



THE MUSTACHE TEST



What I look for mostly in a man is humor, honesty and a mustache.

—Sally Field

Have you ever seen a young man with his first mustache? To him, his mustache is a thing of beauty, proudly displayed for the world to admire.

Sometimes that mustache is really not as impressive as its owner may think. Objectively, the mustache may be underwhelming and possibly even a tad embarrassing to its owner.

Similarly, many folks are especially proud of their trusts - including those folks who paid a lot for their trusts - trusts often housed in fancy leather binders with the individual's name printed with golden lettering.

In reviewing these trusts, I sometimes think of the young man and his awkward mustache. Below are just a few of the mustache trusts I periodically see.

The Larry Bird Mustache Trust: This type of trust is simply a poor idea, and there are countless examples of them. For instance, some trusts name specific charities as primary beneficiaries. Before you think me heartless, consider that there is often a better way to leave wealth to charity. Specifically, it is often easier to omit charity from your trust and leave some or all of your retirement assets to charity. This is frequently more income tax efficient (and affords the surviving spouse or children the fun of running the family foundation - if that is how the family wants to support charity).



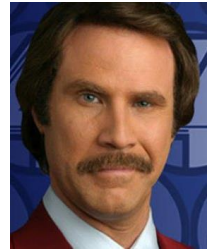
The Groucho Marx Mustache Trust: This is the estate plan that seemingly utilizes a trust but actually does not. We see this, for example, when the planner thought the wife did not need a trust since the husband held all the assets in his name. Another more common version has most or all the family assets held in joint tenancy or names a beneficiary on the family assets; both approaches may completely bypass the trust.



The Milk Mustache Trust: This trust is cute but really does not accomplish much. An example of this is the trust that names grandchildren as recipients of large specific bequests or as primary beneficiaries. While The Milk Mustache Trust reminds the grandchildren that they are loved (which they already know), it can be an inefficient use of generation-skipping transfer tax ("GST") exemption and cause untold unintended consequences.



The Anchorman Mustache Trust: This trust is sometimes referred to as a joint trust. That is, one trust used by both husband and wife. While a few expert draftsmen can make this type of trust work, these trusts are sometimes silly and often most appropriate in smaller estates or in community property states (AZ, CA, NM, TX, etc.).



The Too Complicated Mustache Trust: This kind of trust has requirements for specific investment allocations, uses intricate formulae or committees for decision making, and creates uncertainty as to how it should be administered. These trusts are always created with the best intentions; however, complicated trusts can create unhappiness and litigation. In a technical world governed by a Byzantine tax code, keeping things as simple as possible can be beautiful.



The Magnum PI Mustache Trust: This trust is robust and does what it was intended to do, without going overboard. While you may need a hacksaw to go through it, this type of trust protects loved ones from divorce, lawsuits, and estate taxes imposed by the federal AND state governments.

