

# RALPH VENTURA

Attorney at Law

2355 Salzedo Street  
Suite 300  
Coral Gables, Florida 33134

305.502.1013  
Ralph@VenturaLaw.Net  
www.VenturaLaw.Net

## Estate Planning Seminar<sup>1</sup> Your Money and Your Life

- I. What is Estate Planning?
  - Distribution of assets upon death - Will and Will substitutes
  - Incapacity- power of attorney & health care proxy
  - End of life - living will
  - Guardianship of minors
  - Asset protection planning
  
- II. Basic Estate Planning Documents
  - Last Will & Testament- basic components of Will
  - Revocable Living Trust w/ Pour Over Will
  - Health Care Proxy- Choice of agent if unable to make health care decisions
  - Power of Attorney- Management of financial affairs while alive Springing vs. Durable, gifting ability
  
- III. Passing Property by Will vs. Will Substitute
  - Overview of will substitutes- what they are and history
  - What property is controlled by a Will?
  - Importance of coordination of Will Substitutes with Will
  
- IV. Intestacy
  - State law remedy to best guess what a decedent would have wanted; full or partial
  - Traditionally favors nuclear family
  - Allocation based upon degree of relationship
  - Fiduciary of an intestate estate and order of right to serve

---

<sup>1</sup> This seminar is given for informational and educational purposes only. No attorney-client relationship is created through this seminar nor is any intended. Estate planning is a complex field of law. Do not attempt any procedures discussed in this seminar on your own without first discussing the matter with competent, experienced legal counsel. Estate planning, inheritance, and trust laws vary from state to state. This seminar covers only the State of Florida.

- V. Non-Tax Considerations of Estate Planning
- Asset protection planning- creditors, divorce, remarriage and the accidental disinheritance
  - Mixed interest trusts and conflicts of interest
  - Contract to make a will
  - Special needs beneficiaries
  - The modern family- balancing interests
  - Effective gifts to charity
  - Fiduciary issues- who to name, commissions and planning for successors
- VI. Adding Value and Anticipating Issues
- Good plans consider a client's individual family, tax liability, assets, local probate procedure and putting them together to achieve a client's goals in the most effective way possible
  - Examples: Uses of a Living Trusts, adding provisions to Will that will maximize estate tax deductions, waiver of elective share, QTIP for second marriages, reducing risk of litigation, gifting and using Will substitutes to achieve estate planning objectives.
- VII. Q&A

# RALPH VENTURA

Professional Association  
Attorney at Law

2355 Salzedo Street  
Suite 300  
Coral Gables, Florida 33134

305.502.1013  
Ralph@VenturaLaw.Net

## Estate Planning Client Questionnaire

*Congratulations on deciding to plan your estate and thereby also plan your future. Decisions like these oftentimes are left until the last minute when things can be much more complicated or maybe even impossible and usually are also much more expensive. Your decision to undertake this task in advance of any need is one you and your family will likely be thankful for in the years ahead.*

*Also, we wish to thank you for placing your trust in us. It is clients like you that make practicing law worthwhile.*

*Below you will find a questionnaire for your review. Please fill it out as well as you can, taking care to use extra sheets if necessary. More detail is always better than less detail.*

*Again, thank you and we look forward to serving you now and in the years ahead.*

### **APPOINTING YOUR FIDUCIARIES**

A fiduciary is a person to whom property and/or responsibility and authority are entrusted for the benefit of another. In estate planning, fiduciaries include personal representative(s), trustee(s), guardian(s), and the power-of-attorney agent(s) a/k/a attorneys-in-fact. The fiduciary must prioritize the interests of all beneficiaries over his or her own interests, even if the fiduciary is also a beneficiary. Fiduciaries may be paid or they may be asked to waive their compensation, if for example, the personal representative is a family member.

### **IMPORTANT PERSONS IN YOUR ESTATE PLAN**

In every estate plan there are important positions that need to be filled. Often these roles are filled with trusted family members, friends, and even professional advisors. The following is a list of these positions and a brief description of their respective duties and responsibilities. If you

are able, please write down in the space provided the persons who are potential candidates for these positions as well as any questions or concerns that you may have in making your decision.

- **Personal Representative:** This individual is responsible for carrying out your wishes as stated in your Last Will & Testament. In addition, this person has several other important responsibilities, such as collecting all of your assets, paying all of your debts, filing your final income tax return, filing your estate tax return and paying any estate tax that is due.
- **Trustees:** The Trustees are the persons who manage the property for the benefit of another, the beneficiary. The responsibilities of the trustees include investment of the trust funds, paying out the trust funds to the beneficiaries, and filing the trust's income tax returns.
- **Guardian:** These people are perhaps the most important part of your estate plan if you have minor children. It is the guardian that fulfills your role as a parent and makes personal decisions concerning the development and welfare of your children.
- **Health Care Agent:** This person has the responsibility for making health decisions on your behalf if you are unable to do so. You appoint your Health Care Agent in your Health Care Proxy. The Health Care Agent makes these decisions in accordance with your Living Will if you have one. A Living Will contains specific instructions about the types of medical treatment that you may or may not want to receive.
- **Attorney-in-Fact:** Your attorney-in-fact manages your financial affairs while you are living. Your attorney-in-fact is named by you in a Power of Attorney, which can either be Springing (i.e., it 'springs' into effect when you become incapacitated) or Durable (i.e., it becomes effective as of the date it is signed). The power of attorney ends at death, at which time the personal representative takes over your affairs.
- **Successors:** For all the above positions you should have a primary person and at least one successor if he/she is unable to act.

## THE PERSONAL REPRESENTATIVE

The personal representative is named in the Will and is in charge of carrying out a decedent's final wishes with respect to the distribution of his or her property. The personal representative's duties include collecting and distributing property owned by the decedent, paying debts, and generally wrapping up the decedent's personal affairs. A person who is named as personal representative is not required to serve and may decline. The personal representative typically hires an attorney to assist with the legal work and to guide the personal representative in fulfilling his or her fiduciary responsibilities. A personal representative may be an individual or a financial institution, such as a bank or trust company.

### Key Qualities for a Personal Representative

- **Organized:** A personal representative should be someone who is diligent about being on top of administrative tasks and completes such tasks in a prompt and timely manner. Much of the administrative work requires precise recordkeeping and follow-ups, which necessitates a close attention to detail.
- **Responsible:** A personal representative should be a responsible, patient, and trustworthy person who you feel exercises good judgment.
- **Good Communication Skills:** A personal representative should be good with people (even when they are not at their best) and able to act fairly toward all beneficiaries.
- **Knowledge of Family and Assets:** A personal representative will need to contact the family and collect the property of the decedent. Accordingly, having good knowledge of the family and the decedent's assets is helpful.

### **Other Considerations in Choosing a Personal Representative**

- Personal liability to the beneficiaries, creditors, and taxing authorities (IRS).
- Tax-Filing Responsibilities (e.g., preparing and filing tax returns such as the decedent's final income tax returns and the estate's income and estate tax returns).
- This is a very time-consuming and potentially stressful process and may take 2-3 years to complete. The personal representative must have the time, energy, and emotional capacities to see the job through to completion.

## **THE TRUSTEE**

A trustee is a fiduciary named in a lifetime trust agreement or a decedent's Will who takes legal title to property and holds that property in trust for the benefit of the trust beneficiaries. It is the trustee's duty to make trust property productive of income for current income beneficiaries and to preserve the trust principal for beneficiaries who may receive trust corpus. A trustee must use reasonable skill and prudence when making decisions regarding appropriate investments of trust property. The trustee often hires an investment advisor to assist in these decisions. When choosing a trustee, you should consider the nature of the trust assets, the needs of the beneficiaries, and the flexibility of the trustee.

### **Key Qualities for a Trustee**

- **Responsible:** A trustee should be responsible, stable, and trustworthy.
- **Honest:** A trustee must act honestly and in good faith in the administration of the trust and exercise reasonable care and prudence in all actions.
- **Communicative:** A trustee must keep the beneficiaries informed about the trust when appropriate.
- **Excellent Record Keeper:** A trustee will eventually render an accounting of all trust transactions, which requires accurate and complete records. In addition, the trustee will need to prepare and file the trusts' income tax returns (i.e., IRS Form 1041).
- **Proactive:** A trustee should be proactive in the execution of the many tasks required in the administration of a trust.

### **Other Considerations in Choosing a Trustee**

- Personal liability and responsibility to the trust beneficiaries.
- Accountability for losses - could be surcharged for breach of fiduciary duties.
- Detailed administrative work for a long period of time (term of trust could be for the beneficiary's lifetime).
- Potential personal conflicts with beneficiaries.

## **THE GUARDIAN**

The guardian is perhaps the most important person in your estate plan if you have minor children. The person who you appoint as guardian serves as a parent to your minor children and makes personal decisions concerning their development and welfare.

### **Key Qualities for a Guardian**

- **Shared Values:** Ideally you and your guardian share the same values, beliefs, goals, and parenting styles.
- **Relationship:** Choose someone who has a loving relationship with your children.
- **Financial Stability:** While a guardian does not have to be wealthy, he or she should have some monetary resources and sound financial judgement to provide a stable home for your children.
- **Lifestyle:** Raising children should fit into their lifestyle and they should physically be able to carry out the role.

### **Responsibility of Being a Guardian**

- The guardian may need to rework his or her life to care for your children both emotionally and financially.
- It can be challenging to meet the children's' emotional and physical needs.
- If the family has existing children, a potential conflict exists with new children joining the family.

## **THE HEALTH CARE AGENT**

A health care agent is a person who you choose in advance to make health care decisions for you in the event you become unable to do so. A health care agent can help make medical decisions on your behalf at the end of your life or any other time you are not able to communicate your wishes.

### **Factors to Consider**

- **Living Will:** Do you have a Living Will that directs your end-of-life wishes to your health care agent?
- **Values:** If you do not have a living will, does your health care agent understand your core values and beliefs about end-of-life care?
- **Trust:** Do you trust your health care agent to carry out your wishes as you direct?
- **Emotional Demands:** Will your health care agent be able to handle the stress and emotional demands that come with making end-of-life decisions?

### **The Agent Under Your Power of Attorney**

Your Power of Attorney agent manages your financial affairs while you are living. Such agent is named by you in a Power of Attorney which can be a Springing Power of Attorney (i.e., it “springs” into effect when you become incapacitated) or a Durable Power of Attorney (i.e., it becomes effective as of the date it is signed). The Power of Attorney ends at death at which time the personal representative takes over your affairs.

### **Factors To Consider**

- **Trust:** Your Power of Attorney agent will have control of your finances so you must have complete trust that he or she will act in your best interests.
- **Knowledge of Assets:** Your Power of Attorney agent should have sufficient knowledge of your financial affairs in order to manage them properly should you become incapacitated. Financial management skills are also particularly beneficial.
- **Family Dynamics:** Keep in mind potential family conflicts when selecting your Power of Attorney agent. If family members have any existing communication challenges, it may be prudent to choose a professional person such as an accountant.

## 1. FAMILY AND PERSONAL INFORMATION

If you are single, widowed or divorced, simply provide your personal information and disregard all references to a spouse.

Your Name	Date of Birth	Occupation	Annual Compensation
Cell Phone	Work Phone	Email Address	Home Address
Spouse Name	Date of Birth	Occupation	Annual Compensation
Cell Phone	Work Phone	Email Address	Home Address, if different
Child # 1 Name	Age	Sex	Parent (Client, Spouse, Joint)
Child #2 Name	Age	Sex	Parent (Client, Spouse, Joint)
Child #3 Name	Age	Sex	Parent (Client, Spouse, Joint)
Child #4 Name	Age	Sex	Parent (Client, Spouse, Joint)
Grandchild # 1 Name	Age	Sex	GPARENT (Client, Spouse, Joint)
Grandchild #2 Name	Age	Sex	GPARENT (Client, Spouse, Joint)
Grandchild #3 Name	Age	Sex	GPARENT (Client, Spouse, Joint)
Grandchild #4 Name	Age	Sex	GPARENT (Client, Spouse, Joint)



## 2. FINANCES

List all of your assets under the appropriate categories described below. If there are any agreements or other documents that relate to the assets, please provide a copy of such agreements or documents (i.e., shareholder's agreements, copies of deeds, insurance beneficiary designations, etc.)

REAL ESTATE					
Address	Title	Cost	Fair Market Value	Mortgages	Equity
Address	Title	Cost	Fair Market Value	Mortgages	Equity
Address	Title	Cost	Fair Market Value	Mortgages	Equity
Address	Title	Cost	Fair Market Value	Mortgages	Equity
Address	Title	Cost	Fair Market Value	Mortgages	Equity

**STOCKS, BONDS AND OTHER BUSINESS INTERESTS**

Please indicate whether the securities are privately held. It is not necessary to itemize publicly traded securities, although an itemized list may be attached if it is convenient to do so.

Publicly Traded Stocks	Owner	Fair Market Value
Publicly Traded Stocks	Owner	Fair Market Value
Privately Held Stocks (explain)	Owner	Fair Market Value
Partnership Interests (explain)	Owner	Fair Market Value
Other Business Interests (explain)	Owner	Fair Market Value

**CASH AND CERTIFICATES OF DEPOSIT**

Cash in banks, savings, and loans	Owner	Fair Market Value
Certificates of deposit	Owner	Fair Market Value

NOTES RECEIVABLE				
Obligor	Face Amount	Current Balance	Interest Rate	Due Date
Obligor	Face Amount	Current Balance	Interest Rate Due	Date

LIFE INSURANCE						
Company	Insured	Beneficiary	Face Amt.	Annual Premium	Owner Type (Term, Whole Life)	Cash Value
Company	Insured	Beneficiary	Face Amt.	Annual Premium	Owner Type (Term, Whole Life)	Cash Value
Company	Insured	Beneficiary	Face Amt.	Annual Premium	Owner Type (Term, Whole Life)	Cash Value

PENSIONS, PLANS, IRAs, ANNUITIES				
Employer	Employee No.	Beneficiary	Type (IRA, 401K, etc)	Fair Market Value
Employer	Employee No.	Beneficiary	Type (IRA, 401K, etc)	Fair Market Value
Employer	Employee No.	Beneficiary	Type (IRA, 401K, etc)	Fair Market Value

### MISCELLANEOUS ASSETS

Please describe any miscellaneous assets having significant value, such as antiques, artwork, collections, boats, airplanes, jewelry, furs or other property.

Description	Owner/Title	Fair Market Value
Description	Owner/Title	Fair Market Value
Description	Owner/Title	Fair Market Value
Description	Owner/Title	Fair Market Value

### DEBTS AND OBLIGATIONS

If you have any significant debts or other obligations (other than mortgages or notes secured by the real property listed above), please describe below.

Description	Present Balance
Description	Present Balance
Description	Present Balance

### 3. YOUR ESTATE PLAN: IMPORTANT PERSONS

In every estate plan there are important positions that need to be filled. Often these roles are filled with trusted family members, friends and even professional advisors. The following is a list of these positions and a brief description of their respective duties and responsibilities. If you are able, please write down in the space provided the persons who are potential candidates for these positions as well as any questions or concerns that you may have in making your decision.

PERSONAL REPRESENTATIVE			
<p>This individual is responsible for carrying out your wishes as stated in your Last Will &amp; Testament. In addition, this person has several other important responsibilities, such as collecting all of your assets, paying all of your debts, filing your final income tax return, filing your estate tax return and paying any estate tax that is due.</p>			
Primary PR name	Primary PR Address	Cell Phone	Alternate Phone
Secondary PR name	Primary PR Address	Cell Phone	Alternate Phone

TRUSTEES			
<p>The Trustees are the persons who manage the property for the benefit of another, the beneficiary. The responsibilities of the trustees include investment of the trust funds, paying out the trust funds to the beneficiaries, and filing the trust's income tax returns.</p>			
Primary Trustee Name	Primary Trustee Address	Cell Phone	Alternate Phone
Secondary Trustee Name	Secondary Trustee Address	Cell Phone	Alternate Phone

### GUARDIAN

These people are perhaps the most important part of your estate plan if you have minor children. The guardian fulfills your role as a parent and makes personal decisions concerning the development and welfare of your children.

Primary Guardian Name	Primary Guardian Address	Cell Phone	Alternate Phone
Secondary Guardian Name	Secondary Guardian Address	Cell Phone	Alternate Phone

### HEALTH CARE AGENT

This person has the responsibility for making health decisions on your behalf if you are unable to do so. You appoint your Health Care Agent in your Health Care Proxy. The Health Care Agent makes these decisions in accordance with your Living Will, if you have one. A Living Will contains specific instructions about the types of medical treatment that you may or may not want to receive.

Primary Guardian Name	Primary Guardian Address	Cell Phone	Alternate Phone	Relationship to You
Primary Guardian Name	Primary Guardian Address	Cell Phone	Alternate Phone	Relationship to You

**POWER OF ATTORNEY AGENT**

Your Agent manages your financial affairs while you are living. You appoint your agent in your Power of Attorney form which can either be Springing (i.e., it "springs" into effect when you become incapacitated) or Durable (i.e., it becomes effective as of the date it is signed). The Power of Attorney ends at death, at which time the personal representative takes over your affairs.

Primary Agent	Primary Agent	Cell Phone	Alternate Phone	Relationship to You
Primary Agent	Primary Agent	Cell Phone	Alternate Phone	Relationship to You

**4. YOUR ESTATE PLAN: DISPOSITION OF ASSETS**

List any specific gifts of cash or specific items of property that you wish to make in your Will, either to individuals or to charity. For example, "\$10,000 to my parents" or "\$5,000 to the Leukemia Society of America, Inc.", etc.

Beneficiary	Address of Beneficiary	Property	Cash Amount
Beneficiary	Address of Beneficiary	Property	Cash Amount
Beneficiary	Address of Beneficiary	Property	Cash Amount
Beneficiary	Address of Beneficiary	Property	Cash Amount
Beneficiary	Address of Beneficiary	Property	Cash Amount
Beneficiary	Address of Beneficiary	Property	Cash Amount
Beneficiary	Address of Beneficiary	Property	Cash Amount

In general terms, please describe how you wish the balance of your estate to be distributed, i.e., to spouse and then to children; some portion to parents, the balance to spouse and then children, etc.

### 5. YOUR ESTATE PLAN: MISCELLANEOUS INFORMATION

	Yes	No
a. Are you the beneficiary or Trustee of any trust? If yes, please supply a copy.		
b. Are you or your spouse likely to receive an inheritance from a parent or other relative? If yes, please specify the approximate value: \$ _____		
c. Have you ever filed a gift tax return? If yes, please supply a copy.		
d. Have you created any trusts? If yes, please supply a copy.		
e. Have you or your spouse ever executed an agreement relating to the nature of your property?		
f. Are you a citizen of the United States?		
g. Is your spouse a citizen of the United States?		
h. Do you have a present will or living trust?		
i. Do you have a safe deposit box? If yes, what is the location? _____		