

Planning Ahead



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You Just Became A Trustee – Now What?

It feels like such an honor to be asked to serve as Trustee of a Trust. In truth, it's a lot of work and a lot of responsibility. As a Trustee you are a "fiduciary". The fiduciary has the highest legal duties of trust and good faith to act in the best interests of the Trust and the beneficiary of the Trust.

A Trustee's basic duties are to act only in the beneficiary's best interests, avoid conflicts of interest, manage the Trust property with the utmost care, keep the Trust property separate, and keep good records. The Trust document is the Trustee's instruction manual. The Trustee must read the Trust and be prepared to follow the directions. Often a Trust will authorize the Trustee to borrow or loan Trust property. However, the Trustee should never personally borrow from the Trust. To do so would create a conflict of interest between the Trustee and the beneficiary whose best interests the Trustee is charged to protect.

The Trustee must keep track of every penny of Trust money. Use of checks instead of cash, along with a detailed check register can make this easier. And keep the receipts, even for the smallest purchases. To avoid record-keeping mistakes, the Trustee should open and use a Trust checking account to pay all Trust expenses from the Trust, not from the Trustee's personal funds for later reimbursement.

Unless the Trust says otherwise, the Trustee is entitled to compensation. Any limitations on compensation in the Trust must be followed. Usually the Trust will authorize reasonable compensation and this is the default under the Trust Law. Unfortunately, there is no set definition of what is reasonable. The reasonableness of the Trustee's compensation may depend on the Trustee's detailed records of the work done and the time it took.

The Trustee should not try to do the job without good legal advice. There may be duties required by law that are not stated in the Trust that the Trustee wouldn't know about without consulting the lawyer. A Trustee who has legal advice along the way sets him or herself up for success.

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