507.50 AFFIDAVIT OF CUSTODIAN IN REAL PROPERTY TRANSACTIONS.

Subdivision 1. **Form of affidavit for custodianship.** An affidavit of a custodian or of custodians of a custodianship in support of a real property transaction may be substantially in the following form:

STATE OF MINNESOTA) AFFIDAVIT OF CUSTODIAN

) ss.

COUNTY OF)

....., being first duly sworn on oath says that:

1. Affiant is the custodian (one of the custodians) named in that certain Certificate of Custodianship (or Custodianship Instrument)

recorded ....., ..., as Document No. ..... (or in Book ..... of ....., Page .....) in the Office of the (County Recorder/Registrar of Titles) of ..... County, Minnesota,

OR

to which this Affidavit is attached,

executed by Affiant or another custodian or by the owner of the property that is held in the custodianship described in the Certificate of Custodianship (or set forth in the Custodianship Instrument), and which relates to real property in ..... County, Minnesota, legally described as follows:

.....

.....

(If more space is needed, continue on back or on attachment.)

2. The name(s) and address(es) of the custodian(s) empowered by the Custodian Instrument to act at the time of the execution of this Affidavit are as follows:

.....

.....

3. The custodian(s) who have executed that certain instrument relating to the real property described above between ....., as custodian(s) and ....., dated ....., ...:

(i) are empowered by the provisions of the custodianship to sell, convey, pledge, mortgage, lease, or transfer title to any interest in real property held in custodianship; and

(ii) are the requisite number of custodians required by the provisions of the custodianship to execute and deliver such an instrument.

4. The custodianship has not terminated and has not been revoked.

- OR -

4. The custodianship has terminated (or has been revoked). The execution and delivery of the instrument described in paragraph 3 has been made pursuant to the provisions of the custodianship.

5. There has been no amendment to the custodianship which limits the power of custodian(s) to execute and deliver the instrument described in paragraph 3.

6. The custodianship is not supervised by any court.

- OR -

6. The custodianship is supervised by the ..... Court of ..... County, ... All necessary approval has been obtained from the court for the custodian(s) to execute and deliver the instrument described in paragraph 3.

7. Affiant does not have actual knowledge of any facts indicating that the custodianship is invalid.

.....

Subscribed and sworn to before me this
.... day of ....., ... , Affiant

.....

Signature of Notary Public or Other Official

Notary Stamp or Seal

This instrument was drafted by:

.....

.....

Subd. 2. **Effect.** An affidavit by the custodian or custodians under subdivision 1 is proof that:

(1) the custodianship described in the affidavit is a valid custodianship;

(2) either the custodianship has not terminated or been revoked or, if the custodianship has terminated or been revoked, the conveyance described in the affidavit is made pursuant to the provisions of the custodianship;

(3) the powers granted the custodian or custodians extend to the real property described in the affidavit or attachment to the affidavit;

(4) no amendment to the custodianship has been made limiting the power of the custodian or custodians to sell, convey, pledge, mortgage, lease, or transfer title to the real property described in the affidavit or attachment to the affidavit, if any;

(5) the requisite number of custodians have executed and delivered the instrument of conveyance described in the affidavit; and

(6) any necessary court approval of the transaction has been obtained.

The proof is conclusive as to any party relying on the affidavit, except a party dealing directly with the custodian or custodians who has actual knowledge of facts to the contrary.

Subd. 3. **Recording.** An Affidavit of Custodian or Custodians under subdivision 1 may be recorded in the office of the county recorder for any county or in the office of the registrar of titles for any county with

respect to registered land described in the affidavit, or in the Certificate of Custodianship or Custodianship Instrument referred to in the affidavit, and may be recorded as a separate document or combined with or attached to an original or certified copy of a Certificate of Custodianship or Custodianship Instrument, and recorded as one document.

Subd. 4. **Application.** (a) Subdivisions 1 to 3 apply to custodianship instruments whenever created or executed.

(b) Subdivisions 1 to 3 apply only to custodianships established under a federal law or under a statute of this or any other state. Subdivisions 1 to 3 do not apply to custodianships governed by chapter 527 or by the similar laws of another state.

History: *2015 c 5 art 12 s 11*