

The accordion binder overflowed, threatening to spill its paper contents on the board room table. The cord, once elastic and now threadbare, held these records together in a fashion that seemed to defy the laws of physics as such a small and tired thing held so many big things in place. Next to this mobile filing cabinet sat another, more imposing binder that wreaked of order and money. Its three rings were leather bound and its size was measured best in inches rather than pages. Nations have been founded with less ink.

John set these items before me as we began to talk. Half proud of the work he had compiled and half exhausted for having compiled it. The accordion file on the verge of collapse held all the documents pertaining to his late mother's affairs. Bank records, bills, tax statements, investment accounts and insurance policies. The leather-bound behemoth was the trust. The legal entity that owned and provided instructions as to how these affairs were to be handled after her passing. The man sitting before me, the son, with silver hair of his own, was the trustee. The person charged with carrying out the instructions of the trust.

"How are you?" I asked.

"Ok," John said with a laugh that betrayed a man on a quest having slain a dragon or two but not knowing if he's any closer to the prize than when he began.

He continued, "Its a lot, I'll admit, trying to take of all these things for her. I've never done this before."

"Well, how can we help?"

"Honestly, I don't know. I know I need help but I don't quite know enough to know even what to ask for. My friend said you'd helped with his Dad's estate and maybe you could help me. I guess I just feel overwhelmed trying to do the things in life I need to do anyway and then being the trustee. I think I'm doing what I'm supposed to but I don't know. I feel obliged to do the work because that's what Mom wanted but I can't help but feel I'm missing something. I've just never done this before."

Our conversation continued for the better part of an hour. Though the trust and its accompanying documents were lengthy, its essence was simple: distribute half of the trust assets outright to John and his brother and the other half stays in trust for John's two nieces until they turn forty. Simple enough and yet far more challenging than John or his mother could have imagined.

We eventually got to the heart of the matter as John articulated his need saying, "I'm the trustee and I understand what a trustee is supposed to do, I think, but I honestly have no idea if I'm doing it right. I'm figuring it out as I go and I'm afraid that I may be making mistakes that I won't be able to undo. I need help."

John's struggle is not uncommon. Each day thousands upon thousands of lay people seek to settle the affairs and administrate estate planning documents on behalf of a loved one that's deceased. That loved one named someone like John as a trustee because they loved and trusted him not because he had experience doing the job. As such, these trustees and executors are often left to try and chart their own course in administrating a trust or estate.

Fortunately, we were able to help. As a regulated trust company, Capstone Trust serves as trustee for trusts and executor for probate estates. We also come alongside people like John,

at their request, to lighten their load and help them find the finish line. The question implicit in John's statement remains: what exactly does a trustee do?

The simple answer is, "whatever the trust tells them to do" which means that the tasks are as simple or complex as the document and the balance sheet it governs. Regardless of the document however, the job of serving as trustee generally encompasses the following:

1. Identify & Gather Assets

Sounds easy enough and it can be, or not. In John's case, Mom was a CD shopper, always looking for a few extra basis points on her savings which meant that John had to work with no less than six separate credit unions and banks to consolidate the assets. Some had experience working with trustees like John, others did not. This task can become more challenging as asset types are more diverse think, real property, closely-held stock, collectibles, insurance policies.

2. Identify Creditors & Pay Bills

Similar to step 1, it can be very simple or complex depending on the nature of the balance sheet. For John, this was fairly simple as his mother had been in assisted living for the last year of her life and as such her other bills were wound down over that time leaving only one vendor for him to work with, the facility where she lived.

3. Pay Taxes

The trustee is responsible for filing any tax returns associated with the trust they're administering. A failure to do so can bring liability both to the trust and the trustee.

4. Manage Assets

A trustee is responsible for managing any and all assets placed in trust, be it a collection of antiques or a stock portfolio. While each state differs in its specific legal standard, trustees are generally held to the "prudent investor" standard in managing assets which vague to say the least as there can be wildly different interpretations of what is considered "prudent" which can leave trustees open to liability from beneficiaries if their actions, or lack thereof, seem to not meet that standard.

5. Manage Distributions

In John's case, this meant distributing half the trust to he and his brother and the other half into two, new trusts for his nieces. This would place John in the position of trustee for them. The document mandated they get all the money at the age of forty and they were both in their teens. In the interim, they were allowed to request discretionary distributions from the trustee (John) for "Health, Education, Maintenance and Support." This gives the trustee wide latitude in providing a benefit to these girls and also ample opportunity for relational discord. John loved his nieces and wanted to keep it that way. He elected to allow Capstone to administer these trusts.

6. Manage Beneficiary Relationships

This item is of course part and parcel to managing distributions because the trust isn't about money, it's about people. All too often, relationships deteriorate not because the trustee is incompetent or the beneficiary difficult, although that is sometime true, but because of the close nature of the relationship to begin with. There is no amount of competency on John's part that can change the fact that he is the uncle to the beneficiaries. The nature of their relationship prior to the trust naturally affects the nature of the relationship as trustee and

beneficiary. While this can be done well within a family, this ground must be tread very cautiously and with great humility as the road to failure is paved with good intentions.

7. Be the ultimate fiduciary

This is the summation of being a trustee or executor and it is a word that has become increasingly popular in the world of wealth management. For trustees, it means the buck stops with us and that we, at all times, must act for the benefit of the trust. While that may sound as though it should be a given, I can assure you it is anything but once family dynamics come into play. It is a high standard, it is an unforgiving standard and appropriately so given the power and responsibility vested in a trustee.

A trustee does a lot and the good ones, be they trust companies like us or individuals like John, rarely do well by going it alone. We all need help and in John's case he needed a lot of it as he had reached the end of his time and abilities in carrying out his Mom's wishes. This is not a failure. We were honored to partner with that family as we are with any family that invites Capstone into the conversation.

Key Takeaways

1. If you're in the process of or considering drafting your estate plan, please think critically about who is the right party to administrate that plan, be it a will or a trust. Just because a loved one is capable and trustworthy doesn't necessarily mean this is the job for them.
2. If you're in the process of trying to administrate the affairs of a loved one, don't be afraid to ask for help. Even the simplest of trusts or estates can be difficult and that difficulty is often compounded by the fact that the job itself is accompanied by the loss of someone you love.

If you need help with the above or have other questions pertaining to the estate planning process, please don't hesitate to contact us at info@capstonetrust.net or 360-515-0281.

Kindly,



Steven Elliott
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