

This form provides an example of how to prepare a basic Heggstad petition. Every situation is unique, consult with an attorney before filing anything with the court. This form is applicable where the trust specifically lists a parcel of real property as a trust asset, but no deed was recorded by the original settlor and there are no conflicts between the trust beneficiaries and heirs. This form may otherwise need significant revisions. Use of this form does not create any confidential or attorney-client relationship of any kind whatsoever.

IN THE SUPERIOR COURT OF CALIFORNIA

COUNTY OF _____

IN RE:

Case No.

_____,
Name of trust

PETITION FOR CONFIRMATION OF TRUST ASSETS

Dated, _____
Date of trust

[Probate Code § 850; Heggstad]

Petitioner _____ (*name*) (the “Trustee” or “Petitioner”),
successor trustee of the _____ (*name of trust*) (the
“trust”), alleges:

Jurisdiction and Venue

1. The proper county for commencement of a proceeding pursuant to Probate Codes 850 and 17200 regarding a living trust is “the county where the principal place of administration of the trust is located.” (Probate Code, § 17005.) The principal place of administration is “the usual place where the day-to-day activity of the trust is carried on by the trustee” (Probate Code, § 17002.)

2. Petitioner, the trustee, lives in this county, and conducts the day-to-day business of the trust from this county, making this county the proper venue for this matter. Petitioner’s residential address is _____ (*address*).

1 **General Allegations**

2 1. On or about _____ (date), _____
3 (settlor's name) ("settlor") acquired the real property at issue known as
4 _____ (address of house)
5 (the "house"). True and correct copies of the following documents are attached:

6 **Exhibit A** Grant Deed for house

7 2. On or about _____ (date of trust), settlor created
8 the trust and signed the trust instrument. On the same day, the settlor executed a pour-over will,
9 leaving the balance of their estate to the trust. The trust includes a declaration stating that all
10 property listed in a schedule of trust assets attached to the trust is property of the trust. The schedule
11 of trust assets identifies the house as an asset of the trust by reference to the house's common
12 address. True and correct copies of the following documents are attached:

13 **Exhibit B** Trust

14 **Exhibit C** Pour Over Will

15 3. After the settlor created the trust, settlor did not execute a deed granting the house to
16 settlor as trustee of the trust. The house remained titled in settlor's name until settlor's death on
17 _____ (date of death). True and correct copies of the following
18 documents are attached:

19 **Exhibit D** Death Certificate

20 4. Following settlor's death, the trust names Petitioner as successor Trustee. Petitioner
21 issued a notice pursuant to Probate Code 16061.7 on _____ (date of 16061.7
22 notice). True and correct copies of the following documents are attached:

23 **Exhibit E** 16061.7 Notice

24 5. Petitioner now petitions this Court to confirm the house as a trust asset to be held and
25 administered pursuant to the terms of the trust.

1 **Notice**

2 6. **Heirs.** As of their death, settlor was unmarried. The names and address of all of
3 settlors children are:
4
5
6
7
8

9 7. **Probate.** As of the filing of this Petition, no probate of settlor's estate is filed or
10 contemplated. The names and addresses of all of the executors named in settlor's will are:
11
12

13 8. **Successor Trustees:** The names and address of all of the successor trustees of the trust
14 are:
15
16

17 9. **Other Persons Entitled to Personal Service:** The following persons claim an interest
18 in or have title or possession of the property sought to be recovered, or may have their right, title, or
19 interest affected by the petition:
20
21

22 10. **Beneficiaries.** The names and addresses of all of the beneficiaries of the trust are:
23
24
25
26
27
28

1 11. All of the above-listed persons are adults over the age of 18.

2 **FIRST REQUEST**
3 (Heggstad Petition, Probate Code § 850(a)(3)(B).)

4 12. Pursuant to Probate Code section 850(a)(3)(B), a party may file a petition requesting
5 that the court make an order where the “trustee or any interested person . . . has a claim to real or
6 personal property, title to or possession of which is held by another.”

7 13. Petitioner and the estate of settlor have adverse claims to the house, which is legally
8 described as:

9

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16

17 *(insert legal description and APN)*

18 14. Petitioner, as trustee, has a claim to the house, nominally titled as property of the
19 estate of settlor, but actually property of the trustee of the trust.

20 15. A declaration of trust is a sufficient method to transfer property to a trustee,
21 regardless of the legal title. (*Estate of Heggstad* (1993) 16 Cal. App. 4th 943.) In *Heggstad*,
22 Mr. Heggstad created a valid revocable living trust in which he named himself as trustee and
23 included within his trust the real and personal property listed in Schedule A, attached to the trust.
24 Mr. Heggstad never recorded a deed transferring the title of the real property to himself as trustee.
25 The Court, in affirming the trial court’s decision, held that “a written declaration of trust by the
26 owner of real property, in which he names himself as trustee, is sufficient to create a trust in that
27 property, and the law does not require a separate deed transferring the property to the trust.” (*Estate*
28 *of Heggstad, supra*, 16 Cal.App.4th at 950.)

1 16. Settlor's declaration, as demonstrated by the identification of the house in the
2 schedule of trust assets, was sufficient to transfer title. The house is property of the trust to be held
3 and administered by Petitioner.

4 **Wherefore, petitioner prays for:**

5 1. An order confirming that all of _____ (*settlor's name*) right, title
6 and interest in and to the real property commonly known as
7 _____ (*address of house*), with a legal description set forth
8 below, is an asset of the _____ (*name of trust*) to be
9 held, administered, and distributed by _____ (*name of successor*
10 *trustee*), as successor trustee, under the terms of said trust:

11
12
13
14
15
16
17 (*insert legal description and APN*)

18 2. Such and further orders as the Court deems proper.

19 **Verification**

20 I, _____ (*name of successor trustee*) have read the attached
21 Petition and understand its contents. The factual statements made in the Petition are true as to my
22 knowledge, except as to any matters that are stated on information and belief, and as to those
23 matters, I believe them to be true. I declare under penalty of perjury under the law of the state of
24 California that the foregoing is true and correct.

25
26 _____
27 _____
28 (*name of successor trustee*), Petitioner
Date: