



# Estate Litigation Webinar – A 3 Part Series: Webinar 3: The Duty to Account

Antoine Aylwin, Partner  
David C. Rosenbaum, Partner  
Elise Kohno, Associate

November 26, 2021

FASKEN



# Introduction

Antoine Aylwin  
David C. Rosenbaum  
Elise Kohno



Antoine Aylwin

- Partner
- +1 514 397 5123
- aaylwin@fasken.com



David C.  
Rosenbaum

- Partner
- +1 416 868 3516
- drosenbaum@fasken.com



Elise Kohno

- Associate
- +1 604 631 4760
- ekohno@fasken.com

# ▼ General Introduction –Duty to Account

- What is the nature and scope of the duty to account?
- Common law versus statute?
- Who do you have to account to?
- Are there any specific documents you need to provide?
- When is the duty to account finalized?



# Specific Questions

Antoine Aylwin  
David C. Rosenbaum  
Elise Kohno

# ▼ Timing of Accounting

- How frequently should you report to the beneficiaries?
- How soon after a beneficiary requests are you obliged to account?
- When does the duty to account cease?



# ▼ The Information in Accounting

- What type of specific information does a personal representative need to gather when preparing to provide an accounting?
- What does an executor or trustee have to provide?
- Is accounting different in common law provinces?

# ▼ Common problems / Interesting Cases

- When will a Court determine that an accounting is insufficient?
- What are the powers of the court on a passing of accounts?
- What happens if the donor of a power of attorney passes away?
- Are there any limits of solicitor-client privilege?
- Can trustees decline to make documents available to beneficiaries on the grounds of solicitor client and/or litigation privilege?
- Can a liquidator be exempted from their duty to account?



# Q&A

**FASKEN**