Rule 4.4.08 Trustee Compensation

Compensation for the trustee will ordinarily be allowed as provided in the governing instrument unless the Court fixes a greater or lesser amount pursuant to Probate Code § 15680(b). If the instrument is not specific, the Court will establish reasonable compensation as follows:

(a) Requests for trustee fees must be supported in the petition or in a separate verified declaration stating the nature, necessity, success, cost in time, detail of services performed, the value of the services believed to warrant additional fees, and the amount requested. Mere recitation of time spent, without more, is not adequate. In making this determination the criteria set forth in Estate of Nazro (1971) 15 Cal.App.3d 218 shall be applied.

Estate of Nazro (1971) 15 Cal.App.3d 218 states the following applicable criteria: 1) the gross income of the estate; 2) the success or failure of the administration of the fiduciary; 3) any unusual skill or experience that the fiduciary in question may have brought to the work; 4) the fidelity or disloyalty displayed by the fiduciary; 5) the amount of risk and responsibility assumed; 6) the time spent in carrying out duties; 7) the custom in the community as to allowances by settlors or courts, and as to charges of corporate fiduciaries; 8) the character of the work performed, i.e., whether routine or involving skill or judgment; 9) the fiduciary's estimate of the value of their own services.

(b) The court has discretion to require further justification for all trustee fees. Although the court will, as a general guideline, allow a fee of one percent (1%) of fair market value, of the ending value, per annum, court approval must nevertheless first be obtained in all instances where the amount of compensation is not expressly authorized in the trust instrument. Mere recitation of one percent (1%) guideline is not sufficient. Trustees who base their requests for compensation on this guideline shall include a second column in the accounting which shall indicate the fair market value of each trust asset next to the carry value.

(c) This Rule only applies under the following circumstances: (1) a court-supervised trust; (2) a Petition under Probate Code section 17200 requesting that the court fix or allow payment or review the reasonableness of the trustee's compensation; or (3) when the trustee is seeking the protection offered by court approval.

(Eff. 7/1/01) (Renumbered 1/1/09) (Rev. 1/1/20) (Rev. 1/1/24) (Rev. 1/1/25)