



The Circle of Trust: The Importance of Keeping Trusted Individuals in Your Estate Planning

By Matthew Kikta, Esquire
August, 2015

Routinely in the practice of Elder Law, attorneys find themselves as both counselors for legal issues as well as familial relations. Traditionally, every family possesses its own quirks and unique characteristics. Sometimes these characteristics can be the product of negative or conflicting family interactions over the years. When this occurs, these intimate family issues can impede the creation of a completely sound estate plan. In many instances, the natural response to these issues is to keep family members in the dark in regarding financial and estate planning matters. Keeping these matters to oneself often creates unintended consequences and issues. Therefore, whenever possible, it is sensible to include other trusted individuals in your estate planning process.

A client that makes the effort to ensure their matters are handled appropriately during life and upon death may in fact be undermining their estate plan by not allowing other trusted individuals to be included in the process. Documents that are created for an estate plan are extremely powerful, and can potentially allow somebody other than the planner to use this power. An individual that must step into a role as trustee, agent or personal representative (often without warning) may be placed at a disadvantage from the first day of appointment if they are not familiar with the client's estate planning goals or financial asset situation. Additionally, locating key financial or estate planning documents can prove burdensome and sometimes impossible to a newly designated agent or trustee if the time was never taken to show where these items can be found in the client's home. Any of these potential issues could cripple effectiveness of even the most complex estate plan. It is therefore important to give certain individuals full access to financial and estate planning information to ensure that your intentions are carried out exactly as you planned.

At minimum, at least one person other than the client or spouse should be included in the estate planning process. There are several considerations to ensure that those relevant to your estate plan have the ability to maintain its integrity. First, consider consolidating all important financial and estate planning documentation to one specific area of the home. A home that compiles a lifetime of items can quickly create a "needle and a haystack" scenario for somebody that requires the information. Allow one or several individuals to know where this information is kept and how it can be accessed should you be unable to do so yourself. Second, review your estate planning documents with your successor Agents, Trustees and Personal Representatives. You should discuss your expectations in the administration of your estate plan during your life if you should become incapacitated and for after your death. Reviewing these documents prior to an emergency situation will give your family or successors an advantage in

implementing your plan correctly and limit the possibility that something will be missed. Moreover, reviewing your estate plan will create confidence within you and your designated individuals that your plan will be implemented correctly. Third, discuss your financial details with the individuals that would require knowledge of them should something happen to you. If your agent or trustee is unaware of relevant assets or financial information, your estate plan becomes less effective. Without the financial picture, your trustee may not be able to ensure that your trust is completely funded, or your agent may not be aware of a life insurance premium that requires payment. These omissions could cause a number of unintended and often avoidable consequences.

Allowing access for trusted individuals to your estate planning process and plan prior to a crisis or death can ultimately be the difference between competent implementation and disastrous consequences. An uninformed family member, agent or trustee could be the very reason why government benefits are unavailable to you or why the hassle of probate is required to capture assets unintentionally remaining in your estate. Creating an estate plan requires hard work and diligence; do not limit its effectiveness by being the only person that knows how it all works.