

Trusts and estates

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**Trust: The values
that we live by**

In a volatile world, the principles of fiduciary responsibility have remained stable.

The root causes of the 2008 financial market crises will be debated and analyzed for years to come. Some point to insufficient regulation of exotic investments such as derivatives and swaps. Others believe that inappropriate or excessive regulation lay behind the subprime mortgage crisis. Regardless of one's

point of view, regulatory overhaul of financial services providers is a sure bet for 2009.

Except for one group.

Trust departments and trust companies.

The well-developed body of law governing fiduciaries and trustees has not changed, nor is change likely. Trust law has, for centuries, been built upon integrity and fair dealing in carrying out the duties of trusteeship, free from conflicts of interest. We are very comfortable with this and so are our clients.

What we are

We are a *corporate fiduciary*. This means that we are a business organization that is permitted, under the law, to serve as trustee or executor and administer investment programs for individuals, families, businesses and endowments. For this service we are compensated by reasonable annual fees, tied to the market value of the funds in our care. Our operations are subject to a variety of internal and external regulatory oversight.

But what most clearly sets us apart from our competition are the values that we live by, the code of fiduciary responsibility, and the high standards of trusteeship.

Trustworthy by design

The list of specific duties expected of a trustee is extensive—preserve and protect trust assets, invest and administer with care, maintain records, keep beneficiaries informed, deal with beneficiaries impartially and more. Every decision made and every action taken by a trustee is evaluated against a standard of fiduciary duty, which may be summarized as follows:

- To take just as much care of the trust property as a prudent business person would take care of his or her own property.
- Not to make a penny of personal profit from the trust. (The compensation of a professional trustee is limited to the trustee's fee.)

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A CAPSULE GUIDE to our trust and investment services

One of the great strengths of trust planning is the ability to tailor the plan to respond flexibly to current and future family financial needs.

Portfolio supervision. The officer assigned to your account will work with you to establish an investment strategy suited to your personal goals and circumstances.

Lifetime financial management.

The next step in comprehensive financial protection employs a revocable living trust. We will implement an investment plan, providing continuous portfolio

supervision, reinvesting or distributing trust income as directed. A revocable trust provides financial protection in the event of incapacity and has valuable estate planning aspects as well.

IRA rollovers. With their tax-deferred nature, IRA rollovers present somewhat unusual investment issues, which need to be addressed in the context of a full review of your financial resources.

Charitable trusts. Thoughtfully designed trusts can provide financial protection for you or for family members, as well as substantial support for your

favored charity. Significant tax benefits may be available as well.

Estate settlement. Whether your estate will be large or small, you should not put this task into inexperienced hands. Your will can designate us to handle this critical responsibility.

Marital and family trusts. When a legacy for a spouse, child or other family member is left in trust, the heir receives a double benefit—our professional investment management supervision, in addition to the financial resources represented by the trust assets.

Trust . . . continued

The trustee must be faithful to the trust and its purposes and loyal to the trust client or the other beneficiaries. Conflicts of interest must be avoided. Conflicts that cannot be avoided must be resolved in favor of the trust and its beneficiaries. Always, and in all ways, a trustee must be a faithful steward, never engaging in self-dealing and never acting in its own interests.

If this all sounds rather old-fashioned, that's a criticism that we welcome. These high standards of stewardship, in the final analysis, contribute significantly to our clients' financial peace of mind.

If you already use our asset-management services, you know about these benefits. If you don't, there's no time like the present to find out. The capsule guide above lists some of the ways that we can serve you.

Start the New Year right

If you are concerned about your investments or wealth management, this may be the perfect time to have a fresh set of eyes evaluate your situation. Put our experience to work for your family! Why not meet with one of our trust and investment professionals this month? We will be pleased to tell you more about what we can do for you. □

WHO needs a trust?



Imagine yourself facing one of these situations:

- *Soon to retire, you and your spouse have several cruises slated, and after that who knows where you'll go? But the recent market drops have called into question the*

very idea of ending your career. Whom can you trust to reassess your portfolio planning and keep your retirement capital working hard for you?

- *You're taking the job of your dreams, but it will mean extensive travel and 70-hour workweeks. Whom can you trust with managing your investment portfolio?*

- *The good news, says the doctor, is that the odds favor your complete recovery. The bad news is that it could take months, even a year, before you can resume your usual routine. Whom can you trust to tend to your investment program as faithfully as you have been doing?*

- *You've set aside substantial funds for your grandchildren and their children. Whom can you trust to act for you and carry out your plans?*

People with money to invest are often self-reliant, well enough informed to be

able to sort through sales pitches and make up their own minds. They follow the financial press and apply their life experiences as they weigh their investment decisions.

Sometimes people cannot be do-it-yourself investors. Sometimes they don't want to be. As the questions above indicate, in certain situations it's desirable, even essential, to choose an investment manager.

In making that choice, according to a recent survey of affluent families, more and more people are looking for a source of investment guidance that is objective and unbiased. Rather than being on guard for hidden agendas and conflicts of interest, they are looking for an arrangement that is, under the law, structurally immune to such a development.

That's the financial service that we offer.



“NEWMAN’S OWN” will and estate plan

Privacy after a public life

The last will and testament of legendary actor and philanthropist Paul Newman was released by the probate court in Westport, Connecticut, in late November. The document demonstrates a shrewd understanding and balancing of the value of publicity for a celebrity’s estate with the need for privacy for the celebrity’s family. When the rights to publicity will be used indefinitely in support of charitable endeavors, they need to be cultivated carefully.

The living trust

The cornerstone of the Newman estate plan, mentioned in the will, is the “Amended and Restated Living Trust Number One,” executed before the will. The terms of that trust were not published, nor what assets it holds. We do know that the living trust is the residuary beneficiary of Newman’s estate. That is, any property not identified and transferred specifically by the will passes to the trust. We know from a provision in the will that the living trust provides for Newman’s descendants, and that should such descendants be less than 35 years old at Newman’s death, separate trusts would be created for them. Finally, we can tell from the will that a marital deduction trust will be carved out of the living trust for the benefit of Newman’s

surviving spouse, Joanne Woodward. The will provides that the marital trust will be funded with Newman’s interests in production companies and the royalties and residuals due Newman from his acting career.

Newman’s will also mentions that he may provide a memorandum to his executors. The memorandum would suggest various gifts, but would not be binding on the executors, nor would it be published, securing additional privacy.

The publicly available documents do reveal part of what Joanne Woodward may receive, including the farmhouse in Westport and Newman’s personal effects. Other than the confirmation that provision has been made for descendants, there is no hint as to what the provision may be.

Right to publicity

Somewhat more detail is provided regarding the legacy to Newman’s Own Foundation, which will continue his philanthropic work. The Foundation will acquire all “Publicity and Intellectual Property Rights” of the Newman estate. He urged vigilance upon his executors in protecting his image after his death, hoping that his likeness would never be used in ways that he would not have approved of during his life, nor used to sell food products inferior to the current Newman’s Own line.

Newman specifically directed his executors to oppose any attempt at using his voice or likeness for any “virtual performance or reanimation performance by me by the use of any technique, technology or medium now in existence or which may be known or created in the future anywhere in the universe.” The prohibition does not extend to film restoration.

No contests, no adult adoption

Newman included a “no contest” clause in his will, which has become somewhat standard in high-profile estates. The provision states that any beneficiary who challenges the validity of the will, directly or indirectly, is immediately disinherited, treated as having died before Newman.

The will also provides definitions of “grandchild” and “descendants” that allow for adoption, but only before the adoptee reaches age 18. There have been notorious cases of “life partners” adopting each other as a means of securing greater inheritance rights, a possibility that Newman has cut off for his descendants.

What about your estate plan?

The exemption from federal estate tax jumped from \$2 million to \$3.5 million on the first of the year. That should be an occasion for many people to take another look at their own estate plans. If you haven’t met with your estate planning advisors lately, an appointment early in the year may be appropriate. □

Guarding your treasures

When the next natural disaster hits your part of the country, could your most prized possession be gone with the wind?

If you aren't up to speed on your insurance policy coverage, that answer sadly could be "yes." That's because a typical homeowner's policy covers the structure itself and the contents up to \$100,000. Many policies have a reimbursement cap on specific items, such as jewelry, furs and silverware. So if your great-grandmother's antique cutlery flies away or your Haviland china collection is rubble, you'll probably see no more than \$5,000 credited toward your loss.

Savvy people turn to a companion product that was, until recently, called luxury insurance—today's insurance agents prefer to say a valuable articles policy—to cover the gap. Insurance agents sell it regularly, and yet only about 50% of homeowners who need such coverage have ever heard of it. If you own jewelry totaling more than \$5,000; an extensive wine collection; fine artwork; an admirable collection of professional camera equipment; a serious coin or stamp collection; or antique rifles, clocks or dolls, you're a candidate.

Valuable articles policies come in two flavors: blanket coverage and individual riders. To determine your risk, make a list of your collections, hobbies, heirlooms and treasures. Next, list individual pieces and their values, based on physical receipts or independent appraisals. Sorry, but emotional value doesn't translate for these policies, which is why snapshots of your family on Christmas morning throughout the years won't qualify. If any piece weighs in at more than \$10,000, circle it as a candidate for an individual rider. Items worth less than the \$10,000 magic number can be grouped and insured under blanket coverage.

Either way, a valuable articles policy is first-line coverage for the items, so a claim won't affect your homeowner's insurance standing. Nor will an insurance company make you use your homeowner's deductibles or caps before it pays out on the luxury coverage. Many policies are written on an agreed-value basis, so you know ahead of time the final price to expect.

Like any insurance policy, the luxury coverage comes with its caveats and exceptions. Most exceptions—nuclear war, for example—aren't things that the average American anticipates. Common disasters such as theft, fire, wind or water damage (rarely flood) do trigger the policy's payout.

Pricing varies widely, as rates depend on local insurance risks and the items covered. In general, however, valuable articles policies are very affordable, costing from \$1 to \$3 per thousand dollars of coverage for fine art to \$14 to \$23 per thousand dollars for jewelry. □



In these uncertain financial times, many people are missing some sleep. Are you managing your investments, or does it sometimes seem that they are managing you?

Some folks are able to juggle careers, family responsibilities and investment management without breaking a sweat. They are a rare breed. If your portfolio management could benefit from the assistance of an experienced, unbiased and professional team, please call upon us. That's the kind of investment service that we provide.

Call our trust professionals for an appointment.

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