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**SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THE COUNTY OF KING**

In re the Matter of	Case No. 22-4-08326-1 KNT
THE SHARON M. HAROLD IRREVOCABLE TRUST DATED NOVEMBER 12, 2004,  a Trust.	<b>SUPPLEMENTAL BRIEF RE: FIRST AMENDMENT RIGHT OF FREE INTIMATE DISASSOCIATION AND SUA SPONTE RELIEF IN SUPPORT OF VERIFIED JOINT OBJECTION (DKT 28)</b>

Respondents Charles A. Harold, Jr., John J. Harold, Angel Harold, Amy Jane Small and Josette Ramirez herein incorporate by reference all prior submissions to this Court in the captioned matter, and all prior submissions in the case entitled *Harold v. Paice*, Case No. 23-2-03980-7, as if fully set forth herein. Each and every allegation, argument, exhibit and objection previously submitted by Respondents is reiterated and realleged with the same force and effect as if fully stated in this document, the Supplemental Brief re: First Amendment Right of Free Intimate Disassociation and Sua Sponte Relief in Support of the Verified Joint Objection (Dkt 28) as follows:

**I. INTRODUCTION**

Respondents respectfully request that this Court grant immediate sua sponte relief by removing the trustee under Respondent's First Amendment right of intimate disassociation. The trustee's ongoing breaches of fiduciary duty, financial misconduct, and obstruction of justice necessitate immediate judicial intervention to protect the grantor and beneficiaries from further financial and emotional harm.

## II. AUTHORITY

### A. Statutory Authority

**California Probate Code § 17206:** This statute allows the court to take necessary actions to dispose of matters presented by a petition, including appointing a temporary trustee.

**California Probate Code § 15642:** This statute provides grounds for the removal of a trustee, including breaches of trust and failure to act.

**Washington State Code of Judicial Conduct: Rule 2.2:** This rule emphasizes the judge's duty to uphold and apply the law impartially and fairly, ensuring pro se litigants have their matters fairly heard.

### B. Case Law

**NAACP v. Alabama, 357 U.S. 449 (1958):** The Supreme Court recognized the right to associate for the advancement of beliefs and ideas as an inseparable aspect of liberty assured by the Due Process Clause of the Fourteenth Amendment.

**Roberts v. United States Jaycees, 468 U.S. 609 (1984):** The Court held that intimate associations are protected by the Due Process Clause, emphasizing the need to safeguard personal relationships from state intrusion.

**Boy Scouts of America v. Dale, 530 U.S. 640 (2000):** The Court ruled that the state's interest in eradicating discrimination did not justify infringing on the Boy Scouts' right to freedom of expressive association.

**Estate of Giralдин, 55 Cal.4th 1058 (2012):** The California Supreme Court held that remainder beneficiaries have standing to sue a trustee for breaches of fiduciary duty that occurred while the settlor was alive if those breaches affected the trust's value and the beneficiaries' future inheritance.

**In re Irrevocable Trust of McKean, 144 Wn. App. 333, 183 P.3d 317 (2008), No. 74636-7-I, 2017 WL 3977461 (Wash. Ct. App. Sep. 11, 2017):** The court recognized the standing of a remainder beneficiary to bring a claim against a trustee for breach of fiduciary duty.

1           **In re Irrevocable Trust of McKean, 144 Wn. App.333,183 P.3d 317**

2       The court addressed the standing of beneficiaries to challenge the actions of a  
3       trustee, underscoring their rights to contest breaches of fiduciary duty.

4                           **III. ARGUMENT IN SUPPORT OF SUA SPONTE RELIEF**

5                   **A. First Amendment Right of Intimate Disassociation**

6           The right of intimate association, derived from the First Amendment, protects an  
7       individual's choice in entering into and maintaining certain intimate human relationships.

8           In this case, where the Trustee is the Grantor's grandson-in-law, the Grantor's  
9       decision to create the Trust and subsequently disassociate from the Trustee due to  
10      his misconduct against hwee is a protected right. The Court must apply strict scrutiny  
11      to justify any denial of this constitutional right, ensuring that any decision furthers a  
12      compelling government interest and is narrowly tailored to achieve that interest.

13                   **B. Equitable Remedy and Due Process**

14           The equitable remedy of removing the Trustee sua sponte does not impinge upon  
15      the Trustee's rights to due process because essentially he has no standing.

16           Trustee serves Grantor who is under no obligation in law or within the Trust  
17      instrument to approve Trustee's "murky" account of Trust.

18           Trustee's first duty is bound to the Settlor's express intent in the Trust  
19      instrument much like a person is bound by the agreements in a contract. This  
20      creates a broader Trustee duty bound of loyalty to the Grantor and beneficiaries.

21           Trustee has no Constitutional rights within the Truste instruments, only  
22      mandated duties he must follow in conjunction with California Probate Code and  
23      common law. One could argue that in a broad sense Trustee's duties include  
24      protecting Grantor and Respondents' constitutional rights under his duty of loyalty.

25           Any perceived rights Trustee believes he has are subordinate to Grantor  
26      and beneficiaries.

27           The Trustee's breaches of fiduciary duty, including failure to provide annual  
28      accountings, commingling and converting trust funds for personal legal

1 constitute clear violations of both statutory and common law fiduciary duties. These  
2 actions have caused significant financial harm to the Grantor and beneficiaries, justifying  
3 immediate judicial intervention.

#### 4 **IV. CONCLUSION**

5 The Respondents' request for immediate sua sponte removal of the trustee is  
6 well-founded in the principles of equity and supported by the broad remedial powers of  
7 equity courts. The Trustee's continued misconduct and obstruction of justice necessitate  
8 immediate judicial intervention to protect the grantor's rights and the trust's assets.  
9 Respondents and Grantor's First Amendment right of intimate disassociation provides  
10 the Court with a compelling government interest for the immediate removal of the  
11 trustee. This right, coupled with the trustee's egregious breaches of fiduciary duty,  
12 justifies the Court's exercise of its equitable powers to remove the trustee sua sponte.

#### 13 **V. REQUESTS FOR RELIEF**

14 Respondents respectfully request that this Court grant the following relief:

- 15 1. the immediate removal of David Allen Paice as Trustee;
- 16 2. the appointment of a temporary trustee;
- 17 3. an order of a forensic accounting of the Trust, paid for by the Trustee David  
18 Allen Paice and Lane Powell;
- 19 4. a surcharge against Lane Powell and David Allen Paice to restore the Trust to  
20 its pre-TEDRA case assets of approximately \$708,000; and,
- 21 5. end the TEDRA and VAPO matters immediately because 3 years of litigation  
22 is in direct conflict with the spirit of RCW 11.96A.010 - Legislative Intent

23 DATED: July 11, 2024

s/Charles A. Harold, Jr. \_\_\_\_\_

24 Charles A. Harold, Jr., Residual Beneficiary and  
25 Respondent in pro se

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We certify that this memorandum contains 965  
words, in compliance with the Local Civil Rules.

**CERTIFICATE OF SERVICE**

I am and was at the time of service of these papers herein, over the age of eighteen (18) years.

On July 11, 2024, I caused the following documents: **SUPPLEMENTAL BRIEF RE: FIRST AMENDMENT RIGHT OF FREE INTIMATE DISASSOCIATION AND SUA SPONTE RELIEF IN SUPPORT OF VERIFIED JOINT OBJECTION (DKT 28)** to be electronically served on the interested parties in this action as follows:

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November 12, 2004

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14 via the electronic filing system maintained by the Clerk's Office at the above-captioned  
15 court or by email if they were not registered to receive electronic service via the Clerk's  
16 Office.

17 I certify under penalty of perjury under the laws of the State of Washington that  
18 the foregoing is true and correct.

19 Dated July 11, 2024, at Apache Junction, Arizona.

20 s/Charles A. Harold, Jr.  
21 Charles A. Harold, Jr

**State of California**

**PROBATE CODE**

**Section 15642**

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15642. (a) A trustee may be removed in accordance with the trust instrument, by the court on its own motion, or on petition of a settlor, cotrustee, or beneficiary under Section 17200.

(b) The grounds for removal of a trustee by the court include the following:

(1) Where the trustee has committed a breach of the trust.

(2) Where the trustee is insolvent or otherwise unfit to administer the trust.

(3) Where hostility or lack of cooperation among cotrustees impairs the administration of the trust.

(4) Where the trustee fails or declines to act.

(5) Where the trustee's compensation is excessive under the circumstances.

(6) Where the sole trustee is a person described in subdivision (a) of Section 21380, whether or not the person is the transferee of a donative transfer by the transferor, unless, based upon any evidence of the intent of the settlor and all other facts and circumstances, which shall be made known to the court, the court finds that it is consistent with the settlor's intent that the trustee continue to serve and that this intent was not the product of fraud or undue influence. Any waiver by the settlor of this provision is against public policy and shall be void. This paragraph shall not apply to instruments that became irrevocable on or before January 1, 1994. This paragraph shall not apply if any of the following conditions are met:

(A) The settlor is related by blood or marriage to, or is a cohabitant with, any one or more of the trustees, the person who drafted or transcribed the instrument, or the person who caused the instrument to be transcribed.

(B) The instrument is reviewed by an independent attorney who (1) counsels the settlor about the nature of their intended trustee designation and (2) signs and delivers to the settlor and the designated trustee a certificate in substantially the following form:

**"CERTIFICATE OF INDEPENDENT REVIEW**

I, \_\_\_\_\_, have reviewed  
(attorney's name)

\_\_\_\_\_ and have counseled my client,  
(name of instrument)

\_\_\_\_\_, fully and privately on the nature and  
(name of client)



legal effect of the designation as trustee of \_\_\_\_\_  
(name of trustee)

contained in that instrument. I am so disassociated from the interest of the person named as trustee as to be in a position to advise my client impartially and confidentially as to the consequences of the designation. On the basis of this counsel, I conclude that the designation of a person who would otherwise be subject to removal under paragraph (6) of subdivision (b) of Section 15642 of the Probate Code is clearly the settlor's intent and that intent is not the product of fraud, menace, duress, or undue influence.

”

\_\_\_\_\_  
(Name of Attorney)

\_\_\_\_\_  
(Date)

This independent review and certification may occur either before or after the instrument has been executed, and if it occurs after the date of execution, the named trustee shall not be subject to removal under this paragraph. Any attorney whose written engagement signed by the client is expressly limited to the preparation of a certificate under this subdivision, including the prior counseling, shall not be considered to otherwise represent the client.

(C) After full disclosure of the relationships of the persons involved, the instrument is approved pursuant to an order under Article 10 (commencing with Section 2580) of Chapter 6 of Part 4 of Division 4.

(7) If, as determined under Part 17 (commencing with Section 810) of Division 2, the trustee is substantially unable to manage the trust's financial resources or is otherwise substantially unable to execute properly the duties of the office. When the trustee holds the power to revoke the trust, substantial inability to manage the trust's financial resources or otherwise execute properly the duties of the office may not be proved solely by isolated incidents of negligence or improvidence.

(8) If the trustee is substantially unable to resist fraud or undue influence. When the trustee holds the power to revoke the trust, substantial inability to resist fraud or undue influence may not be proved solely by isolated incidents of negligence or improvidence.

(9) For other good cause.

(c) If, pursuant to paragraph (6) of subdivision (b), the court finds that the designation of the trustee was not consistent with the intent of the settlor or was the product of fraud or undue influence, the person being removed as trustee shall bear all costs of the proceeding, including reasonable attorney's fees.

(d) If the court finds that the petition for removal of the trustee was filed in bad faith and that removal would be contrary to the settlor's intent, the court may order that the person or persons seeking the removal of the trustee bear all or any part of the costs of the proceeding, including reasonable attorney's fees.

(e) If it appears to the court that trust property or the interests of a beneficiary may suffer loss or injury pending a decision on a petition for removal of a trustee and any appellate review, the court may, on its own motion or on petition of a cotrustee or

beneficiary, compel the trustee whose removal is sought to surrender trust property to a cotrustee or to a receiver or temporary trustee. The court may also suspend the powers of the trustee to the extent the court deems necessary.

(f) For purposes of this section, the term “related by blood or marriage” shall include persons within the seventh degree.

(Amended by Stats. 2020, Ch. 36, Sec. 43. (AB 3364) Effective January 1, 2021.)

**State of California**

**PROBATE CODE**

**Section 17206**

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17206. The court in its discretion may make any orders and take any other action necessary or proper to dispose of the matters presented by the petition, including appointment of a temporary trustee to administer the trust in whole or in part.

(Enacted by Stats. 1990, Ch. 79.)

**RCW 11.96A.020 General power of courts—Intent—Plenary power of the court.** (1) It is the intent of the legislature that the courts shall have full and ample power and authority under this title to administer and settle:

(a) All matters concerning the estates and assets of incapacitated, missing, and deceased persons, including matters involving nonprobate assets and powers of attorney, in accordance with this title; and

(b) All trusts and trust matters.

(2) If this title should in any case or under any circumstance be inapplicable, insufficient, or doubtful with reference to the administration and settlement of the matters listed in subsection (1) of this section, the court nevertheless has full power and authority to proceed with such administration and settlement in any manner and way that to the court seems right and proper, all to the end that the matters be expeditiously administered and settled by the court. [1999 c 42 § 103.]