



10 CONSIDERATIONS FOR CHOOSING TRUSTEES AND PLANNING FOR INCAPACITY

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In this presentation, Laura Weintraub Beck, a trusts and estates attorney with Cummings & Lockwood, discusses 10 considerations in choosing trustees and planning for incapacity. While we all want to believe we will always make the right decisions – and that we will always be able to do so – incapacity and death put an end to that control. In this presentation, she focuses on ways to implement the “next best thing” by planning for the day when someone else will have to make those decisions and deciding who that should be and what guidance they should have. (14:45)

Presentation Outline

Trustee Job Description

1. Investment skills
2. Accounting skills
3. Tax Planning skills
4. Excellent judgement
5. Ability to remain impartial
6. Good organizational and administrative record-keeping skills
7. Ability to exercise discretion
8. Advanced EQ
9. Excellent detective skills
10. Ability to accurately guess what the boss would want you to do in any given situation

Fiduciary Duties

1. Duty of Loyalty
2. Duty Not to Delegate (unless permitted by the document)
3. Duty to keep and Render Accounts
4. Duty to Furnish Information
5. Duty to Exercise Reasonable Care and Skill
6. Duty to Take and Keep Control of Assets and keep Separate

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7. Duty to Enforce Claims and Defend Against Claims
8. Duty to Invest and Make Property Productive
9. Duty to Deal Impartially with Beneficiaries
10. Duty to Avoid Conflicts of Interest
11. Duty of Confidentiality
12. Duty to Give Notices
13. Duty to Deal Responsibly and Effectively with Co-Fiduciaries