

## **DUTIES AND POWERS OF THE TRUSTEE**

The most important source of your trustee powers is from the Trust itself. Some of your powers will be from the provisions that govern the distribution of property and other provisions will govern the administration of the trust, including payment of taxes and expenses, rules for interpreting the trust and other procedural issues. Even if the trust instrument does not specify a certain power, a Trustee is given certain powers under Florida Law.

A Trustee has duties involving the collection and management of trust assets and the accumulation and distribution of income and principal pursuant to the Trust. The Trustee will also have a duty to file and pay the taxes of the decedent from the trust assets. As Trustee, you will occupy a position of trust and confidence and have a duty to be faithful to the interests of the trust and the beneficiaries. You will need to keep the beneficiaries reasonably informed about the trust administration by preparing accountings, and keeping them advised about the trust administration process. You will need to keep careful records of all trust transactions so that you can accurately prepare those accountings.

The Trustee must be faithful to the interests of the trust and will need to avoid any matter that presents a conflict of interest. The Trustee must never commingle their personal assets with the assets of the trust. If there is any question as to the propriety of a particular course of action, you should call us so we can discuss what your course of action may be, and whether it is appropriate under the circumstances.

As Trustee you have the highest legal duty under the law. It is what is called a Fiduciary Duty. Although the concept of a fiduciary duty is well recognized in the law, it is not always recognized by non-lawyers, so we wanted to provide you with a list of some of your responsibilities. Please remember that this list may not include all of your responsibilities, so if you have a question, please call us so we can answer it for you.

- Review and make certain you understand the Trust Documents.
- Provide Names and Addresses of Beneficiaries.
- Provide a complete list of all trust assets including account numbers and contact persons.
- Arrange to File Tax Returns including the decedent's final IRS form 1040, Florida Intangible Personal Property Tax Return, Trust Income Tax Return and the Trust Florida Intangible Personal Property Tax, if applicable. Seek services of a CPA or accountant if necessary.
- Make a determination as to whether the investments are prudent, taking into consideration the needs of the income and remainder beneficiaries. Seek the services of a financial advisor if necessary.

- Determine the creditors of the decedent and make arrangements to pay valid claims.
- Determine whether assets need to be formally appraised to obtain the value.
- Determine whether the decedent's real property and valuables are properly insured.
- Determine the liquidity of the trust so that you will be able to pay specific bequests, taxes, administration expenses and the expenses of administration.

If you have any questions regarding this issue, please do not hesitate to contact us so we may discuss and have all of your questions answered.