



Fiduciary Accountings

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In Oklahoma, fiduciary accountings are like state-court receiverships - easily compared to the wild, wild west, due to the lack of promulgated rules governing the proceedings. The rules for fiduciary accountings in Oklahoma are few and far between.

The probate and guardianship codes provide for annual and final accounts to be submitted by fiduciaries. These statutes, however, fail adequately to define the form or even the contents of the required accountings. Many of these statutes were written in 1910. For the contents of these accountings, attorneys often look to common law, custom and practice.

The Oklahoma Trust Code allows for judicial accountings of trusts, as part of the court's authority to take jurisdiction over trusts. Oklahoma courts hold original jurisdiction to require accountings by trustees. In addition, to remedy a breach of trust, the court may order the trustee to render an account. But these statutes do not inform trustees or beneficiaries of the required contents or form of such accountings.

In the *Blair Trust* decision, issued on May 13, 2016, the Oklahoma Court of Civil Appeals noted that Oklahoma jurisprudence has not defined the term "fiduciary accounting" or identified the form or contents of such accountings. The trust instrument required the trustee to provide beneficiaries with "periodic reports of the administration," but was silent as to the content or timing of these reports. The court found that "these reports, along with other data, were produced."

In *Blair Trust*, the plaintiffs argued that the court should adopt rules promulgated by the American Bar Association's Committee of National Fiduciary Accounting Standards. The plaintiffs urged that these fiduciary accounting standards require "considerably more data and analysis than the reports and returns contained." The Court of Civil Appeals found "no history of these standards being widely accepted or applied, and no indication that the Oklahoma Supreme Court would adopt them in this case."

This decision leaves unanswered questions. The *Blair Trust* court refused to impose uniform standards for fiduciary accountings, instead of suggesting that settlors of trusts should enjoy "freedom to tailor the duties of the trustees," by specifying the type of reporting that would be required in each instance.

As a result, trustees, beneficiaries, and courts will be required to address, on a case-by-case basis, the required contents of fiduciary accountings. This could lead to more court proceedings between trustees and beneficiaries.

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