



# ABSOLUTE TRUST COUNSEL

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## A PERSONAL NOTE FROM KIRSTEN

Dear Clients and Other Friends,

As I am writing this we are once again fighting an intense battle with COVID-19, this time the Delta variant. It is frustrating and discouraging for all of us to be here again. We can tell, from the steady pace of new estate planning clients, that many people are worried about their own health and safety. We are happy to see people addressing their estate plans, often after many years of procrastination, but sorry about the cause of this activity.

At Absolute Trust Counsel we remain ready to assist you in the safest way possible. Many of us work remotely most of the time, we follow strict safety protocols in our office, and we limit the number of our in-person meetings. We can get your estate plan done, just in a slightly different way than you might have experienced a few years ago.

We wish you and your family health and safety.

Warmly,  
Kirsten

Kirsten Howe, Attorney at Law

**PLEASE RECYCLE, REDUCE AND REUSE BY SHARING THIS  
NEWSLETTER WITH YOUR FAMILY AND FRIENDS.  
IF YOU NO LONGER WISH TO RECEIVE IT,  
PLEASE SEND AN EMAIL TO  
INFO@ABSOLUTETRUSTCOUNSEL.COM.**





# ABSOLUTE Advantage

## Trust and Estate Law Happening Now

FALL 2021



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"GOOD HEALTH IS NOT SOMETHING WE CAN BUY. HOWEVER, IT CAN BE AN EXTREMELY VALUABLE SAVINGS ACCOUNT."

-ANNE WILSON SCHAEF

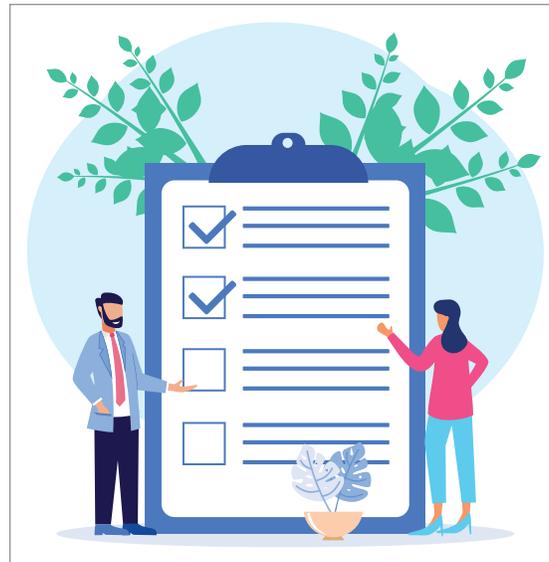
## TRUSTEE DOS AND DON'TS

### A FAMILY MEMBER HAS PASSED AWAY AND YOU ARE NOW A TRUSTEE.

Every trust administration is unique and over the years we have seen trustees bump up against a wide variety of obstacles. We have also noticed some common mistakes and missteps that can and

requiring much more work than many trustees realize. Most trustees don't have the time, energy or patience to make sure each step in a trust administration is done correctly. Mistakes made early in the process can lead to more serious problems down the line, including personal liability issues for the trustee.

*I advise every trustee to consult with an attorney, even if briefly, before starting a trust administration. Getting guidance from an attorney, even if you want to do all the work yourself, is just smart. Do not skip this step!*



### NOTIFICATIONS

Most of our trustees are not aware of each official notification they are required to make during trust administration. These notifications fall into two categories:

- Government Entities
- Beneficiaries and Heirs

should be avoided. This article highlights a few of these, occurring in the early stages of trust administration, to help you avoid making these mistakes yourself.

### TALK TO AN ATTORNEY FIRST

The first common mistake is a general mistake that tends to lead to numerous additional mistakes – starting off without talking to an attorney. There are many tasks in a trust administration that can be done and often are done without an attorney. However, trust administration is a long and detailed process

### GOVERNMENT ENTITIES

#### CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES (DHCS)

In California, every trustee, and every attorney for the trustee, is required to notify the DHCS of a trustor's death. When the Notice of Death is received, the DHCS checks its database of Medi-Cal recipients to determine whether it has an estate recovery claim. Many Medi-Cal recipients are required to reimburse the state, after death, for Medi-Cal services received during life. *(continued on page 2)*



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## TRUSTEE DOS AND DON'TS (CON'T)

The DHCS has four months from the date of the Notice of Death to make its claim. HOWEVER, the DHCS can make a claim up to 20 years after death IF they do not receive an official notice. This could be long after a trust's assets have been distributed to the beneficiaries, and now the trustee is on the hook for failure to give notice. The Notice of Death is a trustee requirement and easy to do. *Even if you are sure your decedent never received Medi-Cal benefits, DO NOT skip this step!*

### COUNTY ASSESSOR

When someone who owns California real estate dies, the assessor in the county where the real estate is located must be notified. The assessor will then reassess the property, resulting in a change (usually an increase, of course) in the property taxes. This change is effective as of the date of death. *Delaying this notification does not save money and may result in interest or penalties.* It is important to understand the taxation of an asset before decisions are made about which assets the beneficiaries want to keep or sell. A rental property that was once a nice source of income may no longer be profitable. A trustee and trust beneficiaries will need to know this information before all distributions are made.

### BENEFICIARIES AND HEIRS

The Probate Code requires a trustee to provide a specific notification to all trust beneficiaries and trustor heirs. This

notification starts the running of a 120 day time period during which people who are unhappy with the terms of the trust may make an objection. Similar to the DHCS notice, if the notification is never sent, the 120 days never expire. *A trustee who makes distributions without the assurance that nobody can object risks personal liability if someone in the future does object and is not barred by the 120 day limit.*

What surprises our clients the most is that this notification must be given to all trust beneficiaries AND to all heirs of the decedent. Heirs include people who would have inherited from the decedent if he or she died without a will or trust and includes people who are very clearly disinherited in the trust. It can also include slightly more distant relatives who are not mentioned anywhere. For example, if the decedent had no children and was not married, the heirs, as dictated by the Probate Code, are parents, then siblings, then aunts and uncles, etc. This 120 day notice allows a trustee to complete trust administration, confident that a lawsuit is not in his or her future, so don't skip this step!

### CONCLUSION

There are many other pitfalls for the unwary trustee. Mistakes can usually be fixed, at a cost. In the long run it saves you time, aggravation and money to do it right the first time. Your attorney is your best resource for uncovering and avoiding these pitfalls as you go.

## ABSOLUTE TRUST TALK - NOW LIVE ON FACEBOOK

Every other Thursday at 11:00 a.m. you can tune in to watch Kirsten Howe and her featured guest on our Facebook page for a LIVE, 20-30 minute interview on current and helpful topics. Below are just a few of the informative and interesting episodes:

- *Tips for Helping Your Elderly Parents Transition - Home to Assisted Living*
- *Why You May Want to File a Federal Estate Tax Return*
- *Navigating Living Options for Our Elderly*
- *Reverse Mortgages as a Financial Tool*
- *For the Caregivers: Support, Compassion and Resources*

You can find these shows and more on our website [AbsoluteTrustCounsel.com](http://AbsoluteTrustCounsel.com) under the Podcast tab.

Not only will you have access to our LIVE shows, our 30+ podcast interviews are all there, too. If you have any topics you would like to learn about, please let us know. We are more than happy to accommodate your interests.

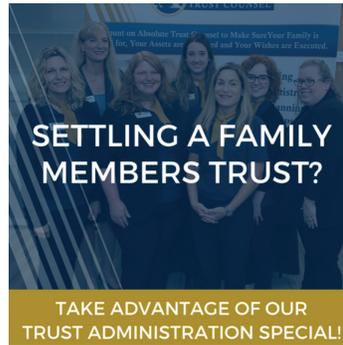


## SETTLING A FAMILY MEMBER'S TRUST?

### ABSOLUTE TRUST COUNSEL CAN HELP YOU NAVIGATE THE ADMINISTRATION PROCESS.

The job of a trustee isn't as easy as one may think. You must give legal notices, retitle assets, file tax returns, understand legal documents, and perform a variety of tasks most people find unfamiliar. As a trustee, if you forget a step or make a mistake, you could delay the process or even be held liable.

Schedule a one-hour road-mapping session with Absolute Trust Counsel. We will review your trust, answer your questions and develop an action plan to get the job done right.



<https://absolutetrustcounsel.com/practice-areas/trust-administration/>

## BOOK RECOMMENDATIONS FROM KIRSTEN HOWE



As a participating member of a book group for over four years, we have read some inspiring, helpful and motivating books written by very talented authors. Below are just a few

book titles I'd like to share with you. I hope you find one or two that spark your interest. If you have any books that you are passionate about, I'd love it if you would email me your favorite titles at [info@absolutetrustcounsel.com](mailto:info@absolutetrustcounsel.com).

- *The Happiness Advantage* by Shawn Achor
- *The Power of Habit* by Charles Duhigg and Mike Chamberlain
- *Crucial Conversations* by Patterson, Grenny, McMillan and Switzler
- *Good to Great* by Jim Collins
- *The Outliers* by Malcolm Gladwell
- *The Four Agreements* by Don Miguel Ruiz
- *Getting Things Done* by David Allen

## INTRODUCING...KATELYN MEEHAN OUR NEW CASE MANAGER

Katelyn, a recent graduate of Sonoma State with a BA in Psychology, graduated Summa Cum Laude after only three years! While there, she enjoyed volunteering with different groups to get hands-on experience with the concepts from her classes.



Born and raised in the East Bay, Katelyn has always loved forming relationships with the people in her community. She has a long history with some of the dance studios in the area, as well as years of activity within the Blue Devils Drum & Bugle Corps. Katelyn is excited to continue getting to know the people in her community through her work with Absolute Trust Counsel.

## FEELING GENEROUS? NOW ACCEPTING SALVATION ARMY RED KETTLE DONATIONS!

The holidays are upon us and the season for giving is near. As a supporter of the Salvation Army of Alameda County, Absolute Trust Counsel is now accepting Red Kettle cash or check donations at our office location. If you choose



to make a donation in-person with any one of the Salvation Army's bell ringers, you may run into Kirsten Howe, our very own Kettle Captain. Kirsten, who sits on the Advisory Board of the organization, will be ringing her bell to help combat homelessness in Alameda County. We appreciate your support!

For more information on how to donate, please visit the Salvation Army Alameda County website:

<https://alameda.salvationarmy.org/>

## THE EASIEST WAY TO STAY INFORMED

If you haven't already, please "like" or "follow" us on our social media pages. Doing so will give you quick access to our blogs, announcements, events and much more:



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