



## "I Hate Banks" A Love Story

We often hear this phrase during our estate planning with our clients when the subject of who will serve as trustee of their trusts comes up. Client's objections to using a bank or other professional trust company (we'll call them all "banks" for simplicity's sake) as the trustee of their trusts (almost always based on a complete lack of accurate information or experience) usually include: banks are too expensive; banks are too impersonal, they don't know my family and therefore won't be able to make sound financial decisions on their behalf; banks change trust officers all the time; and banks produce below-market returns. Based on these inherent biases, clients almost always suggest using a family member (the oldest child, Uncle Charley, etc.), a close friend, or a business associate. Sometimes these are good choices, but most often, they are not.

The duties required of all trustees include:

- Sending notices needed at different times to different beneficiaries
- Providing particular beneficiaries with annual accountings of every trust transaction (investment purchases and sales, basis and market value of each trust asset, distributions to beneficiaries)
- Filing income tax returns for the trust annually
- Reporting to the beneficiaries the portion of the trust's earnings to be included on their income tax returns
- Formulating and implementing a cohesive investment strategy that prudently considers the needs and legal rights of all income and principal, current and future, beneficiaries
- Interpreting directions of the trust regarding appropriate and timely distributions to the beneficiaries

- Hold beneficiaries accountable for trust-imposed lifestyle requirements (drug testing, employment, etc.)

Few individuals are qualified to perform all these duties, but most don't even want the responsibility (not to mention the potential liability for failing to fulfill them). And the bank will always be there, rain or shine, unlike natural persons who might be absent or worse.



There is no adequate substitute for a professional trustee when their expertise is needed. And for all they do, they are fairly compensated when you consider their fees generally reduce the trust's income by only about 1% of the value of the trust assets.

Considering all this, you can see that even Uncle Charley could come to love a bank!

Don't hesitate to contact your Carlile Patchen & Murphy lawyer or any member of our estate planning team for advice on when it might be appropriate for your estate plan to include a professional trustee and help find the right one for you.