

# Utah CEO

Avoiding  
**ESTATE  
NIGHTMARES**

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PUNCH  
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“You really don’t gain market share in a good economy — **you gain market share during recessions.**”

– Christopher Liechty, page 31

DEPLOYMENT

# STRATEGY

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**About this article:**

This column is intended to provide guidance for individuals as they navigate the path of personal wealth management.

**Report by:**

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# AVOIDING ESTATE NIGHTMARES

Don't let poor estate planning come back to haunt your legacy.

Ah, the end of summer and final preparations are in place for that long-anticipated vacation. The summer ritual of travel and relaxation requires plenty of checklists and planning to ensure your sabbatical meets your expectations. Without proper planning, the vacation can be a disaster.

The same planning principle applies to making sure that your affairs are in order to properly carry out your estate plan. Maybe you have heard some of these horror stories.

## True tales

Two individuals with children from prior relationships marry late in life. The husband dies, leaving his retirement plan to his new wife with verbal instructions that she should leave whatever is left in his retirement account to his children. After his death, she finds a new husband. The new husband is interested in buying boats, pursuing expensive hobbies and living a lavish lifestyle with his new bride's recently acquired wealth. He quickly convinces her to spend those retirement assets on his dreams. She complies with his wishes, spending all of her inheritance. Not long thereafter, the new husband leaves looking for a new rich widow to marry. Although her monthly pension will provide her with a comfortable living, the wife is left with no safety net of assets and no inheritance for the previous husband's children.

## The agony and the ecstasy

Another true horror story commonly occurs when an individual has divorced and remarries. He fails to change beneficiaries on his life insurance and retirement accounts. He dies and the insurance and retirement assets go to his ex-wife. The ex-wife is thrilled at this unexpected windfall, leaving the current wife surprised and very resentful.

## Add years to your life

Many individuals have a phobia about estate planning. Nobody wants to think about their own demise. For many, proper estate planning somehow implies that their death is imminent. Well, it is. But following a basic estate planning checklist can alleviate anxiety and make all the difference in ensuring your assets end up where you intend.

Although this may be a bit laborious to do, the peace of mind will more than outweigh the time and trouble, and we recommend that you set a goal to consider the following important estate documents and review them with your attorney. Our experience shows that this is highly liberating when completed, as long as it is done properly and with good advice from a qualified estate planning attorney.

## Essential estate planning and titling will

A will is probably the most basic of estate documents. Provisions may include the nomination of a guardian for minor children. The will may provide for the choosing of an executor or administrator of your estate. It may provide for the waiver of a probate bond, thus creating a cost savings to the estate. It may also designate specific bequests of assets to individuals. One of the most important uses of a will is to have the estate distributed according to the wishes of the deceased, rather than according to state guidelines for those who die without an estate.

## Living will

We have seen the unfortunate situations of individuals who are left in a continuous vegetative state with little or no chance of survival. Legal battles have ensued with emotional damage to friends and loved ones. These conflicts can be avoided by drafting a living will. A living will or directive to physicians is a written document stating a person's wishes as to the type of medical treatment to be provided or withheld as well as information as to what circumstances the directive applies.

## Durable power of attorney

How are one's affairs handled if he or she becomes incompetent or incapacitated? A durable power of attorney is a written document that one person uses to empower another person (agent or attorney-in-fact) to act on his or her behalf. A durable power of attorney can be written to empower the agent to act now or can become effective upon the occurrence of a specific event. Powers granted to an agent may include the ability to buy, sell or lease assets. The agent may be able to collect from creditors or sue on behalf of the individual he represents. The agent may also be given certain tax related powers such as the power to disclaim, the power to make gifts or the power to create a revocable living trust to benefit the individual, spouse and heirs.

## Revocable living trust

While not absolutely necessary, a revocable living trust can provide some additional advantages as part of a basic estate plan. For example, assets in the trust are not subject to probate administration. Assets you might want to consider putting in your trust include your home(s), stock and bond portfolio, insurance policies, recreational vehicles and any other assets that could be subject to probate at death. By doing this, annual court accountings and accompanying legal fees can be avoided, resulting in a possible significant savings of time and money. Also, a trust is not a publicly recorded document, so the provisions in the trusts can keep the estate process private.

## Titling and beneficiaries

Where many estate plans fail is in the implementation. Once estate documents have been completed, titling of assets and beneficiary designations must be reviewed and completed to be consistent with the overall estate plan. Without this final step, the best laid plans will fail due to failure to fully implement.

Although this list only includes the most basic of estate documents, many other estate planning vehicles can be employed to meet almost any estate need.

## Estate review triggers

Estate planning is an ongoing process. Often we are asked, "How often do my estate planning documents need to be reviewed or revised?" Consider reviewing your documents whenever you experience a significant life-changing event. Examples would include marriage, divorce, death of a spouse, death of your administrator or executor, retirement, a change in your health or the achievement of a child's own financial responsibility. When these and other life events occur, consider reviewing your estate documents to make sure that the documents still correctly reflect your wishes and desires.

## A happier ending to our two tales

So how could the problems in our initial examples have been avoided? In our first scenario, the husband could have named a trust for the benefit of his spouse as beneficiary. The trust could have involved a third party to oversee distributions from the retirement plan to make sure that assets were preserved for the intended heirs.

In our second scenario, a simple review of ownership and beneficiaries due to a major life-changing event would have avoided the problems. Anytime a person gets divorced or married, all assets should be reviewed for proper titling and beneficiary designations.

## Into the light

So, as you go through your checklist for that end-of-summer vacation, think about another checklist — your estate planning checklist. Make sure that you have all of your estate documents in place. Make sure they are up-to-date and properly reflect your wishes. With thoughtful planning and a determination to implement sound strategies, your mind can be at ease knowing that your expectations will be met. You'll enjoy your vacation even more. ■



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*The Insight Group is a team of financial planning professionals that enable affluent families across the Wasatch Front (and the backside, too) to navigate the impact of wealth-transforming events. Planning for these events, whether driven by retirement, a business sale, death, inheritance or market conditions, will maximize the positive impact of wealth for your family and community.*

*The Insight Group ... achieving financial wellness for yourself, your family and your community.*



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