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Client Alert: Zook v. JPMorgan Chase Bank: Tenth District Rules that Trust Beneficiary Carries the Burden of Proving that a Trustee Release is Invalid

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Last week, the Tenth District Court of Appeals upheld summary judgment in favor of an institutional trustee where trust beneficiaries sued the trustee—after executing a release of the trustee for actions taken in administration of the trust—for negligence and breach of fiduciary duty. The Tenth District held:

1. Once a trustee presents an executed release, it is the beneficiary's obligation to prove that the release is invalid by establishing that one of the exceptions under R.C. 5808.17(C) applies; and
2. A beneficiary is charged with constructive knowledge of those matters of which he has actual knowledge, as well as those matters he can discern from the public record.

Trustee Releases Generally:

The Tenth District found that under Ohio law, there are two ways in which a trustee may conclude his role as trustee and eliminate liability for his actions taken as trustee. The trustee may pursue a judicial proceeding pursuant to R.C. 5802.01 and 2721.05 or may obtain a release from the beneficiaries pursuant to R.C. 5810.09, 5808.17(C), and 5808.02 (B)(4).

When a beneficiary releases a trustee, the trustee ceases to be liable to the beneficiary for breach of trust. R.C. 5810.09. The release is valid, unless it was procured by a trustee's improper conduct, was given by the beneficiary without knowledge of the beneficiary's rights, or was given by the beneficiary without knowledge of the material facts concerning the breach released. R.C. 5808.17(C).

Burden of Proof:

The Tenth District concluded: "[O]nce the trustee presents an executed release, the burden shifts to the beneficiaries to demonstrate that an R. C. 5808.17(C) exception applies to invalidate the release." It reached this

conclusion largely based on the Revised Code's contemplation of the use of releases as "routine in trust matters." While the court noted that its scrutiny of a trustee release may be greater in a self-dealing case, there was no reason in this matter to place the burden on the trustee to prove both execution and validity. In effect, an executed release is presumed valid.

Knowledge of the Public Record Imputed to Beneficiaries:

Revised Code 5808.17(C) provides, in part, that a trustee release is valid unless the beneficiary "did not know of the material facts relating to the breach" when the beneficiary executed the release. To avoid allowing a beneficiary to actively avoid learning of matters affecting his inheritance or expectancy, as well as a trustee's handling of the same, the court ruled that a beneficiary is charged with knowledge of all information that could be obtained from the public record or through minimal investigation. Consequently, a beneficiary cannot invalidate a trustee release when the public record provides the beneficiary with the material facts necessary to understand or indicate that a breach of trust may have occurred.

A copy of the Tenth District's ruling in *Zook v. JPMorgan Chase Bank Nat'l Ass'n*, 10th Dist. Franklin Case Nos. 15AP-750, 15AP-751, 2017-Ohio-838 can be found [here](#).

Please contact your Vorys attorney if you have questions about this case or related issues.