

August 2010

Dear Clients and Friends:

Some people seem to think once they've set up their living trust, probate is automatically avoided and they don't have to pay attention to details. That is a big mistake.

Remember your trust only avoids probate on assets you register in the name of the trust. The registration that counts is the one in place at the time of your death. Many people have their assets correctly titled after working with their attorney in setting up the trust, but over time they get sloppy.

Here are some of the ways you can go wrong, even with a living trust in place:

- Not deeding real property back into your trust after completing a refinance
- Not designating beneficiaries on life insurance, annuities or retirement plans
- Using joint tenancy (the asset could be probated if all joint tenants are deceased)

California does offer an exemption from probate for small estates. If you add up all your assets which would otherwise be probated, if no real estate is involved and the total value is under \$100,000, there is a way for your heirs to collect the estate without probate. But it's so easy to go wrong. You could have \$40,000 in bank accounts with no designated beneficiary and \$65,000 in mutual funds, all titled in your sole name, and these items alone could trigger an expensive and time-consuming probate.

It's important to stay in touch with the rules that control what will happen upon your death or incapacity, and look at each of your assets separately to avoid mistakes. Make a point of meeting with your estate planning attorney every so often for a review!

Regards,



Charles M. Shackelford