



ELDER LAW AND ESTATE PLANNING

Joseph Karp

Trustee of friend's estate overwhelmed, but need not resign

Question: My friend named me as trustee of his living trust. He died from cancer several months ago. The duties have turned out to be far more time-consuming than I ever expected. With my full-time job, I don't have the time to prepare accountings, take care of tax returns, answer phone calls from his beneficiaries. I'm in over my head. Can I resign? How do I do this?

Answer: As trustee you must ensure that all of the terms of your friend's trust are complied with, and that you comply with the law regarding your fiduciary duties. But are you aware that you do not need to handle all of these tasks *personally*? You can ease the burden by engaging the services of an estate lawyer who is familiar with trust administration. The trust administration lawyer can assist you along the way. After all, if you had to sell your friend's house, you would not be responsible for personally cleaning, painting, and spending weekends showing it to prospective buyers. You would hire others to do these jobs. The same approach applies to administering a trust.

You will also likely need the services of a certified public accountant to file tax returns on behalf of the trust and on behalf of the decedent, and possibly a financial adviser for

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advice on how to handle the assets, depending on how long they are to be kept in the trust.

If you remain set on resigning, check the trust document to see if it names a back-up trustee. If not, the trust may include information as to how another successor trustee may be appointed. If it does not provide instructions for that, you may have to go to court so that a judge can appoint your successor. The estate lawyer can guide you in this matter.

Joseph Karp, a member of the Florida and New York Bars, is a Nationally and Florida Bar Certified Elder Law Attorney and founder of The Karp Law Firm, located in Palm Beach and St. Lucie counties. The firm assists clients with wills, trusts, Medicaid and VA benefits planning, special needs planning, asset preservation, probate/trust administration and estate litigation.