

The “Daily Plan-It™”

HELLMUTH & JOHNSON, PLLC

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How to Maximize Family Privacy in Estate Planning for Your Clients

In this day and age of internet search engines, privacy is at a premium. The lack of privacy is further compounded by the general policy of having court proceedings in public. Our clients' families may be full of secrets that can turn into scandals.

It would be difficult to impossible to find a client whose family history didn't include sibling rivalries, substance abuse, or any form of indiscretion that could be embarrassing. Most of our clients own investments such as privately held businesses or real estate that shouldn't be looked at by a competitor or scam artist seeking to fabricate a bogus claim.

As advisors, our clients depend on our discretion when these issues affect financial and legal matters. We endeavor to keep their confidences and give them a degree of trust. *Then why would we ever risk betraying their trust by allowing their personal family affairs to be exposed through probate?*

Probate court is public. Each pleading and filing in a probate case is a matter of public record that anyone can read.

A Private Family Trust

Creating a Revocable Living Trust (RLT) keeps your client's assets, instructions and disbursements out of the public's scrutinizing eye.

The Trust is a private legal document. It's between your client as both the Trustmaker and Trustee, so it doesn't have to be filed with a court unless your client's beneficiaries and Successor Trustee don't agree on disbursements, or someone challenges the Trust's validity.

As an advisor, you're in a unique position to show clients how an RLT prevents an estate from going into probate court, protects heirs from creditors, and keeps the family's private information from becoming public reading material.

Avoid Michael Jackson's Mistake!

Once your client has established an RLT, if their main goal is to protect their privacy, it's vitally important that the trust is funded to avoid a risk of a

probate proceeding. It's too bad that so many dead celebrities didn't have a savvy advisor to warn them about the dangers of not securing their personal information with an RLT. Pop icon Michael Jackson created an RLT, but he failed to properly fund it (*re-titile assets so that the Trust is named as the owner*), resulting in his estate landing in probate court. Someone even leaked a copy of the Trust to the press.

Peace of Mind for Your Client

There is no substitution for the peace of mind your client gains from knowing that his decisions regarding his last wishes will remain confidential among those involved in administering his Trust after death. Unless you know that your client is perfectly OK with publicly airing his total worth and his private wishes, then the RLT should be your recommendation.

As always, I hope this article has helped you and your clients. If you have a specific case or concern, please contact our office.

This complimentary publication is provided courtesy of:

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Tim is a partner in the firm with 27 years of experience.

Susan brings over 15 years experience. Both Tim and Susan specialize in Estate and Business Planning, Probate and Trust Law, and related Tax matters. They assist clients in creating estate plans that provide for the control, maintenance, and disposition of their assets in a manner consistent with their objectives.

Hellmuth & Johnson, PLLC has 38 attorneys and is a full service firm offering legal services to individuals and businesses, with a heavy concentration in real estate, real estate construction and litigation matters.

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