

“Seven Sins”
Estate Planning Mistakes
... and how to detect & avoid them

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Estate Planning is About Control

- While you are incapacitated:
 - Control over how your family is affected by your incapacity
 - Control over yourself including your care
 - Control over your property
- After you have passed:
 - Control over who gets what when where and how
 - Influence on the lives of those you leave behind

CONTROL IS ALL ABOUT SIGNATURE

“Conservatorship” and “Probate” are Dirty Words

- Conservatorship is the Court –
 - taking over your property and your finances;
 - choosing who can act for you;
 - forcing your family to pay an attorney year after year when they are worrying about how to pay for your care expenses.

“Conservatorship” and “Probate” are Dirty Words

- Probate is needed if you own real estate or \$150,000 in assets and either have no will or have a will and do not have a trust;
- Probate is the Court –
 - Taking over your property, tying it up for at least nine months (more likely 18 months);
 - Encouraging your family to fight;
 - Making your family spend a lot of money to take ownership of your property.

Control is About Signature

While we are in good health we control everything in our lives by signing our name or inputting our pin number.

The Core Tools of Estate Planning Provide for Continuity of Signature and Control when we cannot otherwise exercise control.

Basic Tools Include:

1. Durable Power of Attorney for Health Care Matters (AKA Advance Directive)
2. Durable Power of Attorney for Financial Matters
3. Revocable and Irrevocable Trusts



Sin #1 Failing to Address Health Care Decisions

Health Care Decisions

85% of Deaths Occur
in Hospitals and
Nursing Homes

Huge Numbers of
People Who Cannot
Decide for Themselves

Problems Created:

- Conflict – Each family member feels that they know what the individual who cannot speak for themselves would want.
- Guilt When Decisions are Made
- No Clear “Decision-maker”
- No Directions
- High Costs

Solution: Advance Directive Healthcare Power of Attorney

- ▶ **Identify Decision-Makers**
- ▶ **Clear statement of who should be your voice**
- ▶ **Clear statement of what you want under a range of circumstances**



Sin #2

No plan to control financial & property matters during incapacity

You have a choice !

Conservatorship = Court Control of your household and checkbook

OR

Durable Power of Attorney for Financial Matters
and a Revocable Living Trust

Unfortunately Important Provisions are often left out of Durable Powers of Attorney...Don't Leave Them Out – Protect Your Family

- Power to sell home
- Care for pets
- Power to fund trusts
- Powers regarding US Mail
- Power to Shift Assets to Protect Against Long Term Care Costs



Avoid Conservatorships with Trusts

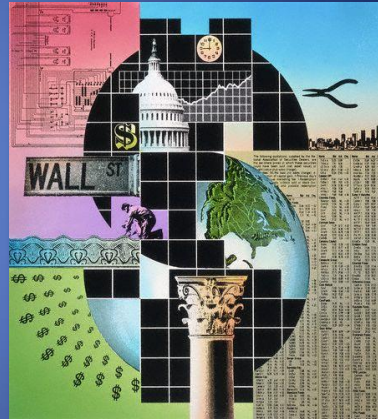
- A Trust is a Cross between an agreement between individuals who trust each other and an artificial entity like a company.
- What it owns it controls
- You Control it – until you can't then your chosen successor takes over.
- You have made them your successor because you “Trust” them.
- You use a written Trust so others will respect their authority and because stuff happens.



Sin #3
No Property Transfer Strategy

Property Transfer Plan Use a Trust

- Tailored to the assets you own
- Accounts for your unique family situation
- Who gets the china? the Bible? the fishing gear? the photos? Grandma's cookbook?
- Designed to make it easy on your family after you have passed, and to prevent fights.



Sin #4

Thinking that Minor and Adult Children
Don't Need Inheritance Protection

What if your child ...



- Becomes instantly “rich” at 25
- Does Drugs
- Gambles
- Chooses to “Just Have Fun”
- Suffers a divorce
- Experiences creditor problems
- Gets sued

Children’s Trust – Inheritance Protection



- Adult child becomes co-trustee or eventually trustee of his trust
- Has significant access to income and principal
 - Health, Education, Maintenance, Support
- Can ultimately consume it all – few strings attached

Children's Trust - Benefits

- Protects inheritance from children's divorces
- Protects inheritance from lawsuits, bankruptcy, personal injury claims, IRS, etc.
- Protects child against spend-thrifting

Lifetime
Children's Trust

Nest Egg

Keeps it in the Family!



Sin #5

In second marriages, failing to
protect your spouse, and your
kids

Typical Problems

1. Surviving spouse leaves your money to her/his children
2. Surviving spouse is spendthrift, effectively disinheriting your children
3. Surviving spouse is victimized by “gold digger”, decimating your estate

SOLUTION:

“TRUST” YOUR SPOUSE!

ADD TRUST PROVISIONS WHICH

- Passes inheritance to your spouse (and your children) instead of your spouse’s new spouse or your son-in-law or daughter-in-law
- Provides income and principal to your spouse for life in accordance with his/her needs
- Then income and/or principal goes to your children per your and/or your spouse’s choice
- Encourages a pre-marital agreement should your widow or widower remarry to protect your half of the property from alimony claims



Sin #6
Failing to Protect Against the
Expenses of Aging

Traditional Estate Plans Focus Almost
Exclusively On:

Dividing and Transferring
Stuff

Reducing Taxes

Reducing Administration
Costs



Aging Savvy Plans Add

- Protection for the Family Nest Egg – Protect Your Home and Savings
- Flexibility to allow you to qualify for Veteran's Senior Care Benefits
- Flexibility to allow you to tap State and Federal Entitlements to Pay for in Home Care
- Flexibility to allow you to tap State and Federal Entitlements to Pay for Skilled Residential Care



Sin #7
Failing to Update

Sin #7 – Believing Estate Planning is a “one time” event

- Estate planning is a lifetime process.
- Personal and legal changes happen.
- Lasting professional relationships are key – pick up the phone, maintain the relationship.
- Introduce your children!
- Needs are different over 55 than they were at 35, or 45, and will be even more different at 65, 75 or 80.
- Update, update, update!



Special Offer

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1. We do not charge Union Members for their initial planning meeting.
2. We do not charge Union Members to get copies of the recorded Deeds for their Homes.
3. We do not charge Union Members who create plans for themselves with us, to create basic financial and healthcare powers of attorney for their children 18-22 year old.

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