

#L-3010

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07/24/91

First Supplement to Memorandum 91-45

Subject: Study L-3010 - Trustees' Fees (Comments on Notice of Fee Increase Proposal)

Attached to this supplement are letters concerning the proposal in Memorandum 91-45 from David W. Lauer on behalf of the California Bankers Association (Exhibit 1) and from Valerie Merritt on behalf of the Executive Committee of the State Bar Estate Planning, Trust and Probate Law Section (Exhibit 2).

Respectfully submitted,

Stan Ulrich
Staff Counsel



California Bankers Association
Established 1887

July 23, 1991

Mr. Stan Ulrich
California Law Revision Commission
4000 Middlefield Road, Suite D-2
Palo Alto, CA 94303-4739

RE: Trustee Fees Notice Provision

Dear Stan:

This letter will serve to confirm our telephone discussion of July 22, 1991.

The California Bankers Association, (the "CBA"), has previously proposed that the beneficiaries required to receive notice of a fee increase under Probate Code Section 15686 be the same persons required to receive statements of accounts under Probate Code Section 16062. While the CBA continues to believe that this consistency is desirable, in the spirit of compromise, the CBA finds the recommendation of the LRC staff defining the persons required to be given notice as included in the memorandum 91-45 to be acceptable.

Accordingly, I will not voice an objection at the LRC hearing scheduled for July 26, 1991. You indicated you will advise me of any comments from other interested groups.

If you wish to discuss this matter further, please call me. Thank you for your continued cooperation on this matter.

Very truly yours,

David W. Lauer

cc: Larry Kurmel
Maurine Padden
Greg Wilhelm
Estelle Depper
Trust State Governmental Affairs Committee
Trust Executive Committee

**ESTATE PLANNING, TRUST AND
PROBATE LAW SECTION
THE STATE BAR OF CALIFORNIA**

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July 23, 1991

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REPLY TO:

56570-000
Valerie J. Merritt
(213) 688-2520

BY FEDERAL EXPRESS

California Law Revision Commission
4000 Middlefield Road, D-2
Palo Alto, CA 94303-4739

Re: Memoranda 91-23, 91-38, 91-41, 91-45 and 91-51

Dear Commissioners:

Enclosed are two letters from Melitta Fleck, Captain of Team 3 reporting the position of Team 3 on Memoranda 91-23 and 91-41. These positions have not been reviewed by the entire Executive Committee.

At the Meeting of the Executive Committee of the Estate Planning, Trust and Probate Law Section on July 13, we discussed our position on Memorandum 91-38, Exercise of Power of Appointment by Residuary Clause of Will. The Executive Committee believes that the proposal of the Memorandum is too broad in the latitude that is granted in allowing the exercise of a power of appointment without full compliance with the limitations set forth in the document creating the power. The Executive Committee believes that the standard of substantial compliance set forth in the case of Estate of Wood is more limited in application and more desirable than the proposal of this memorandum. Therefore, we suggest either retaining existing law or enacting a codification of the holding in the Wood case.

At that same meeting of the Executive Committee, we also discussed Memorandum 91-45, Trustees' Fees. We agreed with the suggestion that "affected

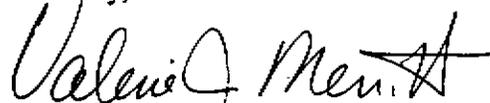
Nathaniel Sterling, Esq.
July 23, 1991
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interest" be removed, but we questioned the revised standard. We support a proposal that will require the Trustee to give notice of fee increases to the same persons who receive an accounting of the trust. We believe that any beneficiary who requests notice of fee increases should receive them, and that the same provision should apply with regard to accounts.

I also enclose a letter from Terry Ross indicating his personal views with regard to Memorandum 91-51. I have not yet received a team report on this memorandum.

I will be attending the meeting of the Commission on Thursday for the discussion of Memorandum 91-51 and on Friday. I hope to be able to expand upon these comments at that time.

Sincerely,



Valerie J. Merritt
Team Coordinator

VJM:gjm

cc: Bruce S. Ross
Team Captains
Robert Temmerman, Terry Ross, Clark Byam