

WHITE KNIGHT CONSULTING LLC



CORPORATE OR PRIVATE TRUSTEE. WHICH IS BEST FOR YOUR FAMILY?

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When setting up a trust for your assets, one of the most important decisions you have to make is the selection of a trustee. You have the option of choosing an individual or organization that will make decisions regarding the implementation and interpretation of your wishes, as expressed in your trust documents.

One option is to choose a corporate trustee, such as a financial institution. Ideally, this offers the advantage of putting your trust in the hands of an experienced team who is familiar with the rules and regulations regarding trusts. A corporate trustee typically has substantial assets, facilitating a financial recovery should something go wrong with the oversight of your trust.

However, there are disadvantages, including potentially higher fees and the challenges of dealing with a bureaucracy should rapid decisions need to be made. In addition, there is the risk that they will interpret your wishes in a conservative manner to suit their point of view, exerting control of your assets in a manner you didn't anticipate.

There are also risks in choosing a private trustee to administer these assets. First of all, there is no test, license or training to serve as a trustee. As a result, wealthy individuals may choose a family member, friend or business associate to manage their trusts without regard for their skills, experience or understanding.

A private trustee may not adhere to the laws and rules, and thereby inadvertently put the integrity of your trust at risk. That could lead to financial or reputational consequences if someone challenges your trust. If a private trustee mismanages or even steals your money, you may not have legal recourse for recovery.

One solution is to find a private trustee who comprehends the responsibilities involved with administering a trust, as well as the personal liability associated with that role.

In addition to the legal side, it would be advantageous for a private trustee to have some understanding of the financial world and be willing to manage or oversee the trust's funds in a conservative manner. After all, a trust exists to preserve assets, not to make speculative investments like high-risk option trades that could jeopardize the trust's assets.

A private trustee also needs to follow the legal obligations regarding performance reporting, paying taxes and making distributions from the trust's income or capital. Choosing a trust and estate attorney as a personal trustee may mitigate some of these issues. It is also prudent to name a successor trustee, in the event of the death or disability of the initial trustee.



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One often overlooked solution for addressing some of these issues is to engage a “protector” to watch over your trustee. A protector can monitor the actions of your trustee as well as the trust’s financial performance. Usually, their responsibilities are limited to hire, fire and remunerate the trustee, as no one should be imprisoned in a bad marriage. A protector is initially engaged by the trust’s grantor and can be replaced by the beneficiaries after the grantor’s passing. They are an added protection to ensure the trustee correctly interprets the wishes of the grantor.

Whether you choose a corporate or a private trustee, you need someone in place to administer a trust in an appropriate legal and financial manner along with a protector to monitor those actions. We at White Knight Consulting offer years of experience in the financial industry and are able to provide these services to you and your family.

Samy Dwek is founder and CEO of White Knight Consulting LLC a Delray Beach firm that provides professional guidance and outsourced chief financial officer, chief operating officer services to high-net-worth individuals and families.

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