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ANIMAL SERVICES
COMMISSIONERS**

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City of Los Angeles
CALIFORNIA



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MAYOR

**DEPARTMENT OF
ANIMAL SERVICES**
221 N. Figueroa Street
6TH Floor, Suite #600
Los Angeles, CA 90012

(888) 452-7381
FAX (213) 482-9511

BRENDA F. BARNETTE
GENERAL MANAGER

TAMMY WATSON
ASSISTANT GENERAL MANAGER
Administration

VACANT
ASSISTANT GENERAL MANAGER
Lifesaving

DR. JEREMY PRUPAS
CHIEF VETERINARIAN

February 26, 2020

The Honorable Eric Garcetti
Mayor, City of Los Angeles
200 N. Spring Street, Room 303
Los Angeles, CA 90012

The Honorable City Council
% City Clerk
Room 395, City Hall
200 N. Spring Street
Los Angeles, CA 90012

Attention: Ms. Heleen Ramirez, Office of the Mayor

**RE: ACCEPT A BEQUEST FROM THE ESTATE OF KENNETH G. ANDERSON AS A GIFT IN
THE NAME OF ROSEMARY LONG ANDERSON**

Recommendation for Council Action, subject to the approval of the Mayor:

1. **ACCEPT** a bequest from the Estate of Kenneth G. Anderson as a gift in the name of his wife, Rosemary Long Anderson to the South L.A. Animal Shelter located at 1850 W. 60th Street, Los Angeles, CA 90047 in an amount estimated at this time to exceed \$3,000,000 (Bequest), conditioned upon the probate court's approval;
2. **REQUEST** the City Council to accept the Bequest, conditioned upon the probate court's approval;
3. **REQUEST** the Office of the City Attorney to file a petition on behalf of the Department of Animal Services and its Animal Welfare Trust Fund in support of the probate petition filed by the Estate of Kenneth G. Anderson;

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SUBJECT: Transmittal to Mayor and Council

ACCEPT A BEQUEST FROM THE ESTATE OF KENNETH G. ANDERSON AS A GIFT IN THE NAME OF ROSEMARY LONG ANDERSON

4. **AUTHORIZE** the creation of a new appropriation account within the Animal Welfare Trust Fund – Fund No. 859 entitled, “Rosemary Long Anderson Gift”;
5. **APPROVE** the deposits of the initial liquidated funds and all residual liquidated funds into the “Rosemary Long Anderson Gift” appropriation account within the Animal Welfare Trust Fund – Fund No. 859 and restrict said funds for the humane treatment of animals, including providing for their protection, health, safety, and welfare;
6. **INSTRUCT** the Department of Animal Services to provide a report to the Board of Animal Services Commissioners upon receipt of the bequest’s final disbursement of liquidated funds;
7. **INSTRUCT** the Department of Animal Services to prepare an annual report to the Board of Animal Services Commissioners containing an account balance for the “Rosemary Long Anderson Gift” and include an itemized listing of all prior year expenditures and proposed future expenditures; and
8. **FORWARD** the acceptance of this bequest to the Mayor and City Council for approval.

BACKGROUND:

On August 24, 2018, Kenneth G. Anderson died in the County of Los Angeles. He was a longtime resident of the City. His will, which was admitted to probate on November 19, 2018, directed the residue of his estate to be donated to an animal shelter (without naming a specific entity). At the time of his death, Mr. Anderson had prepared an unexecuted Living Trust designating the South L.A. Animal Shelter as the specific charitable entity with respect to the disposition of the residue of his trust estate whereas his Will. The Estate’s Executor believes the Animal Welfare Trust Fund, Fund No. 859 is the appropriate charitable organization based upon its stated purpose to enhance the quality of life for shelter and other animals by funding animal supplies, medical equipment, improvements to Animal Shelters and other animal welfare-related projects undertaken by the Department.

In January 2020, the Department was contacted by Attorney James H. Sipple, on behalf of the Executor for the Estate of Kenneth G. Anderson notifying the Department that its South Los Angeles Shelter had been identified by the Estate’s Executor to receive the residue of the descendant’s substantial estate which is expected at this time to exceed \$3,000,000, should the court grant the Executor’s petition scheduled for hearing on April 20, 2020, in the Central-Stanley Mosk Courthouse of the Superior Court of California, County of Los Angeles, 111 North Hill Street, Los Angeles, CA 90012.

The Executor believes that the probate court would welcome a supporting petition, to be filed by the City Attorney, evidencing both the Board of Animal Services Commission’s and the City Council’s approval to accept the bequest as a gift to the City.

On February 25, 2020, the Board of Animal Services Commissioners authorized to accept a Bequest from the Estate of Kenneth G. Anderson as a gift in the name of Rosemary Long Anderson subject to the approval of the City Council and Mayor.

SUBJECT: Transmittal to Mayor and Council

ACCEPT A BEQUEST FROM THE ESTATE OF KENNETH G. ANDERSON AS A GIFT IN THE NAME OF ROSEMARY LONG ANDERSON

SUMMARY:

The Los Angeles Administrative Code, Section 5.200.1 (Receipt of Property) states that any gift or bequest to be used by the Department that exceeds \$25,000 must be accepted by the City Council.

The Department requests authorization to accept the bequest from the Estate of Kenneth G. Anderson as a gift in the name of his wife Rosemary Long Anderson, subject to the court's approval and for the City Attorney to file the City's probate petition on behalf of the Department of Animal Services and its Animal Welfare Trust Fund.

The Department requests that the Commission accept the residue proceeds from the Estate of Kenneth G. Anderson as a gift in the name of his wife Rosemary Long Anderson, designated to the South L.A. Animal Shelter, located at 1850 W. 60th Street, Los Angeles, CA 90047. The gift shall be used for the humane treatment of animals, including providing for their protection, health, safety, and welfare.

FISCAL IMPACT:

There is no impact to the General Fund. This bequest will be deposited into the Department's Animal Welfare Trust Fund – Fund No. 859's newly established "Rosemary Long Anderson Gift" appropriation account, to be used to support the South L.A. Animal Shelter in accordance with the bequest from the Estate of Kenneth G. Anderson.

Respectfully submitted,



Brenda F. Barnette
General Manager

Attachment: Adopted Board Report – Acceptance of Bequest from the Estate of Kenneth G. Anderson
as a Gift in the Name of Rosemary Long Anderson

cc: Soozy Rios Bellenot, City Administrative Officer
Catherine Chico, Los Angeles Animal Services

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Report to the Board of Animal Services Commissioners

MEETING DATE: February 25, 2020

PREPARED BY: Catherine Chico

REPORT DATE: February 19, 2020

TITLE: Senior Management Analyst II

**SUBJECT: BEQUEST FROM THE ESTATE OF KENNETH G. ANDERSON AS A GIFT IN THE
NAME OF ROSEMARY LONG ANDERSON**

BOARD ACTION RECOMMENDED:

1. **ACCEPT** a bequest from the Estate of Kenneth G. Anderson as a gift in the name of his wife, Rosemary Long Anderson to the South L.A. Animal Shelter located at 1850 W. 60th Street, Los Angeles, CA 90047 in an amount estimated at this time to exceed \$3,000,000 (Bequest), conditioned upon the probate court's approval;
2. **REQUEST** the City Council to accept the Bequest, conditioned upon the probate court's approval;
3. **REQUEST** the Office of the City Attorney to file a petition on behalf of the Department of Animal Services and its Animal Welfare Trust Fund in support of the probate petition filed by the Estate of Kenneth G. Anderson;
4. **AUTHORIZE** the creation of a new appropriation account within the Animal Welfare Trust Fund – Fund No. 859 entitled, "Rosemary Long Anderson Gift";
5. **APPROVE** the deposits of the initial liquidated funds and all residual liquidated funds into the "Rosemary Long Anderson Gift" appropriation account within the Animal Welfare Trust Fund – Fund No. 859 and restrict said funds for the humane treatment of animals, including providing for their protection, health, safety, and welfare;
6. **INSTRUCT** the Department of Animal Services to provide a report to the Board of Animal Services Commissioners upon receipt of the bequest's final disbursement of liquidated funds;

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7. **INSTRUCT** the Department of Animal Services to prepare an annual report to the Board of Animal Services Commissioners containing an account balance for the "Rosemary Long Anderson Gift" and include an itemized listing of all prior year expenditures and proposed future expenditures; and
8. **FORWARD** the acceptance of this bequest to the Mayor and City Council for approval.

BACKGROUND:

On August 24, 2018, Kenneth G. Anderson died in the County of Los Angeles. He was a longtime resident of the City. His will, which was admitted to probate on November 19, 2018, directed the residue of his estate to be donated to an animal shelter (without naming a specific entity). At the time of his death, Mr. Anderson had prepared an unexecuted Living Trust designating the South L.A. Animal Shelter as the specific charitable entity with respect to the disposition of the residue of his trust estate whereas his Will. The Estate's Executor believes the Animal Welfare Trust Fund, Fund No. 859 is the appropriate charitable organization based upon its stated purpose to enhance the quality of life for shelter and other animals by funding animal supplies, medical equipment, improvements to Animal Shelters and other animal welfare-related projects undertaken by the Department.

In January 2020, the Department was contacted by Attorney James H. Sipple, on behalf of the Executor for the Estate of Kenneth G. Anderson notifying the Department that its South Los Angeles Shelter had been identified by the Estate's Executor to receive the residue of the descendant's substantial estate which is expected at this time to exceed \$3,000,000, should the court grant the Executor's petition scheduled for hearing on April 20, 2020, in the Central-Stanley Mosk Courthouse of the Superior Court of California, County of Los Angeles, 111 North Hill Street, Los Angeles, CA 90012.

The Executor believes that the probate court would welcome a supporting petition, to be filed by the City Attorney, evidencing both the Board of Animal Services Commission's and the City Council's approval to accept the bequest as a gift to the City.

SUMMARY:

The Los Angeles Administrative Code, Section 5.200.1 (Receipt of Property) states that any gift or bequest to be used by the Department that exceeds \$25,000 must be accepted by the City Council.

The Department requests authorization to accept the bequest from the Estate of Kenneth G. Anderson as a gift in the name of his wife Rosemary Long Anderson, subject to the court's approval and for the City Attorney to file the City's probate petition on behalf of the Department of Animal Services and its Animal Welfare Trust Fund.

The Department requests that the Commission accept the residue proceeds from the Estate of Kenneth G. Anderson as a gift in the name of his wife Rosemary Long Anderson, designated to the South L.A. Animal Shelter, located at 1850 W. 60th Street, Los Angeles, CA 90047. The gift shall be used for the humane treatment of animals, including providing for their protection, health, safety, and welfare.

Report to the Board of Animal Services Commissioners

SUBJECT: Bequest from the Estate of Kenneth G. Anderson as a Gift in the Name of His Wife
Rosemary Long Anderson

FISCAL IMPACT:

There is no impact to the General Fund. This bequest will be deposited into the Department's Animal Welfare Trust Fund – Fund No. 859's newly established "Rosemary Long Anderson Gift" appropriation account, to be used to support the South L.A. Animal Shelter in accordance with the bequest from the Estate of Kenneth G. Anderson.

Approved:

Brenda F. Barnette
Brenda F. Barnette, General Manager

Attachments: Notice of Hearing – Estate of Kenneth G. Anderson
Petition by Executor – Estate of Kenneth G. Anderson

BOARD ACTION:

<u>✓</u>	Passed	Disapproved	<u> </u>
<u> </u>	Passed with noted modifications	Continued	<u> </u>
<u> </u>	Tabled	New Date	<u> </u>

This notice is required by law.
This notice does not require you to appear in court, but you may attend the hearing if you wish.

1. NOTICE is given that (name): **SCOTT ARMSWORTH**
(representative capacity, if any):
has filed (specify):*

PETITION BY EXECUTOR FOR A COURT DETERMINATION OF THE PERSONS ENTITLED TO DISTRIBUTION OF THE DECEDENT'S ESTATE, AND APPLICATION OF CY PRES DOCTRINE:

DECLARATION OF LAWRENCE ZUCKER IN SUPPORT OF PETITION BY EXECUTOR FOR A COURT DETERMINATION OF THE PERSONS ENTITLED TO DISTRIBUTION OF THE DECEDENT'S ESTATE, AND APPLICATION OF CY PRES DOCTRINE

2. You may refer to the filed documents for more information. *(Some documents filed with the court are confidential.)*
3. A HEARING on the matter will be held as follows:

a. Date: APRIL 20, 2020 Time: 8:30 AM Dept.: 4 Room:

- b. Address of court ☒ shown above ☐ is (specify):

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available upon request if at least 5 days notice is provided. Contact the clerk's office for *Request for Accommodations by Persons With Disabilities and Order* (form MC-410). (Civil Code section 54.8.)



* Do not use this form to give notice of a petition to administer estate (see Prob. Code, § 8100 and form DE-121) or notice of a hearing in a guardianship or conservatorship (see Prob. Code, §§ 1511 and 1822 and form GC-020).

☒ ESTATE OF (Name): ☐ IN THE MATTER OF (Name): KENNETH G. ANDERSON	CASE NUMBER: 18STPB09725
☒ DECEDENT ☐ TRUST ☐ OTHER	

CLERK'S CERTIFICATE OF POSTING

1. I certify that I am not a party to this cause.
2. A copy of the foregoing *Notice of Hearing—Decedent's Estate or Trust*
 - a. was posted at (address):

b. was posted on (date):

Date:

Clerk, by _____ Deputy

PROOF OF SERVICE BY MAIL *

1. I am over the age of 18 and not a party to this cause. I am a resident of or employed in the county where the mailing occurred.
2. My residence or business address is (specify):
591 Camino De La Reina, Suite 710, San Diego, CA 92108
3. I served the foregoing *Notice of Hearing—Decedent's Estate or Trust* on each person named below by enclosing a copy in an envelope addressed as shown below AND
 - a. ☒ **depositing** the sealed envelope on the date and at the place shown in item 4 with the United States Postal Service with the postage fully prepaid.
 - b. ☐ **placing** the envelope for collection and mailing on the date and at the place shown in item 4 following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
4. a. Date mailed: **2/06/2020** b. Place mailed (city, state): **Carlsbad, CA**
5. ☒ I served with the *Notice of Hearing—Decedent's Estate or Trust* a copy of the petition or other document referred to in the Notice.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: **2/06/2020**

SANDRA L. EVANS



(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

(SIGNATURE OF PERSON COMPLETING THIS FORM)

NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILED

	Name of person served	Address (number, street, city, state, and zip code)
1.	Eudorgina Humphrey	4917 Gulfstream Circle Virginia Beach, VA 23464
2.	Nancy S. Long	3676 Zuber Road Orient, OH 43146
3.	Brenda Severs	4382 Jody Drive Grove City, OH 43123
4.	Office of the Attorney General Charitable Trusts Section	1300 "I" Street Sacramento, CA 95814-2919

- ☒ Continued on an attachment. (You may use Attachment to Notice of Hearing Proof of Service by Mail, form DE-120(MA)/GC-020(MA), for this purpose.)

* Do not use this form for proof of personal service. You may use form DE-120(P) to prove personal service of this Notice.

(This Attachment is for use with forms DE-120 and GC-020.)

[illegible]

James H. Sipple, Esq. (Bar No. 206576)
Richard M. Stern, Esq. (Bar No. 89313)
BONER STERN & SIPPLE, APC
591 Camino de la Reina, Suite 710
San Diego, California 92108
(619) 295-7100; (619) 295-2100 (fax)

Attorneys for SCOTT ARMSWORTH, Petitioner

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

Estate of:

KENNETH G. ANDERSON.

[IMAGED]

CASE NO.: 18STPB09725
ROA#

**PETITION BY EXECUTOR FOR A COURT
DETERMINATION OF THE PERSONS
ENTITLED TO DISTRIBUTION OF THE
DECEDENT'S ESTATE AND APPLICATION
OF CY PRES DOCTRINE**

Prob. Code §§11700, 7000, 7001, 21102, 21120
and 21122

Date **04/20/2020**
Time: **8:30 A.M.**
Dept **4**
Judge:

Petitioner, SCOTT ARMSWORTH (Friend of Decedent; Executor of the Decedent's Estate; residing at 1357 Garlingford Street, Costa Mesa CA 92626), as the Executor of the Estate of KENNETH G. ANDERSON, hereby submits this *Petition by Executor For a Court Determination of the Persons Entitled to Distribution of the Decedent's Estate and Application of Cy Pres Doctrine* as follows:

INTRODUCTION

1. The Decedent executed a holographic Will which has been admitted to probate. Under such Will, the residue of the Decedent's estate is directed to be disposed of as follows: "My estate is to be liquidated and the proceeds donated to an animal shelter in the name of my beloved wife and dear companion Rosemary L. Anderson." The Will does not designate a

1 specific entity to receive said gift or grant a power to the Executor or any other person to
2 designate such entity. Therefore, Petitioner seeks construction by the Court for the disposition of
3 the residue of the Decedent's estate under such Will admitted by this Court to Probate.

4 2. Petitioner believes the Decedent possessed a general charitable intent and
5 underlying motivation to provide for the humane treatment of animals, including providing for
6 their protection, health, safety and welfare. This general charitable intent may be determined
7 from the Decedent's Will and is bolstered by extrinsic evidence including, a separate writing and
8 verbal communications by the Decedent. Specifically, the Decedent's Will provides the residue
9 to pass to an "animal shelter," which commonly refers to an establishment supported by
10 charitable contributions and provides a temporary home for dogs, cats, and other animals that are
11 offered for adoption. Additionally, a separate writing prepared by the Decedent and delivered to
12 another attorney, Lawrence Zucker, indicated a desire to benefit the South LA Animal Shelter
13 whose stated mission is to promote and protect the health, safety and welfare of animals and
14 people. Further, the Decedent on numerous occasions, both before and after the execution of his
15 Will, communicated his charitable intent to attorney Zucker. Finally, subsequent to the execution
16 of the Decedent's Will, the Decedent told Petitioner the majority of his estate was to pass to an
17 "animal charity" when advising Petitioner of the location of his Will,

18 3. Despite the Decedent's Will not naming a specific charity to receive the residuary
19 of his estate, Petitioner requests the Court apply the *Cy Pres* doctrine such that the residue of the
20 Decedent's estate shall pass in a manner to carry out the general charitable intent of the Decedent.
21 Specifically, subject to obtaining a future Order from this Court for the Distribution of the Estate
22 of the Decedent, Petitioner requests the Court authorize and direct the distribution of the residue
23 of the Decedent's estate to The Animal Welfare Trust Fund 859, as Trustee, to administer such
24 gift to provide for the humane treatment of animals, including providing for their protection,
25 health, safety and welfare.

26 JURISDICTION

27 4. Standing. Petitioner, SCOTT ARMSWORTH, qualified as Executor of the Estate
28 of KENNETH G. ANDERSON and Letters Testamentary were issued to Petitioner on December

1 21, 2018. At all times since then Petitioner has been and is now the duly qualified Executor of the
2 Decedent's Estate.

3 5. Jurisdiction and Venue. Decedent, KENNETH G. ANDERSON, died on August
4 24, 2018, in the County of Los Angeles, State of California, and was a resident of said County.
5 The Decedent's holographic Will dated May 23, 2018, was admitted to probate by Order of this
6 Court on November 19, 2018. Attached hereto as Exhibit "1" is a true and complete copy of said
7 Will. The administration of the Decedent's estate is ongoing. This Court has jurisdiction over this
8 proceeding which concerns the construction of the Decedent's Will.

9 **FACTUAL BACKGROUND**

10 6. Decedent, KENNETH G. ANDERSON, was a Partner in a law firm and his
11 primary area of practice was civil litigation. The Decedent's wife, Rosemary L. Anderson,
12 predeceased him on September 3, 2015. The Decedent did not have any children, including
13 adopted persons nor persons which he would have adopted but for a legal barrier thereto. On May
14 23, 2018, the Decedent prepared and executed a holographic Will in which he directed the residue
15 of his estate to be disposed of as follows: "My estate is to be liquidated and the proceeds donated
16 to an animal shelter in the name of my beloved wife and dear companion Rosemary L.
17 Anderson." Additionally, the last provision of the Decedents Will specifically states "I disinherit
18 all other family members."

19 7. In June 2018, subsequent to the execution of the Decedent's Will, the Decedent
20 told Petitioner the majority of his estate was to pass to an "animal charity" when the Decedent
21 advised Petitioner of the location of his Will.

22 8. Further, during the Decedent's lifetime, the Decedent discussed with attorney
23 Lawrence Zucker, one of his Partners at his law firm, his desire to prepare a Living Trust. See
24 "Declaration of Lawrence Zucker in Support of Petition by Executor For a Court Determination
25 of the Persons Entitled to Distribution of the Decedent's Estate and Application of Cy Pres
26 Doctrine," filed herewith ("Zucker Decl.") at Paragraph 4, lines 7-8 . Mr. Zucker is also a civil
27 litigation attorney, but had some experience earlier in his career regarding the formation of
28 Trusts. See Zucker Decl. at Paragraph 4, lines 8-9. The Decedent discussed with Mr. Zucker on

1 numerous occasions, including before the passing of the Decedent's wife and after her passing,
2 regarding his intention to have the residue of his estate to go to an animal shelter to support their
3 charitable causes, and to omit the Decedent's natural heirs. See Zucker Decl. at Paragraph 4, lines
4 9-12. However, the specific animal shelter the Decedent desired to benefit had not been
5 determined and was a matter he was considering. See Zucker Decl. at Paragraph 5, lines 20-23.

6 9. On or about July 8, 2018, the Decedent provided Mr. Zucker with an unexecuted
7 draft of a simple Trust agreement titled the "REVOCABLE LIVING TRUST BY Kenneth G.
8 Anderson" ("Living Trust") for his thoughts and comments. See Zucker Decl. at Paragraph 5,
9 lines 13-16. Attached hereto as Exhibit "2" is a true and complete copy of said Living Trust.
10 Schedule "B" to the Living Trust directed, after providing for certain gifts, that the residue of the
11 trust estate be liquidated and disposed of as follows: "The liquidated proceeds are to be given as a
12 gift in the name of Rosemary Long Anderson to the South LA Animal Shelter which, at the time
13 of this writing, was located at 1850 W. 60th Street, Los Angeles, CA 90047."

14 10. Mr. Zucker briefly reviewed the Living Trust prepared by the Decedent, and
15 considered the document basic given the value of the Decedent's estate. See Zucker Decl. at
16 Paragraph 6, lines 25-26. Thereafter, on or about July 18, 2018, Mr. Zucker provided the
17 Decedent with a sample Trust Agreement, which the Decedent could incorporate his desired
18 terms therein (i.e., Name of Trust, Trustee and dispositive terms), for his consideration. See
19 Zucker Decl. at Paragraph 6, lines 26-28. When Mr. Zucker subsequently discussed the same with
20 the Decedent, the Decedent indicated he was still procrastinating on the matter. See Zucker Decl.
21 at Paragraph 6, lines 28, and 1-2. The Decedent subsequently died unexpectedly on August 24,
22 2018.

23 11. After the Decedent's Death, the Decedent's Will was found by the Executor at the
24 Decedent's residence in such place the Executor had been previously advised by the Decedent
25 during his lifetime. The Decedent's Will was executed on May 23, 2018. The Decedent's Will
26 was executed before the date the Living Trust was provided to Mr. Zucker on or about July 8,
27 2018. However, on the Decedent's office computer, Mr. Zucker was able to locate an electronic
28 copy of the unexecuted Living Trust previously provided to him by the Decedent. Further, Mr.

1 Zucker was able to determine from the file log on the Decedent's computer that it was either
2 prepared or last modified on February 9, 2018. See Zucker Decl. at Paragraph 8, lines 8-11. A
3 date before the execution of the Decedent's Will.

4 12. The substantive difference between the Decedent's executed Will, which has been
5 admitted to Probate, and the Decedent's unexecuted Living Trust with respect to the disposition
6 of the residue of the trust estate is the Living Trust designated a specific charitable entity to
7 receive the residue (the South LA Animal Shelter), whereas the Decedent's Will generally directs
8 the residue be donated to an animal shelter (without naming a specific entity).

9 **CONSTRUCTION OF WILL AND APPLICATION OF CY PRES DOCTRINE**

10 13. Probate Code §11700 authorizes a general personal representative, at any time
11 after letters are first issued and before an order for final distribution is made, to file a petition for
12 a court determination of the persons entitled to distribution of the decedent's estate. The petition
13 shall include a statement of the basis for the petitioner's claim.

14 14. Probate Codes §7000 and §7001 provide for the transfer of property upon the
15 death of a decedent and once the administration of a decedent's estate has been completed.
16 Specifically, Probate Code §7000 and §7001 state as follows:

17 "§7000. Subject to Section 7001, title to a decedent's property passes on the
18 decedent's death to the person to whom it is devised in the decedent's last will
19 or, in the absence of such a devise, to the decedent's heirs as prescribed in the
laws governing intestate succession."

20 "§7001. The decedent's property is subject to administration under this code,
21 except as otherwise provided by law, and is subject to the rights of
beneficiaries, creditors, and other persons as provided by law."

22 15. Probate Code §21102 provides the intention of a decedent as expressed in a Will
23 controls the legal effect of the dispositions made under such Will. Specifically, Probate Code
24 §21102 states:

25 "(a) The intention of the transferor as expressed in the instrument controls the
26 legal effect of the dispositions made in the instrument.

27 (b) The rules of construction in this part apply where the intention of the
transferor is not indicated by the instrument.

28 (c) Nothing in this section limits the use of extrinsic evidence, to the extent

1 otherwise authorized by law, to determine the intention of the transferor.”

2 16. Further, regarding the interpretation of a Will, Probate Code §21120 provides in
3 relevant part that “[p]reference is to be given to an interpretation of an instrument that will
4 prevent intestacy or failure of a transfer, rather than one that will result in an intestacy or failure
5 of a transfer.”

6 17. Finally, Probate Code §21122 provides in relevant part that “[t]he words of an
7 instrument are to be given their ordinary and grammatical meaning unless the intention to use
8 them in another sense is clear and their intended meaning can be ascertained.”

9 18. The *Cy Pres* doctrine is an equitable power of the Court which provides for a
10 balance among the following well established rules of construction: (1) that a Will is to be
11 construed so as to effectuate the intent of the testator; and (2) that a gift to charity should be
12 effectuated whenever possible. (*Estate of Klinkner* (1978) 85 Cal. App. 3d 942, at 951.) In the
13 *Estate of the Gatlin*, (1971)16 Cal. App 3d 644, the Court succinctly described the *Cy Pres*
14 doctrine as follows:

15 “Briefly, cy pres is an equitable power which makes it possible for a court to
16 carry out a testamentary trust established for a particular charitable purpose if
17 the testator has expressed a general charitable intent, and for some reason his
18 purpose cannot be accomplished in the manner specified in the will (*Estate of*
19 *Tarrant*, 38 Cal.2d 42, 237 P.2d 505); the court, to meet unexpected
contingencies, **297 directs the disposition of the property to some related
charitable purpose in order to carry out the testator’s intention as nearly as
possible (*Estate of Loring*, 29 Cal.2d 423),1 175 P.2d 524.”

20 19. A testator is said to have had a “general charitable intent” when the particular gift
21 is of a generally charitable nature rather than to benefit a specific charitable entity. (*Estate of*
22 *Klinkner* (1978) 85 Cal.App.3d 942, at 951.)

23 20. The *Cy Pres* doctrine has been applied to uphold a gift to charity where the
24 Testator has not specified the precise charitable purpose to which the gift was to be applied or
25 named a Trustee to administer the gift. (*Estate of Quinn* 156 Cal.App 2d 684.) However, the *Cy*
26 *Pres* doctrine is generally held inapplicable when the testator has anticipated the possible failure
27 of a gift by providing for an alternative disposition. (*Estate of Klinkner* (1978) 85 Cal.App.3d
28

1 942, at 952.)

2 21. In the *Estate of the Gatlin*, (1971)16 Cal. App 3d 644, the sole issue was whether a
3 testator's charitable gift should lapse because the institutions referred to in his Will could not be
4 identified by the names used, or should the Cy Pres doctrine be applied to carry out the testator's
5 manifested charitable purpose. In holding the Cy Pres power should be exercised even though the
6 charitable institutions mentioned in the decedent's Will could not be identified with any degree of
7 certainty, the Court found the decedent was motivated by, and that his Will expressed, a broad
8 charitable intent in relation to the named activities he desired to benefit.

9 The decedent in the *Estate of Gatlin* died leaving a holographic Will which disposed of
10 the residue of his estate as follows: "[t]he Balance of my Estate to be equally divided between
11 the home for the Blind and home for crippled children here in San Francisco, Calif." The
12 Executor filed a petition to determine who was entitled to the residue of the estate because no
13 institution could be found by the names of the "home for the Blind" and the "home for crippled
14 children" in San Francisco, California. The lower Court ruled the gift lapsed and passed to the
15 settlor's daughter, an intestate heir. Multiple charities that advance the causes for the Blind and
16 the Crippled in San Francisco appealed seeking application of the of the Cy Pres doctrine. The
17 Court reversed the lower Court's ruling and found the Cy Pres doctrine should be applied to carry
18 into effect the testator's evident desire to aid blind persons and crippled children.

19 As no extrinsic evidence was submitted, the Court looked solely to the language of the
20 decedent's Will and found the Testator expressed a general charitable intent. First, the Court
21 noted the decedent's Will directed the bulk of his property be divided between two institutions
22 engaged in comparable humanitarian activities which evidenced or expressed a broad charitable
23 intent in relation to the activities. Second, the Court noted by the testator casually referring to
24 each the "home for the Blind" and the "home for crippled children" in his Will (rather than the
25 proper names of an organization), evidenced or indicated the humanitarian activities were his
26 paramount concerns rather than gifts to specific institutions. Based upon the above, the Court
27 concluded the "[d]ecedent's underlying motivation in leaving his property to the 'home for the
28 Blind and home for crippled children here in San Francisco' was to bring comfort and succor to

1 the blind of San Francisco as a class and to the crippled children of San Francisco as a class, and
2 that the 'homes' referred to in the will were the means by which his laudable aims were to be
3 accomplished; they were not the objects of his bounty." In applying the Cy Pres doctrine, the
4 Court (1) directed the selection of any suitable organization or organizations located in the city
5 and county of San Francisco to act as trustee or trustees to carry into effect the testator's evident
6 desire to aid blind persons and crippled children for the county and city of San Francisco and (2)
7 order the Executor to distribute the residue of the estate to such Trustee or trustees.

8 22. Petitioner seeks construction of the Will to carry out the Decedent's general
9 charitable intent and underlying motivation to provide for the humane treatment of animals,
10 including providing for their protection, health, safety and welfare. Petitioner believes the
11 language of the Decedent's Will and extrinsic evidence each support the Decedent's evident
12 general charitable intent and desire to provide for the humane treatment of animals, including
13 providing for their protection, health, safety and welfare

14 First, the Decedent's Will expresses the Decedent's charitable intent by directing the
15 omission of his heirs and providing for the residue of his estate (comprising of the bulk of his
16 estate) to be liquidated and the proceeds thereof donated to an animal shelter in the name of his
17 beloved wife and dear companion Rosemary L. Anderson. The fact the Decedent used the word
18 "donated" and that such gift to an animal shelter was to be made in the name of his wife is
19 consistent with the language of a charitable gift and supports his charitable intent. Further, the
20 term "animal shelter" commonly refers to an establishment supported by charitable contributions
21 which provides a temporary home for dogs, cats, and other animals that are offered for adoption.
22 In broader terms, animal shelters generally provide for the humane treatment of animals,
23 including providing for their protection, health, safety and welfare, which was the paramount
24 concern of the Decedent.

25 Second, extrinsic evidence also supports and bolsters the Decedent's evident charitable
26 intent. Subsequent to the execution of the Decedent's Will, the Decedent told Petitioner the
27 majority of his estate was to pass to an "animal charity" when the Decedent advised Petitioner of
28 the location of his Will. Further, the Decedent consistently communicated his charitable

1 intentions to attorney Lawrence Zucker both before and after the execution of the Decedent's
2 Will. Specifically, the Decedent discussed with Mr. Zucker on numerous occasions his intention
3 to have the residue of his estate to go to an animal shelter to support their charitable causes, and
4 to omit the Decedent's natural heirs. Further, following the execution of the Decedent's Will, the
5 Decedent provided a draft Living Trust to Mr. Zucker for his review and comment that designated
6 a specific charitable organization as the residuary beneficiary (i.e., the South LA Animal Shelter),
7 whose stated mission is to promote and protect the health, safety and welfare of animals. The
8 draft Living Trust was prepared before the Decedent's Will and delivered to Mr. Zucker for his
9 thoughts and comments within 60 days of the execution of the Decedent's Will.

10 23. Similar to the *Estate of Gatlin*, Petitioner's charitable intent is evident from the
11 Decedent's Will despite not naming a specific charity to receive such gift. Here, the Decedent
12 further clarified his wishes by specifically omitting his heirs in his Will. Also like the *Estate of*
13 *Gatlin*, the Decedent directed the bulk of his estate comprised of the residue to pass to a cause
14 which is generally understood to further a charitable purpose. Although no extrinsic evidence
15 existed in the *Estate of Gatlin* to support the testator's charitable intention, here there is an
16 abundance of extrinsic evidence supporting the Decedent's charitable intention which is close in
17 proximity of time, both before and after, the creation of the Decedent's Will and to the
18 Decedent's death. Further, the application of the *Cy Pres* doctrine as requested by the Petitioner is
19 consistent with the long established rules of construction described in the *Estate of Klinkner*, (1)
20 that a Will is to be construed so as to effectuate the intent of the testator; and (2) that a gift to
21 charity should be effectuated whenever possible.

22 24. Based upon the above, the Petitioner requests the Court exercise its equitable
23 power under the *Cy Pres* doctrine to establish a testamentary trust to provide for the Decedent's
24 evident charitable desire to provide for the humane treatment of animals, including providing for
25 their protection, health, safety and welfare.

26 25. Although the Decedent was contemplating the specific animal shelter to be named
27 as the beneficiary of the residue of his estate and may have been considering more than one, the
28 only specific animal shelter known to Petitioner that the Decedent contemplated is the South LA

1 Animal Shelter located at 1850 W. 60th Street, Los Angeles, CA 90047, named in his unexecuted
2 Living Trust which was provided to Mr. Zucker after the execution of the Decedent's Will.

3 26. Whereas in the *Estate of Gatlin*, the Court appointed a Trustee to carry into effect
4 the testator's evident charitable desires, Petitioner similarly requests the Court appoint a Trustee
5 to carry into effect the Decedent's charitable desires. Therefore, based on the above and subject to
6 obtaining a future Order from this Court for the Distribution of the Estate of the Decedent,
7 Petitioner requests the Court authorize and direct the distribution of the residue of the Decedent's
8 estate to the following charitable entity, as Trustee, to administer such gift to provide for the
9 humane treatment of animals, including providing for their protection, health, safety and welfare:

10 The Animal Welfare Trust Fund 859
11 c/o The City of Los Angeles, Department of Animal Services
12 221 N. Figueroa St., Suite 600
Los Angeles, CA 90012

13 27. Petitioner believes The Animal Welfare Trust Fund 859 is an appropriate Trustee
14 to administer such gift as it is a charitable organization and its stated purpose is to enhance the
15 quality of life for shelter and other animals by funding animal supplies, medical equipment,
16 improvements to Animal Shelters and other animal welfare-related projects undertaken by the
17 Department of Animal Services. Additionally, it supports seven animal shelters in the Los
18 Angeles area including the Chesterfield Square Center located at 1850 W. 60th St. Los Angeles,
19 CA 90047, commonly known as the South LA Animal Shelter and is referenced in the Decedent's
20 unexecuted Living Trust.

21 **SPECIAL NOTICE**

22 28. The following has filed a request for special notice in this proceeding: Attorney
23 Timothy J. Gray of the Law Offices of Timothy Gray, attorney for beneficiary Nancy S. Long.

24 **NOTICE**

25 29. The names and last known addresses of the decedent's heirs at law, beneficiaries
26 under the Decedent's Will, and parties of interest whose right or interest would be affected by this
27 petition, so far as known to the petitioners are as follows:

28 ///

	<u>Name/Relationship</u>	<u>Age</u>	<u>Address</u>
1			
2	SCOTT ARMSWORTH,	Adult	1357 Garlingford Street
3	Friend (Executor)		Costa Mesa, CA 92626
4	EUDORGINA HUMPHREY,	Adult	4917 Gulfstream Circle
5	Mother		Virginia Beach, VA 23464
6	NANCY S. LONG,	Adult	3676 Zubar Road
7	Mother of predeceased spouse		Orient, OH 43146
8	BRENDA SEVERS,	Adult	4382 Jody Drive
9	Sister of predeceased spouse		Grove City, OH 43123
10	GARY B. ANDERSON,	Adult	Deceased
11	Predeceased Father		
12	ROSEMARY L. ANDERSON,	Adult	Deceased
13	Predeceased Spouse		
14	RONALD L. LONG,	Adult	Deceased
15	Father of predeceased spouse		
16	OFFICE OF THE ATTORNEY		1300 "I" Street
17	GENERAL		Sacramento, CA 95814-2919
18	Charitable Trusts Section		
19	Timothy J. Gray, Esq.,		28202 Cabot Rd., Ste 300
20	Attorney for NANCY S. LONG		Laguna Niguel, CA 92677
21	The Animal Welfare Trust Fund 859		221 N. Figueroa St., Suite 600
22	c/o The City of Los Angeles, Department		Los Angeles, CA 90012
23	of Animal Services		
24	South LA Animal Shelter		1850 W. 60 th Street
25			Los Angeles, CA 90047

26 **WHEREFORE**, Petitioner prays for an order:

27 I. A Court finding of the following facts:

28 A. The Decedent Holographic Will dated May 23, 2018, provides the residue of the estate to be disposed of as follows: "My estate is to be liquidated and the proceeds donated to an animal shelter in the name of my beloved wife and dear companion Rosemary L. Anderson."

B. The gift of the residue of the Decedent's estate provided in his Will to "an animal shelter" is of a generally charitable nature rather than to benefit a specific charitable entity.

1 C. The Decedent is found to have possessed a general charitable intent and
2 underlying motivation to provide for the humane treatment of animals, including providing for
3 their protection, health, safety and welfare.

4 2. The Court exercises its equitable power under the Cy Pres doctrine to appoint a
5 Trustee to carry into effect the Decedent's evident desire to provide for the humane treatment of
6 animals, including providing for their protection, health, safety and welfare.

7 3. The Court appoints the following charitable organization as the Trustee to carry
8 into effect the Decedent's evident desire to provide for the humane treatment of animals,
9 including providing for their protection, health, safety and welfare:

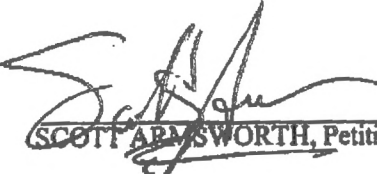
10 The Animal Welfare Trust Fund 859
11 c/o The City of Los Angeles, Department of Animal Services
221 N. Figueroa St., Suite 600
12 Los Angeles, CA 90012

13 4. Subject to obtaining a future Order from this Court for the Distribution of the
14 Estate of the Decedent, the Executor shall distribute the residue of the estate to the Trustee named
15 herein rather than to an unnamed "an animal shelter" as provided in the Decedent's Will

16 5. For such other orders as the court may deem proper.

17 Respectfully submitted:

18 Dated: 2/4/20

19 
SCOTT ARMSWORTH, Petitioner

20
21 Boner Stern & Sipple, APC

22
23 Dated: 2/4/2020

24 By: 
JAMES H. SIPPLE, Esq.
25 Attorney for Petitioner
26
27
28

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I declare that the same is true of my own knowledge, except as to those matters which are stated herein upon my information or belief, and as to those matters I believe them to be true.

Dated: 2/4/20


SCOTT ARMSWORTH

EXHIBIT “1”

EXHIBIT "I"

5/23/2018

THE LAST WILL AND TESTAMENT

OF

Kenneth G. Anderson

18STPB09725

T. Nguyen

NOV 19 2018

FILED

SHERRI R. CARTER, Executive Officer/Clerk
Superior Court of California, County of Los Angeles

BY:

Thunquya

DEPUTY

I, Kenneth G. Anderson, being of sound mind
hereby declare this document to be my
last will and testament and hereby revoke any
other prior testamentary documents.
This document is drafted entirely in my
own hand on May 23rd, 2018.

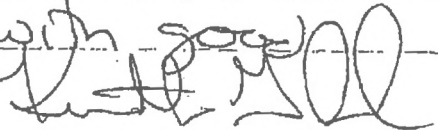
I appear my dear and longstanding
friend, Seth Armsworth as my executor.
He resides at 1357 Garlingford St, Costa
Mesa, CA 92626. He phone is (949) 875-2653
He shall not be required to post a bond
and he shall be paid the sum of 200
dollars on his fee disallowing me any fees
as my executor from the proceeds of
my estate.

I bequeath a life estate in the real
property located at 3676 Zuger Rd, Crest
Hill to my beloved mother-in-law, Suzie
Anne McCoy Long. Upon her demise or should
she no longer wish to reside on the
property, it shall be sold as provided
that Brenda K. Savers be my power
of attorney.

The first option to purchase it. The proceeds from the sale to be distributed by my executor as provided below.

At the time of my demise I am a full time partner at Haight my mother will receive a payout of \$500,000 from a life insurance policy her name is Eudorina Humphrey. She resides at 4917 Gulf Stream Circle VA Beach Va 23464 (757) 495-1602. Should the insurance not trigger for whatever reason she is to be paid an annuity of \$5,000 a year for the remainder of her life.

My executor may have any or all of my personal possessions he may desire. I specifically bequeath him my John Wayne collectibles a movie as well as the "Poverty Sucks" sign.

My estate is to be liquidated and the proceeds donated to an animal shelter in the name of my beloved wife and dear companion Rosemary L. Anderson. The donee shall be charged with good faith. Two of Three 

homes for my surviving pets. Each
pet to be allocated a \$5,000 allowance
for care

and disinherit all other family members

5/23/2018

Keith M. O.

Three of three
JSS

ADMITTED TO PROBATE

NOV 19 2018

Date

SHERRI R. CARTER, Executive Officer/Clerk of the
Superior Court of California, County of Los Angeles

By: T. Nguyen Deput

T. Nguyen

18STPB09725

5/23/2018

THE LAST WILL AND TESTAMENT
OF
Kenneth G. Anderson

I Kenneth G. Anderson being of sound mind hereby declare this document to be my final will & testament & hereby revoke any other prior testamentary documents. This document is drafted entirely in my own hand on May 23rd, 2018.

I appoint my dear and longstanding friend Scott Armsworth as my executor. He resides at 1357 Garlingford Str. Costa Mesa Ca 92626. He phone [sic] is (949) 375-2653 He shall not be required to post a bond and he shall be paid the sum of 200 dollars an hour for discharging his duties as my executor from the proceeds of my estate.

I bequeath a life estate in the real property located at 3676 Zuber Rd, Orient OHIO to my beloved mother in Law [sic] Suzie aka nancy [sic] Long. Upon her demise or should she no longer wish to reside on the property it shall be sold provided that Brenda K. Sevcs be given the first option to purchase it. The proceeds from the sale to be distributed by my executor as provided below.

If at the time of my demise I am a full time partner at Haight my mother will recieve [sic] a payment of 500,000 from a life insurance policy. Her name is Eudorgina Humphrey. She resides at 4917 Gulf Stream Circle VA Beach Va 23464 (757) 495-1602. Should the insurance not trigger for whatever reason she is to be paid an annuity [sic] of \$5,000 a year for the remainder of her life.

My executor may have any or all of my personal possessions he may desire. I specifically bequeath him my John Wayne collectibles [sic] & movies as well as the "Poverty Sucks" sign.

My estate is to be liquidated and the proceeds donated to an animal shelter in the name of my beloved wife and dear companion Rosemary L. Anderson. The donee shall be charged with good homes for my surviving pets. Each pet to be allocated a \$5,000 allowance for care.

I disinherit all other family members

5/23/2018
/s/ Kenneth G. Anderson

Three of three
KGA

EXEMPLIFICATION

CASE TITLE: IN THE MATTER OF: KENNETH G. ANDERSON, DECEDENT	CASE NUMBER: 18STPB09725
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SUPERIOR COURT FOR THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

Seal of the
Superior Court, County of Los Angeles

*An original seal is embossed within this area
and may or may not be affixed with a gold seal.*

I, SHERRI R. CARTER, Executive Officer/Clerk of the Superior Court of the State of California for the County of Los Angeles do hereby certify and attest that I am the custodian of records of the said Court, and that the foregoing document is a full, true and correct copy of the original

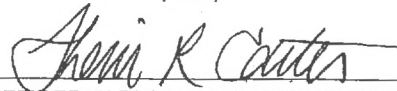
LAST WILL AND TESTAMENT OF KENNETH G. ANDERSON
FILED ON NOVEMBER 19, 2018. //
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on file or of record in my office, and that I have carefully compared the same with the original.

Executed and Seal of said Court affixed in the County of Los Angeles, California on

JULY 31, 2019

(DATE)



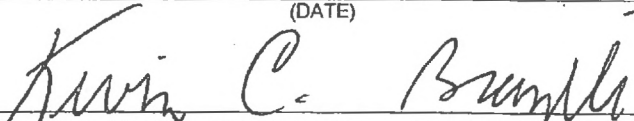
EXECUTIVE OFFICER/CLERK OF THE SUPERIOR COURT OF
CALIFORNIA FOR THE COUNTY OF LOS ANGELES

SUPERIOR COURT FOR THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, KEVIN C. BRAZILE, Presiding Judge of the Superior Court of the State of California for the County of Los Angeles do hereby certify that SHERRI R. CARTER is Executive Officer/Clerk of the Superior Court of the State of California for the County of Los Angeles (which is a court of record having by law a seal); that the signature to the foregoing certificate and attestation is the genuine signature of the said SHERRI R. CARTER as such officer, that the seal annexed thereto is the seal of said Superior Court, that said SHERRI R. CARTER as such officer is the legal custodian of the original records or documents described and referred to in the foregoing certificate; is the proper officer having the authority to execute said certificate and attestation, and that said attestation is in due and proper form according to the laws of the State of California. I further certify that my oath of office as a Judge of the Superior Court of California and handwritten signature, or a true and correct copy thereof, is on file or of record with the Secretary of State for the State of California for the purposes of authentication.

Executed at Los Angeles, California on
JULY 31, 2019

(DATE)



PRESIDING JUDGE OF THE SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

EXHIBIT “2”

EXHIBIT "2"

REVOCABLE LIVING TRUST BY

Kenneth G. Anderson

I, Kenneth G. Anderson, a resident of Los Angeles, Los Angeles County, California, declare this to be my Living Trust and hereby revoke any previous Living Trust that I may have previously made.

ARTICLE I – IDENTIFICATION

1. The Grantor of this trust is Kenneth G. Anderson.
2. The Grantor's spouse is Rosemary Long Anderson (deceased).
3. The Grantor currently has no living children.
The Grantor currently has no deceased children.
4. This Trust shall be known as the LIVING TRUST OF KGA.

ARTICLE II – FUNDING OF TRUST

The Grantor is causing to be made payable to the Trustee the assets listed on the attached Schedule "A". Said Schedule may be revised at any time as assets are made payable to the Trustee or transferred to the Trustee. Those assets, all additional property received by the Trustee from any person by will or otherwise, and all investments and reinvestments thereof are herein collectively referred to as the "Trust Estate".

ARTICLE III – RIGHT TO MODIFY

The Grantor reserves and shall have the exclusive right any time and from time to during his/her lifetime by instrument in writing signed by the Grantor and delivered to the Trustee to modify or alter this Agreement, in whole or in part, without the consent of the Trustee or any beneficiary provided that the duties, powers and liabilities of the Trustee shall not be changed without his/her consent; and the Grantor reserves and shall have the right during his/her lifetime, by instrument in writing, signed by the Grantor and delivered to the Trustee, to cancel and annul this Agreement without the consent of the Trustee or any beneficiary hereof. Grantor expressly reserves the right to appoint successor trustees, replace present trustees and change the beneficiaries or the rights to property due any beneficiary.

ARTICLE IV – APPOINTMENT OF TRUSTEES

The Grantor hereby appoints himself, Kenneth G. Anderson, as Trustee of this Living Trust. In the event that he is unwilling, unable, or does not accept his appointment,

Living Trust of KGA

Date: _____

Grantor hereby appoints Lawrence Zucker to serve as First Alternate Trustee of this Living Trust or any trust created hereunder.

Grantor hereby appoints Scott Armsworth to serve as Second Alternate Trustee of this Living Trust or any trust created hereunder should Trustee and First Alternate Trustee die simultaneously.

The Trustee may pay himself reasonable compensation from the Trust estate during each calendar year for all ordinary services and reasonable additional compensation for any extraordinary services, all without court order. If the Trustee shall serve for a part of a calendar year, the annual compensation shall be prorated.

No Trustee shall be liable to any personal interested in this Trust for any act or default unless it results from the Trustee's bad faith, willful misconduct, or gross negligence.

No Trustee, including nonresidents, shall post bond or security.

ARTICLE V – PAYMENT OF EXPENSES

1. The Trustee shall pay from the Trust Estate all expenses of Grantor's legally enforceable debts, costs of administration including ancillary costs, costs of safeguarding and delivering legacies, other proper charges against Grantor's estate, and estate and inheritance taxes assessed by reason of Grantor's death, except that the amount, if any, by which the estate and inheritance taxes shall be increased as a result of the inclusion of property in which Grantor may have a qualifying income interest for life or over which Grantor may have a power of appointment shall be paid by the person holding or receiving that property. Interest and penalties concerning any tax shall be paid and charged in the same manner as the tax. Grantor waives for his estate all rights of reimbursement for any payments made pursuant to this article.
2. The Trustee's selection of assets to be sold to make the foregoing payments or to satisfy any pecuniary legacies, and the tax effects thereof, shall not be subject to question by any beneficiary.
3. The Trustee shall make such elections under the tax laws as the Trustee deems advisable, without regard to the relative interests of the beneficiaries. No adjustment shall be made between principal and income or in the relative interests of the beneficiaries to compensate for the effect of elections under the tax laws made by the Trustee.

ARTICLE VI – TRUST PROVISIONS WHILE GRANTOR IS LIVING

1. Income – During the lifetime of the Grantor, the Trustee may pay the income from the Trust Estate in convenient installments to the Grantor or otherwise as he may from time to time direct, and also such sums from principal as he may request at any time.

Living Trust of KGA

Date: _____

2. Disability – If at any time the Grantor is unable to manage his affairs, the Trustee may use such sums from the income and principal of the Trust Estate as the Trustee deems necessary or advisable for the care, support, and comfort of the Grantor and any person dependent upon him, or for any other purpose the Trustee considers to be for the Grantor's best interest, adding to principal any income not so used.
3. For purposes of this agreement, the Grantor shall be considered to be unable to manage his affairs if he is under a legal disability or by reason of illness or mental or physical disability is unable to give prompt and intelligent consideration to financial matters. The determination as to Grantor's inability at any time shall be made by two licensed physicians, not related to the Grantor or any beneficiary of the trust created by this Declaration of Trust Agreement, who certify that he has become legally incapacitated. At the time such a determination is made, the Alternate Trustee shall become the Acting Trustee of this Living Trust. If the Alternate Trustee shall serve during the lifetime of the Grantor, the Alternate Trustee shall disburse from the Trust Estate such amounts as necessary for the Grantor's complete care, support, and maintenance.

ARTICLE VII – TRUST ADMINISTRATION AFTER DEATH OF GRANTOR

1. Trust Estate – Upon the death of the Grantor, or the last surviving Grantor if more than one, the remaining Trust assets shall be distributed to the beneficiaries in the proportionate or allocable amounts as are specified in the schedule of beneficiaries, hereto annexed as Schedule B, as may then be in force.

If any beneficiary and the Grantor should die under such circumstances as would render it doubtful whether the beneficiary or the Grantor died first, then it shall be conclusively presumed for the purposes of this Trust that said beneficiary predeceased the Grantor.

Disclaimer by Beneficiary – Notwithstanding anything stated above, any beneficiary may disclaim his interest in the Trust Estate or any portion thereof at any time that he deems wise.

ARTICLE VIII – TRUST PROVISIONS

1. The following provisions shall apply to the Trust Estate and to each trust established under this Living Trust.
2. The Trustee shall hold, manage, care for and protect the Trust Estate and shall have the following powers, except to the extent that they are inconsistent with those conferred by law:
 - a. To hold and retain any and all property, real, personal or mixed, received from the Grantor's estate, or from any other source, regardless of any law or rule of court relating to diversification, or non-productivity, for such time as the Trustee shall deem best, and to dispose of such property by sale, exchange, or otherwise, as and

Living Trust of KGA

Date: _____

- when they shall deem advisable; notwithstanding this provision or any other contained herein.
- b. To sell, assign, exchange, transfer, partition and convey, or otherwise dispose of, any property, real, personal or mixed, which may be included in or may at any time become part of the Trust Estate, upon such terms and conditions as deemed advisable, at either public or private sale, including options and sales on credit and for the purpose of selling, assigning, exchanging, transferring, partitioning or conveying the same, to make, execute, acknowledge, and deliver any and all instruments of conveyance, deeds of trust, and assignments in such form and with such warranties and covenants as they may deem expedient and proper; and in the event of any sale, conveyance or other disposition of any Trust Estate, the purchaser shall not be obligated in any way to see the application of the purchase money or other consideration passing in connection therewith.
 - c. To lease or rent and manage any or all of the real estate, which may be included in or at any time become a part of the Trust Estate, upon such terms and conditions deemed advisable, irrespective of whether the term of the lease shall exceed the period permitted by law or the probable period of any trust created hereby, and to review and modify such leases; and for purpose of leasing said real estate, to make, execute, acknowledge and deliver any and all instruments in such form and with such covenants and warranties as they may deem expedient and proper; and to make repairs, replacements, and improvements, structural and otherwise, of any property, and to charge the expense thereof in an equitable manner to principal or income, as deemed proper.
 - d. To borrow money for any purpose in connection with said Trust created hereby, and to execute promissory notes or other obligations for amounts so borrowed, and to secure the payment of any such amounts by mortgage or pledge or any real or personal property, and to renew or extend the time of payment of any obligation, secured or unsecured, payable to or by any trust created hereby, for such periods of time as deemed advisable.
 - e. To invest and reinvest or leave temporarily uninvested any or all of the funds of the Trust Estate as said Trustee in the Trustee's sole discretion may deem best, including investments in stocks, common and preferred, and common trust fund, without being restricted to those investments expressly approved by statute for investment by fiduciaries, and to change investments from realty to personality, and vice versa.
 - f. To compromise, adjust, arbitrate, sue defend, abandon, or otherwise deal with and settle claims, in favor of or against the Trust Estate as the Trustee shall deem best and the Trustee's decision shall be conclusive.
 - g. To determine in a fair and reasonable manner whether any part of the Trust Estate, or any addition or increment thereto be income or principal, or whether any cost, charge,

Living Trust of KGA

Date: _____

expense, tax, or assessment shall be charged against income or principal, or partially against income and partially against principal.

- h. To engage and compensate, out of principal or income or both, as equitably determined, agents, accountants, brokers, attorneys-in-fact, attorneys-at-law, tax specialists, realtors, custodians, investment counsel, and other assistants and advisors, and to do so without liability for any neglect, omission, misconduct, or default of any such agent or professional representative, provided he or she was selected and retained with reasonable care.
- i. To vote any stock, bonds, or other securities held by the Trust at any meetings of stockholders, bondholders, or other security holders and to delegate the power so to vote to attorneys-in-fact or proxies under power of attorney, restricted or unrestricted, and to join in or become a party to any organization, readjustment, voting trust, consideration or exchange, and to deposit securities with any persons, and to pay any fees incurred in connection therewith, and to charge the same to principal or income, as deemed proper, and to exercise all of the rights with regard to such securities.
- j. To purchase securities, real estate, or other property from the executor or other personal representatives of the Grantor's estate, the executor or other personal representative of the Grantor's spouse's estate, and the Trustee of any agreement or declaration executed by the Grantor during his/her lifetime under his/her last will in case his/her executors or Trustees are in need of cash, liquid assets, or income-producing assets with which to pay taxes, claims, or other estate or trust indebtedness, or in case such executors or Trustees are in need of such property to properly exercise and discharge their discretion with respect to distributions to beneficiaries as provided for under such bills, declarations, or agreements. Such purchase may be in cash or may be in exchange for other property of this Trust, and the Trustees shall not be liable in any way for any loss resulting to the Trust Estate by reason of the exercise of said authority.
- k. To undertake such further acts as are incidental to any of the foregoing or are reasonably required to carry out the tenor, purpose and intent of the Trust.
- l. To make loans or advancements to the executor or other personal representative of the Grantor's estate, the executor or other personal representative of the Grantor's spouse's estate, and the Trustees of any agreement or declaration executed by the Grantor during his/her lifetime or under his/her last will in case such executors or Trustees are in need of cash for any reason. Such loans or advancements may be secured or unsecured, and the Trustees shall not be liable in any way for any loss resulting to the Trust Estate by reason of the exercise of this authority.

ARTICLE VIII – MISCELLANEOUS PROVISIONS

1. This Living Trust may be revoked, modified, or changed at any time during the lifetime of the Grantor.

Living Trust of KGA

Date: _____

2. When applicable, pronouns and relative words shall be read as plural, feminine, or gender neutral.
3. The headings used in this Living Trust are for identification and convenience only and are not to be considered in interpretation of the Trust.
4. This Trust shall be exempt from registration under the California Probate Code.
5. Lastly, Grantor hereby revokes any and all former Living Trusts previous made by him.

Dated this _____ day of _____, 20_____.

("Signature")

Kenneth G. Anderson

This instrument, consisting of _____ pages, including this page and the page immediately following, was signed, sealed, published, and declared by Kenneth G. Anderson as his Living Trust on the above date in our presence. At his request, in his presence, and in the presence of each other, we have subscribed our names as witnesses and Kenneth G. Anderson has signed his name on this page and at the close of the provisions of the Living Trust.

("Witness Signature")

("Witness Signature")

("Printed Name")

("Printed Name")

Address: _____

Address: _____

Living Trust of KGA

Date: _____

STATE OF CALIFORNIA)
) SS
COUNTY OF LOS ANGELES)

We, Kenneth G. Anderson, the Grantor, and _____

("Witness Name") and _____, ("Witness Name") the witnesses respectively, whose name are signed to the attached instrument, being duly sworn, declare to the undersigned Notary that the Grantor signed this instrument as his Living Trust and that he signed voluntarily. We also declare that at the Grantor's request, in his presence, and in the presence of each other, the witnesses signed this instrument as the Grantor's Living Trust and that to the best of each witness' knowledge, Kenneth G. Anderson was eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

Kenneth G. Anderson

("Witness' Signature")

("Witness' Signature")

On the _____ day of _____, 20_____, before me, a Notary Public, personally appeared _____, ("Grantor's Name") to me known to be the same person described in and who executed the within instrument, and who acknowledged the same to be his free act and deed.

("Notary Public")

My Commission Expires: _____

ACCEPTANCE OF TRUSTEE

I hereby accept and will perform the duties of Trustee as outlined in the Living Trust of KGA.

Dated this _____ day of _____, 20_____.

Kenneth G. Anderson

Living Trust of KGA

Date: _____

SCHEDULE A
Description of Property

The following assets are the Trust Estate of the Living Trust of KGA:

- ❖ Real Property:
 - 112 Convoy Street, Playa Del Rey, California 90293.
 - 3676 Zuber Road, Orient, Ohio 43146.
- ❖ All personal property of any sort including personal property of deceased spouse.
- ❖ Wells Fargo Accounts.
- ❖ Capital One Accounts.
- ❖ Contents of Safety Deposit Box located at Santa Monica Branch of Wells Fargo Bank.

Living Trust of KGA

Date: _____

SCHEDULE B
Description of Beneficiaries and Specific Requests

The Trustee is instructed to liquidate all assets in the Trust except as noted below.

The liquidated proceeds are to be given as a gift in the name of Rosemary Long Anderson to the South LA Animal Shelter which, at the time of this writing, was located at 1850 W. 60th Street, Los Angeles, CA 90047.

Nancy S. Long is to be provided a life estate in the property commonly known as 3676 Zuber Road, Orient, Ohio 43146 if she be living. Upon her death or her election the property is to be liquidated and added to the gift in the name of Rosemary Long Anderson referenced above.

Eudorgina Humphrey is to be given \$100,000 in cash if she be living. The money is to be provided in increments of \$10,000.00. Upon her death, the residual of this gift, if any, is to be added to the gift in the name of Rosemary Long Anderson referenced above.

Scott Armsworth is to be given all of my John Wayne collectibles including, but not limited to, DVDs, video cassettes, postage stamps, coins, books, magazines, etc. In addition, he may select any items of my personal property as he may choose. I specifically bequeath him the "Poverty Sucks" sign.