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TRUSTEE'S DUTIES

In the previous two monthly newsletters, I provided you with a checklist of advantages and disadvantages of using an individual trustee versus using an institutional trustee. Regardless of the choice of trustee, that trustee has fiduciary duties to the beneficiaries of the trust. You should take into consideration these duties in analyzing whether an institutional trustee or an individual trustee would better serve your needs. A general checklist of fiduciary duties for a trustee is as follows:

1. The trustee must administer the trust as required by the terms of the governing instrument and applicable law.
2. The trustee must take possession and control of trust assets and then manage, conserve, and safeguard those assets.
3. The trustee must make appropriate investment decisions based on the situation of the beneficiaries and the purpose of the trust.
4. The trustee must provide information to beneficiaries, including accurate accountings.
5. The trustee must make mandatory distributions as required by the trust instrument and make discretionary distributions that will be appropriate based on the settlor's intent.
6. The trustee must file income tax returns for the trust and pay taxes for which the trust is responsible.
7. When terminating the trust, the trustee should make termination distributions to the beneficiaries as soon as practicable.
8. The trustee must administer the trust solely for the interest of the beneficiaries and refrain from self-dealing.

Yours very truly,

RAINEY, KIZER, REVIERE & BELL, P.L.C.

William C. Bell, Jr., Attorney at Law