

Consider a Corporate Trustee

Corporate trustees are often overlooked as an alternative when people are considering who to appoint as executor of his or her estate. Corporate trustees are professional executors. They have experience and they have expertise. There is no such thing as a “simple estate”. True, some estates are more straightforward than others, but nearly all have their unforeseen wrinkles. Corporate trustees have seen it all and they know how to get things sorted out.

Another advantage offered by corporate trustees is their permanence. Individual executors grow old and leave town. Corporate trustees will still be up to doing the job in twenty years time. Can you say the same about your dear old Uncle Jack? Remember how you said in your will that you wanted the money held in trust until your kids turn twenty-five? If Uncle Jack is fifty years old now, will he still be up to the job when he’s seventy-five? More importantly, will he still want to be doing it?

Impartiality is probably the most important advantage that corporate trustees can offer. Consider the following example. Mom and Dad are in their thirties and they have three little kids. Then they separate. (I’m not a divorce lawyer, but I’m aware that this happens with alarming regularity.) Mom and Dad each make new wills leaving everything to their children, ages 8, 5 and 2. Mom appoints her sister as her executor and Dad appoints his brother. Dad dies. His entire estate falls into trust for his kids, who now live with Mom. Mom is now a single parent with three little kids to raise on her own. She may or may not have Dad’s earning power. (Statistics suggest that she will not, but that’s another issue entirely.) And Dad’s brother is now in control of the purse.

In a perfect world, Dad’s brother would make judicious use of the kids’ trust funds by making sure that Mom, the custodial parent, had enough money to raise the kids. He would dip into those trust funds—as he is allowed to do—to help both with unforeseen emergencies (like braces) and the more mundane expenses of daily living (like groceries, piano lessons and sports equipment). Dialogue between Mom and Dad’s brother would be continuous and positive and always with a view to the best interests of the children.

Call me jaded, but I don’t think the real world works like this. Real world emotions like pride and bitterness can get in the way of effective dialogue. Maybe Mom is incensed by the thought that she has to go cap in hand to Dad’s brother in order to get money for the kids. Maybe after reviewing a proposed budget, Dad’s brother thinks Mom should throttle back on her expectations a bit. I think you can imagine how in a situation like this, things can get really personal and really nasty.

Corporate trustees can bring some much needed impartiality to situations like the one above. Given a choice, why not let an impartial professional handle those difficult discussions with your surviving ex-spouse? If you put one of your family members in the middle of things, you run the risk that your surviving ex-spouse

will deny them the thing that money can't replace—a continued relationship with your children. Think it can't happen? You'll have to trust me on this one. It can and it does. Don't let it happen to you.

If you're recently separated or divorced, a new will is a must. Hopefully your divorce lawyer has already impressed that upon you. And when you're making that new will, don't overlook the importance of executor selection. And give some thought to appointing a corporate trustee as your executor.