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April 28, 2023

Ruben Duran, Chair
Brandon N. Stallings, Vice-Chair
Board of Trustees
The State Bar of California
180 Howard Street
San Francisco, CA 94105
Via email: ruben.duran@bbkllaw.com

Dear Messrs. Duran and Stallings:

On behalf of the American College of Trust and Estate Counsel, I am writing the State Bar of California (“CA State Bar”) to request that the CA State Bar continue to include Trusts and Estates and Future Interests as subjects on the Next Generation Bar Exam.

A little background on the American College of Trust & Estate Counsel (“ACTEC”) may assist you in understanding our interest in this matter. ACTEC is a nonprofit organization of more than 2,500 trust and estate lawyers and law professors from throughout the United States, Canada, Central and South America, Europe, and Asia. Fellows of ACTEC are skilled and experienced in trust and estate law and are elected by their peers on the basis of their professional reputation, quality of their work, and their substantial pro bono contributions to the practice and the public, including lecturing, writing, teaching, and drafting court rules and legislation. ACTEC is dedicated to enhancing trust and estate law and practice through research, education, technical advice to governments, and, on rare occasions, offering assistance to courts in understanding this area of the law.

As I am sure you are aware, over the next decade, with the passing of the Baby Boomer generation, over \$68 trillion dollars of property will pass from that generation to the next generations. This transfer represents the greatest generational wealth transfer in history. This fact alone is significant enough to make this subject matter most important to our society. Equally as important is the fact that the increasing complexity of American society results in estate planning being an essential tool for most individuals, regardless of their net worth or socio-economic background. The proliferation of new forms of “family,” the use of non-traditional methods of reproduction, the increasing numbers of individuals who have special needs, increasing lifespans that heighten the need of planning for incapacity, the development of non-traditional forms of property (such as cryptocurrency and other forms of digital assets), the desirability of promoting efficient and effective means of charitable giving – these and many other factors contribute to the need for lawyers who are competent to assist individuals from every type of ethnic, cultural, and economic background as they navigate through all phases of their personal lives. We note that the vision of the CA State Bar is to promote a competent, ethical, and diverse legal profession. One objective of the bar exam must therefore be to ensure that lawyers are competent in these important areas of law. We submit that examinees’ competency should be tested in the subjects of Wills, Trusts and Future Interests. We further note a NY State Bar task force found that the elimination of important state law subjects from the

bar exam, such as wills/trusts, caused law schools to stop teaching the subjects. Testing examinees in these areas implicitly assures the public that lawyers who pass the bar are competent to handle the most basic legal matters that are significant to most people's personal lives. With a 100% death rate, there cannot be a more important law school class or subject matter. If these areas are not tested, the public may be silently misled into believing that all lawyers have some level of competency in these areas.

We respectfully request that the Board of Trustees continue to require testing of examinees on the subjects of Wills, Trusts, and Future Interests. We would welcome the opportunity to make a further presentation on why we think this request is important to the public. Thank you for your consideration of this request.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Kurt A. Sommer". The signature is fluid and cursive, with a large initial "K" and "S".

Kurt A. Sommer
President, American College of Trust and Estate Counsel (ACTEC)