

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): John Doe Law Office of John Doe 1323 N. Broadway Santa Ana, CA 92706 TELEPHONE NO.: (714) 123-4567 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Alan D. Davis	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: 111 N. Hill Street CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Central District	
<input type="checkbox"/> ESTATE OF (Name): <input checked="" type="checkbox"/> IN THE MATTER OF (Name): I. M. DECEASED, <input type="checkbox"/> DECEDENT <input checked="" type="checkbox"/> TRUST <input type="checkbox"/> OTHER	
NOTICE OF HEARING—DECEDENT'S ESTATE OR TRUST	CASE NUMBER: BP 123456

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): **Alan D. Davis**

(representative capacity, if any): **Successor Trustee**

has filed (specify)* **PETITION TO ESTABLISH ESTATE'S TITLE TO REAL PROPERTY AND FOR ORDER INVALIDATING PROMISSORY NOTE AND DEED OF TRUST.**

[Probate Code Section 850]

This action concerns the real property at 123 Main Street, Los Angeles, California.

Any person interested in the property that is the subject of the petition may file an answer to the petition.

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: 6-1-09	Time: 8:30 A.M.	Dept.: 5	Room:
b. Address of court <input type="checkbox"/> shown above <input checked="" type="checkbox"/> is (specify): 111 N. Hill Street, Los Angeles, CA 90012			

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).

<input type="checkbox"/> ESTATE OF (Name): <input checked="" type="checkbox"/> IN THE MATTER OF (Name): I. M. DECEASED	CASE NUMBER: BP 123456
<input type="checkbox"/> DECEDENT <input checked="" type="checkbox"/> TRUST <input type="checkbox"/> OTHER	

PROOF OF PERSONAL SERVICE OF NOTICE OF HEARING—DECEDENT'S ESTATE OR TRUST

(Attach a separate completed and signed copy of this form or other proof of personal service to Notice of Hearing—Decedent's Estate or Trust for each person who personally served a copy of the Notice.)

1. I am over the age of 18 and not a party to this cause.
2. I served the attached *Notice of Hearing—Decedent's Estate or Trust* by personally delivering a copy to each person listed below at the address and on the date and time indicated below.
3. I served with the attached *Notice of Hearing—Decedent's Estate or Trust* a copy of the petition or other document referred to in the Notice.
4. I am *(check all that apply)*:
 - a. not a registered California process server.
 - b. a California sheriff or marshal.
 - c. a registered California process server.
 - d. an employee or independent contractor of a registered California process server.
 - e. exempt from registration (Bus. & Prof. Code, § 22350(b)).

5. My name, address, telephone number, and, if applicable, county of registration and number, are *(specify)*:

George Server
9876 Broadway
Santa Ana, CA 92701
(714) 666-7788

NAME OF EACH PERSON PERSONALLY SERVED, ADDRESS WHERE SERVED, AND DATE AND TIME SERVICE WAS MADE

	<u>Name</u>	<u>Address where served (number, street, city, and state)</u>	<u>Date and time service made</u>
1.	Trust-Me Mortgage, Inc., c/o Acme General Agents	1 Civic Center Blvd., Suite 111 Los Angeles, CA 90001	Date: 4-30-09 Time: 2:00 p.m.
2.			Date: _____ Time: _____
3.			Date: _____ Time: _____
4.			Date: _____ Time: _____
5.			Date: _____ Time: _____
6.			Date: _____ Time: _____

List of names and addresses of persons personally served by the undersigned continued on an attachment.
(You may use Attachment to Notice of Hearing Proof of Personal Service, form DE-120(PA)/GC-020(PA), for this purpose.)

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

Date: 4-30-09

(For California sheriff or marshal use only)
I certify that the foregoing is true and correct

Date:

▶ _____

(SIGNATURE)

▶ _____

(SIGNATURE)

1 John Doe
Attorney at Law
2 1323 N. Broadway
Santa Ana, CA 92706
3
4 TEL: (714) 123-4567

5 Attorney for Alan D. Davis, Successor Trustee
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8 **SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES**

10

11 Matter of:) CASE NO. BP 123456
12)
13 THE I. M. DECEASED) PETITION TO ESTABLISH ESTATE'S TITLE
LIVING TRUST,) TO REAL PROPERTY AND FOR ORDER
14) INVALIDATING PROMISSORY NOTE AND
15) DEED OF TRUST.
[Probate Code § 850]
ALAN D. DAVIS, Successor)
16 Trustee,)
Petitioner,))
17 vs.)
18 TRUST-ME MORTGAGE, INC.;)
19 SEARCH-ME TITLE CO.;)
SEARCH-ME ESCROW CO.;)
20 FRANCES GETRICH; AND)
DOES 1 - 10, INCLUSIVE,)
21 Respondents.))
22

23 Petitioner, Alan D. Davis, Successor Trustee of the above-
24 named Trust, alleges as follows:

25 1. Petitioner was appointed Successor Trustee of the above-
26 referenced trust on July 2, 2008, and has acted as Successor
27 Trustee ever since.

28 2. This court has jurisdiction over the decedent's real

1 | property by virtue of its location in the County of Los Angeles.

2 | 3. The probate court is a court of equity, and can fashion
3 | remedies to fit a particular matter where money damages are
4 | inadequate. In this matter, petitioner is requesting an order
5 | confirming title in the real property located at 123 Main Street,
6 | Los Angeles, California, to The I. M. Deceased Living Trust.
7 | Further, petitioner requests that the loan taken out by the former
8 | trustee, Frances Getrich, be invalidated as being an unauthorized
9 | activity under the trust agreement. Specifically, Article IV,
10 | Section G.8.(d) states:

11 | "FRANCES GETRICH, shall not have the authority
12 | or authorized capacity to sell, rent,
13 | refinance, hypothecate or otherwise encumber
14 | any or all interest of the real property
 commonly known as 123 Main Street, Los
 Angeles, California."

15 | A copy of the pertinent parts of the trust are attached
16 | hereto as Exhibit A.

17 | 4. Frances Getrich ("Frances"), became the successor trustee
18 | of the above-referenced trust upon the death of I. M. Deceased in
19 | July, 2003.

20 | 5. In January, 2007, Frances refinanced the property at 123
21 | Main Street, Los Angeles, California, with Trust-Me Mortgage, Inc.
22 | The legal description of the property is:

23 | Lot 4 of Tract 5678, as per map recorded in
24 | Book 123, Page 666 of Maps in the Office of
 the County Recorder of Los Angeles County.

25 | Search-Me Escrow Co. handled the escrow and retained
26 | Search-Me Title Co. to issue a title report and insure the title to
27 | the property. Petitioner is informed and believes that Search-Me
28 | Escrow Co. prepared a Grant Deed in which Frances, as trustee,

1 transferred said property to herself as an unmarried woman. A copy
2 of the deed is attached as Exhibit B. As previously stated in
3 paragraph 3 above, Frances had no authority to make such a
4 transfer. Frances' only interest in the property was as a life
5 tenant. Nevertheless, Search-Me Title Co., with knowledge of the
6 terms of the trust, guaranteed the title so that Frances could
7 borrow \$250,000.00 from Trust-Me Mortgage, Inc. Escrow on the loan
8 closed on or about January 17, 2007, and Frances received a check
9 in the amount of \$225,000.00. A copy of the closing statement is
10 attached as Exhibit C. Search-Me Title, Search-Me Escrow, and
11 Trust-Me Mortgage had a duty to check the title, which remained in
12 the name of the trust until transferred to Frances. Further, if
13 they had read the trust document, which they had full knowledge of,
14 they would have known that Frances had no authority to borrow the
15 money.

16 6. Petitioner alleges that all respondents owed a duty to
17 the trust to do a proper title report and should have discovered
18 that Frances had no authority to transfer the title to her name or
19 to refinance the property.

20 7. Petitioner alleges that Frances has knowingly refinanced
21 the property with the intent to defraud the trust and the
22 beneficiaries of the trust, and in so doing has embezzled the money
23 obtained as a result of the refinance. The amount received by
24 Frances is \$225,000.00, plus the costs incurred in doing the
25 refinancing. Petitioner has made a demand on Frances to turn over
26 this money to him, but she has refused. Based on her refusal,
27 Frances should be ordered to return this money to the trust.

28 8. Petitioner requests that the court, pursuant to Probate

1 Code Section 850, determine that title to the real property
2 described above is vested in petitioner as successor trustee and
3 that the promissory note and deed of trust signed by Frances to
4 evidence the refinancing be invalidated. Petitioner further
5 requests that this court order Frances Getrich to turn over the
6 amount stated above.

7 9. The beneficiaries of the trust are minors, namely Tom
8 Getrich, Todd Getrich, and Harry Getrich, who appear by their
9 Guardian Ad Litem and Mother, Mary Getrich. Their interest is
10 subject to the life estate in Frances Getrich.

11 WHEREFORE, Petitioner prays as follows:

12 1. For an order determining that title to the real property
13 described herein should be in the name of Alan D. Davis, Successor
14 Trustee of the I. M. Deceased Living Trust;

15 2. For an order invalidating the promissory note and deed of
16 trust on the real property described herein;

17 3. For an order requiring Frances Getrich to return the sum
18 of \$225,000.00 plus costs to the Successor Trustee;

19 4. For reasonable attorney fees and court costs;

20 5. And for such other relief as the court deems proper.

21 Dated: _____

22 _____
23 Alan D. Davis, Successor Trustee

24 _____
25 John Doe
26 Attorney for Successor Trustee

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VERIFICATION

I, Alan D. Davis, am the Petitioner in this action, and I have read the foregoing Petition to Establish Estate's Title to Real Property, etc., and know it to be true of my own knowledge, except as to those matters alleged under information and belief.

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

Executed on _____ at Santa Ana, California.

Alan D. Davis