

Hoopes, Adams & Alexander, PLC

BUSINESS LAW • LITIGATION • ESTATE PLANNING

Avoid Putting the Wrong Person in Charge of Your Life

Don't make the mistake of viewing estate planning as a post-death issue; with the right person taking care of you and your affairs, the value of a well-drafted Trust will likely become evident while you are still able to experience its benefits

While the estate planning strategies we suggest to our clients are generally not influenced by the actions of courts in foreign countries, a recent case in France offers a vivid example of the potential nightmares of inadequate planning.

As this story illustrates, poor planning can strike even the most privileged of families: In 2010, L'Oreal heiress Liliane Bettencourt, ranked that year by *Forbes* magazine as the world's 15th richest person, suffered from failing health. Incredibly, despite her vast financial resources, she had made no plans for how she and her affairs would be cared for in the event of her incapacity. When she was diagnosed with Alzheimer's disease, a judge ordered her to be placed under the guardianship of her daughter and two grandsons.

FAMILY FEUD

While naming an adult child as her guardian would generally be viewed as a reasonable decision, in this case the judge made his ruling despite the fact that Mme. Bettencourt and her daughter were estranged and had engaged in a series of well-publicized lawsuits against each other over disputes involving Mme. Bettencourt's spending. (Their fight for control over the family fortune had the daughter claiming that Mme. Bettencourt was mentally unfit to manage her money. The aging matriarch is thought to have given a celebrity photographer about a billion Euros worth of gifts and made illegal political donations.)

Without weighing in on who was better equipped to handle Mme. Bettencourt and her affairs, it goes without saying that her daughter was probably the last person she wanted to manage her life and her finances.

THIS COULD HAVE BEEN AVOIDED

If Mme. Bettencourt had simply created a Living Trust, this sensitive battle within her family over her spending would likely have never been heard in a public venue, and the resolution regarding her care and asset management would have reflected her wishes.

As you compare your situation and options to those of a multi-billionaire, focus on what you have in common. In Mme. Bettencourt's case and in yours, a Living Trust allows for the naming of a Trustee – or, at the very least, the opportunity to inform an otherwise

unenlightened judge of your first choice for a Guardian or Trustee in the event of your incapacity.

Don't make the mistake of viewing estate planning as a post-death issue; the value of a well-drafted Trust will likely become evident to you while you are still able to experience its benefits.

Consider these important guardianship-related questions:

Have you decided whom you will want to manage your affairs in the event you become incapacitated?

Whom do you really trust?

Do you have any relatives who might wrongfully accuse you of being unfit?

Do you have any other relatives whom you wish to rule out as potential guardians?

These are vital questions that, if thoughtfully and properly addressed now, can avoid uncertainty – and erroneous court decisions – at a time of your life when certainty is at its most precious level. •