



HELPING TRUSTEES AVOID LIABILITY — THE DUTY OF LOYALTY

The most important duty a trustee has is that of loyalty. The courts are particularly sensitive to this duty, and for good reason—the trust was created for the benefit of the beneficiaries. The duty of loyalty requires that a trustee administer the trust solely in the beneficiaries' interests. Where trustees run afoul of the duty of loyalty is doing things they should not do. Specifically, a trustee should:

- Not place the trustee's own interests above those of the beneficiaries.
- Avoid all forms of self-dealing.
- Not engage in transactions in which the trustee's personal interests may conflict with those of the beneficiaries.
- Not co-mingle trust funds with the trustee's personal funds.
- Not withdraw trust money for the trustee's personal use.
- Not use the property held in the trust, such as homes or vehicles, for personal use.
- Not purchase or rent trust assets at below-market prices.

The courts will look at any actions that fail to follow these guidelines with severe skepticism. But a trustee can avoid the court's wrath by simply asking before taking any action, "Does this help the beneficiaries?"

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