

Monday Jan 25 2016

**Legal Roundup Column**

## Selecting the right trustee for your trust and why it might not be your kids!

By: Mark Breunig



A trustee is a legal term used in estate planning. The trustee is the person or persons who manage the decisions and fulfill the purpose of a trust.

It is usually the surviving spouse when the first spouse passes away and then another party when the last surviving spouse is gone.

The goal is that your beneficiaries will receive all that you intended them to have in a manner that will not create conflicts or delays.

In most cases, the final trustee's responsibility is to gather up all the assets in the estate and distribute them to the beneficiaries named in the trust. Sometimes, however, trusts require management of assets or tasks over longer periods of time. This can be due to a special-needs beneficiary who needs help managing their life, to a beneficiary with spending or substance-abuse issues, to the need to manage complex investments or large properties, or simply to hold and maintain certain business interest, money or real estate in trust for a period of time for the benefit of others.

### Trustee challenges

Many of my estate-planning clients struggle over the choice of who will manage their affairs when they are gone. For some, it is easy to name a current spouse or the "responsible" child in the family in planning phase but many people are concerned that handing the estate (of any size) over to an aging spouse or one or more of the kids is not the right thing to do.

In my experience, trustees must be unselfish and trustworthy, financially responsible, be willing and available to act, be knowledgeable enough to understand and follow complex legal instructions in a trust and understand the probate code in California.

For those of you who may have concerns that your spouse, children or friends may not be up to the task, I often recommend a good alternative that won't break the bank.

## **Licensed fiduciaries as trustees**

Once only reserved for the rich, licensed fiduciaries are becoming a common and fairly inexpensive trustee option for many “normal” family estates.

In California, fiduciaries are licensed by the state of California’s Professional Fiduciary Bureau. The bureau establishes minimum and continuing educational requirements, administers entrance examinations, performs background checks, manages complaints, and establishes high ethical standards for its licensees to live up to.

Professional fiduciaries manage a broad range of matters for clients, including daily care, housing, medical needs and financial management services ranging from basic bill paying to estate and investment management.

*Mark Breunig is a business and estate planning attorney based in historic downtown Loomis and historic downtown Lincoln. He has been helping individuals and businesses with legal services since 1995. Breunig can be reached at 916-672-2042 or [mark@breuniglaw.com](mailto:mark@breuniglaw.com). [www.breuniglaw.com](http://www.breuniglaw.com)*