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WHO SHOULD BE YOUR TRUSTEE?

I am often asked who would be the appropriate person or entity to serve as a trustee. There is no right answer, and it always depends on the specific circumstance for the family involved. This letter will provide you with a general checklist of pros and cons for consideration of an Institutional Trustee or an individual trustee.

Institutional Trustee - The Pros

1. Personnel in institutional trust departments are trained in trustee duties.
2. The Institutional Trustee generally is not emotionally involved with the beneficiary and therefore should not be swayed by personal feelings either favorable or unfavorable regarding a beneficiary.

Institutional Trustee - The Cons

1. For most people, Institutional Trustee's fees are the biggest drawback. These fees range generally from about 0.75% to 1.00% of the principal per year. Frequently the fees can be negotiated.
2. Institutional Trustees frequently are more cautious in the development and the implantation of the investment plan. This caution is driven by the Trustee's duties to be fair to the current beneficiaries and the remainder beneficiaries. (This might also be considered a pro.)
3. Institutional Trust Departments sometimes experience turn over and change in personnel.

Individual Trustee - The Pros

1. Oftentimes family members serve without charging a fee for his or her services. (Sometimes, however, you "get what you pay for.")
2. Unique assets may dictate a need for specialized knowledge by the Trustee (such as a specialty business), and a family member may possess that knowledge.

Individual Trustee - The Cons

1. Individuals often are not familiar with the duties of a Trustee.
2. Individuals often are not experienced with investing and handling administrative and accounting details.
3. Individuals often lack an understanding of fiduciary obligations, fiduciary accounting rules, and tax effects of decision.
4. Individuals often are subject to emotional pressures from family members.

MY RECOMMENDATION: There is no right or wrong answer as to the Trustee. The factors set forth above, as well as others, should always be considered in determining who would be the appropriate person or entity to serve as a Trustee.

RAINEY, KIZER, REVIERE & BELL, P.L.C.

William C. Bell, Jr.

This letter is intended to provide you with ideas for consideration in estate planning business. It is not intended to give a general solution applicable to all apparently similar individual problems, since slight changes in facts may require variance in legal advice. Please contact legal counsel with specific questions.