

Attorney  
Glenn  
Marcute

Intentionally  
provided  
fraud  
misrepresentation

2  
Statute  
LARS 9:2085  
by inserting

period

Attorney  
Jeffery  
Ackerman  
enrolled  
in the  
Case At  
that time

another trust. Petitioners contend that pursuant to these articles, Defendant should have never been named trustee of the Bell Family Trust and that she should therefore be removed.

L.A. R. S. 9:1789 provides for the removal of a trustee. L.A. R. S. 9:2082 provides that a trustee shall administer the trust solely in the interest of the beneficiary. L.A. R. S. 9:2083 provides that a trustee in dealing with a beneficiary on the trustee's own account shall deal fairly with him and communicate to him all material facts in connection with the transaction that the trustee knows or should know. L.A. R. S. 9:2090 provides that a trustee in administering a trust shall exercise the skill and care of man of ordinary prudence would exercise in dealing with his own property. L.A. R. S. 9:2091 provides that a trustee is under a duty to a beneficiary to take reasonable steps to keep control of and preserve the trust property.

The Courts, in applying these statutes, have held that "in managing trust property, a trustee is required to exercise such skill and care that a man of ordinary prudence, discretion and intelligence would exercise in the management of his own affairs. L.A. R. S. 9:2082. L.A. R. S. 9:2090 and 2127. The trustee is bound to administer the trust solely in the interest of the beneficiaries. L.A. R. S. 9:2085 prohibits the trustee from buying or selling trust property directly or indirectly from or to himself, his relative, employer, employee, partner or other business associate. These provisions of the Trust Code evidence the intention of the legislature to place the very highest fiduciary responsibility on the trustee towards the beneficiaries." *Curia v. Breaux*, 458 So.2d 582 (La. App. 3rd Cir. 1984) at page 585. See also *Succession of Dunham*, 408 So.2d 898 (La. 1981).

In *Succession of Simmons*, 311 So.2d 67 (La. App. 2nd Cir. 1975) the court, in applying L.A. R. S. 9:2083, held that a trustee must bear the burden of proving when he deals directly with a beneficiary on his own account or that of his relatives; that he has made a full disclosure of all material facts, that the transaction in all respects is fair and reasonable and beneficial to the trust estate and that he has not taken advantage of his special position as fiduciary. Comment (c) to L.A. R. S. 9:2083 provides that "most states distinguish the situation in which a trustee dealing with trust property on his own account acts with a beneficiary's consent from the situation in which he acts without a beneficiary's consent. In the latter situation, the transaction is voidable whether or not the trustee acted in good faith and whether or not the transaction is fair and reasonable.

