



KAYLEIGH COWSER, ESQ., DIRECTOR, TRUSTS AND ESTATES

ESTATE PLANNING: UNDERSTANDING THE LINGO

BY KAYLEIGH COWSER, ESQ., DIRECTOR, TRUSTS AND ESTATES

Most people don't like to talk about death, especially their own. It's inevitable but is a subject that tends to be avoided until the last possible minute and sometimes is never spoken about. People put in lots of time and effort to craft investment plans to maintain and build their wealth to care for themselves during their lifetime; but as important as having best plans in place during one's life is understanding what happens when one dies and to make certain goals will be accomplished.

WHAT IS A "CORE ESTATE PLAN"?

There are four essential documents to a core estate plan—Financial Power of Attorney, Health Care Power of Attorney, Living Will, and Last Will and Testament. We recommend that everyone over 18 have a core estate plan in place. Estate planning documents should be executed according to the laws in the state in which one is a resident. Also, utilizing a revocable trust as part of a core estate plan is smart but not an essential.

Powers of Attorney ("POA")

A Financial Power of Attorney ("Financial POA"), Health Care Power of Attorney ("Health Care POA"), and Living Will are estate planning documents that are used while you are living but incapable of making informed decisions for yourself. There

CLEARSTEAD CONTINUES TO BOLSTER TEAM WITH NEW TALENT

We are pleased to announce that we have added talent to the Research & Investment Management, Administration, and Reporting & Operations teams with Haley Schubert, Sarah Richter, and Kyle Shuki, respectively.

Haley Schubert has joined Clearstead as a Portfolio Manager. She has spent the past four years at PNC in various roles including Fiduciary Analyst, Sr. Investment Analyst, and Investment Advisor. Haley received a B.S. in Finance and Accountancy from Miami University and is a level III CFA candidate. In addition, Haley serves as Treasurer on the Rainbow Babies and Children's Hospital Foundation Associate Board.

Sarah Richter has joined Clearstead as a Staff Accountant. Sarah has spent the past six years at Tri-C as an Accountant Analyst and most recently as a Budget Analyst. Sarah has a B.S. in Accounting from Grove City College and is a CPA.

Kyle Shuki has joined Clearstead as a Performance Analyst. Kyle recently graduated from Miami University with a Bachelor's

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are situations in which a POA can be used when you are competent but, need an agent to act on your behalf, such as selling a home when you are not available for the closing.

A POA names the agent, or agents who will act on your behalf and explains when the agent may act and what actions the agent may take. Typically, an agent will be able to perform tasks and make decisions you would normally do for yourself. It is a big decision as to who should serve as your agent. You could name an individual agent, or you could name co-agents, who would act in tandem.

You may want to choose the same agent for your Financial POA as your Healthcare POA or you may want to have different agents for each. Many people choose family members or close friends. Some people do not want to involve family and may choose a trusted advisor, such as a lawyer, financial advisor, or doctor. Whoever is selected, it is necessary to have a conversation with that person to make certain they are capable of serving.

For married couples, spouses typically are one another's agents and name the same backup agent; however, married couples do not have to name each other as their agent and do not have to have the same backup agent.

There are multiple decisions which need to be made when executing powers of attorney. Every state has its own regulations. These regulations include the kind of activities the agent may perform, protections given to you, and how documents must be executed. You should always execute your powers of attorney in the state in which you are a resident, however, if you spend a substantial amount of time in another jurisdiction you should execute powers of attorney in that state also; for example, if you are an Ohio resident with a second home in Florida and spend time there every month. Because you are in Florida so often you should have powers of attorney executed under Florida law as well as Ohio. Additionally, whenever you move and take residence in a new state, you should execute new powers of attorney.

If you do not have powers of attorney in place, and the time comes that you are unable to act for yourself, the court will become involved to appoint a guardian to act on your behalf. This can be timely and costly, and the court will be responsible for removing the guardian when you are able to act for yourself again. You also will have no say in whom the court appoints.

- **Financial FPOA** - A Financial POA allows your agent to manage your financial affairs. Your agent has the ability to pay bills and perform tasks such as gifting to family and non-family members, selling or purchasing a home, creating a trust, or managing a business. One thing your agent will never be able to do, however, is alter your Last Will and Testament. It is possible to execute what is known as a Limited or Special Power of Attorney. This document allows an agent to act on your behalf for a limited reason, usually regarding a business interest. In this situation, the agent named as the Limited Power of Attorney is not the same agent named to handle day-to-day finances. You need to discuss, in detail, what your state specifically gives your agent the right to do and if it is prudent to limit or expand those

degree in Finance. During school, he held an internship at Skylight Financial Group as a Financial Planning Intern.

These changes underscore the firm's commitment to building its investment consulting practice, promoting the next generation of leadership, and maintaining a rigorous investment process.

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rights, if possible. You have these options to make certain your financial affairs run smoothly and efficiently, the way you would handle them if you were capable. Once you execute a Financial POA, it will not expire unless you pass away, or intentionally revoke the document. Alternatively, though not typically used, you are able to add express termination dates, typically used in situations in which friends or ex-spouses have been named and it is extra protection that the document will not be valid and they will not be capable of continuing to serve as your agent.

- **Living Will** - A Living Will allows you to make important medical decisions about the way you will be treated while incapacitated due to terminal illness or injury. A Living Will involves decisions related to end-of-life care only and does not include decisions related to continued life care, such as routine medical care. This usually means you are in a permanent vegetative state or are considered brain dead. Most states require at least two physicians to agree you are in such a state and there is no realistic chance of recovery. By executing a Living Will, you have the opportunity to make decisions about life sustaining care you wish to have, such as feeding tubes, medications, or the use of medical machinery or medical techniques. You will also be able to make certain your health care decisions coincide with specific beliefs or wishes, such as being an organ donor. A Living Will never affects palliative care; medications and treatments that aid in the alleviation pain. Some states have the option to make choices regarding psychiatric care. In any case it is important you understand the implications of your decisions and prudent to discuss these decisions with your primary care physician. Once you execute a Living Will, it will not expire unless you pass away or revoke the document. If you do not discuss your decisions or let someone else know where you keep your Living Will, you should have copies sent to your physicians to keep as part of your medical record or carry a copy so your decisions will be respected.
- **Healthcare POA** - A Healthcare POA allows your agent to make all medical decisions while you are incapacitated. Medical decisions can relate to non-life threatening and routine medical care or end of life care. You may be deemed incapacitated due to unconsciousness or lack legal capacity. A Healthcare POA is important because when there is a medical crisis, families do not always agree, and the doctor will know to whom to listen and can act quickly. Once you execute a Healthcare POA, it will not expire unless you pass away or revoke the document.
- **Last Will and Testament** - A Last Will and Testament allows you to distribute the assets of your probate estate in the manner you choose. It must be noted that there are certain laws in most states that prevent you from completely disinheriting your spouse and, in a few states, your children. If you do not have a Last Will and Testament, your estate will be distributed in accordance with the intestacy law of the state you are resident. Sometimes, the laws aren't necessarily what you assume. For example, in Pennsylvania, if you are married with one shared child and pass away, your surviving spouse will be entitled to the first \$30,000 and then half of the remaining estate and your child is entitled to the other half. In Ohio, with the same situation, your surviving spouse inherits 100% of your estate. In addition to being able to designate to whom your probate assets go, you are able to decide how they are received. Assets can be received outright or placed in a trust. This type of trust is called a testamentary trust and sets forth the terms regarding how and when a beneficiary can access assets, and if the assets will be distributed directly to the beneficiary. You also can name a trustee for the trust. If you have minor children, your Last Will and Testament should name a guardian in case you predecease your spouse. You will also be able to designate who will receive your personal property, such as a family heirloom or engagement ring or an antique table. In all states, this document will be referred to as a Last Will and Testament, but some of the requirements for validly executing the document may vary. Once you execute a Last Will and Testament it does not expire; it only can be revoked by executing a new Last Will and Testament or by physically destroying the Last Will and Testament with the express purpose to make it invalid.
- **Revocable Trust** - A Revocable Trust is created during your lifetime. The trust can be changed or revoked at any time while you are living but only by you. By creating a Revocable Trust, you are known as the grantor and can also serve as the Trustee. You, and potentially your spouse, will be the beneficiary of the trust during your life. This means that any and all of the assets in the trust can be used for your benefit. When you pass away, you still will be known as the grantor, but your named successor will become the acting trustee, and your named beneficiaries will be entitled to the assets of the trust. You can place a variety of assets into the trust such as checking accounts, brokerage accounts, real estate, and even vehicles. When you pass away, you will be able to designate the beneficiaries of the trust. You are also able to determine how the assets will be distributed, either outright or kept in trust. When you pass away, if you choose to keep the assets in trust for a beneficiary, the trust will become irrevocable, which means the successor trustee and

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beneficiaries will not be able to change the terms of the trust or revoke the trust. You will be able to create the terms of the irrevocable trust, such as how much of the assets the beneficiary can access, when the beneficiary can access these assets, and if the assets will ever be given directly to the beneficiary. Upon your passing, a revocable trust is considered non-probate property. Therefore, any asset you place in the Revocable Trust will not be governed by your Last Will and Testament. Once it is executed, it does not expire; however, you have the right, at any time to amend or revoke the trust. As with all estate planning documents, every state has its own rules and regulations as to what is necessary to properly execute the document.

HOW ABOUT ADVANCED ESTATE PLANNING?

Once your core estate plan is in place, your team (investment advisors, financial planners, accountants, and attorneys) and you may determine it is best to implement additional estate planning tactics. Many of these additional documents are ways to effectively remove wealth from your estate to avoid inheritance and estate taxes upon your passing. There are a multitude of reasons this may be advantageous for you and there are even more ways to accomplish these goals. Some examples include:

- **Irrevocable Life Insurance Trust (ILIT)** - An irrevocable trust that holds life insurance policies and will be used to pay life insurance premiums. Upon passing, the proceeds of those life insurance policies will be payable to the ILIT. Typically, your spouse, children, or grandchildren are the beneficiaries of the ILIT during your lifetime and after you pass away.
- **Spousal Lifetime Access Trust (SLAT)** - An irrevocable trust set up for the benefit of your spouse and potentially your children or grandchildren during your lifetime. Upon passing, your named beneficiaries will remain as beneficiaries of the SLAT.
- **Irrevocable Family Trust** - An irrevocable trust that can be set up for anyone other than yourself. Typically, parents may establish this for the benefit of their children or grandparents may set this up for the benefit of their grandchildren. You will set up terms of the trust to benefit the beneficiary during and after your lifetime.
- **Qualified Personal Residence Trust (QPRT)** - An irrevocable trust that is established for a set number of years to hold real estate you own that you are certain your children will want to inherit. The benefit of this trust is a valuation discount is given for estate gift tax. Once the trust terminates, your children will own the real estate.

Again, these are just a few the potential advanced estate planning techniques that are available to you and should be taken on after you have established your core estate plan.

FINANCIAL ADVISORS – THEY HELP!

A financial advisor should serve as one of your key team members who help you develop an estate plan that fits your goals. A financial advisor also helps with coordinating the creation of the documents listed above, coordinating with other external advisors involved in the estate, and offers financial guidance to family members when the time comes. Clearstead has an experienced team of estate planning professionals who are expert in these areas and can answer any questions you may have on these topics.

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Performance data shown represents past performance. Past performance is not indicative of future results. Current performance data may be lower or higher than the performance data presented.

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MARKET BENCHMARK RETURNS

May 31, 2021		1M	3M	12M	YTD
US Large Cap	S&P 500	0.7%	10.7%	40.3%	12.6%
US Small Cap	Russell 2000	0.2%	3.3%	64.6%	15.3%
Developed Intl	MSCI EAFE	3.6%	9.2%	38.9%	10.4%
Emerging Intl	MSCI Em Mkt	1.1%	2.1%	49.3%	6.0%
Real Estate	NAREIT	0.8%	14.6%	34.2%	18.0%
Core Fixed	BarCap Agg	0.3%	-0.1%	-0.4%	-2.3%
Short Fixed	BarCap 1-3Yr	0.1%	0.2%	0.8%	0.2%
Long Fixed	BarCap LT G/C	0.8%	-0.9%	-3.8%	-7.9%
Corp Debt	BarCap Corp	0.7%	0.2%	3.3%	-2.7%

Source: Bloomberg

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