



DO YOU FEEL LUCKY?



Shallow men believe in luck. Strong men believe in cause and effect.

—Ralph Waldo Emerson

If an estate planner asks young parents to decide on who should act as guardians, he may never hear from them again since it is a daunting question. That question is viewed by many as the most important in their estate planning. (Note to fathers: for two reasons, let the mother win this one. First of all, she is likely to prevail anyway. Secondly, the odds are very high that at least one of the parents will see the child's 18th birthday, meaning no guardian ever has to act.)

Even riskier than selecting a guardian, however, could be choosing a successor trustee or executor (the person in charge of making business or personal decisions). This is a wager that is more likely to occur than the potential involvement of a guardian for a minor.

While few children are orphaned, the disability, incapacity, and death of an adult happen frequently. Insurance advisors note that disability is more likely to occur than premature death. Nevertheless, many folks give little thought to selecting who will act as successor trustee in their own estate plans if they become disabled or pass.

Should the child beneficiary become trustee of his own inherited trust assets? Select too young an age and the entire inheritance can be lost to sloth, poor judgment, or divorce. Choose too old an age, and the risk of monetary loss seems far smaller, but perhaps the child's feelings are hurt or some speculative business opportunity is missed.

Spouse A might insist that the eldest child be named as successor trustee. Spouse B may counter that the eldest child should not be selected as trustee, perhaps because he is a felon, lives in Mumbai, or is a dimwit (or maybe all three).

Spouse A will respond that the criminal charges were trumped-up, the child has email so distance is not a factor, and while he may be a dimwit, he is a high-functioning dimwit.

Does Spouse A so dislike the eldest child that she wants to burden him with resolving the unsettled business affairs of the parent? Is that child's time better spent attending to his family, his health, his career, or getting his felony rap overturned?

Given all that, many clients may then focus on selecting an individual or corporate trustee as an alternative or compliment to the child. Corporate trustees are often local, and they are staffed with veteran employees skilled at administering trusts and caring for people and their wealth.

Corporate trustees do not get sick, do not steal, and typically do not need to settle some ancient score about, "Mother always bought you new clothes, and I got your hand-me-downs." They may also work well with individuals as co-trustees. Alas, corporate trustees do charge a fee.

Many individuals begin their journey as rookie trustees promising to serve without compensation. After all, they watched Dad handle Aunt Mabel's estate, and it was easy. Never mind that Aunt Mabel's estate consisted of a CD, a condo, and not even one dysfunctional child. However, when the estate administration dust has settled and the IRS has stumbled from the OK Corral, most individual trustees wipe the blood from their nose and seek the maximum in trustee's fees.

While it is natural to want to name family members as successor trustees, how good will they be? Will they enlist the right professionals and work well with other family members? Cable TV praises non-pilot passengers who successfully land commercial airplanes; the novice trustee who successfully handles a complex estate without causing catastrophe deserves similar praise.

The decision of who to name as trustee is a serious wager. Many people's future - even yours - may depend on it.



Well do you?