WEST VIRGINIA CODE: §44D-8A-802

§44D-8A-802. Definitions.

In addition to the definitions contained in §44D-1-103 of this code, as used in this article:

(1) “Breach of trust” means a violation by a trust director or trustee of a duty imposed on that director or trustee by the terms of the trust, this article, or law of this state, other than this article pertaining to trusts.

(2) “Directed trust” means a trust for which the terms of the trust grant a power of direction.

(3) “Directed trustee” means a trustee that is subject to a trust director’s power of direction.

(4) “Power of direction” means a power over a trust granted to a person by the terms of the trust to the extent the power is exercisable while the person is not serving as a trustee. The term includes a power over the investment, management, or distribution of trust property or other matters of trust administration. The term excludes the powers described in §44D-8A-501(b) of this code.

(5) “Trust director” means a person that is granted a power of direction by the terms of a trust to the extent the power is exercisable while the person is not serving as a trustee. The person is a trust director whether or not the terms of the trust refer to the person as a trust director and whether or not the person is a beneficiary or grantor of the trust.

(6) “Knowingly” means known by the trustee based on the contents of the direction and any information provided by the trust director to the trustee.

(7) “Willful misconduct” means intentional malicious conduct or conduct intentionally designed to defraud or seek an unconscionable advantage and which is not mere negligence, gross negligence, or recklessness.

WV Legislature