
LASUSA LAW OFFICES, PLC

BUSINESS LAW AND LITIGATION

415 N. LASALLE STREET, SUITE 301
CHICAGO, IL 60654
(312) 371-1200

4335 E. TIMBERWOOD DRIVE
TRAVERSE CITY, MI 49686
(231) 392-9616

EMAIL: INFO@LASUSALAW.COM
WEBSITE: WWW.LASUSALAW.COM

Your Fiduciary Duties

A Personal Representative or Trustee has a fiduciary relationship to the beneficiaries. You must be aware that as a fiduciary (one holding a position of great trust), you will not be allowed to handle the estate simply as you wish, as if the property were your own. Rather, you will have a number of duties or standards of behavior imposed by statute or common law, including:

Duty to Exercise Reasonable Care, Skill, and Prudence: You must use your best efforts in the conduct of fiduciary affairs.

Duty of Loyalty: You may be unable to serve if you have a conflict of interest. You may not engage in acts of self-dealing.

Duty Not to Commingle: You must keep the property of the estate or trust separate from your own.

Duty to Preserve and Protect Fiduciary Property: You must act to prevent loss to fiduciary assets.

Duty to Make Property Productive: You must see that fiduciary assets are invested.

Duty Not to Delegate: You are not relieved of responsibility by delegating your responsibilities to others. In many states, you may delegate investment and management functions only if you exercise reasonable care, skill, and caution in selecting an agent and establishing the scope and terms of the delegation. You must also periodically review the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation.

Duty to Deal Impartially with Beneficiaries: You must act impartially in managing and investing fiduciary assets.

Duty to Keep and Render Accounts: You must keep records and account to the beneficiaries of the estate or trust.

Duty to Furnish Information: You must keep the beneficiaries of the estate or trust informed.

Duty to Pay Income: You must pay the income of the estate or trust to those who are entitled to receive it.

You will be responsible to the beneficiaries for meeting these obligations and for the proper administration of the estate or trust. We can discuss some of the above duties further in the context of the particular task to be performed.

Regardless of how conscientiously you think you are performing your job as fiduciary, there are no assurances that the beneficiaries will find your performance acceptable. You will be questioned; and may be challenged, or possibly, even sued. If the Probate Court (in the event the estate is subject to probate) finds that you did not properly perform your duties, and the estate suffered losses as a result, you may be required to personally repay the amount of the losses to the estate. You could even be removed and someone else appointed in your place. All of this could be emotionally very upsetting. However, if you pay attention to and follow the duties outlined above the estate administration should go smoothly. Remember we are here to help and happy to answer any questions you have.