

TOP RULES FOR FIDUCIARIES:

You have been appointed as a Fiduciary by the Circuit Court and been given a thick instruction package which you must read carefully. Below are some important rules you need to follow as you fulfill your duties; these aren't the only rules but are the more important ones. If you are a conservator or trustee of a trust, there are additional special rules on investing and spending the money you hold, and you should consult an experienced attorney for those.

1. **KEEP MONEY SEPARATE** – DO NOT deposit any fiduciary money in your personal account or use fiduciary money to pay your personal bills – Criminal penalties could happen if you do. *Open a special account at a bank for all fiduciary funds.*
2. **GET RECEIPTS OR PROOF OF PAYMENT AND KEEP ALL BANK RECORDS** – You must file an “Accounting” (a detailed statement of everything that you got and paid) with the Commissioner of Accounts assigned you by the Clerk. You have to prove that someone actually received the money you say you paid. If you give someone cash or personal property, you have to prove to the Commissioner that they got it AND what it was worth; thus a receipt is necessary. Also, for all payments made by check you must retain the **check image** (or cancelled check) that the bank provides you.
3. **CAREFULLY DETAIL ALL MONEY** that comes in or goes out. For EACH item, you need to write down WHEN – WHO – WHAT/WHY – HOW MUCH. Example: If you get a \$20.00 check from an insurance company, you need the WHEN (date you got it), WHO (name of insurance company) WHAT/WHY (payment on medical treatment or refund on premium) and HOW MUCH (the exact amount of the check). If you can, photocopy all checks before depositing them in the bank.
4. **KEEP RECORDS** – Get a medium sized spiral notebook for a diary. In it write everything you do in handling the estate – who you talk to, what was said, what was done. For money, the checkbook register **MUST** be accurate. (Hint: Put money transactions in BOTH the notebook AND the checkbook register).
5. **GET RECEIPTS.** If you give someone personal property, you have to prove to the Commissioner that they got it AND what it was worth. A receipt is the best way to do this.
6. **DON'T PAY BILLS AND DEBTS TOO QUICKLY.** If there's not enough money in the estate, you can be personally responsible if you overpaid creditors. **THIS INCLUDES THE FUNERAL BILL.** There are laws that say who is entitled to what payment when, and if you think there may not be enough money to pay everything, consult an attorney.
7. **ASK QUESTIONS.** There are strict and detailed rules for handling someone else's money; few people have experience doing it. Find a lawyer experienced in this area and use him/her as a resource. Asking a stupid question is a lot cheaper than making a stupid mistake.
8. **KEEP ON TIME, USE THE PROPER FORMS.** Your inventory is due at the Commissioner's office in 4 months; your statement of account is due in 16 months (**6 months** if you are a guardian/conservator). You will have to pay a penalty personally if it's late. There are special forms and report formats the Court requires you to follow; use them.
9. **TAKE CARE OF TAXES.** You are responsible for making sure all tax returns are filed and taxes paid on time. If you're not sure what to do, get an accountant to help you.
10. **GET A SPECIAL TAX ID NUMBER** (decedent's estates and trusts). An estate is a different “person” from the person who passed away. IRS laws require a new Tax ID number. The good news is that the IRS makes this really easy to do.
11. **DON'T DISTRIBUTE TOO FAST** (or too slow) – The heirs of the estate want their money yesterday. Virginia law doesn't make you distribute for a year. If you give money to someone too early, and something happens that you need it back, you are personally and legally responsible for it.