



The Value of a Competent Adviser

By Travis S. Anderson

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In a world where word-of-mouth referrals drive most attorney's practices, it is important to make sure that what is drafted is followed, so that as a document plays out, be it a death, GRAT, asset protection trust or SCIN, the client and his/her family recognize the work and value of what the attorney drafted. More often than not, people spend the money to draft trusts, wills, etc. only to shove them in the drawer and not follow the language in the corresponding instrument. This is where an adviser comes in.

Advisers who understand the estate planning world, can make sure the document and trust laws are followed. Having someone make sure that investments are prudent, and take into account both the remaindermen and current beneficiaries interests in the investment selection process is just one example. This proves to be very beneficial if the attorney or the client serve as the trustee.

It is not uncommon to see a person setup an asset protection trust, deposit assets, sign an affidavit, only to treat the trust as a savings account shortly after, depositing monies and withdrawing funds (via a trustee request) frequently. Usually the request is a stretch under the terms of the trust, and usually the trustee is a friend/family member who all-too-often obliges with the request no matter what. These actions often happen in an account that an adviser manages, and such actions put the trust into serious jeopardy.

Oftentimes gifts are given to others without notifying the attorney and CPA. And many times these exceed the annual gift limit. It is not uncommon for a patriarch to help a child to purchase a house, and use proceeds from an investment account to do so. Rarely is the gift reported to the CPA, but a competent adviser will spot this and make sure the CPA files a gift tax return. And good advisers will spot the gifts that are under the annual exclusion and make sure gift tax returns are filed, just to create a record and start any statute of limitations that may exist.

So what traits do you look for in order to find a competent adviser? Here are just a few:

- The adviser has previous experience as

an attorney, CPA or time spent at a corporate trust company. A seasoned professional that has a niche in this market is also acceptable.

- Work with an investment adviser that has a fiduciary responsibility to the client, such as an RIA or bank trust/adviser department. This is important in that they must put the client first, versus making sure a set of objectives are met. Oftentimes an objective can be met in multiple ways, but the cost and payment to an adviser can differ. An adviser with a fiduciary responsibility will have to take the cost into account.
- Does he/she have certain designations that require continued CE requirements such as a CPA, CFP or CTFA? Research the designations, there are plenty of investment designations that only apply to the investment side, and not the planning side.
- An adviser with a low (usually under 150-200) relationship count. Intricate estate work requires time, make sure the adviser has time to help focus on the client and his/her desires.
- An adviser that has experience with charitable trusts or charitable gift funds.

Building a trusting relationship with an adviser can help create a successful practice, but they need to be the right type of adviser. A successful relationship often leads to multiple referrals, and can lead to additional business as most advisers sit down regularly with clients to go over any life changes. These life changes, lead to codicils, new trusts, updated POAs, or an upcoming event where transferring wealth before the event (such as a business sale) needs to be handled.

Expect a good adviser to ask questions about your recipe, as they want to further understand the intent of the drafting. Since most advisers do not draft documents, it may be worth sitting down with the adviser to go over any questions they may have. Doing so benefits the attorney, the adviser, but ultimately, and most importantly, the client.