

Considerations in Choosing a Trustee

Suppose you have \$200 and a list of items you need from the store. You have two choices of who can do your shopping: a relative who will not charge you anything, or a professional shopper who will charge you \$10. If they both come back with everything on your list and the same amount of change, then you will have saved \$10 if your relative does your shopping. On the other hand, if the relative brings back some wrong items, overpays for others and brings back no change, while the professional shopper fills your order just as you intended and brings back \$20 in change, you will come out ahead by hiring the professional shopper, even after paying the \$10 fee.

That's a fair analogy to consider in deciding whether to name a relative or friend, or to name a professional fiduciary such as a bank or trust company, to handle your trust after you die or can no longer handle it personally. It's not always a simple question. Rather, a number of considerations should be addressed in making your decision. For example:

- What experience does the relative or friend have in handling financial matters?
- How financially stable is the relative or friend?
- How well might the relative or family member stand up to criticism or suggestions to depart from the terms of your trust?
- How much would the professional fiduciary charge?
- How long has the professional trustee been administering trusts in your community, and what is its reputation?
- How long will the trust remain in effect? Is there a likelihood that successors to an individual trustee will later serve?
- How much money and property will the trustee be called upon to administer?
- How simple or complex will the trust be to administer?
- Would the individual trustee need to hire a professional financial advisor in order to choose investment vehicles appropriate to your trust?
- Will the trustee need to be mindful of special rules governing administration of the trust?
- What consequences will follow if the trustee makes mistakes?

An easily overlooked factor is the potential impact of naming one family member as trustee to administer the inheritance of another family member. It can have a serious impact on their personal relationship, and a trustee may be tempted not to follow the terms of your trust in order to preserve that personal relationship. For example, if you restrict access to a spendthrift child's inheritance and name his or her sibling as trustee, you will be creating a situation in which one of your children will constantly be asking the other for money for the rest of their respective lives.

Missouri:

1001 Craig Road, Suite 224
St. Louis, MO 63146
(314) 567-9292
(314) 567-9294 (Fax)

The Coulson Law Group



www.coulsonlawgroup.com
info@coulsonlawgroup.com (email)
© 2004, Wesley J. Coulson

Illinois:

107 Southpointe Drive, Suite 2
Edwardsville, IL 62025
(618) 659-9292
(618) 659-9207 (Fax)

Another easily overlooked factor is how any problems in the administration of the trust might be dealt with. Family members might be reluctant to confront or seek removal of another family member as trustee, even in the face of obvious problems. An individual who mishandles trust assets or diverts them to personal use may well be unable to pay any judgment.

Generally speaking, the greater the scope and duration of the trustee's prospective duties, the more reason there may be to consider the services of a professional fiduciary to serve as trustee.

It is a core concept of Better Estate Planning that special care should be given to the selection of trustees. We will offer you guidance and counsel in making sure that your selection of trustees advances the accomplishment of your estate planning goals.

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