

FIDUCIARIES GONE WILD: Fiduciary Risk Management for Individual Executors, Trustees and Other Fiduciaries

**Presented by:
Aaron Dobbs**

Roberts Markel Weinberg Butler Hailey PC
Attorneys and Counselors at Law

Houston - Austin - San Antonio - Dallas - Sugar Land
www.rmwbhlaw.com

Copyright © 2015 by Roberts Markel Weinberg Butler Hailey PC. All Rights Reserved

WHAT IS A FIDUCIARY?

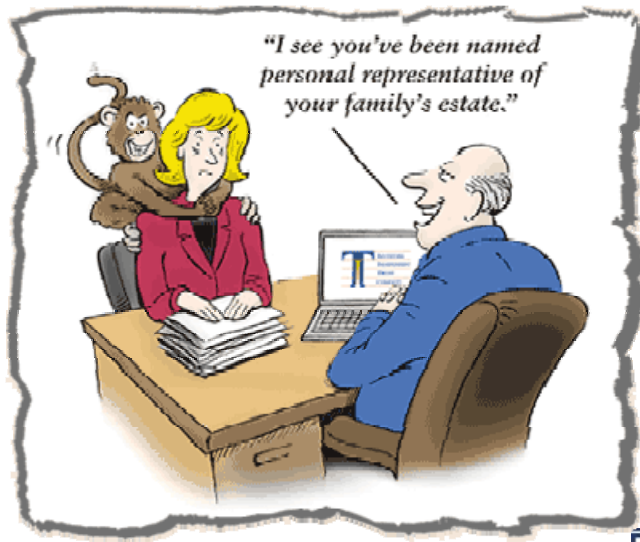
- ◆ “A person holding the character of a trustee...in respect to the trust and confidence involved with a trustee and the scrupulous good faith and candor which it requires.” Blacks Law Dictionary
- ◆ Executors and trustees are both fiduciaries
- ◆ Both owe a high duty of good faith, fair dealing, honest performance and strict accountability
- ◆ Subjects individual fiduciary to personal liability!

Copyright © 2015 by Roberts Markel Weinberg Butler Hailey PC

2



“...LIKE A MONKEY ON MY BACK”



Copyright © 2015 by Roberts Markel Weinberg Butler Halley PC

3

RMWBH
ROBERTS MARKEL WEINBERG BUTLER HALLEY

TRUSTEE'S DUTIES

- ◆ Established by the trust instrument and the Texas Trust Code
- ◆ Also imposed under the common law
- ◆ The duties owed by a trustee are similar to the duties owed by an executor

Copyright © 2015 by Roberts Markel Weinberg Butler Halley PC

4

RMWBH
ROBERTS MARKEL WEINBERG BUTLER HALLEY

DUTY OF LOYALTY

- ◆ Trustee must administer the trust solely in the interest of the beneficiaries
- ◆ May not self-deal
- ◆ However, trustee can still receive compensation for services provided as the trustee, but the trustee cannot profit at the expense of the trust

DUTY TO DEAL IMPARTIALLY WITH BENEFICIARIES

- ◆ Trustee must act impartially in investing and managing trust assets
- ◆ Trustee cannot favor one beneficiary over the other, unless specifically allowed by the trust instrument

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Fiduciaries Gone Wild: Fiduciary Risk Management for Individual Executors, Trustees and Other Fiduciaries

Also available as part of the eCourse

[Answer Bar: Dealing with Mineral Rights in Estate Planning and Probate](#)

First appeared as part of the conference materials for the 19th Annual Estate Planning, Guardianship and Elder Law Conference session "Individual Fiduciaries Gone Wild"