

What You Need to Know When You Become an Estate Trustee, Part II

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Editor's note: Part I of this topic was printed in the March 22nd edition.

A fellow chiropractor and good friend of mine, Harlen Johnson, DC, lost his remaining parent about a year ago. He was named the trustee of his mother's estate. He acquired a wealth of information about being a trustee and kindly agreed to put it down in writing. Though I have condensed his letter considerably, I am deeply indebted to him for permitting me to use this information. Following are some key points that might help the reader realize the sensitivity, complexity and costs of estate trusteeship.

-- Dr. Zapotocky

Mom and Dad had purchased cemetery plots years before, so I anticipated that these arrangements would be easy. Part of the toughness of this assignment was the practical planning for the death before it had actually occurred. There were fees to open the vault (more on weekends); decisions to make about a marker; and arrangements with the mortuary that would pick up and prepare the body. Other items such as placing a death announcement in the paper (about \$200) and the purchase of death certificates (\$8 for each 8x10) added up to about \$7,000.

The night Mom passed away was the only night she said goodbye rather than goodnight. It was as if she knew her time was short. Her passing created a tremendous feeling of emptiness and loneliness.

Things went as planned. The mortuary picked up the body, and we collected her personal things at the hospital. We called other family members and the church. The funeral was nice, with family and friends sharing lots of tears and lots of memories.

As the trustee of the estate, my responsibility now was to begin the process of distributing the estate. I contacted the attorney and had a notice to creditors placed in the newspaper. In Washington, creditors have four months to file for outstanding debts which may not be known to the trustee. During this time, cash assets may not be distributed. Four of us took a weekend to sort through Mom's furniture, clothing and other items deciding what to keep, donate and discard.

A real estate agent stopped by while we were cleaning, saying he had some interested buyers. None of the potential buyers liked the place as it was. We felt it needed appliance updating and some cosmetic face-lifting. My wife and I spent 300 hours and about \$2,000 to make the place look presentable. When the property was placed on the market, it sold in the first hour for \$10,000 more than the agent had projected.

Everything seemed to be progressing smoothly, and we signed the papers the next day at escrow. Remember the "life estate" clause I mentioned that my stepfather previously owned? (see part I). When escrow ordered a title search, the documents revealed that my stepfather had signed the papers incorrectly. He had placed his half of the condo into his trust and should have signed as the trustee. Unaware of this error, we had the life estate clause removed, so that meant that the new

deed was also incorrect! This took another trip back to the attorney to draft a quit claim deed (a document that releases his claim on the property).

I sent these documents by express mail to my stepfather for his signature. When I did not hear back, I called him. He outlined his position, stated he felt he deserved \$30,000 more and that he would not sign until I sent a certified check for that amount. Back to the attorney, letter in hand, to see what could be done. We decided to send him a letter stating that his failure to sign the papers within 10 working days would result in a lawsuit for fraud and extortion. As a backup plan, my sister and I decided we were willing to offer him a few thousand dollars to settle this dispute out of court. On the tenth day, my stepfather agreed to sign the papers. Once received, the papers were recorded and the sale culminated.

Point Five: Make sure any real estate transaction goes through escrow. Insist on a title search and title insurance. While title insurance is the best protection you can have on any recorded deed, it cannot protect you from unrecorded deeds or claims from minors or persons who may have been intimidated or unduly influenced. Make absolutely sure every real estate document you sign is recorded at the courthouse.

I waited until I felt all bank statements and bills were in, then asked the accountant to give me a bill for the final estate tax return. I had applied for a tax ID number for the trust. We went to the banks and brokerage house to make sure they would report the interest and earnings to the trust rather than to Mom personally. Before closing Mom's brokerage account, I transferred the stocks to accounts for my sister and myself and divided the cash in the bank trust account in the same manner. This was in September.

In October, I found that the brokerage house had failed to close Mom's September accounts, depositing the stock dividends to her old "closed" account. I went back to clarify this, but in November, the October brokerage statements were reported the same way. Additionally, I received a delayed bill from the attorney who assisted with the real estate sale. Since the funds had already been distributed, I (the trustee) paid the bill.

Point Six: As you can see, there is a considerable amount of energy and work (physical, mental and emotional) that goes into this task. This task of trusteeship averages at least a year, sometimes longer, and the trustee is usually paid a percentage of the estate (often 10%). You will earn every penny.

It has been a year since Mom passed away. The papers are at the accountant's to prepare the final tax return, and we are still waiting for Mom's 1099s to come in before the return is filed. I look forward to completing my fiduciary obligations as trustee.

Overall, things turned out relatively well, but only because certain steps were taken. Without the trust, we would still be in the courts. Nothing can replace the loss of a parent, child or spouse, but without proper planning, this stress can be compounded tenfold. I cannot overemphasize the importance of a well thought out estate plan. It might be one of the greatest gifts you will ever make.

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