

COURT OF APPEALS OF VIRGINIA

Record No. 1241-25-4

JOHN R. HAMILTON, INDIVIDUALLY, ET AL.

v.

SUSAN G. KORNIDES, AS TRUSTEE OF THE REVOCABLE TRUST OF JAMES R.
HAMILTON, ET AL.

Present: Chief Judge Decker, Judges AtLee and Callins

Argued at Fredericksburg, Virginia

Opinion Issued September 22, 2026

FROM THE CIRCUIT COURT OF FAIRFAX COUNTY

Christie A. Leary, Judge

Matthew Yanovitch (Spotts Fain PC, on briefs), for appellants.

Justin B. Berger (Kimberley A. Murphy, Hale Ball Murphy, PLC, on brief), for appellees.

PUBLISHED OPINION BY **CHIEF JUDGE MARLA GRAFF DECKER**

John R. Hamilton, in his individual and representative capacity, appeals the trial court's order granting the motion to strike made by Trustee Susan G. Kornides and dismissing his complaint against her. He argues that Kornides breached her duty as trustee to inform and report. We agree that the reports she issued do not provide sufficient transparency as to the trust. The reporting statute requires that a trustee disclose the facts necessary to allow the beneficiaries to protect their interests, but the documents provided by Kornides do not satisfy this requirement. The judgment is therefore reversed, and the case is remanded to the trial court for action consistent with this opinion. We deny Kornides's request for an award of costs and attorney fees incurred on appeal.

BACKGROUND

Both parties are the children of James R. Hamilton (the father). The father created a revocable trust, the funds of which were to be disbursed at his direction or for his benefit. The father was a trustee, and he appointed Kornides as a co-trustee and granted her power of attorney. The father also made her a joint account holder on certain bank accounts.

In August 2021, the father died. His will designated that his estate passed to his trust. The trust provided that upon the father's death, the assets would be distributed in three equal shares: one to Hamilton, one to Kornides, and one to his grandchildren. After the father's death, Hamilton learned that Kornides had transferred the money remaining in the joint accounts to herself.

Hamilton, individually and in his capacity as ad hoc representative of the estate of the father, sued Kornides, individually, as trustee, and as an agent for the father. Hamilton brought claims for conversion, breach of a trustee's duty to inform and report, breach of fiduciary duty, breach of trust, and undue influence. He alleged that Kornides improperly took possession of \$676,462.29 of the trust money.

Kornides filed a plea in bar and a demurrer. The trial court sustained the demurrer to the conversion count and overruled it as to the remaining counts.

On the day of trial, Hamilton asked for a continuance because of a missing witness expected to testify as a custodian of certain financial records. Kornides opposed the continuance, and the trial court denied the motion.

At trial, Hamilton testified that he helped his father with his finances until 2017. According to Hamilton, the father was displeased with his decision to move, and at that time, Kornides "took over assisting" their father with his finances. Hamilton claimed that Kornides moved money from trust accounts to the joint accounts she shared with the father. He alleged

that she then moved the money to her personal bank account in a series of transactions.

Hamilton testified that Kornides refused to disclose information about the trust, and he submitted into evidence three documents that she gave him reporting on the trust. At no point did Kornides dispute that the documents accurately represented those she provided to Hamilton.¹

After Hamilton presented his evidence, Kornides made a motion to strike the remaining claims. The court granted the motion. In striking the claim for breach of a trustee's duty to inform and report, the court held that Kornides satisfied her statutory duty. In striking the other claims, the trial court found that Hamilton failed to present evidence "as to the origination of the funds in the account," as to "how those transactions came about," or what assets "comprised" the "corpus of the trust."

ANALYSIS

I. Sufficiency of the Assignments of Error

As a preliminary matter, we address Kornides's suggestion that Hamilton's arguments are procedurally barred due to insufficient assignments of error. Rule 5A:20(c)(2) provides that "[a]n assignment of error . . . is not sufficient" if it "does not address the findings, rulings, or failures to rule on issues in the trial court . . . from which an appeal is taken, or which merely states that the judgment or award is contrary to the law and the evidence."

Hamilton lists five assignments of error. In them, he suggests that "[t]he [trial] court erred in granting [Kornides]'s motion to strike [his] evidence of" four different causes of action: "breach of the duty to inform and report (Counts 1 and 2)," "breach of fiduciary duty (Count 3)," "breach of trust (Counts 4 and 5)", and "undue influence (Count 7)." In the remaining

¹ Hamilton attached one of the documents to his complaint. In her answer, Kornides provided that the report "speaks for itself."

assignment of error, Hamilton alleges that “[t]he [trial] court erred in denying [his] motion for a continuance of trial.”

These assignments of error identify specific rulings of the trial court that Hamilton challenges. *See Commonwealth v. Herring*, 288 Va. 59, 67-68 (2014) (upholding as sufficient an assignment of error providing that the trial court erred by denying the defendant’s motion to strike because the evidence was insufficient to support the three specified convictions). As a result, the assignments of error are sufficient under Rule 5A:20.

II. Motion to Strike

Hamilton contests the trial court’s decision to grant the motion to strike. A trial court should grant a motion to strike the plaintiff’s evidence “only when ‘it is conclusively apparent that [the] plaintiff has proven no cause of action against [the] defendant[]’ or when ‘it plainly appears that the trial court would be compelled to set aside any verdict found for the plaintiff as being without evidence to support it.’” *Chantilly Constr. Corp. v. Dep’t of Highways & Transp.*, 6 Va. App. 282, 291 (1988) (quoting *Williams v. Vaughan*, 214 Va. 307, 309 (1973)). In making this decision, “the trial court should resolve any reasonable doubt as to the sufficiency of the evidence in [the] plaintiff’s favor.” *Id.* at 290-91 (quoting *Williams*, 214 Va. at 309).

When reviewing the grant of a motion to strike, an appellate court “consider[s] the evidence and all reasonable inferences arising therefrom in the light most favorable to the appellant, resolving any doubt as to the sufficiency of the evidence in favor of” that party. *Condo. Servs. v. First Owners’ Ass’n of Forty Six Hundred Condo., Inc.*, 281 Va. 561, 571 (2011) (quoting *McGowan v. Lewis*, 233 Va. 386, 387 (1987)); *see Gelber v. Glock*, 293 Va. 497, 525 (2017). At the same time, any issues of statutory interpretation are reviewed de novo. *Minor v. Heishman*, 78 Va. App. 690, 705 (2023). When interpreting a statute, courts look to its language. If the statutory language “is unambiguous,” the reviewing court is “bound by the plain

meaning of that language.” *Va. Elec. & Power Co. v. State Corp. Comm’n*, 300 Va. 153, 161 (2021) (quoting *Va. Elec. & Power Co. v. State Corp. Comm’n*, 295 Va. 256, 263 (2018)).

Of the issues raised pertaining to the motion to strike, we start with Hamilton’s argument about a trustee’s statutory duty to inform and report. This is the logical beginning because our decision on this point impacts Hamilton’s other assignments of error. Hamilton contends that the trial court erred in holding that Kornides did not breach her duty to inform. He asserts that the information Kornides provided was “woefully” insufficient and did not meet her obligation under the statute.

Virginia law imposes a fundamental duty on trustees to provide beneficiaries with specified information. The law requires that “[a] trustee shall keep the qualified beneficiaries of the trust reasonably informed about the administration of the trust and of the material facts necessary for them to protect their interests.” Code § 64.2-775(A); see *Material*, *Black’s Law Dictionary* (12th ed. 2024) (defining “material” in part as “significant” or “essential”). A violation of this duty is a breach of trust. See Code § 64.2-792(A).

The obligation applies “at least annually and at the termination of the trust.” Code § 64.2-775(C). The information must be provided to “distributees or permissible distributees” unless they waive the obligation. Code § 64.2-775(C)-(D). Other beneficiaries are entitled to the report on request. Code § 64.2-775(C). And beneficiaries may waive the obligation.² Code § 64.2-775(D).

² A trustee may assert waiver as an affirmative defense. See generally Code § 64.2-775 (listing the elements of a claim for a breach of duty to inform and report); *Tidwell v. Goldsmith*, 85 Va. App. 152, 168 (2025) (explaining the general principles of affirmative defenses). Kornides did not do so here, and there is no dispute that Kornides owed Hamilton the duty to inform and report when their father died and the trust ended. In addition, a trustee who breaches the duty to inform but does so under a good-faith belief that disclosure would be unreasonable is protected from sanctions. Code § 64.2-775(A). But such a good-faith belief does not justify non-disclosure. *Id.*

A report should inform the recipients “of the trust property, liabilities, receipts, and disbursements, including the source and amount of the trustee’s compensation, a listing of the trust assets and, if feasible, their respective market values.” *See* Code § 64.2-775(C). “The key factor is . . . whether the report provides the beneficiaries with the information necessary to protect their interests.” Unif. Tr. Code § 813 cmt. (Unif. L. Comm’n 2023).³ *See generally* Alan Newman, George Gleason Bogert, & George Taylor Bogert, *The Law of Trusts and Trustees* § 963 n.27-28 (3d ed. 2010) (discussing the information required). The obligation “may include a duty to communicate to a qualified beneficiary information about the administration of the trust that is reasonably necessary to enable th[at party] to enforce the beneficiary’s rights and to prevent or redress a breach of trust.” Unif. Tr. Code § 813 cmt. And “the beneficiary is always entitled to such information as is reasonably necessary to enable him to enforce his rights under the trust or to prevent or redress a breach of trust.” *Fletcher v. Fletcher*, 253 Va. 30, 36 (1997) (quoting Restatement (Second) of Trusts § 173 cmt. c (A.L.I. 1959)).

It is clear that the information does not have to be provided in any particular format. *See* Code § 64.2-775. The statute’s use of “the term ‘report’ instead of ‘accounting’ . . . negate[s] any inference that the report must be prepared in any particular format or with a high degree of formality.” Unif. Tr. Code § 813 cmt. The adequacy of a report is determined on a case-by-case basis. Although a trustee does not have to provide a formal accounting, a trustee providing an

³ “Virginia adopted the Uniform Trust Code in 2005, joining the majority of [s]tates that have implemented it.” *Fulks v. Fulks*, 87 Va. App. 685, 691 (2026). The intent in promulgating the act was to consolidate “the law of trusts in a single source.” *Id.* at 699 (quoting *Galiotos v. Galiotos*, 83 Va. App. 206, 231 n.7 (2024)). “The common law of trusts and principles of equity supplement [the Virginia Uniform Trust Code], except to the extent modified by [it] or another statute of the Commonwealth.” *Id.* (alterations in original) (quoting Code § 64.2-704). “In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.” *Galiotos*, 83 Va. App. at 231 n.7 (quoting Code § 64.2-805).

informal report bears the risk that the information provided is inadequate under Code § 64.2-775.⁴

Kornides provided trust reports to Hamilton in 2022, 2023, and 2024. Each of the three reports included essentially the same information, listing the assets of the trust as well as total disbursements and expenses. The documents reflected that the trust assets (generically labeled as “House,” “TD Ameritrade,” and “Interest earned”) were initially valued at more than one million dollars. The reports listed four categories of expenses, which totaled just over \$34,000: fees from the house sale, “Legal,” “Other,” and “Taxes on interest earned.” The documents also showed two disbursements from the trust for a combined amount of around \$750,000. One disbursement was labeled “House-partial,” and the other was labeled “TD Ameritrade liquidated.” But no further details were included.⁵ The trial court, with no specific guidance

⁴ The adequacy of the information provided by a trustee depends on whether it contains the necessary components in light of the trust itself. “The reporting requirement might even be satisfied by providing the beneficiaries with copies of the trust’s income tax returns and monthly brokerage account statements if the information on those returns and statements is complete and sufficiently clear.” Unif. Tr. Code § 813 cmt. (referring readers to Robert Whitman, *Fiduciary Accounting Guide* (2d ed. 1998), “[f]or model account forms, together with practical advice on how to prepare reports”). In fact, under the proper circumstances, “[i]n a simple situation adequate descriptive notations in the checkbook kept by the fiduciary may be sufficient,” as long as a record is made of deposits and expenditures. David M. English & Robert Whitman, *Fiduciary Accounting and Trust Administration Guide* § 1.1 (2d ed. 2002).

⁵ Images of the documents are as follows:

<i>Hamilton Trust August 12, 2022</i>				Trust 8/23				James R. Hamilton Revocable Trust 8/2024	
				Balance		Credit	Debit		
				House Sale (10/2021)				Assets	
				\$700,000.00		\$700,000.00		House	\$ 700,000.00
								TD Ameritrade	403,442.24
				Selling fees (10/2021)				Interest earned	8,493.66
				693,846.10		\$6,153.90			\$ 1,111,935.90
								Disbursements	
				House Partial Disbursement (11/2021)			346,293.02	House-partial	\$ 346,293.02
				TD Ameritrade liquidated(2/2022)		403,442.24		TD Ameritrade	403,442.18
				759,995.32					\$ 749,735.20
				TD Disbursement (3/2022)			403,442.18	Expenses	
				347,553.14				Fees-house sale	\$ 6,153.90
				Legal Expenses (to 8/23)			19,123.39	Legal	19,123.39
				328,429.75				Other	7,908.86
				Other Expenses			7,908.85	Taxes on interest earned	1,051.39
				Interest to 8/23					\$ 34,237.54
				\$322,968.62		2447.72			
				1.5 years after contacting the federal government about possible life insurance and providing all information, they have determined John may be eligible to receive a benefit. They will contact John directly.					

from the language in the applicable section of the Code or Virginia case law, was left to determine whether these reports met the basic requirements of the statute. It held that these documents were sufficient to meet the statutory duty to inform based on the statute's lack of a "specific requirement as to the form and the nature of information with specificity that needs to be included."

We conclude that an examination of the reports does not support the trial court's conclusion about the adequacy of the documents. Although the statute does not compel compliance with a specific format, it logically requires more than generic descriptions and barebones reporting. *See* Code § 64.2-775.

The plain language of the statute broadly requires trustees to "reasonably inform[]" beneficiaries "about the administration of the trust and of the material facts necessary for them to protect their interests." Code § 64.2-775(A). This disclosure obligation necessarily includes information identifying trust assets and specifying on what the trust funds were spent. *See* Code § 64.2-775(A); *see, e.g.,* David M. English & Robert Whitman, *Fiduciary Accounting and Trust Administration Guide* app. B (2d ed. 2002) (providing examples of first and final trustee's accountings). The statute specifically directs trustees to disclose "the source and amount of the trustee's compensation," which Kornides did not do. Code § 64.2-775(C). The reports here contain information too general to facilitate the safeguarding of the beneficiaries' interest in the trust. Because Kornides failed to include material facts in her report, the trial court erred as a matter of law by concluding that the documents were sufficient to meet the requirements of Code § 64.2-775.

As a result, the judgment is reversed, and the case is remanded to the trial court with directions to instruct Kornides to prepare a report that includes material facts that are sufficient to comply with Code § 64.2-775. *See* Code § 64.2-792(B)(1), (4) (providing that, to remedy a

breach of trust, a court may “[c]ompel the trustee to perform the trustee’s duties” or “[o]rder a trustee to account”).⁶ The trial court has the discretion to determine specifics such as what timeline should be followed. At a minimum, the report must provide information on the trust assets and disbursements “as is reasonably necessary” for Hamilton and the other beneficiaries “to enforce [their] rights under the trust.” *See Fletcher*, 253 Va. at 36 (quoting Restatement (Second) of Trusts § 173 cmt. c).

In light of this decision, we do not reach the merits of Hamilton’s remaining claims. *See generally Commonwealth v. Moncrea*, ___ Va. ___, ___ n.1 (Apr. 2, 2026) (deciding the case “on the best and narrowest grounds”); *Lee v. Va. State Bar ex rel. Third Dist.*, ___ Va. ___, ___ n.1 (Mar. 19, 2026) (“Virginia courts strive to resolve legal contests on the ‘best and narrowest ground available’ for decision.” (quoting *Rebh v. Cnty. Bd.*, 303 Va. 379, 382 (2024) (per curiam))). His assignments of error relating to undue influence, breach of fiduciary duty, and breach of trust rest on the premise that the money deposited in the joint accounts and subsequently transferred to Kornides was money that belonged to the trust. The trial court ruled that these claims failed because Hamilton did not meet his burden of proof. On remand, once Kornides fulfills her duty to provide Hamilton with a more detailed trust report in accordance with Code § 64.2-775, Hamilton will have the option to amend his complaint and proceed in order for the trial court to revisit any issues raised in light of any new evidence presented. *See generally* Code § 64.2-792(B)(10) (authorizing courts to “[o]rder any . . . appropriate relief” to remedy a breach of trust). Hamilton also argues that the trial court erred in denying his motion for a continuance. Given the remand, we similarly do not reach Hamilton’s argument concerning

⁶ Code § 64.2-775 is silent on a particular penalty for a trustee’s failure to meet the obligation to inform and report, leaving this Court to apply Code § 64.2-792, which provides a list of possible remedies for breach of trust.

this assignment of error. *See generally Moncrea*, ___ Va. at ___ n.1 (citing the principle for “best and narrowest grounds”).

III. Costs and Attorney Fees

Kornides asks for an award under Rule 5A:30 ordering Hamilton to pay her costs and attorney fees incurred on appeal. If a judgment is affirmed, costs are generally assessed against the appellant. Rule 5A:30(a). In specified cases in which attorney fees are recoverable under the Code of Virginia, the Court of Appeals may award some or all of the fees requested or “remand the issue” to the trial court “for determination as directed in the mandate.” Rule 5A:30(b)(2); *see* Code § 64.2-795 (authorizing an award of reasonable attorney fees “[i]n a judicial proceeding involving the administration of a trust . . . to be paid by another party or from the trust”).

The decision of whether to award attorney fees on appeal is within the discretion of this Court. *E.g., Dixon v. Dixon*, 71 Va. App. 709, 722 (2020). In making this determination, the Court may consider factors including which party prevailed as well as the equities of the case. *See* Code § 64.2-795 (authorizing an award “as justice and equity may require”); *Friedman v. Smith*, 68 Va. App. 529, 546 (2018) (noting other possible relevant factors, such as “whether the appeal was frivolous” and “whether either party generated unnecessary expense or delay”). The appeal here has merit as to the deficient report, and the circumstances of this case do not weigh in favor of granting Kornides’s request for attorney fees. For these reasons, we exercise our discretion to deny the request. *See, e.g., Wright v. Wright*, 61 Va. App. 432, 470 (2013).

CONCLUSION

The reports that Kornides provided as trustee did not provide sufficient information to permit Hamilton to safeguard his interest as a beneficiary. As a result, the judgment is reversed, and the case is remanded to the trial court with instructions to direct Kornides to provide a report of the material facts relating to the trust as required by Code § 64.2-775. If Hamilton chooses to

move forward after Kornides fulfills this statutory obligation, the trial court should proceed accordingly on the complaint to include a retrial if appropriate. Last, Kornides's request for costs and attorney fees incurred on appeal is denied.

Reversed and remanded.