Fiduciaries as Leaders

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Leaders occasionally find themselves in a unique position of responsibility during their lifetimes. Whether a leader is on the school board, designated as a trustee of an estate or guardian of a handicapped relative; or, if during the course of a career the leader is a banker, an attorney, investment manager, or a financial advisor, leaders will be fiduciaries to his or her clients.

What is a fiduciary? A fiduciary is any person or entity who owes the duty of loyalty to safeguard the interests of another person or entity. These duties are many and varied – the responsibilities are serious duties. A leader generally is a person in the position of owing someone loyalty or trust. A leader then, by definition, could fit the description of a fiduciary.

Fiduciaries have a duty which is one of complete trust and utmost good faith. Conduct of the fiduciaries is governed by common law as well as specific federal and state laws. These laws require a high level of competence and thoroughness in accordance with industry standards, and require the highest standard of honesty and full disclosure.

Fiduciaries have a duty not to benefit at the expense of the one for whom they are responsible for. They must avoid self-dealing or real/potential conflict of interests such as a situation in which the potential benefit to the fiduciary is in real or perceived conflict with what is best for the person or entity who trusts the fiduciary. Duties exist whenever a relationship involves a special trust or confidence, and reliance by the individual on the fiduciary to exercise his/her knowledge or expertise in acting for the client.

Examples of fiduciaries in the traditional sense include trustees, guardians, administrators, conservators, or executors, but, in recent years the definition of fiduciary has been expanded outside the traditional sense. There has been a recent trend to label anyone placed in a situation of safeguarding the interest of another person as a fiduciary.

Persons in fiduciary roles are subject to a higher scrutiny than ever before. Long gone are the days when a person in a fiduciary role could blame a mistake on a bad decision. Failure to correct a problem may eventually lead to an inquiry where many years ago, an inquiry began only when funds were misappropriated or the corporation took massive losses.

There are many keys in being a good leader in the fiduciary sense. Since you cannot hide behind the corporate shield, always know what is occurring during your watch. You cannot rely on delegation or turning a "blind eye". Always put the interest of the corporation or client above those of everything. Remember, when taking control of the corporate or client assets, if any, you must manage those assets in accordance with the wishes of the shareholders or individuals. Never mingle corporate or client funds with your own. Always keep abreast of recent changes in the law. Above all, exercise skill, care, and diligence when acting in a fiduciary capacity.