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A Brief Overview of a Trustee's Duties

A trust is a legal arrangement through which one person (or an institution, such as a bank or law firm), called a "trustee," holds legal title to property for another person, called a "beneficiary." If you have been appointed the trustee of a trust, this is a strong vote of confidence in your judgment and probity. Unfortunately, it is also a major responsibility. Following is a brief overview of your duties:

1. **Fiduciary Responsibility.** As a trustee, you stand in a "fiduciary" role with respect to the beneficiaries of the trust, both the current beneficiaries and any "remaindermen" named to receive trust assets upon the death of those entitled to income or principal now. As a fiduciary, you will be held to a very high standard, meaning that you must pay even more attention to the trust investments and disbursements than you would for your own accounts.
2. **The Trust's Terms.** Read the trust itself carefully, both now and when any questions arise. The trust is your road map and you must follow its directions, whether about when and how to distribute income and principal or what reports you need to make to beneficiaries.
3. **Investment Standards.** Your investments must be prudent, meaning that you cannot place money in speculative or risky investments. In addition, your investments must take into account the interests of both current and future beneficiaries. For instance, you may have a current beneficiary who is entitled to income from the trust. He or she would be best off in most cases if you invested the trust funds to generate as much income as possible. However, this may be detrimental to the interest of later beneficiaries who would be happiest if you invested for growth. In addition to balancing the interests of the various beneficiaries, you must consider their future financial needs. Does a trust beneficiary anticipate buying a house or going to school? Will she be depending on the trust income for retirement in 15 years? All of these questions need to be considered in determining an investment plan for the trust. Only then can you start considering the propriety of individual investments.
4. **Distributions.** Where you have discretion on whether or not to make distributions to a beneficiary you need to evaluate his current needs, his future needs, his other sources of income, and your responsibilities to other beneficiaries before making a decision. And all of these considerations must be made in light of the size of the trust. Often the most important role of a trustee is the ability to say "no" and set limits on the use of the trust assets. This can be difficult when the need for current assistance is readily apparent.

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5. **Accounting.** One of your jobs as trustee is to keep track of all income to, distributions from, and expenditures by the trust. Generally, you must give an account of this information to the beneficiaries on an annual basis, though you need to check the terms of the trust to be sure. In strict trust accounting, you must keep track of and report on principal and income separately.
6. **Taxes.** Depending on whether the trust is revocable or irrevocable and whether it is considered a "grantor" trust for tax purposes, the trustee will have to file an annual tax return and may have to pay taxes. In many cases, the trust will act as a pass through with the income being taxed to the beneficiary. In any event, if you keep good records and turn this over to an accountant to prepare; this should not be a big problem.
7. **Delegation.** While you cannot delegate your responsibility as trustee, you can delegate all of the functions described above. You can hire financial advisors to make investments, accountants to handle taxes and bookkeeping for the trust, and lawyers to advise you on questions of interpretation. With such professional assistance, the job of trustee need not be difficult. However, you still need to communicate with those you hire and make any discretionary decisions, such as when to make distributions of principal from the trust to one or more beneficiaries.
8. **Fees.** Trustees are entitled to reasonable fees for their services. Family members often do not accept fees, though that can depend on the work involved in a particular case, the relationship of the family member, and whether the family member trustee has been chosen due to his or her professional expertise. Determining what is reasonable can be difficult. Banks, trust companies, and law firms typically charge a percentage of the funds under management. Others may charge for their time. In general, what's reasonable depends on the work involved, the amount of funds in the trust, other expenses paid out by the trust, the professional experience of the trustee, and the overall expenses for administering the trust. For instance, if the trustee has hired an outside firm for investment purposes, that expense would argue for the trustee taking a somewhat smaller fee. In any case, it makes sense to consult with a professional experienced with trust work who can guide you on what would be normal fees considering all of the circumstances.

In short, acting as trustee gives you a wonderful opportunity to provide a great service to the trust's beneficiaries. The work can be very gratifying. Just keep an eye on the responsibilities described above to make sure everything is in order so no one has grounds to question your actions at a later date.