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SOME OF THE ROAD BLOCKS TO FUNDING YOUR REVOCABLE LIVING TRUST TO SUCCESS

1. What do you mean by “funding a living trust”

I have been asked that question many times over the years, and I originally struggled with formulating a simple explanation. Finally, one of my paralegals was having difficulty with a bank (more about that later) placing a client’s residence in the name of the client’s living trust. She said, this is as complicated, because of the and attention to detail, as the actual sale of a house. Obviously, a “light bulb went off.”

2. What do you mean by a light bulb went off?

Well, every client has sold or bought a home, sold or bought a car or some other event in which the title to property had to be transferred from one person to another person. My clients vividly recall the seemingly endless paperwork, incompetent, and occasionally, outright hostile clerks, governmental regulations, homeowner covenants, conditions and restrictions on how property had to be titled, and on and on and on. The light bulb that went of was that I could use the analogy that the client was “selling” their property to their living trust and much, if not most of the same paperwork was required as on the original acquisition.

3. Wait a minute, it cannot be that complicated, or no one would ever use a living trust, right?

While I agree that it is not actually as complicated as a real sale or purchase, it does enable the client to understand why funding costs money and takes times to get done. Obviously, new loan documents are not needed when the residence is transferred to the trust, although some banks are so uncooperative that it might seem that way. It is not my intent to frighten the client, but I find when a client understands that “titleholders” must cooperate in the transfer of ownership from the client to the trust, using the sale and purchase analogy enables the client to more easily understand that the living trust is actually a separate legal entity, designed for

their privacy and protection, and transferring title to their property, “funding,” is serious, can be complicated, usually unnecessarily so, and very important.

4. What in the world is a “titleholder?”

Depending on the particular one my staff or I must deal with, I would sometimes have to simply use in my explanation??. I think the easiest method of illustration, is to be sure the client understands that their bank accounts, airplanes, cabin cruisers, Individual Retirement Accounts, homes, or race horses are “their property,” but a bank, Federal Aviation Administration, Coast Guard, retirement account administrator, mortgage company or thorough bred association actually controls the form in which the title to the account is to be designed and what paperwork is required to transfer the property from the client’s name to the name of the living trust. I almost forgot government bonds, EE, or treasury bills and stock certificates owned by the client.

5. Let me get this straight, if I owned all of the assets listed above, you would have to contact all of those financial and governmental entities just to fund my trust?

Before you panic, we have a great deal of experience, and, even though some of the paperwork and personal contact with various title holders is time consuming, and therefore increases funding costs, it is a quite organized process until we encounter one of the title holders.

6. This is interesting. Let me see if I have it straight. Your office has to engage with the title holders (much in the same fashion as a sale or purchase) to transfer property from the client’s name to that of the trust, correct?

Yes, and even though we are experienced at it, there is a certain unavoidable administrative cost incurred by our office.

7. Why cannot the client do the funding?

They certainly can, we will provide forms and some counseling, but the client must understand that they will likely experience greater “costs” simply from the frustration of dealing with new events, that our office has encountered many times over the years.

8. What is a titleholder?

Have you ever encountered a clerk, wait staff, administrator or other service provider whose first response to every question is no, or, we don’t do that here? Obviously, we have all had to deal with these types of people. However, when it is a titleholder, it can be extremely frustrating.

9. I have to admit, I did not appreciate the importance of funding. The fact is that it is actually a legal endeavor that requires time, knowledge and attention to detail, or otherwise significant problems can occur down the road.

The fact is: it is actually a legal endeavor that requires time, knowledge and strict attention to detail or else significant problems can occur down the road and it usually does!

Call us for a free consultation and see how we can make your life secure and easier.