

Colorado Statutes

Title 15. PROBATE, TRUSTS, AND FIDUCIARIES

COLORADO PROBATE CODE

Article 16. Trust Administration

Part 8. DIRECTED TRUSTEES

Current through Chapter 420 of the 2014 Legislative Session

§ 15-16-801. Definitions

As used in this part 8, unless the context otherwise requires:

(1)

"Action", with respect to an act of a fiduciary, includes a failure to act.

(2)

"Excluded trustee" means any trustee that, under the terms of the governing instrument, is precluded from exercising certain powers, which powers may be exercised only by a trust advisor designated by the governing instrument.

(3)

"Investment decision" means a fiduciary decision regarding the retention, purchase, sale, exchange, tender, or other transaction affecting the ownership of or rights in any property owned by a trust and, with respect to non-publicly traded investments, the determination of the value of such investments.

(4)

"Governing instrument" means a will, trust agreement or declaration, or a court order appointing a trust advisor.

(5)

"Non-investment decision" means a fiduciary decision regarding the distribution, administration, or management of any property owned by a trust, other than an investment decision.

(6)

"Qualified beneficiary" has the same meaning set forth in section 15-1-402 (10.5).

(7)

"Settlor" includes a grantor, a trustor, and a testator.

(8)

(a)

"Trust advisor" means a person who is:

(I)

Acting in a fiduciary capacity; and

(II)

Vested under a governing instrument with fiduciary powers to direct a trustee's actual or proposed investment decisions or non-investment decisions.

(b)

A person who holds a nonfiduciary power over a trust, including a power of appointment as defined in section 15-2-102, is not subject to the provisions of this part 8, regardless of whether he or she is described as a "trust advisor" within a governing instrument.

(9)

"Willful misconduct" means intentional wrongdoing and not mere negligence, gross negligence, or recklessness.

Cite as C.R.S. § 15-16-801

History. Added by 2014 Ch. 296, §10, eff. 8/6/2014.

Colorado Statutes

Title 15. PROBATE, TRUSTS, AND FIDUCIARIES

COLORADO PROBATE CODE

Article 16. Trust Administration

Part 8. DIRECTED TRUSTEES

Current through Chapter 420 of the 2014 Legislative Session

§ 15-16-802. Default rules for directed trusts

Excluding the requirement that a trust advisor act in a fiduciary capacity, the provisions of this part 8 are default rules that apply to any trust for which a trust advisor is then acting, and such rules may be expanded, restricted, eliminated, or otherwise altered by the provisions of a governing instrument.

Cite as C.R.S. § 15-16-802

History. Added by 2014 Ch. 296, §10, eff. 8/6/2014.

Note: 2014 Ch. 296, was passed without a safety clause. See Colo. Const. art. V, § 1(3).

Colorado Statutes

Title 15. PROBATE, TRUSTS, AND FIDUCIARIES

COLORADO PROBATE CODE

Article 16. Trust Administration

Part 8. DIRECTED TRUSTEES

Current through Chapter 420 of the 2014 Legislative Session

§ 15-16-803. Trust advisor and excluded trustee

(1)

A trust advisor with power over investment decisions is subject to the "Uniform Prudent Investor Act", article 1.1 of this title. A trust advisor who has special skills or expertise or who is named a trust advisor in reliance upon his or her representation that he or she has special skills or expertise has a duty to use those special skills or expertise.

(2)

The powers and duties of a trust advisor, and the extent of such powers and duties, are established by the governing instrument, and the exercise or nonexercise of such powers and duties is binding on all other persons.

(3)

The powers and duties of a trust advisor may include, but are not limited to:

(a)

The exercise of a specific power or the performance of a specific duty or function that would normally be performed by a trustee;

(b)

The direction of a trustee's actions regarding all investment decisions or one or more specific investment decisions; or

(c)

The direction of a trustee's actions relating to one or more specific non-investment decisions, including the exercise of discretion to make distributions to beneficiaries.

(4)

If a governing instrument provides that a trustee must

follow the direction of a trust advisor and the trustee acts in accordance with such direction, the trustee is an excluded trustee.

Cite as C.R.S. § 15-16-803

History. Added by 2014 Ch. 296, §10, eff. 8/6/2014.

Note: 2014 Ch. 296, was passed without a safety clause. See Colo. Const. art. V, § 1(3).

Colorado Statutes

Title 15. PROBATE, TRUSTS, AND FIDUCIARIES

COLORADO PROBATE CODE

Article 16. Trust Administration

Part 8. DIRECTED TRUSTEES

Current through Chapter 420 of the 2014 Legislative Session

§ 15-16-804. Appointment and removal of trust advisors

If a governing instrument does not include express provisions for the removal of a trust advisor but does include provisions for the removal of one or more trustees, the provisions for the removal of trustees also govern the removal of any then-serving trust advisor.

Cite as C.R.S. § 15-16-804

History. Added by 2014 Ch. 296, §10, eff. 8/6/2014.

Note: 2014 Ch. 296, was passed without a safety clause. See Colo. Const. art. V, § 1(3).

Colorado Statutes

Title 15. PROBATE, TRUSTS, AND FIDUCIARIES

COLORADO PROBATE CODE

Article 16. Trust Administration

Part 8. DIRECTED TRUSTEES

Current through Chapter 420 of the 2014 Legislative Session

§ 15-16-805. No duty to review actions of trust advisor

An excluded trustee has no duty to review or monitor the actions of a trust advisor.

Cite as C.R.S. § 15-16-805

History. Added by 2014 Ch. 296, §10, eff. 8/6/2014.

Note: 2014 Ch. 296, was passed without a safety clause. See Colo. Const. art. V, § 1(3).

Note: 2014 Ch. 296, was passed without a safety clause.
See Colo. Const. art. V, § 1(3).

Colorado Statutes

Title 15. PROBATE, TRUSTS, AND FIDUCIARIES

COLORADO PROBATE CODE

Article 16. Trust Administration

Part 8. DIRECTED TRUSTEES

Current through Chapter 420 of the 2014 Legislative Session

§ 15-16-806. Duty to communicate - no duty to warn

(1)

A trustee has a duty to keep a trust advisor reasonably informed about the administration of the trust with respect to any specific duty or function being performed by the trust advisor to the extent that providing such information is reasonably necessary for the trust advisor to perform the duty or function. A trust advisor requesting or receiving any such information from a trustee has no duty to monitor the conduct of the trustee or to provide advice to or consult with the trustee.

(2)

A trust advisor has a duty to keep the trustee and any other trust advisors reasonably informed about the administration of the trust with respect to all duties or functions being performed by the trust advisor to the extent that providing such information is reasonably necessary for the trustee and any other trust advisors to perform their duties or functions. A trustee requesting or receiving any such information from a trust advisor has no duty to monitor the conduct of the trust advisor or to provide advice to or consult with the trust advisor.

(3)

A trust advisor has a duty to keep the beneficiaries of a trust reasonably informed of the trust and its administration, to the extent that such information relates to a duty or function being performed by the trust advisor. This duty is governed by section 15-16-303.

(4)

A trust advisor has no duty to communicate with or warn any beneficiary or third party concerning any action or actions taken by any other trust advisor or trustee.

Cite as C.R.S. § 15-16-806

History. Added by 2014 Ch. 296, §10, eff. 8/6/2014.

Colorado Statutes

Title 15. PROBATE, TRUSTS, AND FIDUCIARIES

COLORADO PROBATE CODE

Article 16. Trust Administration

Part 8. DIRECTED TRUSTEES

Current through Chapter 420 of the 2014 Legislative Session

§ 15-16-807. Excluded trustee not liable for action of trust advisor

(1)

If an excluded trustee is required to follow the direction of a trust advisor and the excluded trustee acts in accordance with such direction, the excluded trustee is not liable for any cause of action resulting from the act of complying therewith, except in cases of willful misconduct on the part of the excluded trustee so directed.

(2)

An excluded trustee has no liability for any action of a trust advisor.

Cite as C.R.S. § 15-16-807

History. Added by 2014 Ch. 296, §10, eff. 8/6/2014.

Note: 2014 Ch. 296, was passed without a safety clause. See Colo. Const. art. V, § 1(3).

Colorado Statutes

Title 15. PROBATE, TRUSTS, AND FIDUCIARIES

COLORADO PROBATE CODE

Article 16. Trust Administration

Part 8. DIRECTED TRUSTEES

Current through Chapter 420 of the 2014 Legislative Session

§ 15-16-808. Power of trust advisor to act after death or incapacity of settlor

The power and authority of a trust advisor does not lapse at the death or incapacity of the settlor.

Cite as C.R.S. § 15-16-808

History. Added by 2014 Ch. 296, §10, eff. 8/6/2014.

Note: 2014 Ch. 296, was passed without a safety clause. See Colo. Const. art. V, § 1(3).

Colorado Statutes

Title 15. PROBATE, TRUSTS, AND FIDUCIARIES

COLORADO PROBATE CODE

Article 16. Trust Administration

Part 8. DIRECTED TRUSTEES

Current through Chapter 420 of the 2014 Legislative Session

§ 15-16-809. Trust advisor subject to district court jurisdiction

By accepting appointment to serve as a trust advisor of a trust having its principal place of administration in the state of Colorado, the trust advisor is subject to the jurisdiction of the courts of the state of Colorado even if other related agreements provide otherwise, and the trust advisor may be made a party to any action or proceeding if issues relate to a decision or action of the trust advisor.

Cite as C.R.S. § 15-16-809

History. Added by 2014 Ch. 296, §10, eff. 8/6/2014.

Note: 2014 Ch. 296, was passed without a safety clause. See Colo. Const. art. V, § 1(3).