



HELPING TRUSTEES AVOID LIABILITY—THE DUTY OF CONTROL, PROTECTION AND DELIVERY

The duty of control, protection and delivery seems straightforward enough. It requires a trustee to “take reasonable steps” to collect the trust property, safely hold it and distribute it as required by the trust instrument. A trustee should:

- Locate, collect and secure trust property, and title the property in the name of the trust. For example:
 - Record deeds transferring real estate to the trust.
 - Inventory the trust’s tangible personal property, including its location.
 - Ensure stock certificates correctly name the trustee as the owner of the stock.
 - Confirm that life insurance policies are titled in the name of the trust, the beneficiary designations name the intended beneficiaries, and that a process is in place to pay the annual premiums.
- Have former trustee (or other person holding trust property) convey the trust’s property to the trustee, and if necessary, petition the court to compel conveyance.
- Check the trust instrument for any special provisions relating to particular property.
- Distribute property to the beneficiaries as required by the trust instrument, and obtain receipts, and if possible, releases, from beneficiaries when making distributions.

These simple steps can help a trustee prevent a small oversight from becoming an outsized problem.

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