## **Small Estate Affidavit Instructions/Guidance**

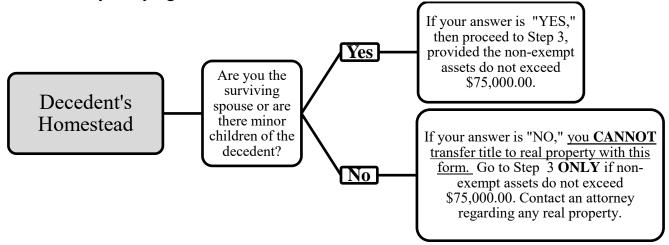
Before beginning this Small Estate Affidavit, please review the following to determine if a Small Estate Affidavit is proper to use.

**STEP 1:** Did the Decedent die testate (leaving a valid Will)?

If yes, you may not use the Small Estate Affidavit.

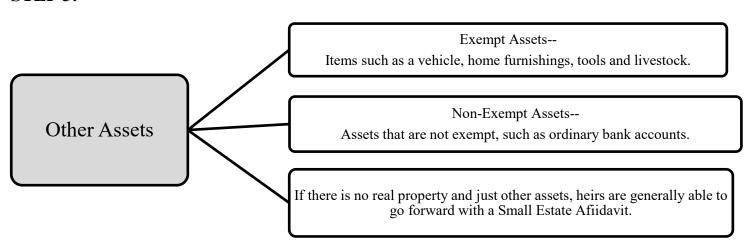
If no, proceed to Step 2.

**STEP 2:** What are you trying to transfer?



THE SMALL ESTATE AFFIDAVIT (SEA) MAY NOT BE USED TO TRANSFER TITLE TO REAL PROPERTY OTHER THAN THE DECEDENT'S HOMESTEAD AS EXPLAINED ABOVE. CONTACT AN ATTORNEY REGARDING OTHER REAL PROPERTY.

#### **STEP 3:**



#### OTHER DEFINITIONS AND RECOMMENDATIONS:

- **Form**—To increase the chances that the SEA will include all necessary information, the Court recommends that applicants use the SEA form available on the county clerk's website.
- **Separate Property**—property owned before marriage, property owned after a final divorce decree, or property acquired by gift or inheritance
- Community Property—any property acquired during marriage other than by gift or inheritance

# Instructions for Small Estate Affidavit Form

#### **Sections 1-5**

- It is important that the full name of the deceased person, the date of death, the county of death, and the domicile (where he lived) at death be shown in the form.
- The SEA must state whether the person died intestate (without leaving a Will) and that no petition for the appointment of a personal representative is pending nor has been granted.
- No form should be completed or filed until thirty (30) days have elapsed since death.
- The value of the **entire** estate, not including homestead and exempt property, does not exceed \$75,000.

### Section 6: Assets

- <u>Section six</u> must list all the assets of the Decedent with a full description of each and every asset belonging to the Decedent. Assets are any property owned that has monetary value, including:
  - o Bank accounts name of the bank, account number, and balance in each account.
  - Cash value and location.
  - o <u>Vehicles</u> including the year, make and model, vehicle identification number and value.
  - o Real Estate homestead only (it only passes to a surviving spouse or minor children)
  - o Stocks name of the stock, the number of shares, certificate number, and the value at death.
  - Safe Deposit Boxes if the Decedent had one, complete the form "Application to Open Safe Deposit Box and Examine Papers" provided by the County Clerk. Present the Court with an Inventory of what is in that box with descriptions and values.
  - o If you have a check, you should make sure the company will accept a SEA. They will have to reissue the check. You cannot open an estate account with the SEA.
  - o Please indicate whether the assets are community or separate property.
  - Applicant must identify any claimed exempt property (as defined by Texas Estates Code Chapter 353.051 and Texas Property Code Chapter 42).
- Indicate the value of each asset as precisely as possible. A SEA **cannot** be approved with any asset of "unknown value."

#### **Section 7.** Homestead:

- You must provide a legal description of the homestead and a physical address.
- The homestead is for the use and benefit of the surviving spouse and minor children only. (TEC Section 353.051).
- This is the only real property that can be transferred under a SEA.

#### **Section 8.** Liabilities:

- You must list all liabilities. These are debts of the Decedent and his/her estate. These may include credit cards, mortgage, or any bill that is still owed at the time of death.
- The estate of the deceased MUST be solvent. In other words, the debts/liabilities cannot exceed the value of the assets.
- If there are NO liabilities or debts, please show this in the box. Do not leave this box blank!

### **Section 9. Distributees:**

- List the name, address and telephone number of all distributees.
- Include the name, address, phone number, capacity and interest of each distributee. See heirship affidavit to determine who the distributee(s) are.

#### **Section 10. Signatures of Distributees:**

- All distributees who are listed in Section 9 must sign in front of a notary.
- If the distributee is a minor, the form must be signed by a natural parent of the minor; by the court appointed guardian with a copy of letters of guardianship attached; or by the court appointed managing conservator with judgement papers attached.
- Example of signatures for minors. "Sam Smith as natural guardian or parent of John Smith, a minor." It also requires that they print their names. The signature should be done in front of a notary.

# HEIRSHIP AFFIDAVIT

The heirship portions of Section I-IV are to be completed by two disinterested witnesses who knew the family history.

It is important that the proper portions of this affidavit be completed. This is how the Court will determine the heirs.

### I. Witness Information

These witnesses must not have or be entitled to any share of the Decedent's assets. It must show the following:

- a.) name,
- b.) address,
- c.) county in which they reside,
- d.) what relationship they were to the Decedent, and
- e.) how many years they knew the Decedent.

## **II.** Decedent Information

When and where did the Decedent die? In what county and state?

#### **III.** Marital History

This section is to determine whether the Decedent was married or not at the time of death. There are 3 boxes. Please check the appropriate box. If there was more than 1 marriage, please indicate that.

#### IV. Family History: All the descendants of the Decedent.

1) <u>Children:</u> Please list all of the Decedent's children, by birth or adoption (alive or deceased). If any of the children are deceased, list the deceased child's name and include their children in the box.

\*It is important to state whether the surviving spouse is the biological or adoptive parent of each of the children listed. Please indicate in the appropriate box.

2) **Parents:** If there are no children or grandchildren, then list the parents (alive or deceased).

### 3) Siblings – Brothers or Sisters:

- **a.** If there are no parents or only one parent survived the Decedent, list all siblings (alive or deceased).
- **b.** If any of the siblings are deceased, then list their children.

#### Note:

- This Small Estate Affidavit needs to be signed by the two disinterested witnesses in front of a notary.
- The Court usually does not require a hearing on SEA applications, but in some circumstances the Court may require a hearing before a SEA will be approved. If a hearing is needed, the Court will contact you to set the hearing. **Do not set a hearing until the Court has asked you to do so.**



# OFFICE OF DIANE TRAUTMAN

# COUNTY CLERK, HARRIS COUNTY, TEXAS PROBATE COURTS DEPARTMENT

#### AFFIDAVIT OF DISTRIBUTEES ● SMALL ESTATE ● WITH JUDGE'S ORDER OF APPROVAL

CHAPTER 205 OF THE TEXAS ESTATES CODE

In Matte Probate Harris C	ers of Probate Court No County, Texas	\$ \$ \$	Docket No Style of Estate:		
To the F	Honorable Judge of said Co	ourt:			Deceased
	e affidavit of all of the dist	ributees of	the estate of		, deceased, is respectfully
1.	That		1)	died on or about	
			/		(Date of Death)
	without leaving a Will, in		(City and S	tate)	<del>-</del>
2.	That the domicile of the coor state other facts showing				County, Texas
3.	That no petition for the ap	ppointment	of a personal representative o	f the decedent's estate is pe	ending nor has been granted.
4.	That more than thirty day	s have elap	sed since the death of the dece	edent.	
5. dollars	That the value of the en (\$75,000.00).	tire estate,	not including homestead and	exempt property, does no	ot exceed seventy-five thousand
6. <b>NOTE:</b>		s that which	follows: h is acquired during marriage or s		

Description of Asset(s)	Account Number Vehicle Identification Number Etc.	Indicate Community or Separate	Exempt Property	Value
Example: Bank of America	Act # 123456789	Community	Yes or No	\$12,000

7. The legal descr	ription of the decedent's homestead is: Lot	Block	
Subdivision			
Physical Address			

- \* Chapter 205 of the Texas Estates Code does not affect the disposition of property under the terms of a Will or other testamentary document, nor does it transfer title to real property other than the Decedent's homestead.
  - 8. That all the known liabilities of the decedent's estate are as follows:

Description of Liabilities / Debts	Account Number	Indicate Community or Separate	Balance Due
Example: Capital One Credit Card	Act # 123456789	Separate	\$4,000

9. That the names, addresses, and telephone numbers of all distributees, and their right to receive money or property or to have such evidences of money, property or other rights, to the extent that the assets, exclusive of homestead and exempt property, exceed the known liabilities of the estate are as follows:

Names, addresses, and phone numbers of distributees (Inheritors)	Capacity in which claim is made	Portion of which en	titled
Example: John Doe ● 1000 Main St. ● Houston, Texas 77000 (713) 755-6425	Son	Community Share	Separate Share

	Signatures of	Distributees (Inherito	rs)
Before m		thority, on this day pe f distributees (Inherito	
who being by me duly sworn upon oath	states that the forego	ng affidavit is true and	correct in every respect. Sworn and subscribed
o by the named distributees on:			• •
	(Date)		
			Notary Public in and for the State of Texa

#### HEIRSHIP AFFIDAVIT

To be filled out and signed by two disinterested witnesses.

NOTE: A disinterested witness is someone who does not inherit from the decedent.

Before me,	the undersigned authority, on this day po	ersonally appeared	(First Disinterested Witness)	
and		who h		
and	(Second Disinterested W	itness)	eing first by me duly sworn on oath state	•
		I. Witness Information	on	
I.		, reside at		
,	(First Disinterested Witness)		(Address)	Lam
	(City)	(County)	County,(State)	1 an
personally	acquainted with the family history and fa	ects of heirship of	(Name of Deceased)	<u>.</u>
			(Name of Deceased)	
deceased, h	ereinafter called "Decedent" who was m	y(Palationship to Dage	I knew Decedent for dent)	years.
		· -		
I,	(Second Disinterested Witness)	, reside at	(Address)	
				. I am
	(City)	(County)	County,(State)	
personally	acquainted with the family history and fa	icts of heirship of		
			(Name of Deceased)	
deceased, h	ereinafter called "Decedent" who was m		. I knew Decedent for	years.
		(Relationship to Dece	dent)	
		II. Decedent Informat	ion	
De	ecedent died on	in		County
Δ.	(Date of Death)			, county,
State of	, witho	out leaving a Will.		
		8		
		III. Marital History (Check Box that Applies		
D <sub>0</sub>	ecedent was married to			or
D.		(Surviving Spou		
	, and rema (Date of Marriage)	ined married until decedent	t's death and was never divorced.	
De	ecedent was never married.			
De	ecedent was not married at the time of de	eath but was married to		
D.	the first had not married at the time of the		(Name of Spouse)	
on	. and w	vas widowed/divorced on		
	(Date of Marriage)	(Circle One)	(Date of Termination of Marri	age)

# IV. Family History

		(Check Box that Applies)			
	Decedent had no children.				
	Decedent had the following chi	ldren by birth or adoption: (List all children	living or deceased)		
	Name	Address	Age or date of death	Alive or deceased	
~ -lan	1 · 1 · 1 · 1 · 1 · 1 · 1 · 1 · 1 · 1 ·	1911 1 d. 1 Alban than the obs	1 -1.:1.dwon		
		or any children in the home other than the abo			
	rviving spouse the biological or adoptive	•	Yes No		
1.	If any child of Decedent is deceased, list	all children of the deceased child or children	l.		
	Name of Deceased Child:				
Children of Deceased Child					
		Children of Deceased Child			
	Name	Address  Address	Age or date of death	Alive or deceased	
	Name		date		
	Name		date		
	Name		date		
	Name		date		
	Name		date		
	Name  Name of Deceased Child:		date		
			date of death		
		Address	date		
	Name of Deceased Child:	Address  Children of Deceased Child	date of death  Age or date	deceased  Alive or	
	Name of Deceased Child:	Address  Children of Deceased Child	date of death  Age or date	deceased  Alive or	
	Name of Deceased Child:	Address  Children of Deceased Child	date of death  Age or date	deceased  Alive or	
	Name of Deceased Child:	Address  Children of Deceased Child	date of death  Age or date	deceased  Alive or	

Name	Address	Age or date of death	Alive or deceased
. If decedent was not survived by his/her pa Brother(s) and/or Sister(s) of Decedent (L		).	
Name	Address	Age or date of death	Alive or deceased
2. If any brother(s) or sister(s) has predeceas	sed decedent then complete.		
es of deceased brother/sister:	-		
	Children of Deceased Brother/Sister		
		Age or date	Alive or deceased
Name	Address	of death	
	Address	of death	
	Address	of death	
	Address	of death	

The above statements are true and correct.	
Executed on	
(Date)	
	Signature of first disinterested witness
	Signature of second disinterested witness
Subscribed and sworn to before me, by	, first disinterested witness, on
	, to certify which witness my hand and seal of office.
(Date)	
	Notary Public in and for the State of Texas
Subscribed and sworn to before me, by	, second disinterested witness, on
(Date)	, to certify which witness my hand and seal of office.
	Notary Public in and for the State of Texas

Note: If blanks are not sufficient for information, a separate sheet may be attached.



# OFFICE OF DIANE TRAUTMAN

# COUNTY CLERK, HARRIS COUNTY, TEXAS PROBATE COURTS DEPARTMENT

IN MATTERS OF PROBATE § DOCKET NO	
IN MATTERS OF PROBATE \$ DOCKET NO  PROBATE COURT NO \$  \$ STYLE OF DOCK	
HARRIS COUNTY, TEXAS   § STYLE OF DOCK	ET:
ORDER AND APPROVAL OF AFFIDAVIT OF DISTRIBUTEES - S (CHAPTER 205 OF THE TEXAS ESTAT	SMALL ESTATES
The foregoing affidavit of the distributees of the estate of, deceased, is fo	und to conform to Texas Estates Code 8205 has been
examined,	und to comorni to Texas Estates Code §203, has been
and is approved by the Court on	
Judge of F	Probate Court No
CERTIFICATE OF REC	CORD
I, the Clerk of the Probate Court No of Harris instrument is a true and correct record of said instrument as filed and reby the Judge of said Court for recording in the "Small Estate" Records of	corded in the Probate Records of Harris County, as approved
	RAUTMAN erk, Harris County, Texas
	DEPARTMENT HEAD