TAX AND WEALTH ADVISOR ALERT: WHAT SHOULD YOU DO IF YOU ARE NAMED TRUSTEE?

Perhaps a friend or loved one has recently passed away and has named you as the trustee of their trust. You may be wondering, “What does it mean to be a trustee?”

Your job as “trustee” makes you responsible for carrying out the terms of the trust. In a nutshell, think of this job as stepping into the grantor’s shoes and making the same decisions he or she would have if they were alive. The grantor likely chose you to be his or her trustee because they trusted you to take care of their loved ones and their finances after they died.

The trustee owes a fiduciary duty to the beneficiaries to put their needs above the trustee’s, protect and invest trust assets prudently, and treat beneficiaries fairly. This fiduciary duty means that the trustee must comply with the trust terms, as well as the applicable state and federal laws. By doing so, a trustee can avoid potential liability for breach of that fiduciary duty.

You can prepare yourself for the trustee’s role with the following overview of a trustee’s job.

Be Knowledgeable of the Trust Provisions and Your Responsibilities.

If you accept the role of trustee, it is important to understand the trust document and your responsibilities. The trust document will tell you what the grantor’s intentions were, who the beneficiaries are, and when they receive distributions of trust assets and under what circumstances.

You should consult with an attorney about your responsibilities and how to execute the terms of the trust in a timely manner. Take the trust document and any information you have about the trust assets to your meeting. To protect yourself from potential liability, do not sell trust assets or make distributions to the beneficiaries until you fully understand the trust document and your responsibilities.

Take Control Over the Trust Assets.

As trustee, you are responsible for managing the trust assets and need to take control over the trust assets. This means that you should contact the decedent’s financial advisor, accountant, and attorney to locate any trust assets. Next, work with the decedent’s financial advisor and banker to update the titles of assets to reflect that you are now the trustee. Make sure you collect any death benefits due from any life insurance policies, Social Security, or any other agency or association. Assets that were titled in the name of the decedent may be subject to a probate proceeding before they can be titled in the name of the trust. Once

assets are titled in your name as trustee, you have the ability to manage and invest the assets.

Create a Budget.

Make sure you understand the costs of administering the trust and that you have adequate liquidity to pay for taxes and other expenses. For example, a trust that owns real estate will need to pay for property taxes and any water, electric, and lawn maintenance bills to preserve its value.

Keep Accurate Records and Prepare a Trust Accounting.

You are responsible for keeping accurate records of all trust transactions. Many trusts require the trustee to give an annual trust accounting to the beneficiaries. The trust accounting will show the fair market value of all trust assets, earned income, taxes, and expenses, and any trust distributions. Keep all receipts, bank statements, brokerage statements, and closing statements on hand to help you prepare a trust accounting. Even if the trust does not require you to prepare a trust accounting, you will still need to keep records of all trust transactions to communicate your decisions to the trust beneficiaries and protect yourself from liability.

Invest the Trust Assets Wisely.

A trustee has a fiduciary duty to invest the trust assets prudently. It is often understood that this means that the trustee will invest the assets to achieve reasonable growth with minimal risk. Diversification is the key to ensuring a proper allocation of liquid assets, capital preserving assets, and income producing assets. An attorney and financial advisor can help you determine the proper investment allocation.

File Tax Returns.

You should work with an attorney and accountant to ensure that all tax returns are filed and paid in a timely manner, including the decedent’s final income tax return and annual trust tax returns. Finally, you should work with an attorney to determine whether an estate tax return is due. If an estate tax is owed, an estate tax return must be filed within nine months of the decedent’s date of death.

Trustee Compensation.

Trustees can be paid “reasonable” compensation for their services. You should consult with an attorney to determine what this means in your situation.

Distribute the Trust Assets.

Finally, the trustee is responsible for distributing the trust assets to the beneficiaries in the manner described in the trust document. For example, the trust could say that the trust assets are to be divided equally between beneficiaries and given to them outright, free of trust. Other trusts may provide that the assets be divided equally between the beneficiaries, but held in a separate trust share for each beneficiary's benefit. Each separate trust share will need to apply for an Employer Identification Number (EIN), file annual tax returns, and prepare annual trust accountings (if required) for the trust beneficiary(ies).

If you have any questions, please contact Kelly M. Spott at kelly.spott@wilaw.com or 414-276-5000.

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19 OCHDL LAWYERS SELECTED AS 2022 BEST LAWYERS®; ANOTHER 5 NAMED BEST LAWYERS: ONES TO WATCH

We are pleased to announce 19 of our lawyers have been included in the 2022 Edition of *The Best Lawyers in America,* and an additional five have been selected as 2022 *Best Lawyers: Ones to Watch*.

The following are the O'Neil, Cannon, Hollman, DeJong and Laing lawyers named to the 2022 lists:

Best Lawyers in America

- Douglas P. Dehler – Litigation – Insurance
- James G. DeJong – Corporate Law, Mergers and Acquisitions Law, and Securities / Capital Markets Law
- Seth E. Dizard – Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law and Litigation – Bankruptcy
- Peter J. Faust – Corporate Law and Mergers and Acquisitions Law
- John G. Gehringer – Commercial Litigation, Construction Law, Corporate Law, and Real Estate Law
- Joseph E. Gumina – Employment Law – Management and Litigation – Labor and Employment

- Dennis W. Hollman – Corporate Law and Trusts and Estates
- Grant C. Killoran – Commercial Litigation and Litigation – Health Care
- JB Koenings – Corporate Law
- Dean P. Laing – Commercial Litigation, Personal Injury Litigation – Plaintiffs, and Product Liability Litigation – Defendants
- Gregory W. Lyons – Commercial Litigation and Litigation – Insurance
- Patrick G. McBride – Commercial Litigation
- Joseph D. Newbold – Commercial Litigation
- Chad J. Richter – Business Organizations (including LLCs and Partnerships) and Corporate Law
- John R. Schreiber – Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law and Litigation – Bankruptcy
- Jason R. Scoby – Corporate Law
- Steven J. Slawinski – Construction Law

Best Lawyers: Ones to Watch

- Trevor C. Lippman – Litigation – Trusts and Estates
- Erica N. Reib – Labor and Employment Law – Management and Litigation – Labor and Employment
- Kelly M. Spott – Trusts and Estates
- Christa D. Wittenberg – Commercial Litigation

About Best Lawyers

Best Lawyers has published their list for over three decades, earning the respect of the profession, the media, and the public as the most reliable, unbiased source of legal referrals.

Best Lawyers: Ones to Watch recognizes associates and other lawyers who are earlier in their careers for their outstanding professional excellence in private practice in the United States.

Lawyers on *The Best Lawyers in America* and *Best Lawyers: Ones to Watch* lists are divided by geographic region and practice areas. They are reviewed by their peers on the basis of professional expertise, and they undergo an authentication process to make sure they are in current practice and in good standing.

FEMA LAUNCHES COVID-19 FUNERAL ASSISTANCE PROGRAM

Under the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 and the American Rescue Plan Act of 2021, the Federal Emergency Management Agency (FEMA) will provide financial assistance for COVID-19-related funeral expenses incurred after January 20, 2020.

FEMA estimates that qualifying families can expect reimbursements of $3,000 to $7,000 out of the program's total budget of $2 billion.

To be eligible for funeral assistance, you must meet the following conditions:

- The death must have occurred in the United States;
- The death certificate must indicate the death was attributed to COVID-19; and
- The applicant must be a U.S. citizen, non-citizen national, or qualified alien who incurred funeral expenses after January 20, 2020.

There is no requirement for the deceased person to have been a U.S. citizen, noncitizen national, or qualified alien.

FEMA will begin accepting applications for funeral assistance in April 2021. FEMA is still working out the details of this program, but encourages prospective applicants to start gathering the following documentation for the application:

- An official death certificate that attributes the death directly or indirectly to COVID-19 and shows that the death occurred in the United States;
- Funeral expense documents (receipts, funeral home contract, etc.) that include the applicant's name, the deceased person's name, the amount of funeral expenses, and the dates the funeral expenses happened; and
- Proof of funds received from other sources specifically for use toward funeral costs. FEMA will not duplicate benefits received from burial or funeral insurance, or financial assistance received from voluntary agencies, government agencies, or other sources.

If you have lost a loved one due to COVID-19 and have questions about the administration of your loved one's affairs, please contact Kelly M. Spott.

O’NEIL CANNON ELECTS KELLY M. SPOTT AND TREVOR LIPPMAN AS SHAREHOLDERS

O’Neil Cannon is pleased to announce that Attorney Kelly M. Spott and Attorney Trevor Lippman were recently elected as shareholders of the firm.

Kelly has been with the firm since 2017. Prior to joining OCHDL, she was an Advanced Planning Attorney at Northwestern Mutual. Kelly assists her clients with estate planning, succession planning, probate administration, trust administration, and inheritance litigation. She is licensed to practice law in both Wisconsin and Florida. Kelly maintains an AV rating from Martindale-Hubbell® and has been selected for inclusion on The Best Lawyers in America: Ones to Watch List.

Learn more about Kelly M. Spott by visiting her full profile.

Trevor has been with the firm since 2013 and is a member of the firm’s Litigation Practice Group. Trevor assists clients in a wide array of personal and business matters with a strong emphasis in litigation relating to wills, trusts, fiduciary disputes, and inheritance disputes. Trevor has recently been selected for inclusion on the Wisconsin Super Lawyers Rising Stars List and The Best Lawyers in America: Ones to Watch List.

Learn more about Trevor by visiting his full profile.

Both Kelly and Trevor are tremendous additions to the shareholder group, and we are proud to have them on our team.

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20 OCHDL LAWYERS SELECTED AS 2021 BEST LAWYERS®; ANOTHER 5 NAMED BEST LAWYERS: ONES TO WATCH

We are pleased to announce 20 of our lawyers have been included in the 2021 Edition of *The Best Lawyers in America,* and an additional five have been selected as 2021 *Best Lawyers: Ones to Watch*.

The following are the O’Neil, Cannon, Hollman, DeJong and Laing lawyers named to the 2021 lists:

Best Lawyers in America

- Douglas P. Dehler – Litigation – Insurance
- James G. DeJong – Corporate Law, Mergers and Acquisitions Law, and Securities / Capital Markets Law
- Seth E. Dizard – Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law and Litigation – Bankruptcy
- Peter J. Faust – Corporate Law and Mergers and Acquisitions Law
- John G. Gehringer – Commercial Litigation, Construction Law, Corporate Law, and Real Estate Law
- Joseph E. Gumina – Employment Law – Management and Litigation – Labor and Employment
- Dennis W. Hollman – Corporate Law and Trusts and Estates
- Grant C. Killoran – Commercial Litigation and Litigation – Health Care
- JB Koenings – Corporate Law
- Dean P. Laing – Commercial Litigation, Personal Injury Litigation – Plaintiffs, and Product Liability Litigation – Defendants
- Gregory W. Lyons – Commercial Litigation and Litigation – Insurance
- Patrick G. McBride – Commercial Litigation
- Thomas A. Merkle – Family Law
- Joseph D. Newbold – Commercial Litigation
- Chad J. Richter – Business Organizations (including LLCs and Partnerships) and Corporate Law
- John R. Schreiber – Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law and Litigation – Bankruptcy
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- Steven J. Slawinski – Construction Law

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- Erica N. Reib – Labor and Employment Law – Management and Litigation – Labor and Employment

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TAX AND WEALTH ADVISOR ALERT: ESTATE PLANNING DURING THE COVID-19 CRISIS–ENSURING YOUR DOCUMENTS ARE LEGALLY ENFORCEABLE

The estate planning team at O'Neil Cannon is safely helping clients create estate plans, or update existing estate plans, during this COVID-19 crisis. Estate planning documents must comply with Wisconsin's strict signing requirements to be legally enforceable. For example, some documents require two witnesses or a notary to witness a testator's signature. To date, Wisconsin's strict signing requirements have not been relaxed during the COVID-19 crisis. Therefore, it is important to keep in mind Wisconsin's signing requirements during these uncertain times. This post will give an overview of each estate planning document and Wisconsin's signing requirements.

Requirements to Sign a Last Will and Testament or Codicil

A valid Will in Wisconsin must be signed by the testator in the "conscious presence" of two non-relative, disinterested witnesses. Alternatively, Wisconsin does permit the testator to direct someone else to sign his or her name on the Will, but this person must do so in the "conscious presence" of the testator and two non-relative, disinterested witnesses. Neither the courts nor legislature have addressed whether witnessing a Will over video conferencing (like Zoom or Skype) would satisfy the "conscious presence" requirement to create a valid Will. Notarization is not required unless the Will contains a self-proving affidavit or

acknowledgment. Codicils to Last Will and Testaments are required to follow the same signing formalities as a Last Will and Testament.

Trust Signing Requirements

A Trust is a document that holds your assets on behalf of a beneficiary or beneficiaries and tells the trustee how to manage and distribute those assets. A Trust may be signed without a witness or a notary.

Certification of Trust Signing Requirements

A Certificate of Trust is a document that confirms the existence of a Trust. A trust certification must be signed or authenticated by any trustee of the Trust to be valid. A trust certification may be signed without a witness or a notary.

Marital Property Agreement Signing Requirements

A Marital Property Agreement is used to classify ownership of a married couple's assets and liabilities, as well as governs how each spouse's assets will be distributed upon his or her death. Wisconsin law simply requires both spouses to sign the Marital Property Agreement. Thus, a Marital Property Agreement may be signed without a witness or a notary.

Health Care Power of Attorney Signing Requirements

A Health Care Power of Attorney authorizes another person to communicate with your health care providers what medical treatments you do and do not want. A valid power of attorney for health care must be signed by two non-relative, disinterested witnesses, but it does not need to be notarized. It is unclear whether witnessing a power of attorney for health care over video conferencing (like Zoom or Skype) would satisfy the statutory requirements.

HIPAA Release Authorization Signing Requirements

A HIPAA Release and Authorization allows you to authorize other individuals to have access to your medical records. A HIPAA Release and Authorization may be signed without a witness or a notary.

Declaration to Physicians (Living Will) Signing Requirements

A Living Will allows you to state your preferences for life-sustaining procedures and feeding tubes in the event the person is in a terminal condition or persistent vegetative state. A Living Will requires you to sign in front of two non-relative, disinterested witnesses, but it does not need to be notarized. It is unclear whether witnessing a Living Will over video conferencing (like Zoom or Skype) would satisfy the statutory requirements.

Authorization for Final Disposition Signing Requirements

An Authorization for Final Disposition allows you to designate a friend or loved one to make funeral arrangements on your behalf. This document also allows you to state your preferences for final disposition and funeral service. This document can be signed in front of either (a) two non-relative witnesses or (b) a notary. It is unclear whether witnessing an Authorization for Final Disposition over video conferencing (like Zoom or Skype) would satisfy the statutory requirements, and online notaries have not been approved for estate planning documents.

Currently, our team is meeting our estate planning clients and prospective clients over teleconferences to ensure the safety of our community. After the initial consultation, clients are provided drafts of their estate plans for their review. When the estate planning documents are finalized and ready to sign, we are meeting our clients at their homes to witness and notarize their signatures through a glass door or window. Until Wisconsin authorizes electronic witnessing and notarization for estate planning documents, this process ensures that estate plans are properly drafted and executed during these uncertain times.

If you would like to create an estate plan, or review your current estate plan, please contact Attorney Kelly M. Spott at 414-276-5000.

TAX AND WEALTH ADVISOR ALERT: THE POTENTIAL IMPACT OF POST-VALUATION DATE EVENTS ON GIFT TAX VALUATIONS

When a gift is made, the fair market value of the gift must be determined for federal gift tax purposes. The fair market value of a gift is important to determine whether the donor's gift exceeds the annual gift tax exclusion amount ($15,000 per person per year in both 2019 and 2020), and if so, how much of the donor's estate tax exemption is being used. The gift tax regulations define "fair market value" as the price that a hypothetical willing buyer would pay a hypothetical willing seller, neither being under any compulsion to buy or sell, and both having reasonable knowledge of relevant facts.

Generally, gifts are valued "as of" the date they are given. In certain circumstances, however, an event that happens after the date of the gift must be taken into consideration. The IRS has recently reiterated this position in IRS Memorandum 201939002 (September 27, 2019). In this case, the donor gifted shares of a publicly-traded corporation, of which he was a co-founder and Chairman of the Board, to an irrevocable trust. The very next day, the

corporation announced a merger. The value of the donor's gifted shares increased substantially following the merger announcement.

Even though the merger was announced a day after the gift was made, the IRS determined that the pending merger must be factored into the valuation of the stock. The IRS pointed out that the merger had been negotiated for some time before the announcement and was practically certain to go through.

The IRS reasoned that information that a reasonable buyer or seller would uncover during negotiations would constitute "reasonable knowledge," and would consequently impact the fair market value of the shares. A hypothetical willing buyer is presumed to be "reasonably informed" and "prudent," which means they are assumed to have asked the hypothetical willing seller for information that is not publicly available. Therefore, a hypothetical willing buyer and willing seller, on the date of the gift, would be reasonably informed during negotiations over the purchase and sale of shares and would have knowledge of all relevant facts, including a pending merger.

It is important to remember that post-valuation date events may impact the fair market value of the gifted property for gift tax purposes. A post-valuation date event may be considered if the event was reasonably foreseeable as of the valuation date. Even an unforeseeable post-valuation date event may be probative of the earlier valuation if it is relevant to establishing the amount that a hypothetical willing buyer would have paid a hypothetical willing seller for the subject property as of the valuation date.

If you have any questions on how to value a gift, please contact O'Neil Cannon at 414-276-5000.

ARETHA FRANKLIN'S ESTATE: ARE HANDWRITTEN DOCUMENTS VALID WILLS?

Aretha Franklin's heirs are embroiled in a court battle due to several handwritten documents that the Queen of Soul wrote before her death. The issue at hand is: Are these handwritten documents valid wills under Michigan law?
Shortly after Aretha's death in August 2018, no will could be found, which meant that Aretha's assets would be distributed to her next of kin via Michigan's intestate law. Later, three separate handwritten wills were found in Aretha's home, leading to a dispute between Aretha's children in the Michigan probate court. One will was found in a notebook stashed under some couch cushions in Aretha's living room. The attorney for Aretha's estate

submitted these handwritten wills to the probate court, even though he questioned whether these handwritten wills were valid under Michigan law. The documents lack the usual formalities of a Last Will and Testament–some of the handwriting is difficult to read, some verbiage is crossed out, and some notes are penned in the margins of these documents.

The validity of handwritten wills is often questioned because it is difficult to know whether the decedent really did write the document, whether that document truly conveys the decedent's last wishes, and sometimes, what the decedent's last wishes were.

Michigan Law May Honor Aretha's Handwritten Will

In Michigan, the general rule is that a will is valid if it meets three requirements: (1) it is in writing; (2) it is signed by the testator or, while the testator is present, by another at the testator's direction; and (3) it is signed by at least two witnesses within a reasonable time after seeing the testator sign or after the testator acknowledges the signature. At first glance at this statute, it would appear the handwritten wills of Aretha drafted in private do not comply with the Michigan statutory requirements.

However, Michigan recognizes an exception to the will requirements under what is known as a "holographic will." A holographic will is an informal will that is handwritten and signed by the testator, but there is no witness requirement or the need for lawyer involvement, thereby forsaking some of the execution formalities required under Michigan law. Michigan simply requires a holographic will to be dated, signed, and that the material terms of the will are in the testator's handwriting.

For any of Aretha's holographic wills to be upheld the proponents of her will need to establish she intended these documents to be her last will and testament. Michigan courts will declare a holographic will valid only if it can be demonstrated by "clear and convincing evidence" that the testator intended the document to be the decedent's will. Aretha's intent can be proven by using outside evidence such as the nature of the relationships with her sons or even portions of the documents not in her handwriting. Aretha's intent may be difficult to prove, because of the informal and secretive nature of the handwritten wills. Even if Aretha's intent can be shown and a handwritten will is upheld by the court, a long and expensive court battle among her children will likely follow.

Wisconsin Law Does Not Allow Holographic Wills

Unlike Michigan, Wisconsin has taken a firm stance against holographic wills and will not uphold them as valid. In Wisconsin there are nearly identical will requirements to those in Michigan: (1) it must in writing; (2) the will must be signed by the testator or in the presence of the testator at the testator's direction; and (3) the will must be signed by at least two witnesses within a reasonable time after witnessing the signing of the will, after the testator's

acknowledgment of their signature on the will, *or* after the testator's acknowledgement of the will. What is not identical is Wisconsin's acceptance of holographic wills. If the controversy was taking place in Wisconsin, Aretha's handwritten documents would not be held to be valid wills and Aretha's estate would be distributed to Aretha's next of kin via Wisconsin's default intestate rules.

Estate planning can be a challenging and stressful process that all too often ends in disputes such as this. Wisconsin residents should meet with an experienced estate planning attorney to ensure his or her will is valid under Wisconsin law.

For estate planning assistance contact Kelly M. Spott at 414-276-5000 or kelly.spott@wilaw.com.

ATTORNEY KELLY M. SPOTT RECEIVES PEER REVIEW RATING™ FROM MARTINDALE-HUBBELL®

O'Neil, Cannon, Hollman, DeJong and Laing S.C. has received notification from Martindale-Hubbell that Attorney Kelly M. Spott has received a Martindale-Hubbell® Peer Review Rating™.

Kelly was given an "AV" rating from her peers–the highest rating–which means that she was deemed to have very high professional ethics and preeminent legal ability. Only lawyers with the highest ethical standards and professional ability receive a Martindale-Hubbell Peer Review Rating of AV.

Martindale-Hubbell conducts secure online Peer Review Ratings surveys of lawyers across multiple jurisdictions and geographic locations, in similar areas of practice as the lawyer being rated. Reviewers are instructed to assess their colleagues' general ethical standards and legal ability in a specific area of practice.

The Martindale-Hubbell® Peer Review Ratings™ help buyers of legal services identify, evaluate and select the most appropriate lawyer for a specific task at hand. The confidentiality, objectivity and complete independence of the ratings process are what have made the program a unique and credible evaluation tool for members of the legal profession. The legal community values the accuracy of lawyer peer review ratings because they are determined by their peers – the people who are best suited to assess the legal ability and

professional ethics of their colleague.

TAX AND WEALTH ADVISOR ALERT: HOW TO MAKE SPENDTHRIFT TRUSTS WORK FOR YOU

When we think of children blowing through trust funds, we often envision the rich and famous. The reality, though, is that everyday folks waste vast inheritances, too. Take, for example, Mary McClelland who, throughout her 20s, squandered her tri-annual $5,000 and $10,000 payments from her grandfather's investments on traveling and shopping and ran out of money by age 30.

Unfortunately, McClelland's story is far from unique. The Williams Group wealth consultancy estimates that 70% of wealthy families lose their fortune by the second generation; that percentage rises to 90% by the third generation.

If these cautionary tales and statistics scare you, they shouldn't—but they are excellent reminders of what could happen if you don't plan to pass down your wealth in a smart way. The good news is that if you'd like to pass down your wealth to your heirs but also want to make sure they won't fritter away your hard-earned assets, you have options, and spendthrift trusts just may be the answer.

What are spendthrift trusts?

Merriam-Webster defines "spendthrift" as "a person who spends improvidently or wastefully." Not surprisingly, this textbook definition is the origin of the name of the legal concept of "spendthrift trusts."

With spendthrift trusts, you as the creator can protect the trust's assets from creditors as well as from your heirs' potentially dangerous spending habits by placing certain conditions on the distribution of funds.

At its initial set-up, a spendthrift trust works like any other trust. You choose assets to place in the trust—money, property, etc.—and transfer them into it. You name a beneficiary, who is the person who will benefit from the trust. You must also name a trustee to manage the trust's assets.

With a spendthrift trust, you would include in the trust document certain restrictions on the beneficiary's receipt of trust assets. These conditions may involve the beneficiary having to reach a minimum age or achieving a life event, such as graduating college, before receiving

trust property. Alternately, you may decide that doling out smaller amounts of trust property at specified times (monthly, bi-monthly, bi-annually) may make the most sense for your situation.

The late actor and comedian Robin Williams, for instance, had set up spendthrift trusts for his children before his death. Under the conditions of the trusts, each of Williams' children is scheduled to receive shares of the trust at specified intervals: one-third at age 21; one-half of what remains at age 25; and the rest at age 30.

In any event, a spendthrift trustee has a fiduciary duty to the trust and is also obligated to act in the best interests of the beneficiary. The trustee acts as protector of the trust's assets both from creditors and the potential wasteful behavior of the beneficiary as well.

You may also choose to have the trustee make direct payments such as tuition and rent for the benefit of the beneficiary; this may be the best idea if you have serious reservations about how your heir will handle even periodic, smaller monetary distributions. After all, once the beneficiary receives the funds, there isn't a whole lot you can do to make sure they use the funds wisely. Indeed, once the money is out of the trust, it is no longer protected from creditors.

While you're still alive, though, you can discuss financial responsibility with your heirs to help ensure that your family avoids becoming part of the dire statistic of families who lose their wealth by the second or third generations.