

CAUSE NO. _____

IN THE ESTATE
OF

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IN THE COUNTY COURTS
AT LAW NO. 2 OF
HUNT COUNTY, TEXAS

ORDER REMOVING INDEPENDENT EXECUTOR/ADMINISTRATOR

On this day, the Court heard and considered the Court's own motion, motion of an interested person, to show cause why _____, the Independent Executor/Administrator in the above matter should not be removed pursuant to §404.003 / §404.0035(a) / §404.0035(b) of the Texas Estates Code.

The Administrator was:

- not given notice as authorized under §404.003.
- provided notice pursuant to §404.0035(a).
- cited pursuant to §404.0035(b).

The Administrator:

- appeared in person.
- appeared by attorney _____.
- failed to appear.

THE COURT FINDS that the Executor/Administrator should be removed for the following reasons:

A. Pursuant to §404.003

- 1. The independent executor cannot be served with notice or other process because:
 - (A) the independent executor's whereabouts are unknown;
 - (B) the independent executor is eluding service; or
 - (C) the independent executor is a nonresident of this state without a designated resident agent; or
- 2. Sufficient grounds appear to support a belief that the independent executor has misapplied or embezzled, or is about to misapply or embezzle, all or part of the property committed to the independent executor's care.

B. Pursuant to §404.0035(a)

- 1. Neglects to qualify in the manner and time required by law;
- 2. Fails to return, before the 91st day after the date the independent executor qualifies, either an inventory of the estate property and a list of claims that have come to the independent executor's knowledge or an affidavit in lieu of the inventory, appraisal, and list of claims, unless that deadline has been extended by court order; or
- 3. Fails to timely file the affidavit or certification required by Section 308.004.

C. Pursuant to §404.0035(b)

- 1. The independent executor fails to make an accounting which is required by law to be made;
- 2. The independent executor is proved to have been guilty of gross misconduct or gross mismanagement in the performance of the independent's executor's duties.
- 3. The independent executor becomes an incapacitated person, or is sentenced to the penitentiary, or from any other cause becomes legally incapacitated from properly performing the independent executor's fiduciary duties; or
- 4. The independent executor becomes incapable of properly performing the independent executor's fiduciary duties due to a material conflict of interest.

IT IS, THEREFORE, ORDERED that:

- (1) _____ is removed as Independent Executor/Administrator,
- (2) Any letters of administration issued to him/her are cancelled,
- (3) He/she shall immediately surrender any and all letters of administration issued to him/her to the Hunt County Clerk for immediate destruction by the Hunt County Clerk,
- (4) He/she shall immediately deliver any and all estate property in his/her possession to the person who has been appointed and qualified as successor Executor/Administrator. If no person has been appointed and qualified as successor Executor/Administrator, then he/she shall immediately deliver any and all estate property in his/her possession to the persons entitled thereto under the will admitted to probate in this cause, and
- (5) All costs of removal, including attorneys' fees, are to be taxed and adjudged against _____, individually, and the surety on the Executor/Administrator's bond.

The Clerk is hereby **ORDERED** to transmit a copy of this Order to _____, the Independent Executor/Administrator removed herein, and his/her attorney of record, _____.

Signed this _____ day of _____, 20_____.

JUDGE JOEL D. LITTLEFIELD
HUNT COUNTY, TEXAS