



LUKINOVICH
A PROFESSIONAL LAW CORPORATION

Lukinovich, APLC has law offices in Metairie and Baton Rouge, Louisiana. Our areas of practice include estate planning, wills and trusts, business planning, wealth preservation, probate administration and charitable gift planning.

Our mission is to devote our best skills, efforts and resources to advise our clients enthusiastically and creatively to accomplish their business, tax, family and estate planning goals and objectives, and we offer superior personalized attention with the utmost regard for privacy and confidentiality.

Learn more about our areas of practice online:
www.lukinovichlaw.com

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Suggested Reading:

Jim Stovall's Classic:
The Ultimate Gift

This book differentiates
Life's True Gifts from
Life's Perceived Gifts.

Duty as Executor

A brief overview of duties owed by succession representatives in the State of Louisiana.



Craig Daste, Jr.

Under Louisiana Law, a succession representative, also referred to as an executor or executrix, is a **fiduciary** with authority over the assets of a succession. Furthermore, the succession representative is required by law to act as a **prudent administrator** at all times and is **personally responsible** for all damages resulting from his or her failure to act as a prudent manager. The duty of the executor, first and foremost, is to **collect, preserve and manage** the property of the succession for the sole benefit of the heirs and legatees in accordance with the law.

Duty to Act as Fiduciary and Prudent Administrator

An executor is required to serve as a fiduciary, which is a person who owes the highest standard of care in the administration of assets for the sole benefit of the principals, in this case, the heirs and legatees of an estate, such that there be no conflict of duty between a fiduciary and a principal. The executor also shall act as a prudent administrator of the property of the succession, and thus should act to collect, preserve and manage the property of the succession as a prudent person would. This may include a duty to seek **qualified professional advice** and services where necessary in order to aid the executor with the fulfillment of his or her duties to the heirs and legatees of the estate.

Collection of Property

Upon the death of a decedent, the executor or executrix is deemed to have possession of all succession property and therefore has a legal duty to **physically take possession** of or **secure** all assets as soon as practical. Louisiana law requires that the executor **deposit all moneys** collected by him or her as soon as received, in a Louisiana bank account in the name of the executor in his or her official capacity, and that the executor not withdraw such deposits except in accordance with law.

Enforcement of Obligations

The executor has a legal duty to **ascertain and enforce all obligations** in favor of the estate, such as collecting money or interest owed to the decedent, rents, dividends, etc., and to assert any liens or other outstanding legal claims or potential rights of action which may belong to the decedent or the estate.

Preservation and Management of Property

After the property has been collected, the executor has a legal duty to **preserve, maintain, repair** and **protect** the property of the succession. The executor should take all prudent steps to collect or secure property, such as **safeguarding** inherently valuable or dangerous assets like jewelry, artwork, firearms or motor vehicles, changing locks on the decedent's home, and **notifying** all bank and financial institutions with which the decedent held assets or transacted business. As a prudent administrator, this duty also includes adequately **insuring** property as may be necessary or prudent.

Estate and Income Tax

The executor is responsible for the **determination** of estate and final income taxes, **filing** of all necessary returns and **payment** of any taxes owed, and these duties cannot be delegated; therefore, it is important for the executor to retain **competent tax advisors** to assist the executor.

Closing the Succession

Finally, it is the duty of the executor to **close the succession** and **deliver the assets** of the estate to the heirs and legatees as soon as is advisable, either through formal succession

proceedings or by the recordation of affidavit of small succession, where applicable. Though not required, it is prudent to have all heirs and/or legatees of an estate give written consent to the closing of a succession and written receipt for all assets delivered to them by the executor. Following the closing of the succession and the delivery of all assets, an executor can be released from his or her duties as executor of the succession by the court.



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