

When you act as an Agent under a Power of Attorney, you are acting for the person who signed that document ("Principal"). As an Agent is a fiduciary, you must act in the Principal's best interests with the highest duties of care, honesty and loyalty to your Principal. This brochure is designed to assist you in understanding your duties as Agent under a Power of Attorney.

1. Keep Good Records! Keep a written history of all financial transactions. Keep a journal of all actions you take as an Agent under the Power of Attorney. Keep copies of all account statements, transaction confirmations, bills and receipts. Keep cash transactions to a minimum and record those transactions in good detail. Every dollar received, spent and otherwise transferred must be accounted for by you. You may be required to provide a full accounting many years down the road, so you should complete those accountings as you go. You should establish (or continue) a checking account set up in the Principal's name, with you as an authorized agent. Do not use an account that is held jointly between the Principal and anyone else for this purpose. You can ask the Principal's Attorney or accountant to help you establish a format for the accountings.

2. Account. You should provide the Principal with a copy of your written accountings at least annually. If possible, have the Principal initial or sign your copy to show that the Principal received and accepted the accounting. If your Principal is under any sort of disability or shows any

sign of mental infirmity or incapacity, you should not depend on a private meeting with your Principal to satisfy your obligation to account or as a waiver of your obligation to account.

3. Compensation of Agent. A Power of Attorney generally (although not always), provides that the Agent will act without compensation, but is entitled to reimbursement for out of pocket expenses. If the Power of Attorney does not authorize compensation, it should not be taken unless the Principal, while competent, freely makes those payments himself or herself. You should not accept payment without first consulting an attorney. With respect to reimbursement, we advise you to use the Principal's accounts for payment of all their expenses and keep the need for reimbursement at a minimum. You should also consult with an attorney to determine which of your expenses may be reimbursable. These are the types of transactions that may be questioned in the future. If that happens, the court will presume that you used your power and influence over the Principal to reward yourself. It will be your burden to prove that you did not influence the Principal and that the Principal was carrying out his or her own wishes. Anytime a situation presents itself where it could appear that you are promoting your own interests, consult an attorney for advice.

4. Estate Planning and Gifts. You have a general duty to protect the Principal's estate plan to the extent you can, given his or her financial needs. You may have received gifts from the Principal over the years. If the Principal has established a pattern of making gifts, it may be appropriate for you to continue

to make gifts to those same persons or charitable entities if the Power of Attorney allows it, and if it is prudent, necessary and in the Principal's best interests. You should not make any gifts as Agent without first consulting an attorney. You may not, however, make gifts to yourself, unless the Power of Attorney allows it. If your Principal wants to make a gift to you while you are acting as Agent, you should, once again, consult the Principal's attorney before accepting any gift.

5. If the Principal is Incapacitated. If your Principal is not able to make his or her own financial decisions or review your actions and accountings in a meaningful manner, you need to be particularly careful to protect his or her financial interests and consult with counsel if you ever have any questions.

6. Don't Mix Assets. Keep your assets and your Principal's assets separate. Do not co-mingle your assets with the Principal's assets - ever. If you and the Principal have held assets "jointly" before you begin to act under the Power of Attorney, you may continue to maintain those joint assets (as well as continuing to maintain assets held jointly with others). In the case of jointly held assets, you should not take any action that will benefit you to the detriment of others who are either joint owners of accounts with the Principal or beneficiaries of the Principal's estate without first obtaining advice of counsel.

7. Investing the Principal's Assets. You may be able to continue to maintain the Principal's investment strategy, whether

it is investing in certificates of deposit, real estate, stocks and bonds, or other investments, but you may also become subject to the Illinois Prudent Investor Rule, and should review those responsibilities with legal counsel. You also have a duty to see that the Principal's assets are not depleted or wasted. If the Principal's portfolio contains investments that are subject to market risk, you should consult with an attorney and a financial advisor (including the Principal's tax and financial advisors) with respect to how the investments should be handled. You also need to manage the Principal's assets in a way that will provide sufficient cash flow to pay for the Principal's living expenses.

In general, be smart about your position as an Agent. You have the utmost duty of care and loyalty to the Principal and are not allowed to put your interests above your Principal's interests. If you keep detailed and accurate records, provide regular accountings and consult the Principal's (or your) attorney whenever you have a question, you should be able to minimize the likelihood that your actions will be criticized by the Court or others.

NOTE: These general suggestions are for general information purposes only and should not be regarded as a substitute for legal advice. Instead, any Agent under a Power of Attorney should consult with legal counsel whenever any question arises as to the agent's duties and responsibilities.

Zukowski Law Offices

DUTIES OF A FINANCIAL AGENT



This brochure is provided for informational purposes only. While every effort has been made to ensure accuracy, it cannot be relied upon as legal advice. Applicability of the legal principles discussed may differ substantially in individual situations, and you should consult with your legal advisor.

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