MEMORANDUM RE INVENTORY

To: [**Applicant**]

From: **Michael A. Koenecke**

Re: **Preparing the Inventory, Appraisement, and List of Claims for the Estate of [Principal: Name], Deceased**

Date: [**Date**]

Enclosed is a form for entering the information needed to create the Inventory, Appraisement and List of Claims ("Inventory") for [Principal: Name]'s estate. The Inventory consists of a list of all the ***probate assets*** owned by the deceased person (the "Decedent") **on the date of his or her death**, plus a list of *claims* the Estate has against someone else (for example, a debt owed to the Decedent – but *not* debts owed *by* the Decedent). **This is only a snapshot of the estate as of the date of death, and does NOT include an estate account, accounting for expenses, or anything else that has occurred after that date.** The Inventory (or an Affidavit in Lieu of Inventory) is normally the last document which may need to be filed with the Probate Court, and is due ninety (90) days after Letters Testamentary were issued to you, or on **[DATE INVENTORY IS DUE]**

★ To clarify, the Inventory must be prepared, and then either (1) the Inventory is filed with the Court, or (2) if there are no unsecured debts which remain unpaid and a copy of the Inventory has been provided to all beneficiaries, the executor may file an Affidavit in Lieu of Inventory with the Court instead of the Inventory. *In either case, the Inventory must be prepared.*

In order to complete the Inventory for filing, I need to obtain all the information concerning the assets of the Estate to enter on the schedules listed under the "Inventory and Appraisement" section of the document.

What Must Be Included on Inventory

The Inventory must include all ***probate*** assets. A *probate asset* is **any asset which passes under the Will**. A *non-probate asset* is an asset which passes by some arrangement or agreement *outside* of the Will. The most common examples of non-probate assets are assets which are held in joint names "with right of survivorship," accounts with "P.O.D." (payable on death) beneficiaries, and retirement accounts and life insurance policies which designate a beneficiary other than the estate of the participant or insured. Keep these aspects and the following in mind when you are gathering information.

When the decedent is married, the Inventory must reflect the character of each probate asset as *separate* property or *community* property. Generally, separate property is any property (a) owned by the decedent before the date of the marriage, or (b) received by gift or inheritance after marriage, and (c) property which has been purchased with the proceeds from separate property which can be traced to the sale of the separate property. When separate property and community property are mixed ("commingled") then all of the property is considered to be community property. Texas has a presumption that all property is community property, so if it cannot be demonstrated to be separate property, then the property is considered to be community property. The character of the property is important because all of a person's separate property and only his one-half of the community property passes under his Will. If you have any questions concerning whether an asset is separate or community call me and we can discuss the various aspects further. *(Note: It is not unusual for spouses who have been married for many years to have little, if any separate property , unless one spouse has inherited real estate or securities titled only in that spouse's name.)*

As a reminder, property which is the separate property of the Decedent's surviving spouse is ***not*** part of the Decedent's estate and should not be included on the Inventory.

1. Real Property. I will need to know the fair market value of the property, as well as the legal description. The legal description is in the deed to the property, so you may wish to provide me with a copy of the deed.

I may be able to rely on the property tax value of the property. However, the income tax basis for purposes of gain or loss on sale will be the value used on the Inventory, so if the property is undervalued on the property tax rolls, then it may be a good idea to obtain an appraisal.

Oil and gas and other mineral interests in Texas are considered to be real property, so we would need similar documentation for any interests in oil and gas property. Valuation of producing mineral interests is generally based on historic averages of revenue produced, so total amounts received each year for the past three to five years with respect to each mineral interest would be very helpful if that information is available. (Income tax returns or preparation worksheets may provide this information.)

2. Stocks and Bonds. Please list the name and the number of shares of any stocks, bonds, and mutual funds owned by the decedent. If you know the date of death value for any of the stocks, bonds, or mutual funds, please include that, but we can get that information if you do not have it. To the extent that the actual certificates for stocks and bonds are held by the decedent, making copies of the certificates and providing the copies to me can be very helpful. (Copies need not be color copies.) Stocks and bonds owned "with right of survivorship" or with "T.O.D." (transfer on death) beneficiaries should ***not*** be included on the Inventory.

3. Brokerage and Financial Accounts. For cash, stocks, bonds, and mutual funds which are held in bank, brokerage, or other financial accounts, please provide the name and address of the institution and the account number: I will redact a portion (for example, "1234567890"

becomes "XXXXXXX890") when submitting it to the court. Providing a copy of the brokerage or financial account statement for the month of death would be very helpful. (Statements for the month preceding and the month following the month of the date of death are often helpful, as well.) In many cases, the stock broker is able to provide CUSIP numbers and date of death values, if requested to do so.

4. <u>Mortgages and Notes</u>. The term "Mortgages and Notes" refers to any loans that were OWED TO [Principal: Name] on property she may have sold, but not any notes on which she may have been making payments. ***Debts of the Decedent are not included on the Inventory.***

5. <u>Insurance</u>. Only the insurance **payable to the estate** is listed on the Inventory. So if insurance proceeds are payable under a beneficiary designation to one or more persons or to a testamentary or living trust, the proceeds would not be included on the Inventory. If the beneficiary designation specifically names the Decedent's estate as the beneficiary, or if all named beneficiaries predecease her or disclaim the proceeds, then the insurance proceeds may be includible on the Inventory.

6. <u>Jointly-Owned Property</u>. This includes any property which [Principal: Name] may have owned with another person (other than the Decedent's spouse), including stocks, real estate, or personal property (but does ***not*** include those owned "with right of survivorship").

7. <u>Miscellaneous Property</u>. For personal property (clothing, household furnishings, general stuff), unless there are collectibles or other items that have specific value (like a coin collection, or art), a simple note of "Personal Property located at 111 Main Street, Dallas, Texas 77777" with a general statement of its value (often 15% - 20% of the value of the home) will do. For cars and trucks, please provide a description, the VIN (Vehicle Identification Number), and the value (often you can look this up on the Internet).

<u>Conclusion</u>

When you have furnished me with all the information, I will complete a draft of the Inventory and send it to you for your review. The final version will need to be signed by you in the presence of a notary public (which may be myself).

I need to get the information back from you by **[ONE MONTH BEFORE DATE INVENTORY IS DUE]** in order to have enough time to complete the Inventory and have it signed before filing it by **[DATE INVENTORY IS DUE]**. If it appears that you will not be able to compile all the information by that time, please let me know. I may be able to request an extension of time in which to file the Inventory in some cases.

I realize that collecting all this documentation and information may seem to be an overwhelming task; I will be happy to help in any way I can.

INVENTORY INFORMATION FORM

All information that you provide is confidential and is protected from forced disclosure by the attorney-client privilege.

BANK, FINANCIAL INSTITUTION, BROKERAGE ACCOUNTS

1. ______________________________ ______________________________
Institution *Owner(s)*

______________________________ ______________ $ ______________
Address *Account Number* *Balance*

2. ______________________________ ______________________________
Institution *Owner(s)*

______________________________ ______________ $ ______________
Address *Account Number* *Balance*

3. ______________________________ ______________________________
Institution *Owner(s)*

______________________________ ______________ $ ______________
Address *Account Number* *Balance*

4. ______________________________ ______________________________
Institution *Owner(s)*

______________________________ ______________ $ ______________
Address *Account Number* *Balance*

5. ______________________________ ______________________________
Institution *Owner(s)*

______________________________ ______________ $ ______________
Address *Account Number* *Balance*

6. ______________________________ ______________________________
Institution *Owner(s)*

______________________________ ______________ $ ______________
Address *Account Number* *Balance*

7. ______________________________ ______________________________
Institution *Owner(s)*

______________________________ ______________ $ ______________
Address *Account Number* *Balance*

8. ______________________________ ______________________________
Institution *Owner(s)*

______________________________ ______________ $ ______________
Address *Account Number* *Balance*

PENSION/IRA/RETIREMENT ACCOUNTS
(ONLY INCLUDE THOSE PAYABLE TO THE ESTATE)

1. ______________________ ______________________
Institution *Beneficiary(ies)*

______________________ ______________ $ __________
Address *Account Number* *Balance*

2. ______________________ ______________________
Institution *Beneficiary(ies)*

______________________ ______________ $ __________
Address *Account Number* *Balance*

3. ______________________ ______________________
Institution *Beneficiary(ies)*

______________________ ______________ $ __________
Address *Account Number* *Balance*

4. ______________________ ______________________
Institution *Beneficiary(ies)*

______________________ ______________ $ __________
Address *Account Number* *Balance*

REAL ESTATE

1. ______________ ______________ ______________
Address *Owner(s)* *Approx. Value*

____
Legal Description

2. ______________ ______________ ______________
Address *Owner(s)* *Approx. Value*

____
Legal Description

3. ______________ ______________ ______________
Address *Owner(s)* *Approx. Value*

____
Legal Description

4. ______________ ______________ ______________
Address *Owner(s)* *Approx. Value*

____
Legal Description

Life Insurance Policies
(Only include those payable to the Estate)

1. ______________________ ______________________ ______________________
Company *Insured Name* *Death Benefit*

______________________ ______________________
Beneficiary(ies) *Policy Number*

2. ______________________ ______________________ ______________________
Company *Insured Name* *Death Benefit*

______________________ ______________________
Beneficiary(ies) *Policy Number*

3. ______________________ ______________________ ______________________
Company *Insured Name* *Death Benefit*

______________________ ______________________
Beneficiary(ies) *Policy Number*

4. ______________________ ______________________ ______________________
Company *Insured Name* *Death Benefit*

______________________ ______________________
Beneficiary(ies) *Policy Number*

Businesses Owned

1. ______________________ ______________________ ______________________
Name of Entity *Type of Entity* *Value*

______________________ ______________________
Owner(s) *Percentage Owned*

2. ______________________ ______________________ ______________________
Name of Entity *Type of Entity* *Value*

______________________ ______________________
Owner(s) *Percentage Owned*

3. ______________________ ______________________ ______________________
Name of Entity *Type of Entity* *Value*

______________________ ______________________
Owner(s) *Percentage Owned*

Claims Owed to Estate

1. ______________________ ______________________ ______________________
Nature of Claim *Debtor* *Value*

2. ______________________ ______________________ ______________________
Nature of Claim *Debtor* *Value*

3. ______________________ ______________________ ______________________
Nature of Claim *Debtor* *Value*

CARS, TRUCKS, VEHICLES

1. ______________________ ______________________ ______________________
Make, Model, Year | Owner(s) | Value

____
VIN

2. ______________________ ______________________ ______________________
Make, Model, Year | Owner(s) | Value

____
VIN

3. ______________________ ______________________ ______________________
Make, Model, Year | Owner(s) | Value

____
VIN

PERSONAL PROPERTY AND OTHER ASSETS (CONTINUE ON BACK IF NECESSARY)

1. ____
Description

______________________________ ______________________
Owner(s) | Value

2. ____
Description

______________________________ ______________________
Owner(s) | Value

3. ____
Description

______________________________ ______________________
Owner(s) | Value

4. ____
Description

______________________________ ______________________
Owner(s) | Value

5. ____
Description

______________________________ ______________________
Owner(s) | Value

6. ____
Description

______________________________ ______________________
Owner(s) | Value

7. ____
Description

______________________________ ______________
Owner(s) *Value*

8. ____
Description

______________________________ ______________
Owner(s) *Value*

9. ____
Description

______________________________ ______________
Owner(s) *Value*

10. ____
Description

______________________________ ______________
Owner(s) *Value*

MISCELLANEOUS