

## Article - Estates and Trusts

[Previous][Next]

§14.5–802.

(a) A trustee shall administer the trust solely in the interests of the beneficiaries.

(b) Subject to the rights of persons dealing with or assisting the trustee as provided in § 14.5–909 of this title, a sale, an encumbrance, or any other transaction involving the investment or management of trust property entered into by the trustee for the personal account of the trustee or which is otherwise affected by a conflict between the fiduciary and personal interests of the trustee is voidable by a beneficiary affected by the transaction unless:

- (1) The transaction was authorized by the terms of the trust;
- (2) The transaction was approved by the court;
- (3) The beneficiary did not commence a judicial proceeding within the time allowed by law;
- (4) The beneficiary consented to the conduct of the trustee, ratified the transaction, or released the trustee in compliance with § 14.5–907 of this title; or
- (5) The transaction involves a contract entered into or claim acquired by the trustee before the person became or contemplated becoming the trustee.

(c) A sale, an encumbrance, or any other transaction involving the investment or management of trust property is presumed to be affected by a conflict between personal and fiduciary interests if the transaction is entered into by the trustee with:

- (1) The spouse of the trustee;
- (2) A descendant, sibling, or parent of the trustee or a spouse of a descendant, sibling, or parent of the trustee;
- (3) An agent or attorney of the trustee; or
- (4) A corporation or any other person or enterprise in which the trustee, or a person that owns a significant interest in the trustee, has an interest that might affect the best judgment of the trustee.

(d) A transaction that does not concern trust property in which the trustee engages in an individual capacity involves a conflict between personal and fiduciary interests if the transaction concerns an opportunity properly belonging to the trust.

- (e) (1) In voting shares of stock or in exercising powers of control over similar

interests in other forms of enterprise, the trustee shall act in the best interests of the beneficiaries.

(2) If the trust is the sole owner of a corporation or any other form of enterprise, the trustee shall elect or appoint directors or other managers that will manage the corporation or enterprise in the best interests of the beneficiaries.

(f) This section does not preclude the following transactions, if fair to the beneficiaries:

(1) An agreement between a trustee and a beneficiary relating to the appointment or compensation of the trustee;

(2) Payment of reasonable compensation to the trustee;

(3) A transaction between a trust and another trust, decedent's estate, or guardianship estate of which the trustee is a fiduciary or in which a beneficiary has an interest; or

(4) An advance by the trustee of money for the protection of the trust.

(g) The court may appoint a special fiduciary to make a decision with respect to a proposed transaction that might violate this section, if entered into by the trustee.

[Previous][Next]