



By the order of the court, Judge David A Wiseman

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FOR PUBLICATION



E-FILED
CNMI SUPERIOR COURT
E-filed: Apr 01 2014 11:07AM
Clerk Review: N/A
Filing ID: 55227808
Case Number: 08-0195-CV
N/A

**IN THE SUPERIOR COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

**IN THE MATTER OF THE ESTATE)
OF:)
GREGORIA CAMACHO CABRERA,)
Deceased.)**

**Civil Action No. 08-0195
ORDER REMOVING TRUSTEE**

THIS MATTER came before the Court on March 27, 2014, where the Court issued a tentative ruling on the issue of the trustee, on which the Court instructed the parties to submit briefing materials. Having reviewed both briefings submitted by the trustee and the guardian ad litem in this matter, as well as the applicable legal principles of trust, the Court hereby **REJECTS** Ms. Aldan’s argument that she is entitled to use as her own the rental income of the property which she holds in trust for the minor children.

A trustee’s powers over the trust estate must be exercised in accordance with the trustee’s fiduciary obligations. *See* Restatement (Third) of Trusts § 70, comment a. This means that a trustee must “administer the trust, diligently and in good faith, in accordance with the terms of the trust and applicable law.” *See id.* § 76. Included within a trustee’s duty to administer are to “ascertain the duties and powers of the trusteeship, and the beneficiaries and purposes of the trust.” *Id.* Further, a trustee must collect and protect the trust property and manage “the trust estate to provide returns or other benefits from the trust property.” *Id.*

1 Lastly, a trustee must apply or distribute to or for the beneficiaries “trust income and principal during the
2 administration of the trust and upon its termination.” *Id.* comment f.

3 The Restatement of Trust also details the fiduciary duties a trustee owes to the beneficiaries of the
4 trust. The primary duty owed is the duty of loyalty, which requires that the trust be administered solely in
5 the interest of the beneficiaries unless otherwise provided in the terms of the trust. *Id.* § 78. Thus, a “trustee
6 is strictly prohibited from engaging in transactions that involve self-dealing or that otherwise involve or
7 create a conflict between the trustee’s fiduciary duties and personal interests.” *Id.* Further, a trustee has “a
8 duty in dealing with a beneficiary to deal fairly and to communicate to the beneficiary all material facts the
9 trustee knows or should know in connection with the matter.” *Id.*; § 82; § 83. Lastly, a trustee cannot
10 commingle trust property with her own and cannot “deposit money of the trust into trustee’s personal
11 account in a bank. *See id.* § 84, comment b.

12 Here, Ms. Aldan holds the title to the income producing properties at issue as trustee for the minor
13 children until they reach the age of 18, at which point she is instructed to transfer the title to and possession
14 of the named properties by quitclaim deed to the named heirs. This means that until such a time that the
15 minors reach age 18, Ms. Aldan owes the aforementioned fiduciary obligations to them, including managing
16 and maintaining the trust’s assets, as well as accounting for and distributing trust income during its
17 administration. The Court hereby finds that Ms. Aldan has continually and consistently failed to
18 demonstrate that she has properly managed and maintained the trust’s assets, including providing an
19 accounting of and distribution of trust income during such administration.

20 Furthermore, Ms. Aldan has a duty of loyalty to the beneficiaries of the trust, meaning that she must
21 administer the trust in the sole interest of the named beneficiaries, refraining from self-dealing transactions
22 and the commingling of trust property with her own. Most importantly, as a trustee, Ms. Aldan is prohibited
23 from transactions that would involve or create a conflict between her fiduciary duties to the trust and her
24 personal interests. Here, however, the Court finds that Ms. Aldan has violated those fiduciary duties by
25 retaining the income produced by the properties held in trust and using it as her own, as opposed to

