



**DUNHAM  
TRUST COMPANY**



THE LAW FIRM OF  
**STRAZZERI MANCINI LLP**  
WEALTH STRATEGIES COLLABORATIVE

*The Intersection of an incompetent beneficiary, a  
depleting business asset, a probable large tax estate,  
and family disfunction.*

*Fiduciary Attorney Summit 2023  
Santa Barbara*



## The Facts

- **A business that is losing value (“Moving Parts, Inc.”);**
- **A key person component held by the majority shareholder with a shortened life span (1-2 years)**
- **A healthy spouse who is desiring divorce and has no business control**
- **The potential for a heavy estate tax liability now, worsening with tax law changes**
- **Heirs who are scared or nervous, don’t get along, and may want to exert more influence in the family, business and handling of the estate.**



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## **Duty of Loyalty**

**A trustee must act in the best interests of the trust's beneficiaries. First, to the grantors and beneficiaries.**

**In the event of incapacity of a grantor then to that grantor's benefit first, and secondarily to residual beneficiaries.**



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## *Duty of Impartiality*

Trustees must remain impartial. If a trustee treats one beneficiary differently from another, or gives “preferential treatment”  
- they are in breach of this duty.



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## *Duty of Confidentiality*

The trustee must maintain confidentiality concerning the trust affairs and protect the privacy of the grantor and beneficiaries.

Legal counsel must maintain client privileges.



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## ***Duty to Disclose / Inform***

Trustees should keep beneficiaries reasonably informed of the status of the trust administration, including assets, expenditures, important decisions and investments, creditor issues and other changes in conditions.



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## *Duty of Care & Preservation of Assets*

The **duty of care** requires a trustee administer a trust in good faith, exercising its powers as a prudent person would with “reasonable care, skill and caution.



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## ***Duty to Defend & Enforce Claims***

Trustees must defend against potential losses and pursue assets and benefits to which the trust is rightfully due, within reason considering the efficiency of such pursuits and the likelihood of success.

Advice of counsel is key to these decisions.