

# NOREEN A. MURPHY

ATTORNEY AT LAW

## ADMIRABLE ADMINISTRATION

Question. If today were your last, how would you be remembered regarding your estate planning? Would it be for *leaving a mess* for others to clean up, or would it be for leaving a thoughtfully drafted, thoroughly implemented and carefully maintained plan so your appointed fiduciaries could smoothly administer your estate?



*Finishing well*, in terms of your estate planning, is the focus of this article, as we review general responsibilities fiduciaries assume when administering an estate. Accordingly, you may want to share it with them while there is still time to discuss your wishes.

### The Three Phases

Upon your death, the *post-mortem* (i.e., after death) responsibilities of your appointed fiduciaries fall into three phases of estate administration. Whether under your Revocable Living Trust-based plan or under your Will-based plan, these responsibilities are to:

1. Collect and manage your assets;
2. Pay your debts, taxes and expenses; and
3. Administer and distribute your assets for the benefit of your named beneficiaries.

Note: Your fiduciaries should seek appropriate legal counsel throughout each of these three phases to ensure that all of the “i’s” are dotted and the “t’s” are crossed.

### Collection & Management

Without delay, the first responsibility of your fiduciaries is to protect and preserve your assets. This includes taking an

## INSIDE

Have you appointed trusted family members, friends or professionals to serve as the fiduciaries of your estate plan upon your death? If so, our front-page article is a must-read as we review some of the responsibilities (and liabilities) they will face.

Every youngster, at one time or another, dreams of going on a *treasure hunt*. However, the fiduciaries of your estate will not find inventorying your assets to be nearly as exciting. Read our page three article for tips on making their job easier (and less expensive).

inventory of the assets, insuring and safeguarding them, as well as determining their values as of your date of death. Make sure your fiduciaries know where you keep your asset inventory, as well as the account statements, certificates and titles to back it up.

If you have a *funded* Revocable Living Trust along with up-to-date records of the trust assets (and their respective values), then you will greatly ease this initial burden on your fiduciaries.

Even if you do not have a Revocable Living Trust-based estate plan, maintaining current and accurate financial records

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can save your fiduciaries considerable time (and therefore money) in fulfilling their Collection and Management responsibilities.

## Debts, Taxes & Expenses

Once your assets have been collected and are under management, the fiduciaries must arrange for the payment of your just debts, your tax liabilities and any expenses associated with the post-mortem administration of your estate. Again, time is of the essence.

Consider this: estate tax returns must be filed within nine months of death, and many post-mortem planning opportunities, such as *disclaimers* and certain *elections* (e.g., QTIP, alternate valuation, etc.), must be timely made or they are lost ... and with them potentially hundreds of thousands of dollars in estate tax savings.

Failure to comply with applicable legal deadlines can expose your fiduciaries to some rather unpleasant personal liabilities, to include tax liabilities of your estate,



and lawsuits from creditors and disgruntled heirs. Administering your estate can quickly become a lose-lose proposition for your fiduciaries.

## Administration & Distribution

Whether your estate plan ultimately provides for the distribution of your assets to your beneficiaries in one lump sum, in multiple distributions or through ongoing trust administration (i.e., to protect your assets *for and from* them), your fiduciaries must ensure that accurate records are maintained and receipts obtained

from each beneficiary. In fact, the failure to account for all income, expenses and disbursements throughout each of the three phases of estate administration can result in civil and, potentially, criminal sanctions.

## Final Thoughts

Post-mortem responsibilities can be very complex. Before you select and appoint fiduciaries for your estate plan, or agree to serve as a fiduciary for someone else, you should seek appropriate legal counsel. You (and your fiduciaries) will be glad you did.



## Ask Yourself ...

*These Questions Regarding "Admirable Administration."*

- |  |     |    |          |
|--|-----|----|----------|
| 1. I have thoughtfully drafted, thoroughly implemented and carefully maintained my estate plan, so my appointed fiduciaries can smoothly administer my estate after death.                                   | Yes | No | Not Sure |
| 2. I have created and maintained an up-to-date inventory of my assets to help ease the <i>Collection and Management</i> burden for my appointed fiduciaries.   | Yes | No | Not Sure |
| 3. I have prepared my appointed fiduciaries for their responsibilities to pay my debts, taxes and expenses in a timely manner and they are aware of their potential personal liability for failing to do so. | Yes | No | Not Sure |
| 4. I have prepared my appointed fiduciaries for their responsibility to distribute my estate to the beneficiaries I have chosen, as provided in my estate plan.  | Yes | No | Not Sure |
| 5. I have prepared my appointed fiduciaries for their responsibility to accurately account for all income, expenses and disbursements throughout each phase of estate administration.                        | Yes | No | Not Sure |

# TREASURE HUNT

Question: What property do you own, where is it located and how much is it worth? Next question: Is this information recorded, whether in hard-copy or electronically? Next question: Who, if anyone, has knowledge of and access to this information? If you cannot answer each of these questions with confidence, then your final legacy for your loved ones may resemble a very unpleasant *treasure hunt*.

## A Common Scenario

It happens too often. Responsible people meet with legal counsel and prepare comprehensive estate plans. Their plans may even include cutting edge techniques implemented through proven legal instruments. Then, an injury or illness strikes these responsible people and they become incapacitated. Eventually, they die. Sometime thereafter, the successor decision-makers appointed in the legal instruments meet with the legal counsel who prepared the estate plans and receive their marching orders. These successors assume their positions of responsibility only to make a shocking discovery: There is little, if any, information available regarding the property they are now legally required to identify, locate and value.

## The Problem

Instead of approaching estate planning as a process to get (and keep) their legal affairs in order, too many people mistakenly believe that everything is okay once they sign their legal instruments. Nothing could be further from the truth. In fact, signing legal instruments without identifying, locating and valuing the property is like buying an automobile without putting fuel in its tank. It may look nice, but you are not going anywhere.

## The Solution

You are in the best position to know what you have, where it is located and what it is worth. After all, you likely are identified as the *owner* on any deed, title certificate or account regarding each asset you own. Additionally, you probably receive notice each year from tax collecting authorities to remind you of your property ownership (and the taxes you owe). If nothing else, make a copy of your deeds, titles, account statements and tax notices, then retain them with your legal instruments.

Do you have heirlooms and collectibles that are difficult to value? If so, then a professional appraisal is essential to establish their value for estate distribution and death tax planning.

## The Follow-Through

It has been said that the will to succeed is for naught without the discipline to plan. When it comes to avoiding an unpleasant treasure hunt for your loved ones,



maintaining accurate records is essential to the success or failure of your estate plan. And do not forget to communicate this information to your successor decision-makers. Even the best-laid plans succeed or fail depending on how well they are recorded and communicated. Remember: The time that you invest today to record and communicate information about your property will make your estate administration more efficient (and less expensive) later on.

## POCKET PROTECTORS

### Tips to help you protect your pocket!

#### Is it Time to Review Your Plan?

Proper estate planning is a *process*, not simply a one-time event. Therefore, it only makes sense to periodically review your planning goals and legal instruments. Review this list of life changes that could alter your estate-planning needs. If you notice some areas that might apply to you or your family, it may be time for an estate plan check-up.

1. Marriage, remarriage or divorce
2. Death of a spouse
3. Substantial change in estate size
4. Death or incapacity of an executor, trustee or guardian
5. Move to another state
6. Acquisition of property in another state
7. Birth or adoption of a child or grandchild
8. Serious illness of a family member
9. Change in business interest or retirement
10. Change in insurability for life insurance
11. Marriage or divorce of a beneficiary
12. Change in beneficiary attitudes
13. Financial irresponsibility of a child
14. Change in tax law
15. More than two years since review of plan with attorney

**“Resolve to  
perform what  
you ought;  
perform without  
fail what you  
resolve.”**  
— Benjamin Franklin

**Noreen A. Murphy, Esq.  
10 Converse Place  
Winchester, MA 01890**

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**Noreen A. Murphy, Esq.  
10 Converse Place  
Winchester, MA 01890**

**Tel: (781) 729-3200  
Fax: (781) 643-3605  
nm@NoreenMurphyLaw.com**

**Visit my web site at  
[www.NoreenMurphyLaw.com](http://www.NoreenMurphyLaw.com)**

**Noreen A. Murphy  
Attorney at Law**

TEL: 781-729-3200 or 781-641-6000

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