

Article - Estates and Trusts

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§14.5–203.

(a) (1) A discretionary power conferred on the trustee to determine the benefits of a beneficiary is subject to judicial control to prevent misinterpretation or abuse of the discretion of the trustee.

(2) The benefits to which a beneficiary of a discretionary distribution provision is entitled, and what may constitute an abuse of discretion by the trustee, depend on the terms of the discretion, including the proper construction of accompanying standards, and on the settlor's purposes in granting the discretionary power and in creating the trust.

(3) Notwithstanding the breadth of discretion granted to a trustee by the terms of a trust, including the use of the terms "absolute", "sole", or "uncontrolled", a trustee abuses the discretion of the trustee in exercising or failing to exercise a discretionary power if the trustee:

- (i) Acts dishonestly;
- (ii) Acts with an improper motive, even though not a dishonest motive;
- (iii) Fails to exercise the judgment of the trustee in accordance with the terms and purposes of the trust; or
- (iv) Acts beyond the bounds of reasonable judgment.

(b) A court may review an action by a trustee under a support provision or a mandatory distribution provision in the trust.

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