

Duties of an Attorney-in-Fact

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Duties of an Attorney-in-Fact

Under Minnesota law, an individual (called the “Principal”) may designate another person as the Principal’s attorney-in-fact. The Principal does this by executing a Power of Attorney (PoA). An attorney-in-fact has the power to bind the Principal in the same manner as though the action was taken by the Principal. Where multiple attorneys-in-fact are named, each attorney-in-fact is authorized to act on his/her own without the consent or involvement of the other attorneys-in-fact, unless the PoA requires the attorneys-in-fact to act jointly.

The PoA may grant the attorney-in-fact authority to act on behalf of the Principal with respect to the following types of transactions:

- Real property
- Tangible personal property
- Bonds, shares and commodities
- Banking
- Business operations
- Insurance
- Beneficiaries
- Gifts
- Fiduciaries
- Claims and litigation
- Family maintenance
- Military service benefits
- Records, reports and statements
- All other matters

As an attorney-in-fact, you have certain duties and obligations to the Principal, including:

- To keep complete records of all transactions entered into on behalf of the Principal;
- To render an accounting to the Principal (or a designee of the Principal), if required by the PoA or otherwise requested by the Principal;
- To exercise the powers conferred “in the same manner as an ordinarily prudent person of discretion and intelligence would exercise in the management of the person’s own affairs” (Minn. Stat. § 523.21); and
- To keep the interests of the Principal utmost in mind.

An attorney-in-fact is liable to any person or entity, including the Principal, who is injured by the attorney-in-fact’s bad-faith actions or by the attorney-in-fact’s failure to provide an accounting as required by the PoA or Minnesota law.

If you have any questions about your duties as an attorney-in-fact or want more details and guidance regarding any of these items, please call or email a member of our Trust and Estate Planning team.