

SAMPLE

State of North Carolina

County of _____

___-E-___

In the General Court of Justice
Superior Court Division
Before the Clerk

In the Matter of the
Trust of Percy

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ORDER

This matter came before the court on petition of Jane (“Beneficiary”), by her father, for removal of Cassandra as trustee (“Trustee”) of the Trust of Percy (the “Trust”), for alleged breaches of the duty of impartiality and loyalty. The matter was heard by the undersigned [Assistant] Clerk of Superior Court on July 18, 2017.

FINDINGS OF FACT

1. Trustee’s negative opinions about Beneficiary’s father’s financial responsibility have influenced her decision to deny Beneficiary funds for an automobile.
2. Trustee’s judgment regarding Beneficiary’s need for an automobile has been influenced by incorrect information about Beneficiary’s driving record.
3. Trustee’s negative opinions and judgments have caused Trustee to deny trust assets to Beneficiary for an automobile, while granting those same assets to Trustee’s daughter.
4. The denial of trust assets for Beneficiary’s automobile is a failure to distribute trust assets “equitably” between Beneficiary and Trustee’s daughter.

5. Although Trustee has not distributed funds in an equitable manner, she has not acted maliciously, and, in her own way, she has demonstrated concern for and loyalty toward both beneficiaries.

CONCLUSIONS OF LAW

1. Trustee's inequitable distribution of the property is a breach of her duty under Chapter 36C-8-803 to distribute the trust property impartially with respect to Beneficiary.
2. Trustee is not in breach of the duty of loyalty.
3. Trustee's breach of the duty of impartiality is not a "serious" breach pursuant to 36C-7-706 requiring removal of trustee.

It is ordered and decreed that:

1. Trustee is hereby ordered and compelled to perform her statutory duty to distribute the trust property impartially.
2. Within 10 days of entry of this order, Trustee is ordered to make payments from the trust property as follows: \$8,600.00 for the purchase of an automobile for Beneficiary, or a lesser sum if Beneficiary opts for a vehicle of a lower cost.

This the 6th day of August, 2017.

[Assistant] Clerk of Superior Court