



PFAC Pre-Licensing Course Glossary

Glossary

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A

Abatement. The reduction of a gift under a will because of insufficient assets to satisfy all the gifts after the legal obligations of the estate (debts, taxes, charges, and claims) have been paid in full. The general rule is that all gifts of the same class shall abate proportionately.

Adjudication. The formal giving or pronouncing a judgement or decree in a cause; also, the judgement given. The entry of a decree by a court in respect to the parties in a case.

Administration. The care and management of an estate by an executor, an administrator, a trustee, or a guardian.

Administrator/Executor. A person appointed by the court to administer (i.e., manage or take charge of) the assets and liabilities of a decedent. If the person performing these services is named by the decedent's will, he is designated as the executor of the estate.

Advance Directives. Written instructions, such as a living will or durable power of attorney for health care, which guides care when an individual is terminally ill or incapacitated and unable to communicate his/her desires.

Advocate. One who assists, defends, or pleads for another. One who renders legal advice and aid and pleads the cause of another before a court or a tribunal, a counselor.

Agent. A person who acts for another person by the latter's authority. The distinguishing characteristics of an agent are (1) that he acts on behalf and subject to the control of his principal, (2) that he does not have title to the property of his principal, and (3) that he owes the duty of obedience to his principal's orders.

Allocation. The crediting of a receipt in its entirety or the charging of a disbursement in its entirety to one account, as to the principal account or to the income account; to be distinguished from apportionment.

Apportionment. The division or distribution of a receipt or a disbursement between or among two or more accounts, as between principal and income; to be distinguished from allocation.

Appurtenance. Something belonging or attached to something else and passing as incident to the principal thing; as, a right of way (the appurtenance) over land (the principal thing).

Attestation clause. The clause of a document containing the formal declaration of the act of witnessing; in the case of a will, the clause immediately following the signature of



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the testator and usually beginning, "Signed, sealed, published, and declared by the said."

Attorney at Law. A person admitted to practice law in his respective state and authorized to perform both civil and criminal legal functions for clients, including drafting of legal documents, giving of legal advice, and representing such before courts, administrative agencies, boards, etc.

B

Basis. Original purchase price or "inherited" value.

Bearer Bond. A bond that does not have the owner's name registered on the books of the issuing company and that is payable to the holder.

Beneficiary. The person for whose benefit a trust is created. Also, the person to whom the amount of an insurance policy or annuity is payable.

Bequest. A gift of personal property by will; the same as a legacy.

Best Interest. That course of action which maximizes what is best for a ward and which includes consideration of the least intrusive, most normalizing, and least restrictive course of action possible given the needs of the ward.

Bona fide (adj.). In good faith, as a bona fide transaction.

Bond. A requirement by the Court and some non-Court supervised trusts whereby the fiduciary obtains a promise from an insurance company that it will pay out the bonded amount in the event of default by the fiduciary (the fiduciary in turn promises to repay any claim on the insurance company out of its personal assets). The fiduciary must qualify for the bond in terms of their credit and assets.

Bonds. Issued by a corporation or government entity as a promise to repay the investor with interest with a maturity date of over 10 years.

Breach of trust. Violation of a duty that a trustee owes to a beneficiary.

Burden of proof. The duty of proving a particular position in a court of law. Failure in the performance of that duty calls for judgment against the person on whom the duty is imposed. Thus, the burden of proof that the paper and writing is not the valid will of the testator is placed upon the person who contests a will.

C

Callable Bond. A bond issue, all, or part of which may be redeemed by the issuing corporation under definite conditions before maturity.

Capacity. Legal qualification, competency, power or fitness. Ability to understand the nature and effects of one's acts.

Capital Gain/Loss. Gain or loss from the sale of a capital asset—i.e., sale of stock, bond, real estate, business etc.

Clerk of Court. Officer of the court who files pleadings, motions, judgements, etc., issues process, and keeps records of court proceedings. Functions and duties of clerks of court



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are usually specified by statute or court rules.

Closed end Mutual Funds. Mutual Funds with a fixed number of shares that trade on stock exchanges or over the counter.

Codicil. An amendment or supplement to a will, executed with all the formalities of the will itself.

Collateral. Specific property, commonly securities, given by a borrower to a lender as a pledge for the payment of a loan or other obligation.

Collectibles. Tangible goods often purchased as investments i.e., antiques, coins, stamps, books, rugs etc.

Common law. Legal system prevailing in the United States and other English-speaking countries making up the British Empire and Commonwealth of Nations. It originated in England and its form of development was different from that of Roman (civil) law.

Community property. Property in which a husband and wife have each an undivided one-half interest by reason of their marital status; recognized in all civil law countries and in certain states of the Southwest and Pacific coast areas of the United States.

Competent. Duly qualified; answering all requirements; having sufficient ability or authority; possessing the requisite natural or legal qualifications; able; adequate; suitable; sufficient; capable; legally fit.

Conflict of Interest. Situations in which an individual may receive financial or material gain or business advantage from a decision made on behalf of another or from information gained through responsibilities. Situations which create a public perception of a conflict of interest should be handled in the same manner as situations in which an actual conflict of interest exists. Full disclosure to interested parties may permit the individual to act in these matters.

Consanguinity. Blood relationship; to be distinguished from affinity.

Conservatee. A person whom a judge has decided is unable to care for themselves and/or their finances.

Conservator. Generally, an individual or a trust institution appointed by a court to care for property; specifically, an individual or a trust institution appointed by a court to care for and manage the property of an incompetent, in much the same way as that in which a guardian cares for and manages the property of a ward. Also See Guardian.

Contingent interest. A future interest in real or personal property that is dependent on the fulfillment of a stated condition. Thus, the interest may never come into existence; to be distinguished from a vested interest.

Court. An organ of the government, belonging to the judicial department, whose function is the application of the laws to controversies brought before it and the public administration of justice.

Court Order. A legal document issued by the court and signed by a judge. Examples



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include appointment of a guardian; spelling out directions for the care of the ward and the estate; and authorization or denial of requests for action.

Court Required Reports. Reports which the guardian is required by statute or court order to submit to the court relative to the guardianship.

Court Visitor, Monitor, Investigator. A person appointed by the court to provide the court with information concerning a ward or a guardian.

D

Decisional Capacity. The ability to understand and appreciate the nature and consequences of a decision and to reach and communicate an informed decision in the matter.

Dementia. A category of disorders characterized by the development of multiple cognitive deficits (including memory impairment) that are due to the direct physiological effects of a general medical condition, to the persisting effects of a substance or to multiple etiologies (e.g., the combined effects of cerebrovascular disease and Alzheimer's disease). (DSM-IV)

Descendant. One who is descended in a direct line from another, however remotely (for example, child, grandchild, great-grandchild), the same as issue.

Developmental Disability. A severe chronic disability of an individual 5 years of age or older that is attributable to a mental or physical impairment or combination of mental and physical impairments; is manifested before the individual attains age 22; is likely to continue indefinitely; results in substantial functional limitations in three or more of the following seven areas of major life activity: 1) self-care; 2) receptive and expressive language; 3) learning; 4) mobility; 5) self-direction; 6) capacity for independent living; 7) economic self-sufficiency; and reflects the individual's need for a combination and sequence of events of special, interdisciplinary, or generic services, supports, or other assistance that is of lifelong or extended duration and is individually planned and coordinated.

Devise. A gift of real property by will. A person who receives such a gift is called a "devisee."

Disabled Person. A person 18 years of age or older deemed by the Court to be lacking sufficient understanding or capacity to make or communicate responsible decisions concerning the care of his person or financial affairs. See also Ward.

Discretionary trust. A trust that entitles the beneficiary to only so much of the income or principal as the trustee in its uncontrolled discretion shall see fit to give him or to apply for his use.

Distributee. A person to whom something is distributed; frequently applied to the recipient of property under intestacy.

Distribution. In law, the apportionment by a court of the personal property (or its



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proceeds) of one who died intestate among those entitled to receive the property according to the applicable statute of distribution; to be distinguished from disbursement.

Diversification. The process of spreading investments across a large number of assets thus reducing risk from the failure of any one given investment.

Dividends. A distribution of a portion of corporate profits to shareholders.

Domicile. The place in which a person has his permanent home and principal establishment; the place to which, whenever he is absent, he has the intention of returning. A person's domicile may or may not be the same as his residence at a given time.

Duress. Compulsion or constraint by force or fear of personal violence, prosecution, or imprisonment that induces a person to do what he does not want to do or to refrain from doing something he has a legal right to do. Sometimes the word is used with reference to the making of a will, as that it was made under duress.

E

Eminent domain. The inherent sovereign power of the state over all the private property within its borders that enables it to appropriate all or any part of the property to a necessary public use by making reasonable compensation. This power is termed "the right of eminent domain."

Equitable Ownership. The estate or interest of a person who has a beneficial right in property, the legal ownership of which is in another person. A beneficiary of a trust has an equitable estate or interest in the trust property.

Equity/Stock. A security based on the value of the company as dictated by the stock market.

Escheat. The reversion of property to the state (in the United States) in case there are no devisees, legatees, heirs, or next of kin, originally applicable only to real property but now applicable to all kinds of property.

Estate. The right, title, or interest that a person has in any property; to be distinguished from the property itself, which is the subject matter of the interest. It may also be the property of a decedent.

Estoppel. The legal principle that precludes a person from alleging in an action contrary to his previous action or admission or that bars him from denying a misrepresentation of a fact when another person has acted upon that misrepresentation to his detriment. The person so precluded or barred is said to be estopped.

Executor. An individual or a trust institution nominated in a will and appointed by a court to settle the estate of the testator.

F

Fee. A fixed amount that an individual or trust institution receives as compensation for



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its services; to be distinguished from allowance, charge, and commission. Also, an estate of inheritance in real property, sometimes referred to as an estate in fee.

Fee simple. An absolute fee, that is, an estate of inheritance without limitation to any particular class of heirs and with no restrictions upon alienation; sometimes known as fee simple absolute; the largest estate a person may own.

Fiduciary. An individual or a trust institution charges with the duty of acting for the benefit of another party as to matters coming within the scope of the relationship between them. A guardian and his ward, an agent and his principal, an attorney and his client, one partner and another partner, a trustee and a beneficiary are all examples of fiduciary relationships.

Foundation. A permanent fund established by contributions from one source (as the Carnegie Foundation) or from many sources (as the Cleveland Foundation) for charitable, educational, religious, or other benevolent uses or purposes.

Freehold estate. A legal estate in land, commonly referred to as an estate of inheritance. There are three freehold estates: fee simple, fee tail, and life estate.

G

General gift. A gift by will of personal property that is not a particular thing as distinguished from all others of the same kind.

Gifts inter vivos. A gift of property between living persons. To make such a gift effective, there must be actual delivery of the property during the lifetime of the donor and without reference to his death.

Grantee. A person to whom property is transferred by deed or to whom property rights are granted by means of a trust instrument or some other document.

Grantor. A person who transfers property by deed or grants property rights by means of a trust instrument or other document. See also Settlor.

Guardian. An individual or a trust institution appointed by a court to care for the property or the person (or both) of a minor or an incompetent. When the guardian's duties are limited to the property, he is known as a guardian of the property; when they are limited to the person, he is known as guardian of the person; when they apply to both the property and the person, he is known merely as a guardian. Limited Guardian (conservator). A guardian who has been appointed by the court to exercise the legal rights and powers specifically designated by court order entered after the court has found that the ward lacks capacity to do some, but not all, of the tasks necessary to care for his person or property, or after the person voluntarily petitioned for appointment of a limited guardian. Also, Partial Guardian.

Guardian ad litem. A person appointed by a court to represent and defend a minor or an incompetent in connection with court proceedings; sometimes called a special guardian.



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Guardian of the Person (conservator). A guardian who possesses any or all powers and rights with regard to the personal affairs of the individual, including placement, medical, educational, rehabilitation, and social aspects of the care of the person.

Public Guardian (conservator). A guardian appointed by the court, who is deemed to be an officer of the court. This person may be appointed to guardianship over many incompetent or incapacitated persons.

The appointee may be paid for services from public funds or from assets of the incapacitated person of concern, if such funds are available.

H

Heir. A person who inherits property; to be distinguished from next of kin and from distributee. An "heir of the body" is an heir in the direct line of the decedent. A son, for example, is the heir of the body of his father or mother.

Holographic will. A will entirely in the handwriting of the testator.

Hypothecation. Originally, a pledge to secure an obligation without delivery of title or possession; now, any pledge to secure an obligation, such as the hypothecation of securities for a loan.

I

Incapacitated Person. Any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, or other cause to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person. Also, Incompetent Person.

Income. The returns from property, such as rent, interest, dividends, profits, and royalties; as opposed to principal, capital, or corpus.

Incompetent. One who is legally incapable of managing his affairs because of mental (not physical) deficiency.

Incorporation by reference. Reference in one document to the contents of another document in such a manner as to give legal effect to the material to which reference is made.

Indefeasible. Incapable of being annulled or rendered void; as, an indefeasible title to property.

Indemnity. Protection or exemption from loss or damage.

Indigent. One who is needy and poor, or one who has not sufficient property to furnish him.

Informed Consent. A person's agreement to allow something to happen that is based on a full disclosure of facts needed to make the decision intelligently, i.e., knowledge of risks involved, alternatives, etc.

Intangible property. Property that cannot be touched or realized with the senses, such



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as a legally enforceable right. The right possessed by the holder of a promissory note or a bond is intangible property, the paper and writing being only the evidence of that right.

Interested Person. Individuals who, according to state statute, have a right to notice regarding a guardianship cause of action. This may include parents, siblings, spouse, and residential provider.

Inter vivos (between living persons). In the term “inter vivos trust,” the same as a living trust.

Intestacy. The condition resulting from a person’s dying without leaving a valid will.

Issue. All persons who have descended from a common ancestor, a broader term than children.

J

Joint tenancy. The holding of property by two or more persons in such a manner that, upon the death of one joint owner, the survivor or survivors take the entire property; to be distinguished from tenancy in common and tenancy by the entirety.

Judgment. The decision or sentence of a court of law; to be distinguished from a decree.

Judicial settlement. The settlement of an account in accordance with the order, judgment, or decree of a proper court, the effect of which in many states is determined by statute.

Jurisdiction. Legal right, power, or authority to hear and determine a cause; as, the jurisdiction of a court.

K

Keogh plan. A self-employed retirement plan: so, called for Representative Keogh who sponsored the enabling legislation in the House of Representatives.

Kin. Persons of the same blood or members of the same family.

Kind. In the phrase “distribution in kind,” distribution of the property itself and not the cash value of the property.

L

Last will. The will last executed by a person. Since all former wills ordinarily are revoked by the last one, the term is used to emphasize the fact that it is the latest, and therefore the effective, will of the maker.

Leaseback. The sale of property to a financial or eleemosynary institution that leases it to the vendor for a period of years at a rental that will give a return and amortize the investment.

Least Intrusive. A mechanism, course of action, or situation which allows the ward the greatest opportunity for autonomy with a minimum of intervention.

Least Restrictive. A mechanism, course of action, or environment which allows the ward to live, learn, and work in a setting which places as few limits as possible on the ward's



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rights and personal freedoms as is appropriate to meet the needs of the ward.

Legacy. A gift of personal property by will (see bequest). A person receiving such a gift is called a legatee.

Legal ownership. An estate or interest in property that is enforceable in a court of law; to be distinguished from equitable ownership.

Letters of administration. A certificate of authority to settle a particular estate issued to an administrator by the appointing court; to be distinguished from letters testamentary.

Letters of Office. Formal document issued by the court containing or attesting the grant of some power authority or right. Also Letters of Guardianship.

Letters testamentary. A certificate of authority to settle a particular estate issued to an executor by the appointing court; to be distinguished from letters of administration.

Life estate. Either an estate for the life of the tenant alone or an estate for the life or lives of some person or persons other than the tenant. If the estate is for the life of a person other than the tenant, it is known as an estate pur autre vie.

Liquidity. The ease with which an asset can be converted into money without substantial loss.

Living trust. A trust that becomes operative during the lifetime of the settlor as opposed to a trust under will. The same as a trust inter vivos.

Load Fund. A mutual fund that charges a sales commission on shares sold.

Local Rules. A county court's specific instructions and requirements. These rules are in addition to the Probate Code and California Rules.

M

Minor. A person under legal age, that is, under the age at which he or she is accorded full civil rights; the same as an infant.

Modern Portfolio Theory. Developed by Professor Harry M. Markowitz and others, this theory is a major technique for weighing the risks and rewards of holding different corporate stocks and bonds. His theory examines the Problems of basing financial decisions for the future on past data and shows how better estimates can be made.

Money Market Mutual Fund. A Mutual Fund investing in short term debt instruments that mature in one year or less.

Morningstar. Company that provides comparison data for mutual funds and other securities.

Mutual fund. A popular expression for an open-end investment company. A company that sells shares to the public, pools the proceeds, and invests in different types of securities.

N

NASDAQ. National Association of Security Dealers Automated Quotations.

Next of kin. The person or persons in the nearest degree of blood relationship to the



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decedent. As the term is usually employed, those entitled by law to the property of a person who has died without leaving a valid will (such persons do not include the surviving spouse except where specifically so provided by statute).

Nomination. The naming or proposal of a person for an office, position, or duty; to be distinguished from appointment. Thus, the testator nominates but the court appoints the executor under a will.

Notice of Administration. The notice in writing by posting in public places or by notice in newspapers to creditors of an estate to present their claims for what the executor or administrator owes them; it is usually also a notice to debtors to come in and pay what they owe the estate.

Notice of Proposed Action. A notice in writing, related to a trust or estate, stating that on a certain day, a certain action will be taken.

O

Obligee. One to whom an obligation is owed, such as a bondholder.

Obligor. One who has an obligation to discharge, such as a corporation that issues bonds.

Original investment. An investment received by the trustee as part of the decedent's estate or from the settlor of a living trust.

P

Pecuniary bequest. A gift of money by will.

Personal property. All property other than real property.

Petition. A formal, written application to a court requesting judicial action on a certain matter. For example, relative to guardianship, the document filed to initiate the process for adjudication of disability and appointment of a guardian.

Pour-over will. A term referring to the transfer of property from an estate or trust to another estate or trust upon the occurrence of an event as provided in the instrument.

Power of appointment. A right given to a person to dispose of property that he does not own. A power of appointment may be general or special. Under a "general" power the donee may exercise the right as he sees fit. A "special" power limits the donee as to those in favor of whom he may exercise the power of appointment. A wife who is given the power to appoint among her children has a special power of appointment.

Power of attorney. A person (the principal) authorizes another (the agent or attorney in fact) to take care of finances or health care decisions. The document may be "durable" in which case it survives the incapacity of the principal or "general" in which case the authority ceases with the person's incapacity.

Probate. Generically, the process of taking the will into court, getting the executor or administrator appointed, marshalling the assets, paying the debts, accounting to the



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court and distributing the assets of the estate.

Prudent Person Rule. An investment standard. In some states, the law requires that a fiduciary, such as a trustee, may invest the trust's or fund's money only in a list of securities designated by the state. In other states, the trustee may invest in a security if it is one which a prudent man of discretion and intelligence, who is seeking a reasonable income and preservation of capital, would buy.

Psychotropic Medications. Any medication prescribed for the management of behavior.

Public Guardian. A county agency authorized to act as a conservator.

Q

Qualified plan or trust. A pension, profit sharing, or other employee benefit plan or trust that meets the requirements of Section 401 (a) of the Internal Revenue Code of 1954. The major requirements are that it be written, permanent, for the exclusive benefit of employees or their beneficiaries, and not discriminatory in favor of officers, stockholders, supervisory, or other higher paid employees.

R

Real property. Land, buildings, and other kinds of property that legally are classified as "real" as opposed to personal property.

Receiver. An officer appointed by a court to receive the rents, issues, and profits of land or a business; to manage a personal estate; or to perform other duties, as ordered by the court, during the pendency of a suit.

Recordation. In connection with a mortgage, the recording of the fact that a lien has been created against certain property, described in the mortgage, such entry usually being made in the appropriate public record of the county or other jurisdiction in which the particular property is located.

Registered Investment Advisor. An individual or firm able to fully manage a portfolio for an "RIA" client under the Prudent Investor Act.

Registrar. In connection with stock, the agent that affixes its signature to each certificate issued, the object being the prevention of over issuance; in connection with bonds, the agent that maintains the record of ownership of registered bonds.

REIT. Real Estate Investment Trust.

Remainder. A future estate in real property that will become an estate in possession upon the termination of the prior estate created at the same time and by the same instrument as the future estate.

Remainder beneficiary. The person who is entitled to an estate after the prior estate has expired. For example, "I devise Greenacre to A for life, remainder to B." A is the life tenant; B, the remainderman. Originally, the term applied (and in many states still applies) to real property.



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Representative Payee. An individual, agency, or organization named by a government agency to receive government benefits on behalf of, and for the benefit of, the beneficiary entitled to such benefits.

Revocable trust. A trust that by its terms may be terminated by the settlor or by another person as opposed to an irrevocable trust.

Rule against perpetuities. A rule of common law that makes void any estate or interest in property so limited that it will not take effect or vest within a period measured by a life or lives in being at the time of the creation of the estate plus twenty-one years. In many states the rule has been modified by statute. In some states it is known as the rule against remoteness of vesting.

S

Secondary beneficiary. A beneficiary whose interest in a trust is postponed or is subordinate to that of the primary beneficiary.

Securities. Literally, things given, deposited, or pledged to assure the fulfillment of an obligation. In this narrow sense, a mortgage is a security; but the term is now generally used in a broader sense to include stocks as well as bonds, notes, and other evidence of indebtedness.

Separate property. The property that one person owns free from any rights or control of others; as, the property that a married woman owns independently of her husband.

Settlement. The winding up and distribution of an estate by an executor or an administrator; a property arrangement frequently involving a trust.

Settlor. A person who creates a trust, such as a living trust, to become operative during his lifetime; also called "donor," "grantor," and "trustor." Compare Testator.

Social Services. Services provided to meet social needs, such as representative payee, case management, money management services and other similar services.

Special Administrator. An administrator appointed by the court to take over and safeguard an estate pending the appointment of an executor or administrator; sometimes known as a temporary administrator or as a curator.

Specific devise. A gift, by will, of a specific parcel of real property.

Specific legacy. A gift, by will, or a specific article of personal property, such as a watch.

Spendthrift provision. A provision in a trust instrument that limits the right of the beneficiary to dispose of his interest, as by assignment, and the right of his creditors to reach it, as by attachment.

Standard and Poors. Analysts for stocks, bonds etc. run the well-known "500" index of the largest 500 (S&P) companies in the United States.

Statute of limitations. A statute that bars suit on valid claims after the expiration of a specified period of time. The period varies for different kinds of claims. In most states there is a 20-year limitation on judgments; contract claims ordinarily expire in six years;



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and claims for torts (injuries to persons or property) expire within a shorter time. Each state has its own statute or statutes of limitations.

Stockbroker. A licensed individual who may make suggestions for the purchase or sale of investment products at the direction of the client.

Stock power. A form of assignment executed by the owner of stock that contains an irrevocable appointment of an attorney to make the actual transfer on the books of the corporation. See also Power of attorney.

Stocks. See equity.

Subscribing witness. One who sees a document signed or bears the signature acknowledged by the signer and signs his own name to the document, such as the subscribing witness to a will; to be distinguished from an attesting witness.

Substituted Judgement. The principle of decision-making which requires implementation of the course of action which comports with the individual ward's or beneficiary's known wishes expressed prior to the appointment of the guardian or representative payee, provided the individual was once capable of developing views relevant to the matter at issue and reliable evidence of these views remains. Current opinions and desires of the ward or beneficiary shall be examined and are relevant to a determination of the ward's or beneficiary's views prior to appointment of the guardian or representative payee.

Substituted trustee. A trustee appointed by the court (not named or provided for in the trust instrument) to serve in the place of the original trustee or of a prior trustee; to be distinguished from a successor trustee.

Succession. The act or fact of a person's becoming entitled to property of a deceased person, whether by operation of law upon his dying intestate or by taking under his will.

Successor trustee. A trustee following the original or a prior trustee, the appointment of whom is provided for in the trust instrument; to be distinguished from a substituted trustee.

Surcharge. Payment to be made from a fiduciary for their wrongful act.

Surety. An individual or a company that, at the request of another, agrees to be responsible for the performance of some act in favor of a third person in the event that the principal fails to perform as agreed; as, the surety on an administrators of a guardian's bond.

Surety Bond. Obligation of a guarantor to pay a second party upon default by a third party in the performance the third party owes to the second party.

T

Tangible property. Property that can be touched or realized with the senses, such as a chair as opposed to intangible property.

Temporary administrator. An individual or a trust institution appointed by a court to



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take over and safeguard an estate during a suit over an alleged will, over the right of appointment of an executor or administrator, or during the period that probate is delayed for any reason, such as difficulty in finding or citing missing heirs.

Tenancy. The holding of property by any form of title.

Tenancy in common. The holding of property by two or more persons in such a manner that each has an undivided interest that, at his death, passes as such to his heirs or devisees and not to the survivor or survivors; the same as an estate in common; to be distinguished from joint tenancy and tenancy by the entirety. (note different from joint tenant)

Testamentary capacity. Mental capacity to make a valid will.

Testamentary trust. A trust established by the terms of a will. Operative only at the death of the testator.

Testate. Having made and left a valid will as opposed to intestate.

Testator. A person who has made and left a valid will at his death. Compare Settlor, see also Trustor.

Tort. Any wrongful act or omission that causes damage to the person, property, or reputation of another. Commonly spoken of as a private wrong, as opposed to a public wrong, which is called a crime.

Transfer agent. One who keeps a record of the name of each registered shareowner, address, number of shares owned, handles transfers, redemptions, registrations, name changes, replaces lost/stolen or destroyed certificates. A transfer agent for bonds is usually known as a "registrar".

Treasury Bills. US government securities that are usual issued with maturities of 3, 6, or 12 months.

Treasury Bonds. US government securities that mature in 10 to 30 years.

Treasury Notes. US government securities that mature in 2 to 10 years.

Total Return. The combined figure for interest (and dividends) and the gain (or loss) for a stock, bond or mutual fund.

Trust. A fiduciary relationship in which one person (the trustee) is the holder of the legal title to property (the trust property) subject to an equitable obligation (an obligation enforceable in a court of equity) to keep or use the property for the benefit of another (the beneficiary).

Trustee. The person appointed, or required by law, to execute a trust, one in whom an estate, interest, or power is vested, under an express or implied agreement to administer or exercise it for the benefit or to the use of another.

U

Undue influence. The influence that one person exerts over another person to the point



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where he is prevented from exercising his own free will.

V

Value. Style of investing that focuses on the sales, profits, management and historical performance of a company.

Variable annuity. An annuity that pays income in units, the dollar value of which fluctuates in relation to the underlying securities, primarily common stocks. Also called an equity annuity. To be contrasted with the guaranteed fixed-dollar payments of the conventional annuity.

Vest. To confer an immediate, fixed right of immediate or future possession and enjoyment of property.

Vested interest. An immediate, fixed interest in real or personal property, although the right of possession and enjoyment may be postponed until some future date or until the occurrence of some event; to be distinguished from a contingent interest.

Vesting. As applied to pension and profit-sharing plans, vesting is a term that indicates the attainment by a participant of a benefit right, attributable to employer contributions, that is not contingent upon his continued employment. Vesting may be total and immediate, graduated over a period of years or it may occur on completion of stated service or participation requirements.

Volatility. Risk that an investment may go up or down in value. Generally presented in the form of the result of a computation known as standard deviation.

W

Waiver. The voluntary relinquishment of a right, privilege, or advantage. The instrument evidencing the act often is known as a waiver.

Ward. A person who by reason of minority, mental incompetence, or other incapacity is under the protection of the court either directly or through a guardian, committee, curator, or conservator.

Will. A legally enforceable declaration of a person's wishes regarding matters to be attended to after his death and inoperative until his death. A will usually, but not always, relates to the testator's property, is revocable (or amendable by means of a codicil) up to the time of his death, and is applicable to the situation that exists at the time of his death.

Writ. An order or mandatory direction in writing, issued in the name of a state, of a court, or of a judicial officer, and commanding the person to whom it is addressed to do or not to do some specified act.

Y

Yield. Generally applied to a bond. Reflects the interest paid in relation to the current value of the bond.