

**Colorado Bar Association Trusts & Estates Section
Uniform Fiduciary Income & Principal Act Subcommittee
of the Statutory Revisions Committee**

Minutes of February 6, 2019

Participants

In person:	By phone:
• Susan Boothby	• Mimi Goodman
• Klaralee Charlton	• Eugene Zuspann
• Russ Gamble	
• Peggy Gardner	
• Stan Kent	
• Georgine Kryda, Chair	
• Michelle Mieras	
• Herb Tucker	

Initial Assignments

UFIPA Article	Lead Reviewer(s)
1 General Provisions	Stan K.
2 Fiduciary Duties and Judicial Review	Herb T.& Darla D.
3 Unitrust	Susan B.
4 Allocation of Receipts During Administration	Russ G. & Peggy G.& Walt. K.
5 Allocation of Disbursement During Administration	Jonathan H.
6 Death of Decedent	Georgine K.& Steve B.
7 Apportionment at Beginning and End of Income Interest	Klaralee C.
8 Miscellaneous Provisions	Unassigned

The meeting was held at the CBA Offices, 1290 Broadway, Suite 1700 in Denver.
The meeting was called to order at 10:35 a.m. by the Chair and adjourned at 11:40 a.m.
Minutes of 12/20/18 were approved.

Herb: See Herb's Handout of 1/29/19 of Section 203 in Santa Fe style.

203(i): The committee reviewed Herb's proposed version of 1/29/19 and liked the language.

203(k)(1)&(2): Inclusion in Report

- The committee reviewed Herb's proposed version of 1/29/19, liked the language, and discussed how reporting and notice would work in practice.
- Herb: If the trustee adjusts mid-year, then does the trustee have to provide notice mid-year and include the adjustment in the annual report?
- Russ: Is CUTC §813's definition of "report" the same as or similar to C.R.S. §15-5-1005? Consensus: Yes.
- Stan: Section 203(k)(2) is written with brackets for alternative wording. This committee is going with the short version.

- Susan: In the report, would we just have a footnote? For example, “Trustee has exercised power to adjust and has distributed 3% to the beneficiary.”
- Russ: Statements and reports will need to be consistent across client base. Adding a field for a one-off situation may not be practicable.
 - Michelle: Banks and firms are looking at the issue.
- Would notice of the adjustment have to be put in letter?
- Is the Rules & Forms Committee coming up with these types of notices? For CUTC pleadings in general?
 - Peggy is on a Rules & Forms subcommittee and will ask once this committee has a clearer idea of the types of forms it would like to see.
- Stan: Is a letter sufficient?
 - Russ described his bank’s process of sending a letter, having a 60-90 day waiting period, and then moving forward.
- Eugene: Consider moving Section 304 on notices to an administrative section and have it apply to any action.
 - Section 304 in its present form applies only to unitrust.
 - Consider putting Section 304 in Article 1, but practically, it should go into administrative provisions.
 - Susan: The notice provision in Section 304 may go beyond qualified beneficiaries.
 - Eugene: If there is a limit to the power to adjust, then put it in 204.
- The committee voted to tentatively approve 203 (i) and (k) and to revisit.

**PART 3, UNITRUSTS – SUSAN: See her 1/21/19 Santa Fe style handouts
Section 301**

- Susan presented background on unitrusts.
 - 3 ways to convert unitrust.
 - Eugene chaired Colorado committee on unitrusts.
 - Herb stated that conversion cannot defeat a material purpose of the trust, and Susan confirmed that the provision is in the UFIPA.
 - This UFIPA broadens discretion of trustee with respect to unitrusts.
 - Part of the motivation for UFIPA was the lack of unitrust provisions in UPIA.
- Susan read 301 thru “more stability and predictability for beneficiaries” at the top of p.5.

For the March meeting:

- Herb to conclude his presentation of 203; and
- Susan to continue with Article 3, Section 301.

The next meeting will be on March 6, 2019 at 10:30 a.m. at the CBA Offices, 1290 Broadway, Suite 1700 in Denver.