

# Jon Smith & Marie L. Smith

## Estate Report



Prepared by Entrust Estate Solutions, LLC | **April 2024**

This Estate Report provides a snapshot of your current estate plan for you and your family to review. As your wealth grows and life changes, so too should your estate plan. Regular reviews of your plan helps ensure it reflects your current wishes.

*This report is for informational purposes only. Entrust Estate Solutions, LLC is not a law firm , and does not provide legal advice. The materials and services are not substitutes for the advice of an attorney. This report is also not tax advice. Any information regarding tax planning or tax liability should be used to gain a general understanding of how estate taxation works.*

# Introduction

This analysis provides a detailed review of the estate planning documents prepared for JON SMITH and MARIE SMITH. The purpose of this analysis is to summarize the key provisions of their estate plan, explain how the various documents work together, and identify any potential issues or areas for improvement.

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This analysis will examine each document in detail, highlighting the key provisions and how they contribute to the overall estate plan. It will also discuss the interaction between the documents and provide recommendations for ensuring the plan effectively carries out JON SMITH and MARIE SMITH's wishes.

# Key Details

## The SMITH FIT TRUST dated April 15, 2021

Name of Trust	The SMITH FIT TRUST dated April 15, 2021
Type of Trust	Irrevocable trust
Grantor/Settlor	JON SMITH, also known as JON ALBERT SMITH, and MARIE SMITH, also known as MARIE LYNN SMITH
Date of Creation	April 15, 2021
Successor Trustees	WILLIAM J. SMITH and BARBARA "BOBBIE" STONE, or the survivor of them; and then CHRISTIAN O'DWYER
Beneficiaries	JON SMITH and MARIE SMITH (income and principal beneficiaries during lifetime) CRAIG JON SMITH and SCOTT JAMES ROBB (residuary beneficiaries) <i>(Detailed beneficiary structure below)</i>
Purposes of Trust	1. Avoiding probate or estate administration 2. Providing a vehicle to manage assets in the event of incompetency, incapacity, or death 3. Ensuring assets are not subject to claims of creditors of the Trustmakers or beneficiaries 4. Ensuring all assets transferred are incomplete gifts for federal gift tax purposes and included in taxable estates at death 5. Being treated as a qualified designated beneficiary under Code Section 401(a)(9)
Assets Held in Trust	Joint assets of the Trustmakers described in Schedule A (not provided)
Trustee Powers & Responsibilities	Broad powers granted under Article Nine
Amending & Revoking	Trust is irrevocable and can only be altered, amended, revoked or terminated as specifically provided in the Trust Agreement
Removing or Replacing Trustees	Detailed provisions in Article Eight
Spendthrift Clause	Included in Section 11.01(U)
Rules Against Perpetuities	California's statutory rule against perpetuities does not apply; trust terminates no later than 1000 years after date of creation

Governing Law	Laws of the State of California
Duration of Trust	Continues after Trustmakers' deaths for the lifetime of the beneficiaries
Trustee Compensation	Grantors as trustees serve without compensation; others entitled to compensation under California law
Trust Termination	Upon death of Trustmakers and lifetime beneficiaries
Liability & Indemnification	Trustee not liable except for actual fraud, gross negligence or willful misconduct; indemnified by the Trust Estate
Dispute Resolution	Not specifically addressed
Incapacity	Provisions included in Articles Two, Six and Seven
Powers of Appointment	Limited powers of appointment granted to spouse and certain beneficiaries

## The JON SMITH LIVING TRUST dated April 6, 2018

Name of Trust	The JON SMITH LIVING TRUST dated April 6, 2018
Type of Trust	Revocable living trust
Grantor/Settlor	JON SMITH, also known as JON ALBERT SMITH
Date of Creation	April 6, 2018
Successor Trustees	WILLIAM J. SMITH and BARBARA "BOBBIE" STONE, or the survivor of them CHRISTIAN O'DWYER
Beneficiaries	MARIE SMITH (spouse) CRAIG JON SMITH (son) SCOTT JAMES ROBB (step-son) (addresses not provided)  <i>(Detailed beneficiary structure below)</i>
Purposes of Trust	1. Avoiding probate or estate administration 2. Providing a vehicle to manage assets in the event of incompetency, incapacity or death 3. Ensuring all assets are incomplete gifts for federal gift tax purposes and included in taxable estate at death 4. Being treated as a qualified designated beneficiary under Code Section 401(a)(9)

Assets Held in Trust	Assets of JON SMITH described in Schedule A (not provided)
Trustee Powers & Responsibilities	Broad powers granted under Article Ten
Amending & Revoking	JON SMITH reserves the right to amend or revoke during his lifetime while competent
Removing or Replacing Trustees	Detailed provisions in Article Nine
Spendthrift Clause	Included in Section 12.01(U)
Rules Against Perpetuities	California's statutory rule against perpetuities applies with a 1000 year limitation
Governing Law	Laws of the State of California
Duration of Trust	Continues after grantor's death for the lifetime of the beneficiaries
Trustee Compensation	Grantor as trustee serves without compensation; others entitled to compensation under California law
Trust Termination	Upon death of grantor and lifetime beneficiaries
Liability & Indemnification	Trustee not liable except for actual fraud, gross negligence or willful misconduct; indemnified by the trust estate
Dispute Resolution	Not specifically addressed
Incapacity	Provisions included in Articles Two, Six and Seven
Powers of Appointment	Limited powers of appointment granted to spouse and certain beneficiaries

## The MARIE SMITH LIVING TRUST dated April 6, 2018

Name of Trust	The MARIE SMITH LIVING TRUST dated April 6, 2018
Type of Trust	Revocable living trust
Grantor/Settlor	MARIE SMITH, also known as MARIE LYNN SMITH
Date of Creation	April 6, 2018
Successor Trustees	WILLIAM J. SMITH and BARBARA "BOBBIE" STONE, or the survivor of them CHRISTIAN O'DWYER

Beneficiaries	JON SMITH (spouse) CRAIG JON SMITH (step-son) SCOTT JAMES ROBB (son)  <i>(Detailed beneficiary structure below)</i>
Purposes of Trust	1. Avoiding probate or estate administration 2. Providing a vehicle to manage assets in the event of incompetency, incapacity or death 3. Ensuring all assets are incomplete gifts for federal gift tax purposes and included in taxable estate at death 4. Being treated as a qualified designated beneficiary under Code Section 401(a)(9)
Assets Held in Trust	Assets of MARIE SMITH described in Schedule A (not provided)
Trustee Powers & Responsibilities	Broad powers granted under Article Ten
Amending & Revoking	MARIE SMITH reserves the right to amend or revoke during her lifetime while competent
Removing or Replacing Trustees	Detailed provisions in Article Nine
Spendthrift Clause	Included in Section 12.01(U)
Rules Against Perpetuities	California's statutory rule against perpetuities applies with a 1000 year limitation
Governing Law	Laws of the State of California
Duration of Trust	Continues after grantor's death for the lifetime of the beneficiaries
Trustee Compensation	Grantor as trustee serves without compensation; others entitled to compensation under California law
Trust Termination	Upon death of grantor and lifetime beneficiaries
Liability & Indemnification	Trustee not liable except for actual fraud, gross negligence or willful misconduct; indemnified by the trust estate
Dispute Resolution	Not specifically addressed
Incapacity	Provisions included in Articles Two, Six and Seven
Powers of Appointment	Limited powers of appointment granted to spouse and certain beneficiaries

## Last Will and Testament of JON SMITH

Testator	JON SMITH, also known as JON ALBERT SMITH
Revoke Prior Wills	Revokes all former wills or testamentary instruments
Executors	MARIE SMITH (wife) - Personal Representative WILLIAM J. SMITH and BARBARA "BOBBIE" STONE, or the survivor of them - Successor Personal Representatives CHRISTIAN O'DWYER - Second Alternate
Specific Bequests	Tangible personal property to be distributed according to a separate Personal Property Memorandum
Beneficiaries	Residuary estate to pour over into the JON SMITH LIVING TRUST, dated April 6, 2018
Guardians	Not specifically addressed
Purposes of Will	To provide for the distribution of assets not held in the living trust and to name a Personal Representative
Trust Provisions	Residuary estate to pour over into the JON SMITH LIVING TRUST, dated April 6, 2018
No-Contest Clause	Included in Article Nine, Section A(2)
Executor Powers & Responsibilities	Broad fiduciary powers granted in Article Eight
Final Arrangements	Not specifically addressed

## Last Will and Testament of MARIE SMITH

Testator	MARIE SMITH, also known as MARIE LYNN SMITH
Revoke Prior Wills	Revokes all former wills or testamentary instruments
Executors	JON SMITH (husband) - Personal Representative WILLIAM J. SMITH and BARBARA "BOBBIE" STONE, or the survivor of them - Successor Personal Representatives CHRISTIAN O'DWYER - Second Alternate
Specific Bequests	Tangible personal property to be distributed according to a separate Personal Property Memorandum
Beneficiaries	Residuary estate to pour over into the MARIE SMITH LIVING TRUST, dated April 6, 2018

Guardians	Not specifically addressed
Purposes of Will	To provide for the distribution of assets not held in the living trust and to name a Personal Representative
Trust Provisions	Residuary estate to pour over into the MARIE SMITH LIVING TRUST, dated April 6, 2018
No-Contest Clause	Included in Article Nine, Section A(2)
Executor Powers & Responsibilities	Broad fiduciary powers granted in Article Eight
Final Arrangements	Not specifically addressed

## General Durable Power of Attorney of JON SMITH

Principal	JON SMITH, also known as JON ALBERT SMITH
Attorneys-in-fact	MARIE SMITH - Initial Agent WILLIAM J. SMITH and BARBARA "BOBBIE" STONE, or the survivor of them - First Alternate CHRISTIAN O'DWYER - Second Alternate
Powers & Authority	Broad powers granted in Article Three, including but not limited to: <ul style="list-style-type: none"> <li>- Power to fund trusts</li> <li>- Power to amend trust agreements</li> <li>- Power to sell, buy, and invest</li> <li>- Power to manage real property, tangible personal property, and digital assets</li> <li>- Power to operate businesses and manage partnership interests</li> <li>- Power to collect and settle obligations</li> <li>- Power to make gifts (subject to certain limitations)</li> </ul>
Durability	Durable, continues in effect during the Principal's subsequent disability, incompetency, incapacity, or lapse of time
Effective Date	Immediately upon signing for current use (for the initial Agent) Upon the Principal's incapacity as defined in the Principal's Trust (for successor Agents)
Compensation	No compensation for services performed, but reimbursement for reasonable expenses incurred
Revocation & Amendment	Principal reserves the right to revoke or amend the Power of Attorney at any time



Guardian & Conservator	Nomination of the person serving as Agent to serve as guardian, if appointment proceedings are initiated
Liability & Indemnification	Agent released and discharged from liability for good faith actions, except for willful misconduct or gross negligence Principal agrees to indemnify and hold harmless any third party who accepts and acts under the Power of Attorney

## General Durable Power of Attorney of MARIE SMITH

Principal	MARIE SMITH, also known as MARIE LYNN SMITH
Attorneys-in-fact	JON SMITH - Initial Agent WILLIAM J. SMITH and BARBARA "BOBBIE" STONE, or the survivor of them - First Alternate CHRISTIAN O'DWYER - Second Alternate
Powers & Authority	Broad powers granted in Article Three, including but not limited to: - Power to fund trusts - Power to amend trust agreements - Power to sell, buy, and invest - Power to manage real property, tangible personal property, and digital assets - Power to operate businesses and manage partnership interests - Power to collect and settle obligations - Power to make gifts (subject to certain limitations)
Durability	Durable, continues in effect during the Principal's subsequent disability, incompetency, incapacity, or lapse of time
Effective Date	Immediately upon signing for current use (for the initial Agent) Upon the Principal's incapacity as defined in the Principal's Trust (for successor Agents)
Compensation	No compensation for services performed, but reimbursement for reasonable expenses incurred
Revocation & Amendment	Principal reserves the right to revoke or amend the Power of Attorney at any time
Guardian & Conservator	Nomination of the person serving as Agent to serve as guardian, if appointment proceedings are initiated
Liability & Indemnification	Agent released and discharged from liability for good faith actions, except for willful misconduct or gross negligence Principal agrees to indemnify and hold harmless any third party who accepts and acts under the Power of Attorney

## Advance Healthcare Directive of JON SMITH

Principal	JON SMITH
Health Care Agents	MARIE SMITH - Primary Agent WILLIAM J. SMITH - First Alternate CRAIG JON SMITH - Second Alternate
Living Will Provisions	Included in Part 2 of the Advance Healthcare Directive - If in a permanent vegetative state, irreversible coma, or terminal condition, the Principal directs that life-sustaining procedures be withheld or withdrawn, and to be permitted to die naturally with only comfort care - Specifically directs that all artificially introduced nourishment (food) and hydration (water) be withheld or withdrawn
Life-Sustaining Treatment	Grants the Health Care Agent authority to make decisions concerning artificial life support, medical treatment, surgery, and other medical procedures; artificial nourishment and hydration; and resuscitation decisions (including DNR orders and CPR directives)
Pain Management	Authorizes the Health Care Agent to consent to the administration of pain-relieving drugs and surgical pain-relieving procedures, even if they may lead to addiction, lower blood pressure, lower levels of breathing, or hasten death
Organ & Tissue Donation	Makes an anatomical gift of any needed organs or parts, to take effect upon death Specifies certain special wishes concerning the anatomical gift
HIPAA Release	Grants the Health Care Agent the power and authority to serve as the Principal's personal representative for all purposes of HIPAA Authorizes the Health Care Agent to request, receive, and review any information regarding physical or mental health, and to execute authorizations and releases
Revocation & Amendment	The Principal reserves the right to revoke the Health Care Agent's authority orally or in writing

## Advance Healthcare Directive of MARIE SMITH

Principal	MARIE SMITH
Health Care Agents	JON SMITH - Primary Agent BARBARA "BOBBIE" STONE - First Alternate DONNA SNOW - Second Alternate

Living Will Provisions	<p>Included in Part 2 of the Advance Healthcare Directive</p> <ul style="list-style-type: none"> <li>- If in a permanent vegetative state, irreversible coma, or terminal condition, the Principal directs that life-sustaining procedures be withheld or withdrawn, and to be permitted to die naturally with only comfort care</li> <li>- Specifically directs that all artificially introduced nourishment (food) and hydration (water) be withheld or withdrawn</li> </ul>
Life-Sustaining Treatment	Grants the Health Care Agent authority to make decisions concerning artificial life support, medical treatment, surgery, and other medical procedures; artificial nourishment and hydration; and resuscitation decisions (including DNR orders and CPR directives)
Pain Management	Authorizes the Health Care Agent to consent to the administration of pain-relieving drugs and surgical pain-relieving procedures, even if they may lead to addiction, lower blood pressure, lower levels of breathing, or hasten death
Organ & Tissue Donation	<p>Makes an anatomical gift of any needed organs or parts, to take effect upon death</p> <p>Specifies certain special wishes concerning the anatomical gift</p>
HIPAA Release	<p>Grants the Health Care Agent the power and authority to serve as the Principal's personal representative for all purposes of HIPAA</p> <p>Authorizes the Health Care Agent to request, receive, and review any information regarding physical or mental health, and to execute authorizations and releases</p>
Revocation & Amendment	The Principal reserves the right to revoke the Health Care Agent's authority orally or in writing

# Beneficiary Structure

Based on the estate planning documents provided, the beneficiary structure across JON SMITH and MARIE SMITH's estate plan is summarized below. The Pour-over Wills work in conjunction with the Living Trusts to ensure all assets are comprehensively distributed according to JON and MARIE's wishes, with the Trusts serving as the primary vehicle for passing assets to their chosen beneficiaries.

The primary beneficiaries are the couple's two sons CRAIG JON SMITH and SCOTT JAMES ROBB, with contingent beneficiaries being the sons' descendants and then JON's brothers WILLIAM and JERRE SMITH. The assets are held in trust for the sons' benefit.

1. The SMITH FIT TRUST (dated April 15, 2021) provides that upon the death of both JON and MARIE:
  - CRAIG JON SMITH (Jon's son) receives a 50% share in trust
  - SCOTT JAMES ROBB (Marie's son) receives a 50% share in trust
  - If either son predeceases, their share goes to their descendants, if any, otherwise to the surviving son
  - If both sons predecease, the trust is split between WILLIAM J. SMITH and JERRE EUGENE SMITH
2. JON SMITH's LIVING TRUST (dated April 6, 2018) provides that upon Jon's death:
  - MOUNTAINSMITH LLC is distributed to CRAIG JON SMITH
  - Residuary estate is split 50% to CRAIG JON SMITH in trust and 50% to SCOTT JAMES ROBB in trust
  - If either beneficiary predeceases, their share goes to their descendants, if any, otherwise to the surviving beneficiary
  - If both beneficiaries predecease, the trust is split between WILLIAM J. SMITH and JERRE EUGENE SMITH
3. MARIE SMITH's LIVING TRUST (dated April 6, 2018) provides that upon Marie's death:
  - Real estate in Denver, Colorado is distributed to SCOTT JAMES ROBB
  - Residuary estate is split 50% to CRAIG JON SMITH in trust and 50% to SCOTT JAMES ROBB in trust
  - If either beneficiary predeceases, their share goes to their descendants, if any, otherwise to the surviving beneficiary
  - If both beneficiaries predecease, the trust is split between WILLIAM J. SMITH and JERRE EUGENE SMITH
4. JON SMITH's LAST WILL AND TESTAMENT (dated April 6, 2018):
  - Tangible personal property is distributed according to a separate memorandum, or to his wife MARIE if she survives, otherwise equally to his children

- The residuary estate pours over to the JON SMITH LIVING TRUST dated April 6, 2018
5. MARIE SMITH's LAST WILL AND TESTAMENT (dated April 6, 2018):
- Tangible personal property is distributed according to a separate memorandum, or to her husband JON if he survives, otherwise equally to her children
  - The residuary estate pours over to the MARIE SMITH LIVING TRUST dated April 6, 2018

# Interaction Between Documents

The estate planning documents prepared for JON SMITH and MARIE SMITH work together to create a comprehensive plan that addresses their wishes for the management and distribution of their assets during their lifetimes and after their deaths. The interaction between these documents is crucial for ensuring a smooth and effective implementation of their estate plan.

## Revocable Living Trusts and Pour-Over Wills

The JON SMITH LIVING TRUST and the MARIE SMITH LIVING TRUST serve as the primary vehicles for managing and distributing their assets. These revocable living trusts allow JON SMITH and MARIE SMITH to maintain control over their assets during their lifetimes while providing a mechanism for the efficient transfer of assets upon their deaths, avoiding the need for probate.

The Last Will and Testament of JON SMITH and the Last Will and Testament of MARIE SMITH act as pour-over wills, directing any assets not already held in their respective living trusts to be transferred to the trusts upon their deaths. This ensures that all of their assets will be managed and distributed according to the terms of their living trusts.

## Joint Trust and Individual Trusts

The SMITH FIT TRUST is a joint trust created by JON SMITH and MARIE SMITH to hold their jointly owned assets. This trust works in conjunction with their individual living trusts, which hold their separately owned assets. The provisions of the SMITH FIT TRUST are designed to complement and support the provisions of their individual trusts, ensuring a cohesive estate plan.

## Powers of Attorney and Advance Healthcare Directives

The General Durable Power of Attorney documents for both JON SMITH and MARIE SMITH grant authority to their designated agents to manage their financial affairs in the event of their incapacity. These documents work hand in hand with their living trusts, allowing their agents to make decisions regarding assets held both within and outside of the trusts.

Similarly, the Advance Healthcare Directives for JON SMITH and MARIE SMITH appoint healthcare agents to make medical decisions on their behalf if they become incapacitated. These documents ensure that their healthcare wishes are carried out and that their designated agents have the authority to communicate with medical professionals and make necessary decisions.

## Coordination of Beneficiary Designations

To ensure the smooth operation of their estate plan, it is essential that JON SMITH and MARIE SMITH coordinate the beneficiary designations on their non-trust assets, such as retirement accounts and life insurance policies, with the provisions of their living trusts. By naming their trusts as the beneficiaries of these assets, they can ensure that the assets will be managed and distributed according to the terms of their trusts, maintaining the integrity of their overall estate plan.

# Recommendations

After reviewing the estate planning documents prepared for JON SMITH and MARIE SMITH, it is evident that their plan is well-structured and comprehensive. However, there are a few recommendations that could be considered to further enhance the effectiveness of their estate plan and ensure that it continues to meet their needs over time.

## Regular Review and Updates

Estate planning is an ongoing process, and it is essential to review and update the documents periodically to ensure they remain current and reflective of JON SMITH and MARIE SMITH's wishes. Life events such as births, deaths, marriages, divorces, or changes in financial circumstances may necessitate updates to their plan. It is recommended that they review their estate plan every 3–5 years or whenever a significant life event occurs.

## Beneficiary Designations

As mentioned in the previous section, it is crucial to ensure that beneficiary designations on non-trust assets, such as retirement accounts and life insurance policies, are coordinated with the provisions of their living trusts. JON SMITH and MARIE SMITH should regularly review and update these designations to ensure they align with their current wishes and the terms of their trusts.

## Communication with Trustees and Beneficiaries

To facilitate a smooth transition and minimize potential conflicts, it is recommended that JON SMITH and MARIE SMITH communicate their wishes and the key aspects of their estate plan to their chosen trustees and beneficiaries. This can help ensure that everyone understands their roles and responsibilities and can help prevent misunderstandings or disputes in the future.

## Consider a Letter of Instruction

While not legally binding, a letter of instruction can be a valuable addition to an estate plan. This letter can provide guidance to trustees and beneficiaries regarding the management and distribution of assets, as well as express JON SMITH and MARIE SMITH's personal values, goals, and wishes. It can also include information on the location of important documents, accounts, and contacts.



## Professional Guidance

Estate planning can be complex, and tax laws and regulations are subject to change. It is recommended that JON SMITH and MARIE SMITH continue to work closely with their estate planning attorney and other professional advisors, such as financial planners and accountants, to ensure their plan remains up-to-date and tax-efficient.