



*A trust representative office of National Advisors Trust Company, FSB*

## ***Monthly Update for Administration of Trusts from a Trust Administrator's Perspective.***

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*It is our hope that our Monthly Update will be helpful to you to better understand the administration of trusts from a Trustee's viewpoint.*

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**April/May, 2017**

### **"HAVE I GOT A DEAL FOR YOU?"**

There are thousands of different types of investments that are available, many of which are sound, prudent investments, and many of which are extremely speculative and most likely to result in a loss. And, of course, there are those investments which turn out to be scams.

It is one thing for an individual to make a poor investment decision for himself. It is another thing for a Trustee to make a poor investment decision for the trust and the Beneficiaries.

### **THE PROBLEM**

Frequently, family members or close friends are appointed as Successor Trustees for the trust, which many times includes continuing to hold assets in trust for the benefit of the Beneficiaries who are too young or not mature enough to receive the assets outright and free of trust at the time of the Grantor's death. Unfortunately, many times the Successor Trustees have little to no experience in investing. In a good-faith effort to try to maximize growth or income, or to just "hit a grand slam", the individual Trustees might invest in a highly-speculative investment. Even though the investment was made in good faith, the investment eventually fails and substantial losses are incurred.

### **FIDUCIARY RESPONSIBILITY**

Trustees have a fiduciary duty which is owed to the Beneficiaries. If the Trustees breach their fiduciary duty by making improper investments, the Trustee can be held responsible for the losses that are incurred. That result puts the Beneficiaries in the position of making a difficult decision of either accepting the loss or seeking recourse against the Trustee. This decision is particularly troublesome when the Trustee is a family member or a close friend of the family.

When losses are incurred, frequently the Beneficiaries have no way of recouping their losses because the individual Trustee does not have sufficient assets to pay for those losses.

### **THE OKLAHOMA UNIFORM PRUDENT INVESTOR ACT**

In making investments, the Trustee must comply with the provisions of the Oklahoma Uniform Prudent Investor Act, (the "Act"), 60 O.S. §161. The Act is a comprehensive set of laws that establishes standards and guidelines for Trustees in making investments on behalf of a trust.

Unless otherwise instructed in the trust agreement itself, a Trustee who invests and manages trust assets owes a duty to the Beneficiaries to comply with the Prudent Investor Rule.

### **ASSURANCE THAT THE ACT WILL BE FOLLOWED**

Use of a Corporate Trustee will ensure that the investments made by the Corporate Trustee will be in compliance with the Act, thereby avoiding potential significant losses due to investments that are outside the scope of the Act, or a scam, or otherwise were unreasonable and imprudent in the first instance.

Use of a Corporate Trustee will help avoid possible significant losses by bad or improper investing that might otherwise be incurred by an individual Trustee.

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**WealthTrust Oklahoma** is the Oklahoma Trust representative office of National Advisors Trust Company, FSB, which currently has more than \$9 billion under administration. We hold a federal charter and are independent.



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