

Keys to Successful Trust Administration

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What is Successful Trust Administration?

You would think that anyone who participates in a trust would want the trust handled successfully.

You would think that it wouldn't matter whether you're

- the trust maker who is setting up the trust, or
- the beneficiary, receiving the benefits from the trust maker, or
- the trust and estate attorney designing the trust, or
- the trustee administering the trust, or
- one of the many important trusted professionals supporting the trust or the family.

We all want the trust to be successful.

Would anyone even admit to wanting an *UN*successful administration?

But what makes the administration of a trust successful? How do we *define* a successful trust? And *who* gets to participate in that definition?

Is success simply accomplishing the transfer of the trust's assets from the grantor to the beneficiary? Or could success also be helping the family to appreciate that gift?

Is success simply avoiding legal claims and lawsuits? Or could success also be helping the family thrive more harmoniously?

Is success honoring the freedom of the grantor to decide how he wants to use his assets? Or could success also be to help the beneficiary to use the trust assets to enhance his own freedom?

Though every trust and family is different, perhaps we can do better in defining our goals by considering some known issues, inescapable components of trusts and trust administration that can make -- or break -- the trust.

Legal Considerations:

The trust laws impose boundaries on acceptable administration to prevent abuse and otherwise establish minimum standards. These are important protections for the various trust participants. Their necessity is underlined by continued reports of

their violation by unprepared trustees and attorneys -- and far too often by unprepared attorneys acting as trustee! These ongoing violations support a dedicated plaintiffs' fiduciary bar.

As essential as these legal minimum standards are, however, they should not be confused with best practices or success. In fact, as the articulation of the minimum standards, the law is not the best practice by definition.

And so, it shouldn't be surprising that too often the trustee damages the family by administrating from the minimum standard that the law requires as opposed to what the family needs. ***In other words, trust administration that abides perfectly by the letter of the law may still be abhorrent or even destructive to the family.***

In addition to paying attention to the legal minimums, a successful trust often takes into consideration a range of other items. I will address many of these in future articles.