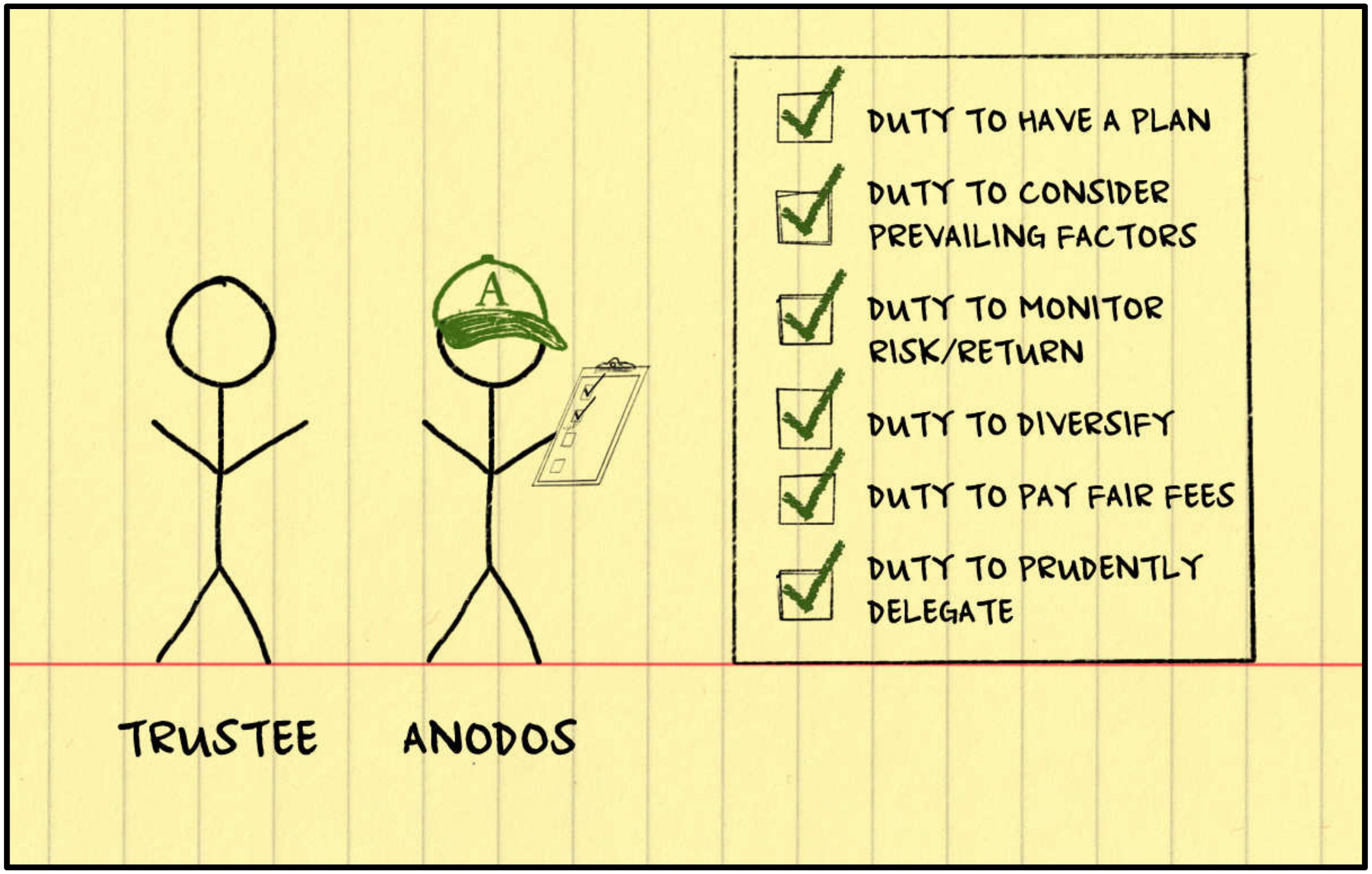
A Trustee's Duty of Care Under the UPIA or…
How to Avoid Being a Knucklehead



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Approved for CPE

Few professional fiduciaries have the time or training to answer several fundamental questions required of them under the Prudent Investor Act (California Probate Code §16047-16052).

- ❑ Is the current portfolio likely to produce the targeted rate of return? (§16047a)
- ❑ Was the risk that was accepted appropriate given the return that was realized? (§16047b)
- ❑ Is the portfolio reasonably diversified? (§16048)
- ❑ Are the fees being paid to the manager fair? (§16050)
- ❑ Is the manager in good standing with the regulatory bodies that oversee their license? (§16052)

Anodos does not manage money or sell insurance. We help fiduciaries monitor the activities of the money managers to whom investment duties have been delegated.

Presentation Synopsis

Title: Fiduciary duties under the Prudent Investor Act (California Probate Code §16047 - §16052) or How to avoid being a knucklehead.

Presentation Synopsis (FOR EPC & FPA): Many fiduciaries ask, "*Am I doing all that I can to minimize my personal risk as I serve as a trustee, conservator or guardian?*" Trusted Advisors are ideally positioned to help their clients develop and administer a process which documents compliance with fiduciary duties under the Prudent Investor Act (Section §16047 - §16052).

Presentation Outline

Approved by Cal Bar for 1 Hr of MCLE

Presenter: Josh Yager, JD, CFP, ChFC – Principal, Anodos Advisors

In this seminar we will examine the duties owed by trustees to the beneficiaries they serve. We will review the Duties enumerated in the Uniform Prudent Investor Act, study the cases that illustrated these duties, and define procedures that can be followed to help trustees comply with this standard of excellence.

1. Duty to Have a Plan - §16047(a): The Prudent Investor Act (hereafter PIA) directs trustees to establish a plan for their deployment of trust capital. Trustees ask, "What specifically should be noted in this plan?" We will review the cases that illustrate the court's application of this duty along with strategies for creating the evidentiary record that demonstrate the trustee's compliance with the PIA.

2. Duty to Balance Risk and Return - §16047(b): The PIA identifies the tradeoff between risk and return as the fiduciary's central consideration. Trustees ask, "Was the risk that was taken appropriate given the return that was realized?" We will review the cases that illustrate the court's application of this duty along with strategies for creating the evidentiary record that demonstrate the trustee's compliance with this standard.

Presentation Outline (Cont.)

3. Duty to Diversify - §16048: The PIA established a duty for trustees to diversify the assets of the trust. Trustees ask, "How can this duty be complied with if the assets held in trust are illiquid like real estate or non-marketable like an operating business?" We will review the cases that illustrate the court's application of this duty to diversify along with strategies to create the evidentiary record that demonstrate the trustee's compliance with this standard of conduct.

4. Duty to Pay Only Fair Fees - §16050: The PIA establishes a duty for the trustee to pay only fees that are fair and reasonable under the circumstances. Trustees ask, "What is a fair fee to pay a money manager and are there any hidden fees that I should know about?" We will review the cases that illustrate the court's application of this duty along with strategies for creating the evidentiary records that demonstrate the trustee's compliance with this standard.

5. Duty to Independently Monitor Investment Managers Activities - §16052(a): The PIA establishes a duty for trustees to independently monitor the investment managers to whom assets have been entrusted. It is not enough for the trustee to simply trust an investment manager and give them the trust assets without vigorously overseeing that manager's activities. Trustees ask, "How can I conduct an independent review of the managers when I'm untrained in the nuances of investment management?" We will review the cases that illustrate the court's application of this duty along with strategies for creating the evidentiary record that demonstrates the trustee's compliance with this standard.

Josh Yager

Biographical Information

Experience

Between 1992 and 2004 I was an investment advisors responsible for over \$300m of investment capital. I got to a point that I couldn't remember all of my clients names and I wasn't having fun any more so I quit to start my "dream job". I established Anodos in 2005. Anodos is a consulting firm that acts as a Chief Compliance Officer for individual trustees and fiduciaries. I am a licensed attorney, a Certified Financial Planner (CFP®), and Chartered Financial Consultant (ChFC).

Professional Affiliations

CalBar, Estate Planning Section
Estate Planning Counsel, Santa Barbara
Professional Fiduciary Association of California (PFAC), Affiliate Member
Financial Planning Association (FPA)
BDO Alliance Member

Education History

Admitted to California State Bar
Certified Financial Planner (CFP®)
Chartered Financial Consultant (ChFC)
Westmont College, Santa Barbara, CA

References

Association	Chapter	Contact	Phone Number
CalCPA	Los Angeles	Mike Allmon	(310) 536-0200
EPC	Marin	Vince Crivello	(408)-260-3185
PFAC	Silicon Valley	Will Hoggan	(408) 712-9457
BDO	National Retreat	Jack Knuckles	(415)-490-3393
FPA	San Francisco	Tanya Shaw Steinhofer	(415)-516-3380

Reviews

“Josh is an engaging speaker with a firm command of the material.” – Michael Allmon (Los Angeles CalCPA)

“Josh’s presentation addressed an important subject for our members and was warmly received”. – Annabelle Wilson (Pasadena PFAC)

“ The subject material was applicable to all of the professional disciplines in our Estate Planning Counsel chapter.” – Vince Crivello (Marin EPC)