KH LAW NEWS

APRIL ~ 2009 Edition

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Trustee: an Honor and a Responsibility

You are named as Successor Trustee in your parent's, sibling's, or other loved one's Trust. This is an honor and a responsibility. Of course, it is an honor because they have chosen you to carry out the wishes closest to their heart. It is a responsibility because the actions you make can have serious legal and tax consequences.

As Successor Trustee, when the initial Trustee (usually the "grantor" or owner of the Trust) dies, you become Trustee. As Trustee, it is your responsibility to administer the Trust. In other words, you must gather all the assets, manage them, and distribute them according to its terms. In doing so, you have many decisions to make. When will you make distributions to subtrusts or beneficiaries? Are any estate taxes owed? Are any income taxes owed by the Trust grantor or the Trust itself? If the Trust directs you to create subtrusts, which assets should you put in which subtrust? What valuation date do you use, the date the grantor died or the date you are funding the subtrust? These choices could have income and estate tax consequences for the beneficiaries of the Trust for years to come.

Answers to some of these questions may seem deceptively simple. For example, how should you invest the assets? Depending on the terms of the trust and state law, you may have different duties. Let's say you simply leave the assets the way they were invested before the initial Trustee died. This may not be prudent, especially in a down market, and you may be held responsible for losses the Trust and its beneficiaries suffer as a result.

The answer to each of these questions varies depending upon the unique circumstances of your case and state and federal law. While it is typically easier and less expensive to administer a Trust than to administer a probate estate under a Will, you need professional advice to complete the Trust administration process. Consulting a qualified estate planning attorney helps prevent errors in Trust administration--errors which would have cost the Trust and its beneficiaries in increased taxes and forgone opportunities.

Take a couple weeks to grieve. But, then act quickly. There are deadlines for tax and other filings and the clock is ticking.

Attorney Michelle T.L. Hernandez has extensive legal experience in the area of estate planning and is an active member of the American Academy of Estate Planning Attorneys. To schedule your free consultation today, simply call (800) 431-9776.

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CONGRATULATIONS AND THANK YOU TO SHELLEY CRAKER WHO HAS BEEN A PART OF THE KH TEAM FOR 6 YEARS!

Go Green!

It's time to do your part and sign up for our paperless newsletter! Simply email us at moassistant@kh-law.net and you'll be added to the list!

Happy Easter from Krueger & Hernandez

Mark L. Krueger, Michelle T.L. Hernandez
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Kayleigh Robinson, Angela Nichols Philipp
Dera L. Johnsen-Tracy, Shelley Craker
Eileen Shanks, Renee Nehring, Kate Aeschbach

Common Divorce Mistakes

Getting a divorce is a messy business, both personally and financially. Oftentimes people are in such a hurry to reach settlement that they make costly financial mistakes. The following are a list of mistakes that should be avoided.

Having Unrealistic Expectations: Divorce puts a cramp on your family's lifestyle. One household is about to be split into two. Unless you are extremely wealthy, expect money to be a little tight, at least in the beginning. Try to plan for by having a cash reserve of some kind to assist in the payment of living expenses at least for the first month or two of a divorce.

Failure to Communicate: If you do not share information with your spouse or your lawyer, you will just end up paying for the legal work it will take to get it. Disclose all information, ask questions, and freely communicate with your lawyer. If you cannot communicate with your lawyer, find one that will.

Avoid Endless Battles: Turning the courtroom into a battle ground will drain your emotions and your accounts. Pick your battles wisely and remember that your battle will increase your legal expenses as well as your spouses, making settlement even more difficult.

Don't Get Hung-up on the Numbers: A fair split is not necessarily an even split. Access your tolerance for risk before deciding how to divide financial assets. Your spouse may not mind taking over a risky stock portfolio although you may. Although your house may be worth hundreds of thousands of dollars on paper, the real estate market may be such that selling the house for what it is worth on paper is unrealistic.

Be Realistic: Although the present is important, don't forget to focus on the future. Make sure you understand the financial implications of your decisions. Although it might seem fun to take the $35,000 corvette in the property division, it may be better for your future to take a mutual fund of equivalent value. The car will depreciate while a mutual fund, chosen wisely, should increase.

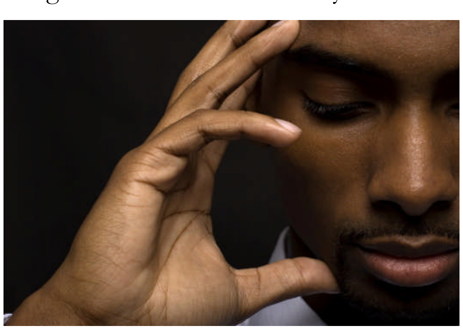
Don't Forget Taxes: Do not forget to factor in the tax cost of every financial decision you make. For instance, two stock portfolios of seemingly equal dollar value might really be worth completely different amounts depending on capital gains.

Do Not Overlook Important Information: In the struggle to keep your divorce simple, make sure you have information on absolutely everything that will affect your financial future: all assets, investment funds, retirement pensions, etc.

Make Sure to Untangle All Joint Finances: Keeping your finances mingled means your financial future could be jeopardized if your formal spouse defaults on payments, commits fraud, goes bankrupt, or becomes disabled. You might also be liable for any debt your spouse had incurred under your name, which makes getting a credit report at the very beginning of divorce even more essential. Make sure that you and your lawyer have worked out a way to cut or minimize all financial ties with your ex before the divorce rather than after.

Consider How Much Time it Will Take to Get Your Career Back on Track: If you gave up your career when you got married to take care of the children or to help your spouse in his or her business, it probably will not be easy to jump back into the workforce. Do not be surprised with the costs, both financially and emotionally, resuming your old career turn out to be greater than you thought.

These are just a few mistakes that can be avoided by working with a well qualified divorce attorney. Although divorce is always difficult financially and emotionally, working with the right professionals and avoiding these types of problems, it can also lead to a great beginning and a start to the rest of your life.



These are just a few bits of advice to assist you in your divorce. Remember, each case is different based on the facts of your particular situation. Please contact Attorney Mark Krueger or Attorney Angela Nichols Philipp at (866) 455-2993 or visit us on the web at www.KH-LAW.net for more information.