WEST VIRGINIA CODE: §44D-8A-809

§44D-8A-809. Duty and liability of directed trustee.

(a) Subject to subsection (b) of this section, a directed trustee shall take reasonable action to comply with a trust director's exercise or nonexercise of a power of direction or further power under §44D-8A-806(b)(1) of this code, and the trustee is not liable for the action.

(b) A directed trustee must not comply with a trust director's exercise or nonexercise of a power of direction or further power under §44D-8A-806(b)(1) of this code to the extent that the directed trustee is thereby directed knowingly to violate the laws or regulations of any jurisdiction applicable to the trust. The directed trustee may reasonably rely upon the advice of legal counsel to determine what actions would be consistent with, or contrary to, applicable law. Reasonable expenses incurred by the directed trustee in good faith for legal advice concerning an instruction from a trust director or a petition to the court for instructions shall be proper expenses of the trust.

(c) An exercise of a power of direction under which a trust director may release a trustee or another trust director from liability for breach of trust is not effective if:

(1) The breach involved the trustee's or other director's breach of fiduciary duty as set forth in subsection (b) of this section;

(2) The release was induced by improper conduct of the trustee or other director in procuring the release; or

(3) At the time of the release, the director did not know the material facts relating to the breach.

(d) A directed trustee that has reasonable doubt about its duty under this section may petition the court for instructions.

(e) The terms of a trust may impose a duty or liability on a directed trustee in addition to the duties and liabilities under this section.

WV Legislature