

ITA Annual Conference 2023

Professional Designated  
Representatives:  
What, Why and How

A New Opportunity for Independent Trustees

By Trustees and Designated Representatives  
Theresa L. Hughes and Dan Felix

# Independent Trustees in Action

## Taking Over the World

## Expansion of Business

- Opportunities to grow the independent trustee service offering through other roles within trusts
- Looking at the Trustee role from another point of view as a trust stake holder

## Who We Are

Dan Felix, The  
Professional  
Trustee

Theresa Hughes,  
Individual  
Delaware Trustee

- Dan: Self-actualization through being a trustee
- Theresa: From corporate to small business entrepreneur

# Different Roles in the “Trustscape”

- Trustee
- Trust Protector
- Investment Direction Advisor
- Distribution Direction Advisor
- Beneficiary Advocate
- Active Successor Trustee
- Designated Representative

# What is a Designated Representative?

- A person or entity in a quiet or silent trust that serves in lieu of the beneficiary. Primary tasks include
  - Receiving and acting on any notifications that would have gone to the beneficiaries
  - Providing the beneficiary's acceptance or rejection where requested by the trustee
- Created under the Uniform Trust Code (UTC)
  - States adopting versions of UTC
  - What about the other states?
    - Delaware
    - Texas
    - New York? California? South Dakota? Alaska?
- The trust will state a period of time that the Designated Representative will be needed for the trust
  - How long the trust is permitted to be quiet/silent
  - What does the trust document say
  - Inadvertent disclosure incl. youngest child vs. oldest child

# What is the Need for a Designated Representative?

## Quiet or Silent Trusts

- A trust where the trust terms, asset value and activity are not shared with some or all of the beneficiaries for a period of time
- Examples
  - Minors that are concerned too young to know the details of a trust for their benefit
  - Beneficiaries who the grantor has a concern allowing them to have the information

## Special Needs Trusts & Trusts with Disabled Beneficiaries

- Beneficiaries that have mental health or addiction issues

# The Deets: How a DR Works

- Receives and reviews notices, follows up with the Trustee and Trust Protector as needed
  - Ticklers for age attainments
  - Relevant beneficiary changes
  - Receive and review info on inadvertent disclosure
- Act on behalf of the beneficiary when required
  - Receipts and releases
  - Distributions
  - Accountings
- Reviews investments
  - Investment Policy Statement
  - Compliance
  - Performance
  - Confers with investment professionals

# The Deets: How a DR Works

- The Big Reveal: When it's time to come out of the Designated Representative closet
- Coordinate and collaborate with the trustee, trust protector, grantor and others on how to explain the trust to the beneficiary(s).
- Set the trust and beneficiary for success, and exit
  - The obligations of and opportunities for the DR at the triggering event
  - Summarize DR activity – “Report”



# The Deets: Risk Management

- Statute of limitations
- Conflicts
- Acceptance and release
- Insurance
- Separate entities
- Indemnification
- Checklists
- Understanding the trust: Trust document and jurisdictional law
- Obtaining good counsel

The Opportunity:  
Roles Related to Trustee  
Work can Enhance and  
Expand your Business