

# Private Professional Fiduciaries as Revocable Living Trust Successor Trustees

BY LINDSAY LEONARD, LICENSED CALIFORNIA PROFESSIONAL FIDUCIARY

**F**requently, estate planning attorneys discuss with clients about who to appoint as successor trustees for revocable living trusts. Just as frequently, those clients often want to designate their children, siblings, or other family members to take over the role of trustee when they themselves are no longer capable of bearing those responsibilities or after they die. Trusted advisors, including legal counsel, can provide valuable insight to their clients by explaining why naming family members might not be as good an idea as the clients initially think.

*It's a lot of work.* The role of successor trustee involves considerable time expended in preparing financial analyses and spreadsheets; shepherding assets; searching for and tracking down lost information; tax reporting; traveling to financial, debt related, creditor, and other business entities for research; evaluating, repairing, and making decisions concerning real and personal property; determining status and then preparing an accounting to beneficiaries to provide status of the trust estate - this takes time and acumen that family members might not have or be willing to devote.

*It takes objectivity.* When children or siblings are appointed to bear the burden, subjective interpersonal relationships may get in the way of decision making that requires clear thinking and objectivity. Often the unresolved familial emotional issues ("Mom always loved you best") and lingering grief issues interfere with proper, timely, and necessary trust management. In addition, serving as trustee requires a unique skill set. It takes a specialist, especially when it comes to making discretionary decisions about how and when beneficiaries receive trust assets, ensuring that tax and legal obligations are met, and to ensure that the specifications spelled out in the trust are followed. Family members often engage in stress tactics that increase the difficulty in reaching these goals.

*There are deadlines to be met and rules to follow.* Getting up to speed can be daunting when dealing with the added responsibilities of serving as successor trustee, on top of already established (and often busy) life commitments.

*Often, the designees are not proximately located near the as-*

*sets.* This increases the difficulty of managing/maintaining them, dealing with agents, and handling other trustee responsibilities.

Experienced estate planning attorneys often recommend to clients the private professional fiduciary as a viable successor trustee appointment alternative. Independent, skilled, and objective, private professional fiduciaries practicing in the state of California are required to be licensed by the Professional Fiduciaries Bureau under the California Department of Consumer Affairs. (California Business and Professions Code, Section 6500, *et seq.*)

Private Professional Fiduciaries are an excellent choice for appointment as successor trustees because:

- They understand the mechanics of trust administration and can work quickly and efficiently through the processes needed to be accomplished;
- Unlike banks, financial advisors, or corporate trustees (who profit from fee income derived from assets invested), private professional fiduciaries are completely independent, usually earn set hourly fees, and therefore are free from conflicts of interest;
- A private professional fiduciary acting as successor trustee, unlike subjective family members, benefits from being an outsider and can make decisions free from bias and considerations of family dynamics;
- They provide peace of mind and freedom from worry for all concerned.

While acting as a successor trustee is only one aspect (of many) of the assistance offered by private professional fiduciaries, it is the first that attorneys in the estate planning arena usually think of when asked about fiduciaries and the services they provide.

*Lindsay Leonard is the founder and owner of Santa Barbara Fiduciary. She has been a licensed California Professional Fiduciary since 2010 and has certifications in Professional Fiduciary Management for Conservators and Trustees. She is a National Certified Guardian, a Registered Trust & Estate Practitioner (TEP), and a member of the Santa Barbara Estate Planning Council. For more information about the nature of services available from private professional fiduciaries, please see: <http://santabarbarafiduciary.com/>.*



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