Administrative Record Keeping

A. Tickler Calendar for Important Dates

A trustee should have a reliable method to keep track of recurring events involving the trust which require action. Examples would be due dates of payments that must be made by the trust, tax returns or filings that must be made on behalf of the trust, mandatory distribution dates, and trust termination dates. In addition to monthly, quarterly or annual reminders, the trustee should also establish reminders for events occurring in future years. At a minimum the trustee must make and maintain make of these dates on a current calendar.

B. How Long to Retain Receipts, Bank Statements and Canceled Checks?

The trustee must save all receipts (or billing statements, with the check to be used as a receipt); bank statements and canceled checks plus use a checking account or money market account that returns canceled checks for record keeping purposes. Canceled checks may serve the dual purpose of providing useful information if the trustee uses the memorandum line on the check or the automatic payments through the financial institutions on-line bill paying system which will also as proof of payment. Generally, beneficiaries are entitled to inspect trust bank accounts and "vouchers". In order to satisfy the inspection rights of beneficiaries and to prove that amounts were properly paid, a trustee should retain all receipts, copies of bills paid and other documents establishing the purpose and propriety of payments until at least 3 years past the date of the filing of the final federal income tax return filed on behalf of the trust. Retaining these documents may also provide protection to the trustee if a beneficiary criticizes the completeness of the annual accountings or the IRS audits the 1041 federal income tax return. Even though trust accountings generally can be reconstructed if all bills, bank statements, deposit slips, checks and other records are retained it is still time consuming and expensive.

C. How Long to Retain Written Investment Advisor Reports and Recommendations?

Written reports and recommendations of brokers and investment advisors should be retained by the trustee for the same length of time as receipts, bank statements, cancelled checks and reports to beneficiaries. These investment reports will help document the trustee's following the prudent investment standards of the Texas Trust Code, common law, and the terms of the trust agreement when in buying or selling trust investments. Copies of articles or other written information that may have influenced the trustee's overall investment philosophies should also be retained.

D. How Long to Written Correspondence to and from Beneficiaries along with emails and telephone Memoranda?

You should retain written records of all communications with the beneficiaries concerning trust matters. Such records serve two valuable purposes. First, they assist in reconstructing the history of the trust, providing information not reflected in the accountings and other financial documents. In reviewing actions taken, and your rationale, these records may be used to refresh your memory and to establish your "prudence." Second, beneficiaries who become unhappy with trustees frequently develop a selective memory. Retaining written documentation of all communications can assist with refreshing such a beneficiary's memory, effectively keeping the peace. Always keep in mind; however, these records could *also* prove your bad judgment. Accordingly, approach all trust related conversations seriously and diplomatically. Hostile, arbitrary or poorly thought-out communications can and have been used against trustees.