

What Are the Four Fiduciary Duties of a Trustee in Texas?

Trustees have a variety of obligations, and sometimes their duties are more complex than others, depending on the type of trust they are administering. However, one set of duties that remains the same is a trustee's fiduciary duties.

As the name implies, trustees are put in a position of extreme trust. They are expected to act with the utmost integrity at all times. If you have been named a trustee or you are considering candidates to fulfill the trustee role for a trust you are creating, it is helpful to keep in mind the four fiduciary duties of a trustee in Texas.

Understanding the Role of a Trustee

With respect to a trust, a trustee serves as the manager of assets in a trust as well as the administrator of the trust itself. The trustee's role is custodial, operating as the caretaker of property belonging to others.

Because of the nature of the position, a trustee has the ability to take and use trust assets for personal gain, but they have the firm duty to avoid doing so. This is the general feature of a fiduciary duty. It is an obligation to put the interests of others ahead of personal interest. If a trustee breaches their fiduciary obligations, they can be sued for breach of fiduciary duty and required to pay damages.

For a better understanding of the obligations of a fiduciary, the duties are often broken into four categories:

Duty of loyalty

Duty of care

Duty of obedience

Duty of good faith and fair dealing

Duty of Loyalty

The duty of loyalty refers to the obligation to act in the trust's best interests rather than for the trustee's own advantage or for any other purposes. When personal interests conflict with the interests of the trust, the trustee must act in good faith.

The duty of loyalty goes to the heart of what most people think of when they consider fiduciary duties. It is a test of integrity. But the duties of a fiduciary include much more than loyalty.

Duty of Care

As a fiduciary, a trustee also has an obligation to perform the duties of the role with the same diligence that an "ordinary prudent person" would use under the same circumstances. Having good intentions is not enough. The trustee needs to be educated on the duties so that they can be performed properly, with assistance if necessary.

This includes the obligation to keep clear and accurate records, comply with legal requirements, make sound financial decisions, file tax returns, and other tasks. Guidance from an experienced attorney can often prove very helpful in understanding how to act with appropriate care.

Duty of Obedience

The trustee is obligated to follow the terms set forth in the trust document. The trustee may not agree with the purpose of the trust or the actions of the beneficiaries.

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However, the trustee is bound to distribute trust assets to the beneficiary as provided for under the terms of the trust, regardless of personal feelings—unless doing so would violate the law in some way.

Duty of Good Faith and Fair Dealing

The trustee is required to deal fairly with others, including any other trustees and the beneficiaries. Part of this duty for trustees includes the obligation to avoid placing themselves in a position where there is the potential to experience a conflict of interests between self-interest and duties to beneficiaries.

A trustee must also fully disclose all material facts they are aware of that could impact the beneficiaries' rights. Although a trustee may accept reasonable compensation for undertaking duties, the trustee is not allowed to profit in any other way.

The Nordhaus Firm Can Help You Understand the Fiduciary Duties of Trustees

The role of a trustee carries very serious obligations that are not always easy to understand or fulfill. Assistance from an experienced legal advisor can make it much easier to fulfill duties and protect yourself from liability.

At The Nordhaus Firm, we can assist with all aspects of trust administration, including helping trustees understand and complete obligations. In the process of estate planning, we can also help evaluate the qualifications of potential trustees.

If you would like assistance with trust administration or estate planning, schedule a

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free consultation with us today by contacting us online or calling 214-726-1450.