition.** To sell, assign, convey, grant, exchange, transfer, option, convert, mortgage, pledge, consign, lease and otherwise dispose of any of the Principal's property, whether real or personal.

i. **Agreements.** To make and deliver any deeds, conveyances, contracts, covenants and other instruments, undertaking or agreements in the name of the Principal, either orally or in writing, which the attorney-in-fact may deem proper.

j. **Voting.** To appear and vote for the Principal in person or by proxy at any corporate or other meeting.

k. **Safety Deposit Box.** To have access to any safety deposit box which has been rented in the Principal's name and the name of any other person, or in the Principal's name alone.

l. **Withdrawal of Funds.** To withdraw any monies deposited with any bank, mutual savings bank, credit union, savings and loan association, mutual fund, money market account, investment advisor or broker in the Principal's name or in her name with any other person, and generally to do any business with any such financial institution or agency on behalf of the Principal.

m. **Tax Returns.** To sign and file on behalf of the Principal all federal and other governmental or quasi-governmental tax returns or reports, including income, gift, sales, business and property tax returns of every kind whatsoever, to execute waivers, extension agreements, settlement agreements and closing agreements with respect to such returns and to appear for the Principal in person or by attorney, and represent the Principal before the U.S. Treasury Department or the taxing authority of any State or governmental agency for tax years 1970 to 2075. This authority shall also include the authority to submit an Internal Revenue Service Form 2848, or any successor form, with a statement attached to the form indicating the validity of this Power of Attorney.

n. **Government Benefits.** To do and perform every act necessary or desirable and to serve as representative payee with respect to rights and entitlements for the Principal's benefit from Social Security, Medicare and any other applicable governmental agency.

o. **Trust Provisions.**

PAGE 4

1. **Power to Direct Trust Distributions.** Pursuant to RCW 11.94.050, the attorney-in-fact shall have the same authority as the Principal to direct, request, and receive any income or principal from any trust created by the Principal for the purpose of the Principal's health, education, maintenance and general support needs.

2. **Additions to Trust.** To add any or all of the Principal's assets to a revocable living trust established for the Principal's benefit.

3. **Representation.** The attorney-in-fact is authorized to act as the Principal's representative to request and receive on the Principal's behalf all notice, information and reports as may be available to the Principal under RCW Title 11 as beneficiary of a trust and to approve or otherwise consent to or to object to such notice, information and reports for the purpose of protecting the Principal's beneficial interest in a trust. In addition, the attorney-in-fact may execute, on the Principal's behalf, agreements modifying, terminating, or otherwise affecting the administration of a trust, if the attorney-in-fact determines that consent to any of such agreements is in the Principal's best interest and consistent with the Principal's estate plan.

p. **Gifts.** To make gifts outright, in trust or to a custodian, on behalf of the Principal to any of the Principal's lineal descendants not in excess of the annual exclusion for Federal gift tax purposes, and to make gifts consistent with previous giving activity of the Principal or to initiate a gift program on behalf of the Principal which the attorney-in-fact reasonably determines will achieve beneficial results for estate and/or income tax planning purposes. This power shall include the power to make such gifts to or from any account or trust estate from which, or to which, the Principal could make such gifts, and the power to accept such.

q. **Long-term Care Planning.** The attorney-in-fact is authorized to make transfers of the Principal's property, including but not limited to gifts to the Principal's children and other descendants, for the purpose of qualifying the Principal for governmental long-term care and medical assistance to the full extent provided by law in the event that there is a need for long-term medical care. Any transfers made pursuant to this paragraph shall not be deemed a breach of fiduciary duty by the attorney-in-fact.

r. **Ascertainable Standard.** Notwithstanding any provision of this power of attorney to the contrary, any right or power exercisable by the attorney-in-fact may only be exercised by the attorney-in-fact in his or her favor for the purpose of providing for the health, education, support or maintenance of the attorney-in-fact. The attorney-in-fact shall not make any distribution hereunder to or for the benefit of the attorney-in-fact in any manner that would create a general power of appointment

in the attorney-in-fact over the Principal's assets under Sections 2041 or 2514 of the Internal Revenue Code of 1986, as amended, or any similar statutory provision.

s. **Disclaimers.** The attorney-in-fact is authorized to disclaim any interest otherwise passing to the Principal, and prepare, sign and deliver all instruments necessary to create a proper disclaimer as provided in Section 2518 of the Internal Revenue Code of 1986, as amended, or any similar statutory provision. However, the attorney-in-fact shall have no power to enter into a disclaimer that results in any property passing to him or her individually or his or her estate or in any other manner that would create a general power of appointment in the attorney-in-fact over the Principal's assets under Sections 2041 or 2514 of the Internal Revenue Code of 1986, as amended, or any similar statutory provision.

t. **Special Agent.** The attorney-in-fact shall have the authority to appoint a Special Agent, to act with all of the power and authority of the attorney-in-fact as set forth in this power of attorney. The appointment of the Special Agent shall be for the sole purpose of acting under this power of attorney to: (a) benefit the attorney-in-fact beyond what would otherwise be necessary for the attorney-in-fact's health, education, support and maintenance as described in sections 2041 or 2514 of the Code, (b) disclaim any property, an interest in property, or a power to which the Principal may hold, where an interest passes to the attorney-in-fact as a result of the disclaimer, and to (c) manage or control any insurance contract the Principal owns on the life of the attorney-in-fact. The Special Agent appointed under this Section cannot be a related or subordinate party to the Principal or to the Principal's Agent as defined in section 672(c) of the Code.

u. **General Authority.** The Principal authorizes the attorney-in-fact generally to do and perform all and every act and thing necessary or desirable to conduct, manage and control all the Principal's business and property, wheresoever situate, and whether now owned or hereafter acquired, as the attorney-in-fact may deem for the best interests of the Principal, and to execute and acknowledge any and all instruments necessary or proper to carry out the foregoing powers, hereby releasing all third persons from responsibility for the acts, actions and omissions of the attorney-in-fact. The attorney-in-fact is authorized to indemnify all such persons against loss, expense and liability.

### 3. Term of Effectiveness.

This Power of Attorney shall become effective upon execution, shall not be affected by the disability or incompetence of the Principal, and shall continue to the extent permitted by RCW 11.94 until revoked or terminated under paragraph 5 or 6, notwithstanding any uncertainty as to whether the Principal is dead or alive. This power of attorney shall not be affected by lapse of time.

#### 4. Health Care Decisions.

If the Principal has not executed a Power of Attorney for Health Care, the attorney-in-fact shall have the right to direct the administration of medical care and medications, with the power to consent to giving, withholding or stopping any health care treatment, service or diagnostic procedure, and specifically, to provide informed consent for health care decisions on the Principal's behalf. If the Principal is terminally ill, the attorney-in-fact shall have the power to consent to the withdrawal and/or withholding of life-sustaining procedures consistent with the terms of any Health Care Directive executed by the Principal. Insofar as the terms or designations of this instrument are inconsistent with the terms or designations of any Health Care Directive or other special Health Care Power of Attorney, the terms and designations of the special Health Care Power of Attorney and/or Health Care Directive shall prevail.

#### 5. Revocation.

This Power of Attorney may be revoked, suspended or terminated in writing by the Principal with written notice to the attorney-in-fact.

#### 6. Termination.

a. By Appointment of Guardian. The appointment of a full guardian for the estate of the Principal vests in the guardian, with Court approval, the power to revoke, suspend or terminate this Power of Attorney. The appointment of a guardian of the person only or of a limited guardian without the specified power to revoke, suspend or terminate does not empower the guardian or limited guardian to revoke, suspend or terminate the Power of Attorney.

b. By Death of Principal. The death of the Principal shall be deemed to revoke this Power of Attorney upon actual knowledge or actual notice being received by the attorney-in-fact.

#### 7. Reliance.

The designated and acting attorney-in-fact and all persons dealing with him or her shall be entitled to rely upon this Power of Attorney so long as neither the attorney-in-fact nor the person with whom s/he is dealing at the time of any act taken pursuant to this Power had received actual knowledge or actual notice of any revocation, suspension or termination of the Power, by death or otherwise. Any action so taken, unless otherwise invalid or unenforceable, shall be binding upon the heirs, devisees, legatees or personal representatives of the Principal.

#### 8. Indemnity.

The estate of the Principal shall hold harmless and indemnify the attorney-in-fact from all liability for acts done hereunder in good faith and not in fraud of the Principal.

9. Successor Attorney-in-Fact.

In the event that EDWARD J. HOTH is unwilling or unable to act as attorney-in-fact, or ceases to serve for any reason, the Principal then appoints CARL W. HOTH, and then MARGARET DARE, and then DONALD F. HOTH as successor attorneys-in-fact, with all of the rights, duties and responsibilities described herein. A successor attorney-in-fact shall have no duty to inquire into the handling of the Principal's affairs by a predecessor attorney-in-fact.

10. Applicable Law.

The laws of the State of Washington shall govern this Power of Attorney.

DATED this 2<sup>nd</sup> day of July, 2013.

Ruth L. Hoth  
RUTH L. HOTH

STATE OF WASHINGTON     )  
                                      ) ss.  
COUNTY OF WHATCOM     )

I certify that I know or have satisfactory evidence that RUTH L. HOTH signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this 2<sup>nd</sup> day of July, 2013.



[Signature]  
Notary Public  
Residing at Bellingham  
My commission expires: 2-12-17

## Appendix 3



SCANNED 6

FILED  
COUNTY CLERK

2023 APR 28 P 3:10

WHATCOM COUNTY  
WASHINGTON

Donald Hoth (pro se)  
2311 Woburn St. #4  
Bellingham WA 98229  
Phone: (360) 922-2759  
Email: dfhbaby@yahoo.com

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF WHATCOM

ESTATE OF RUTH HOTH C/O

Case No. 22-4-01238-37

DONALD HOTH, PERSONAL REPRESENTATIVE,

Petitioner,

DECLARATION RE: TEDRA HEARING

vs.

EDWARD HOTH

Respondent

NOW COMES petitioner Donald Hoth, as personal representative of the Estate of Ruth Hoth, with a Declaration in support of my TEDRA petition, in answer to Edward Hoth's objection to my Notice of Arbitration (filed March 22).

**I. Authority**

Edward Hoth, via his legal counsel, has argued that arbitration in this case is not available as it does not meet any of the requirements of 11.96A.310 (1). I believe it does. I cite the statute below as follows:

DECLARATION RE: TEDRA HEARING - 1

1 (1) Arbitration under RCW 11.96A.200 through 11.96A.320 is available only if:

2 (a) A party has first petitioned for mediation under RCW 11.96A.300 and such mediation has been  
3 concluded;

4 (b) The court has determined that mediation under RCW 11.96A.300 is not required and has not  
5 ordered that the matter be disposed of in some other manner;

6 (c) All of the parties or the parties' virtual representatives have agreed not to use the mediation  
7 procedures of RCW 11.96A.300; or

8 (d) The court has ordered that the matter must be submitted to arbitration.

9 I have indeed petitioned for mediation pursuant to RCW 11.96A.300. It was only on procedural grounds  
10 that my request was denied, so I intend to re-file using the statutory template. My case has not yet been  
11 decided on the merits. Even if mediation is again denied, arbitration could be ordered. I only ask the  
12 court to consider arbitration pursuant to RCW 11.96A.310(1) (b or d) as an alternative to mediation.

13 **II. Comments on the March 1 Declaration RE: Mediation (written by Edward Hoth)**

14 In our March 3 hearing, I had no real comment on Ed's Declaration RE: Renewed Request for Mediation  
15 (filed March 1, 2023). I will comment now. Paragraphs 01-03 are either undisputed or irrelevant to this  
16 petition, but in 04 Ed says my "allegations are misguided at best." That statement is factually untrue.

17 My only real "allegation" is that Ed has snubbed my information requests - even the simplest requests -  
18 and rejected my calls for mediation / arbitration. This began well before the 2019 case, and before Ed's  
19 trusteeship. It began in his power of attorney phase. The heart of our dispute is my conviction that, as  
20 fiduciary agent under my mother's estate plan, Ed SHOULD be engaged, transparent, and try to resolve  
21 disputes. Otherwise, we need to go to court, work through lawyers, write pleadings, read statutes, and  
22 pay legal fees. Everyone feels harassed by this process. I believe Ed's attorneys do my family a disservice  
23 by shielding their client in a culture of impunity. Fiduciary agents should communicate with those who  
24 have a stake in the estate administration. Hiding behind lawyers only raises suspicions.

25 Mediation and arbitration are confidential methods of dispute resolution in which "allegations of  
26 misconduct" can be kept off public record. The court needn't try to predict the outcome of the process.  
27 Naturally, that outcome will depend on evidence presented, and the parties may not want their trust  
28

DECLARATION RE: TEDRA HEARING - 2

1 account details on public record. Moreover, a mediation / arbitration process will include a discovery  
2 process. I have previously written the court at length my reasons for wanting a deeper look at Ed's  
3 transactions. I have intentionally stopped short of alleging self-dealing or misappropriation of assets, as  
4 the scant accounting information I have seen would never prove anything. But a discovery phase is  
5 important and necessary. Then hopefully any monetary claims could be settled out of court.

6 In paragraph 05 Ed says, "I do not understand what reasonable legal issues could be addressed at a  
7 mediation." I remind the Court that there is often more at stake in family trust / estate disputes than  
8 legal issues. Transparency itself is an issue. Maintaining family ties is an issue. I believe Ed's counsel have  
9 done my mother's estate a disservice by opposing my efforts to deal with these issues out of court. Ed  
10 has expressed frustration in litigating against me. But mostly, he is litigating against dispute resolution.

11 In paragraph 06 Ed opines, "Mediation in this matter would be fruitless." It is noteworthy that in our Jan  
12 20 hearing, and again for the written file, the Court noted finding no evidence to support that mediation  
13 would be fruitless. It seems that Ed is so oblivious to these developments he contradicts the Court.

14  
15 Ed also tries once again to discredit me by citing my old email about the 2019 case. The content of that  
16 email is not even applicable to my current petition. In the interim, both litigants have become different  
17 legal entities. Ed no longer represents the Trust, and I have since taken a new role as personal  
18 representative of my mother's Will. These bygone discussions are irrelevant.

19 In paragraph 07 Ed suggests that I only intended to harass him. Not true. No one would do that. We  
20 have a dispute and I want to resolve it under the Trust / Estate Dispute Resolution Act (TEDRA). Ed  
21 doesn't want that. His true adversary in this matter is TEDRA, not me.

22  
23  
24 **III. Comments on the March 27 Declaration RE: Power of Attorney (written by Edward Hoth)**

25 Ed's March 27 Declaration is similar to the previous one. I just note a few talking points.

26 In 05 Ed writes, "There is no information I can provide my brother which has not already been provided.  
27 There are no facts I can provide which will satisfy him." I believe Ed could provide considerably more

28  
DECLARATION RE: TEDRA HEARING - 3

1 information, and I can attest that he has made no real effort to satisfy my requests. In the 2019 case,  
2 which is peripheral to this petition, he submitted only unsourced documents for court approval - nothing  
3 that could be the basis for a serious claim. As for this current dispute, my only option is to petition for  
4 mediation / arbitration. Still, Ed insinuates that my purpose is to harm him and inflict some emotional  
5 and economic toll. It's absurd. After years of stonewalling and bullying me as a fiduciary agent, he runs  
6 to the Court for sympathy. I believe mediation / arbitration is a better forum for this discussion.

7 In 09 Ed reiterates that his accounting of my parent's Trust was approved by the Court in 2019. But this  
8 current petition is about his use of power of attorney, not his trusteeship.

9  
10 In paragraph 12 Ed writes "I have no way to obtain my mother's financial records from any source." I  
11 don't get that. He surely needed to keep accounting records to perform his fiduciary duties. He should  
12 have some of that. And much of what I'm asking is just about his choices. I think he could tell me why he  
13 cashed out Mom's IRA.

14 In paragraph 13 Ed speculates as to why I have not used my fiduciary power to gather information from  
15 other sources. I never even thought of that. Discovery is part of the mediation / arbitration process. It's  
16 a valid way to get information. And my requests to Ed are no more harassing than to any other source.

17 **VI. Comments on the Mar 29 Motion for Summary Judgement (written by Ed's counsel, Mr Shepherd)**

18 Although I object to Mr Shepherd's noting of his Motion for Summary Judgment for this hearing, I have a  
19 few notes.

20  
21 On page 3 Mr Shepherd accuses me, for the umpteenth time, of filing now the "fourth iteration" in a  
22 series of unsuccessful TEDRA petitions against his client, Ed. These kinds of untrue and misleading  
23 statements have been corrected many times by me and the Court. Mr Shepherd suggests that all four  
24 petitions all have the same petitioner and the same respondent. Not true. They are all different.

25 The first petition (19-4-00342-37) a TEDRA, was me against my parent's trust (not Ed as an individual.)

26  
27 The second petition (22-2-00766-37) - not a TEDRA, was me against Ed, as an individual.

28  
DECLARATION RE: TEDRA HEARING - 4

1  
2 The third petition (22-2-00766-37) was only filed against Ed because I took the liberty of assuming that  
3 he was still trustee of my parent's trust. It later transpired that he had closed the trust, so Ed was really  
4 no more a respondent than my other two siblings. That petition could have been filed ex-parte if only I  
5 had known the trust was closed. So, that petition was never really against Ed. And from my point of  
6 view, it was a success because it got me appointed as personal representative of my mother's estate.

7 This fourth and current petition (22-4-01238-37) is my mother's estate against Ed as an individual. It's  
8 the first time I have filed a petition as a personal representative. So legally, I am a different party.

9  
10 Mr Shepherd has further argued that the statute of limitations for this petition has lapsed. He has said  
11 that it ended in in June 2016. He has elsewhere said that it ended three years later in June 2019. Not  
12 true. Ed could not have been successfully petitioned any sooner than now, because under TEDRA rules,  
13 only the PR of the estate has standing to sue a power of attorney agent. And before November 2022,  
14 when my mother's Will was introduced in the context to my third petition, only Ed knew that there was  
15 a Will. Thus, Ed's true liability as power of attorney agent is no older than my agency as PR.

16 Mr Shepherd writes on page 6, "Donald has not attempted to use his fiduciary power as PR, to gather  
17 information." Not true. I am using my fiduciary power to gather information from Ed, as I had planned  
18 all along. It seemed the obvious place to start because Ed is also the liable party in case of finding any  
19 evidence of misconduct. I assume Ed should have at least some of the information requested. Mr  
20 Shepherd further states on page 8 that by attempting to gather information from Ed, I have breached  
21 my fiduciary duty. That's a bit heavy.

## 22 **V. Further Arguments**

23 At the March 3 hearing Mr Shepherd argued orally that, in his research, he could find no cases statewide  
24 or even nationwide, in which a fiduciary agent was compelled by the court into a dispute resolution  
25 process. Thus, he argues, for this Court to apply statute RCW 11.96A.300 would be "unprecedented".  
26 The argument is laughable. I have not checked whether there is any precedent or not, but it doesn't  
27 matter anyway. The statute is the statute. Statutes have more authority than the cases of precedent Mr  
28 Shepherd couldn't find. It's understandable he might look up cases in which respondents were able to


DECLARATION RE: TEDRA HEARING - 5

1 persuade the court not to apply the statute, but I, the petitioner, don't need to find cases of precedent  
2 for applying the statute. If I am the first, so be it.

3  
4 After the March 3 hearing, the written record states that the Court "found good cause to deny the  
5 request for mediation." This statement implies that my petition for mediation has already been heard  
6 on the merits of the case. The implication is misleading. To date, my petition has only been denied on  
7 procedural grounds. A more complete discussion of good cause might be wise in a TEDRA hearing on the  
8 merits, but it hasn't happened yet. And so far, Mr Shepherd's arguments for denying mediation /  
9 arbitration have not gotten traction in this Court. He has repeated his tired, futile arguments, despite  
10 having been corrected by the Court many times. For example, in his Motion for Summary Judgment, in  
11 defending his ridiculous res judicata argument, he again refers to this petition as my "fourth TEDRA."

12 It is possible that the Court has its own reasons to deny mediation. Perhaps in my case, arbitration is  
13 more appropriate. If so, I defer to the wisdom of the Court. But there is an issue here. I feel I have  
14 shown "good cause" for mediation / arbitration by spotlighting Ed's lack of transparency. For me, that is  
15 misconduct. I cannot be expected to prove self-dealing or misappropriation of assets before a proper  
16 discovery phase. Thus, I find it odd that the Court would find "good cause" to deny my petition, when  
17 the defense counsel has not. Mr Shepherd's only defense has been to try to discredit me with things I  
18 allegedly said or did before I became PR (that is, in my previous role as mere beneficiary.) These attacks  
19 don't hold up in light of my change in standing, and Mr Shepherd has no real argument.

20 Dated this 28 of April, 2023.

21   
22 Donald Hóth (Pro se)  
23  
24  
25  
26  
27  
28

DECLARATION RE: TEDRA HEARING - 6

## Appendix 4

## **RCW 11.96A.150**

### **Costs—Attorneys' fees.**

(1) Either the superior court or any court on an appeal may, in its discretion, order costs, including reasonable attorneys' fees, to be awarded to any party: (a) From any party to the proceedings; (b) from the assets of the estate or trust involved in the proceedings; or (c) from any nonprobate asset that is the subject of the proceedings. The court may order the costs, including reasonable attorneys' fees, to be paid in such amount and in such manner as the court determines to be equitable. In exercising its discretion under this section, the court may consider any and all factors that it deems to be relevant and appropriate, which factors may but need not include whether the litigation benefits the estate or trust involved.

(2) This section applies to all proceedings governed by this title, including but not limited to proceedings involving trusts, decedent's estates and properties, and guardianship matters. This section shall not be construed as being limited by any other specific statutory provision providing for the payment of costs, including RCW 11.68.070 and 11.24.050, unless such statute specifically provides otherwise. This section shall apply to matters involving guardians and guardians ad litem.

# SHEPHERD AND ALLEN

July 12, 2024 - 11:40 AM

## Transmittal Information

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 103,169-6  
**Appellate Court Case Title:** Donald Hoth v. Edward Hoth  
**Superior Court Case Number:** 22-4-01238-6

### The following documents have been uploaded:

- 1031696\_Answer\_Reply\_20240712113831SC793898\_0719.pdf  
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Answer/Reply - Answer to Petition for Review  
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**Filing on Behalf of:** Douglas Ross Shepherd - Email: dougshepherd@saalawoffice.com (Alternate Email: )

Address:  
2011 YOUNG ST STE 202  
BELLINGHAM, WA, 98225-4052  
Phone: 360-733-3773

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