

“Who Needs a Professional Fiduciary – and Why”

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The following scenarios are intended to highlight sample situations where a professional fiduciary could assist in the management of finances and personal needs, saving individuals and families financial loss and emotional distress. A fiduciary will also work to protect the vulnerable.

Scenario #1: Joan is recently widowed ...

Joan, an outgoing woman in her early 70s, was recently widowed. Her husband handled their financial affairs. She has two adult children, but they are busy with careers and families of their own, so although they would like to help Mom, the reality is that they are too busy to do so.

What should Joan do? The temptation will be for her to try to manage her financial affairs on her own, learning as she goes. She has less energy than she used to and, as time goes on, even less interest in “all of the numbers.” She knows that she needs to make certain adjustments to her lifestyle, but she is uncertain of where, how, or what to cut. Joan likes to travel occasionally to see her daughter and grandchildren who live out of state. When Joan is gone, the mail and the bills pile up.

Joan should consider hiring a professional fiduciary or a financial planner to assist her with her financial obligations, and to create a plan for her, based upon her remaining assets, interests, and projected life style wishes and needs. “On the job” training will be too much of an effort, and it will take too long for Joan to acquire the needed expertise, experience and judgment to make the highest quality financial decisions that will benefit her the most, and ultimately her children via their intended inheritance. She should strongly consider hiring a professional fiduciary who can assist her and recommend a team of other qualified financial advisors.

Scenario #2: Sue suffers from depression ...

Sue is a divorced mother of three who has not remarried. She was diagnosed a few years ago with mild to moderate depression. Her family knew long before the official diagnosis. She wants to pay her bills, but suffers from long periods of disinterest in the details of daily living. During these periods, her bills stack up unpaid. Her children love her, but from a distance, both emotionally and geographically. The nearest child lives 40 miles away. Sue has other health issues, and is likely in the early stages of Alzheimer’s; however, she really believes that she is just fine. All of her other friends have issues too, she reasons. She also has Parkinson’s disease, but refuses to stop driving, in spite of her deteriorating coordination.

Sue is suffering from denial. She is unable to manage her ongoing personal affairs, including her financial affairs. Her diet is suffering because she no longer has the energy to shop

for and prepare the ingredients required for balanced meals. Sue enjoys her wine, daily, and consumes a bottle or so most evenings, by herself. If there is no wine, she drinks vodka, straight. Drinking helps her escape the loneliness and deal with the pain of her arthritis and her back.

Various people seem to come along just when she really needs them. To a family friend, who helps her with errands, she gives her PIN (personal identification number) to her checking account, so this person can run errands for her. Sue doesn't realize that she is getting taken advantage of monthly because she never checks her bank statements. Another relative stranger says he is attracted to her, but is 15 years her junior, is unemployed, and has no discernible source of outside income. They met at a restaurant. She told him that she was all alone, and he befriended her. Sue invited him over to her house for a drink. Now he shows up with little or no notice. She enjoys giving him handouts because she is a charitable person. He keeps asking for increasingly more money each time. The grown children are not around to see what is going on. The neighbors realize that she is a kind but imbalanced person, who is vulnerable to scams. Now her emerald cut diamond ring is missing as are other pieces of jewelry. Her dental health is also deteriorating because she is not seeing a dentist regularly. Soon, all her teeth will be gone. Sue is feeling better, so she stops taking her anxiety and depression medication.

Sue likes to smoke. One night she falls asleep smoking. The cigarette is right next to heavy drapes. The house catches fire, but somehow the fire does not spread to the neighboring homes. Sue narrowly escapes, but the house burns nearly to the ground and her pets die in the fire. Sue's children finally intervene, but when they make a claim with the family insurance agent, he notifies them that Mom failed to pay the premium, and that therefore there are no insurance proceeds to rebuild the house. There was no one of record for the agent to notify about nonpayment of the premiums because Mom was both proud and stubborn, and she didn't want any interference with her affairs.

Her children want to help, but Sue is not on good terms with their spouses. Rather than hiring a professional fiduciary, the younger generation adopt a posture of benign neglect in order to avoid the mounting stress caused by Sue's refusal to follow any of their suggestions. Sue's plight was causing all of them marital discord.

All of this could have been avoided – the rip-offs, the con artist and the fire in the house, as objectively Sue had long since passed the point where she was able to live safely alone. Instead, she should have been living in a senior apartment, in a safe environment with staff to prepare meals, administer medications, look in on her, and take her to her doctor's and other appointments. A conservator of the person, and of the estate, should have been appointed. None of her children wanted to serve in that position due to the strain on their marriages. In this scenario, a professional fiduciary should have been nominated to manage Sue's affairs for her. The failure to appoint a conservator had increasingly devastating consequences, including the

loss of all of her net worth, preventable and premature declines in her health, and increasing risk of injury to her and those around her.

Scenario #3: Jim needs a short-term special power of attorney ...

Jim is a happy go lucky fellow in his early 60s. He cares for his wife who is seriously ill and requires daily care. His adult daughter from his first marriage lives on the East coast. There are no other children. Jim's wife has never handled the couple's financial affairs.

Jim decides that, before he goes in for surgery which requires a long recovery time, a professional fiduciary should be appointed. He researches the qualifications and professional experience of some fiduciaries and decides to give one a special power of attorney for a limited scope and purpose. Much of the couple's life savings are in CDs, and several of the larger ones will roll over right after his surgery. Jim explains their investment objectives to the fiduciary. He would like to achieve a greater return, but without taking on too much risk of loss of the principal. The fiduciary suggests that Jim rebalance their portfolio, add some bonds for income, and pick some mutual funds. Jim also decides to buy a few stocks that pay dividends, although the fiduciary explains that those dividends will be taxed at the rate of ordinary income, rather than at the capital gains rate in 2013. Once Jim recovers completely from the surgery, he revokes the power of attorney, but he remains in contact with the fiduciary as a "back-up" in case he needs to call on him again.

Scenario #4: Carrie wants to escape conflicts with siblings inherent in selling assets upon the death of their parents ...

Carrie was appointed the executor of her parents' estate. She has a brother, Tom, who has been out of work for over a year, and a sister, Ann, who is married and a well off surgical nurse. Carrie just had twins and she plans to return to work as soon as she is able. The estate has stocks, bonds, real estate, and collections of coins and old firearms.

Carrie realizes that the value of certain items in the estate is artificially low because of the difficult economy. She and Anne would prefer to wait until the markets recover to sell the house and the collections. On the other hand, Tom needs cash, and he needs it now. Carrie is in a position of conflict and she does not want to strain or ruin her relationship with Tom and his children, or her nieces and nephews. So, Carrie contacts a fiduciary to serve as the successor trustee under her parents' trust. That way, Carrie can be relieved of making decisions about the timing and amount of estate assets to be liquidated. The fiduciary contacts a financial advisor who counsels that in view of the recent run-up in the stock market, some of the stocks should be sold to generate cash for Tom and his sisters, but that the dividend paying stocks would not need to be sold for at least three years and will provide an income stream meanwhile.

Scenario #5: Eric has a mistaken impression that he will inherit from his mother who died prematurely of cancer ...

Jane is in her 40s and develops cancer that is ultimately fatal. Although she has health insurance, the expenses of her illness are substantial. Upon her death, her house is sold and after payment of expenses, there is little of value to distribute to Jane's son, Eric. No one advises him of that. On his 30th birthday, six years later, he expects a payout, but Jane's father, who is Eric's grandfather, has to tell him that there is nothing left in the estate to distribute. Eric's expectations were not met, and he has a lingering suspicion that he was cheated and that monies were squirreled away. Family relations suffer badly over the years. Eric's daughter even gets wind of the conflict. Had a fiduciary been appointed, the required annual accountings would have conclusively demonstrated to Eric that, in fact, there were no proceeds to be distributed to him. Family harmony would have been preserved among all three generations.

Scenario #6: Stan just can't stop spending ...

Stan is living on a fixed income, but has moderate savings, some from work and the sale of his house, and some from an inheritance. Stan is kind hearted and loves to take friends out to dinner and to expensive concerts and sporting events. One day, Stan realizes that his spending patterns are eroding his savings to the point where he will exhaust his nest egg long before he passes. Stan contacts a fiduciary, who, with the assistance of a financial planner, helps Stan prepare a budget. Stan agrees to have the fiduciary release an agreed amount monthly to him so that he can stay on track and not continue to overspend to his financial peril.

Scenario #7: Dave is a drug and alcohol abuser ...

Dave is in his early 20's and is addicted to prescription drugs. He also abuses alcohol and smokes pot several times a week. Not surprisingly, Dave's parents have done everything in their power to help Dave change course, but nothing has worked. There have been countless arguments, ruined holidays, and tense family get-togethers. If Dave bothers to show up at all, he is stoned, high, drunk or otherwise "out of it." Last Thanksgiving, Dave, his younger sister and their Dad really "got into it," so much so that neither has spoken to Dave since then. The family is simply out of options and patience with Dave. Their frustration level is dangerously high.

To lessen family friction, and try another approach, the family decides to hire a professional fiduciary. Dave is in and out of jobs, and his family is willing to make up the difference so he can live with a roommate. The fiduciary works separately with Dave and with the family to draw up a mutually agreeable budget. Now, when Dave meets certain criteria (active job search, sober interval) he can contact the fiduciary, as needed, for dispersal of funds. The family is spared of ugly scenes; Dave is relatively content with the arrangement; and the fiduciary acts as a sorely needed emotional buffer between Dave and his family until Dave matures and changes his narcissistic ways.

Scenario #8: Rita is a person with special needs ...

Rita is in her middle thirties. She has a mild cognitive impairment and is unable to handle money independently, although she is able to be self-sufficient in her daily living activities. She does not require institutionalization. A group home would be an option, but Rita would prefer to live in a small apartment. A sister who lives in the area visits when she can, but she cannot be there on a consistent basis. Rita could benefit from the services of a professional fiduciary to assist her periodically with her overall needs. That way she can enjoy an optimal level of independence without compromising her physical or financial safety. The fiduciary will provide periodic accountings to assure that scarce funds are spent wisely. The family will be spared of needless anxiety and feel confident because the fiduciary will look after Rita's needs on a regular and coordinated basis.