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HONORING THE LIFE, WORK AND CHARITY OF EVERY INDIVIDUAL

BCLG Newsletter, May 2021



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Understanding Trust Asset Alignment

by Andrew J. Cobin

In our April edition, we identified the parties to a trust agreement and their respective rights and responsibilities. In this article, we'll look at the effect and importance of titling assets in trust. Recall from our last article that a trust is a contract. It's an agreement between the trust creators, also known as the Grantors, and the Trustees. That agreement governs how the assets under trust are to be managed for the benefit of the trust's Beneficiaries.



Now that we understand the roles, we'll discuss the effect of the title of assets held in trust. When assets are held in trust, we have effectively bifurcated the ownership interests. Take how an individual holds title to her assets: The individual is both the legal owner and the beneficial owner. In other words, she has all the rights and responsibilities as the owner of the asset, and the asset is hers to explicitly use.

Division of Ownership

When assets are held in trust, the ownership interests are divided between the Trustee as the legal owner, and the Beneficiary as the beneficial owner. As the legal owner, the Trustee has all the rights and responsibilities as any person would in owning an asset. Unless restricted by the trust agreement, the Trustee can buy, sell, mortgage,



owner is acting as Trustee on behalf of himself and has carte blanche ability to change the trust terms under which the assets are managed.

So, while the owner doesn't notice any difference day-to-day, the advantage of the trust becomes apparent at his death or disability.

Transfer of Ownership

Upon death or disability, the successor Trustee will step into the owner's shoes to manage the assets in trust. In the event of incapacity, the owner remains the Beneficiary, so the assets would be managed for her use. Since trust laws are laws we inherited from England, and thus well established, the Trustee will not typically run into the same level of pushback often received by agents operating under a power of attorney.

And of course, upon death, the Trustee has immediate authority to administer the assets in trust without seeking authority from the court. Therefore, the owner's affairs can be wound up more efficiently in terms of time and costs.



However, to realize these benefits the owner must ensure that all of his assets are properly aligned with the trust.

Aligning Assets in Trust



An asset that is titled in trust is properly aligned, but not all assets can or should be titled in the trust. A common example of an asset that should not be titled in trust is a qualified retirement account, such as an IRA, 401k, Roth, etc. Titling a qualified retirement account in trust would cause the assets in the retirement account to be distributed, thus incurring an income tax liability, as well as penalties for those under the age of 59½. So, rather than titling retirement accounts in trust, the trust is usually tied in as Beneficiary. Depending on the estate plan, the trust may be a primary or a contingent Beneficiary. This will ensure that the retirement account proceeds can receive the protections of the trust and the trust can be used to account for any contingencies, such as a beneficiary who unexpectedly predeceased you.

Therefore, when it comes to asset alignment, we are changing title or beneficiary designations for all – or practically all – of your assets. And we are doing this to ensure an efficient administration of your estate upon death or incapacity.

What's the Big Deal?

Why is this important? Well, I once experienced the deaths of five of my clients all within a several month time frame. Although each client had a well-crafted estate plan, without exception, the clients had only partially aligned their assets with their trust. This resulted in estate administration processes that included probate, when it could have been avoided.

It's not easy aligning assets. I experience the same issues in aligning the assets within my trust. The institutions give out misinformation, things fall off the radar after change requests have been submitted, etc. But the alignment is fundamental to making the plan work as expected. We must get it done or the trust plan will not work when it's needed.



Wills (and the lack thereof) of the Rich and Famous

Disputes over estates are most often kept private; no-one wants their personal life spilling uncontrollably into the public-sphere. However, those who possess a certain

world.

Whitney Houston



The pop superstar, Whitney Houston, passed away in 2012 and left behind then 19-year-old Bobbi Kristina Brown, Houston's only child. In a 1993 will signed by Houston, Bobbi Brown was named as her sole beneficiary. On the surface, Houston's will seemed simple enough. The will would provide for her daughter for years to come and would disperse Houston's estate to Brown in installments. The will also stated that if Brown were to pass away before the age of 30 without marrying or having children, Houston's remaining estate would go to Houston's living relatives.

Tragically, Brown passed away a few years later at the age of 22 and did not leave a will. In Houston's original will, Brown's father and Houston's ex-husband, Bobby Brown was listed. Because Houston and Bobby Brown divorced in 2007, any claim that Bobby Brown had to the estate was nullified. However, because Houston's daughter left no will, Bobby Brown still was able to make some claim to the Houston estate.

Jimi Hendrix

The counterculture legend, Jimi Hendrix, was found dead in 1970 at the early age of 27. Fast living didn't leave Hendrix enough time to produce a will and his estate is still being litigated in court to this day. Hendrix did not have much at the time of his death, about \$20,000 in the bank, and his estate was managed by an attorney. But twenty years after his death Hendrix's father sued to gain rights to Hendrix's music. His father then organized his estate and set up several partnerships, companies, and trusts that helped the estate grow to many millions of dollars.



With the passing of Hendrix's father in 2002, he left the estate to his adopted daughter. Several people claiming to be beneficiaries came forward to contest the will, including Hendrix's biological brother. Although it happened outside of the courtroom, a settlement between Hendrix's brother and his father's adopted daughter was reached for using Jimi Hendrix's name and the damages related to the sale of merchandise.

Leona Helmsley



New York real estate tycoon, Leona Helmsley, passed away in 2007 leaving behind a multi-billion-dollar estate. In her prepared will, \$12 million of the estate was passed down to Trouble, her pet Maltese. Although passing down funds to a beloved pet is common, and a thoughtful way of ensuring the comfort and safety of the fluffy member of the family, grandchildren are also another consideration when dispersing an estate. Ultimately, a court ruled in 2009 that Helmsley's grandchildren, two of the four who were to originally receive nothing, would end up claiming \$6 million of her estate. Four-million-dollars of the \$12 million went to charity. And Trouble...he fetched \$2 million for a very comfy doggy-bed.

If any lesson is to be gained from these few examples, it is that regardless of your age, your assets, or your status, having a will prepared is an important tool in managing your wishes and your estate both in life and in death.

Recipe of the Month: Firecracker Salmon

Ingredients

Salmon

- 1.5 lb skinless salmon fillet, cut into 1½-inch wide strips
- 2 to 3 Tbsp canola or avocado oil
- Chopped chives, for garnish

Marinade

- less spicy
- 3 Tbsp soy sauce
- 3 garlic cloves, grated
- 1 to 2 tsp red pepper flakes
- ½ to 1 tsp salt

Instructions

(makes four servings)

1. Mix together marinade ingredients in a large bowl
2. Marinate salmon portions in the refrigerator for 30 to 60 minutes
3. Preheat oven to 400 F
4. In a large, oven-proof skillet, heat oil over medium-high heat. Pan-sear salmon on both sides, about 2 to 3 minutes on each side, until crispy
5. Transfer pan to oven and finish cooking through, about 5 minutes (recommended internal temperature is 145 F)
6. Garnish with chopped chives



Recipe courtesy of costcoconnection.com

What's Happening in North Carolina



[Saturday Slowdowns at RambleRill Farm](#)

June 5, 2021

10 a.m. - 2 p.m.

913 Arthur Minnis Rd, Hillsborough, NC 27278, USA

Free

[Moore Busker Entertainment Series](#)

Mondays, Wednesdays, and Fridays

11:00 a.m. to 2:00 p.m.

Moore Square, Raleigh

Free

[Active Adult Program](#)

Many Events/Programs (see link for details)

Various Dates and Times, see program details for specific date & time

Various Locations, see program details for a specific location

Free - \$90, see program details for pricing

[The Raleigh Market](#)

Saturdays and Sundays

9:00 a.m. to 5:00 p.m.

4285 Trinity Road, Raleigh

Free

[301 Endless Yard Sale](#)

June 18, 2021 - June 19, 2021

7 a.m. - 5 p.m.

U.S. Highway 301

Free

[Raleigh Road Outdoor Theatre](#)

Thursdays - Sundays

See link for specific times and movies
Adult (12 and older) Tickets, \$10
Children (ages 3 -11) Tickets, \$7
under 3, Free

[Boozin' Through the 90s Bar Crawl](#)

June 26, 2021

2 p.m. - 10 p.m.

Various locations, see link for venue list

\$14.99 - \$29.99, price subject to change

[Nightly Met Opera Streams](#)

Every Night

Available from 7:30 p.m. to 6:30 p.m. the next day

Virtual Performances

Free

Meet Our Attorneys...



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Hours of Operation:

Monday 8:30 AM - 5:00 PM
Tuesday 8:30 AM - 5:00 PM
Wednesday 8:30 AM - 5:00 PM
Thursday 8:30 AM - 5:00 PM
Friday 8:30 AM - 3:00 PM

Scheduled appointments after hours

<https://www.ncstateplanning.com>

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