

Six Questions to Ask Your Client If They Named a Family Member as Their Trustee



Picture this:

You've been working with a client for about a year and have a thorough understanding of their financial background, from retirement savings to real estate investments. You know they have an estate plan in motion, but you learn in one of your recent quarterly meetings they plan to name their brother-in-law (a successful attorney) as their trustee.

This should set off alarm bells for a few reasons. First and foremost, putting extended family in charge of something as serious and personal as an estate could get messy. We always recommend appointing a reliable and neutral third party. Consider this an opportunity to provide deeper value for your client and educate them on the option of a corporate trustee.

If you find yourself in a situation such as this and you're trying to determine the legitimacy of your client's personal trustee, ask them:



Can your trustee separate his or her personal feelings and interests from those of the beneficiaries and exercise good judgment at all times? While family members are closer to the beneficiaries and are more likely to understand their needs, using a sibling or spouse as trustee can exacerbate tensions and resentments among the beneficiaries.



Will your trustee treat all the beneficiaries impartially especially if, for instance, your children are not your spouse's children?



Does your trustee have the expertise to analyze investments?



Will there be temptation for your trustee to take undue risk in buying investments hoping for a hefty return? A relative with no trust experience may unintentionally abuse the trust and be liable for substantiated damages.



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A relative with no trust experience



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Will a child who is balancing his or her family and career have adequate time to devote to serving as trustee? Trustees are responsible for principal and income accounting, the trust tax return, bill-paying, discretionary distribution decisions, defending the trust in court, and handling real estate matters, among other tasks. If your family member really is a successful attorney, won't they be strapped for time tackling competing priorities and all of the above? A professional will always be there for you no matter what.

Trustees are responsible



for principal and income accounting



Have you considered naming your family member a co-trustee or trust protector? This way, you retain control over the "powers" of the trust and a level of comfort over some familial involvement.

It's only natural to rely on personal connections as we move through life. But when it comes to your clients' wealth, advocate that they consider a neutral third party who can dedicate the proper time and attention to their estate plan. Encouraging your client to lean on trust professionals at the beginning of their estate planning journey could help retain their family's faith in your services for years, or even decades, to come.

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When you work with Arden on a special needs trust, you can be sure you're connecting your client with a knowledgeable, compassionate partner.

Reach out to find out more and get started on working together.

Contact us at ardentrust.com or 888.803.7466.



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1. Disability Impacts All of Us <https://www.cdc.gov/ncbddd/disabilityandhealth/infographic-disability-impacts-all.html>

2. Special Needs Planning Statistics <https://specialneedsplanning.net/statistics>