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Update Regarding the Trustee's Duty to Inform

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When and what to disclose remains an area of controversy and concern for trustees and beneficiaries alike. Many trusts waive requirements that a trustee give a formal accounting to the beneficiaries. In addition, most state laws (including Rhode Island, and certain trusts in Massachusetts) do not mandate the time and manner by which a trustee provides a formal accounting to beneficiaries. A recent ruling from the North Carolina Court of Appeals, however, required a trustee to render an accounting in order to show that the trustee had performed its duties in good faith.

The trustee of an irrevocable trust was sued by the beneficiaries for breach of fiduciary duties relating to investment, management and distribution of trust assets. The complaint included a request for an accounting. The trustee objected to this request, claiming that neither the terms of the trust nor any aspect of North Carolina law required the trustee to provide an accounting. The trial court granted the trustee’s motion for a protective order, relying on a North Carolina statute that the duty to inform is not mandatory.

The beneficiaries appealed this ruling to the Court of Appeals, which overruled the trial court. The Court of Appeals found that a trustee’s duty to act in good faith requires a trustee to provide a beneficiary with “such information as is reasonably necessary to enable [the beneficiary] to enforce [the beneficiary’s] rights under the trust or to prevent or redress a breach of the trust,” regardless of the terms of the trust. The Court of Appeals reasoned that beneficiaries must have a reasonable amount of information about the administration of the trust in order to enforce their rights under the trust.