

Trust Issues

Can you Trust your Trust



The Concerns

Poor trust administration may lead to serious problems for both trustees and beneficiaries evidenced by the following examples:

1. Annual gifting of Settlers' loans not completed.

If loans resulting from assets transferred to the trust are not forgiven, trust assets will not be fully protected, defeating the primary purpose of the trust.

2. Trust minutes not completed.

Trustees should authorise by way of a signed minute, adoption of the annual financial statements and tax returns, distributions to beneficiaries, borrowing of funds, the purchase and sale of assets, investment strategy and other important transactions. Failure to do so may lead to disputes between trustees and beneficiaries, causing expensive litigation.

3. Lease documentation not on file and current.

Trustees may own property that is leased to a trading company. If up to date lease documentation is not on file the leasing arrangement could be challenged by Inland Revenue or a disgruntled beneficiary.

4. Registers regarding Trustees, Beneficiaries, significant events and gifting programmes not properly maintained.

If these registers are not accurately maintained, problems may arise in establishing the true position of the trust, especially when attempting to wind it up and distribute assets to beneficiaries.

5. No Settlers' Memorandum of Wishes.

This document provides trustees with a blueprint for governance of the trust to fulfill the intent of the settlers who established the trust. Without this memorandum in place, trustees may misinterpret the trust's purpose.

The Way Forward.....

There is a clear need for family trusts to be comprehensively reviewed.

Our firm has developed a trust risk review process. The review will address all of the above concerns and provide a 'warrant of fitness' of trust documentation and administration. We recognise the need to put in place a formal structure to ensure your trust cannot be challenged by any other party.

To put your minds at rest touch base with us soon to discuss the review of your family trust.

http://www.basca.co.nz/contact_baldry_sanford