

# 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.