

# ***GOLDEN BULLETS***

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## **THOUGHT YOU'D LIKE TO SEE THIS:**

### **“TRUST MILLS” CLEAR AND PRESENT DANGERS**

Remember the police show where, at the end of each day's daily briefing, the sergeant told the officers to **BE CAREFUL OUT THERE!**

### **PANIC AND PANACEA**

Being careful out there is good advice. The odds are good that someday, you'll be invited to an “estate planning seminar” where the promoters will predict the incredible expenses, numerous delays, and awful frustrations your heirs will encounter during the probate process. Then the trust promoter will promise that all of these problems will be solved if you purchase the promoter's package of forms or services.

This is the classic “panic them and then sell them the panacea” routine. First, they instill panic at the prospect of probate as an overly complex and expensive process (which it generally is not in most states). Then they claim or imply, “If you buy my book or set up this trust, all your estate and financial planning problems are solved.” Purchase my book, fill out the forms, pull them out, sign them, and “beat the probate system.” This is unrealistic thinking, and is as dangerous as treating a life threatening medical problem with a home or over-the-counter remedy.

A revocable living trust is one of many available estate planning tools. It is an excellent and highly flexible tool -- if and when it is drafted by a knowledgeable, competent estate planning lawyer and coordinated with other wealth management/transfer and estate planning tools and techniques and individualized to fit your personal needs, circumstances, and objectives.

But a revocable living trust is a potentially dangerous and harmful device when used as a one-size-fits-all, “do-it-yourself” panacea, or in an insulated manner and without regard to an effective, over-all estate plan. As explained above, fear mongers use (or misuse) the revocable living trust to sell their books or other products or services -- generally with little or no regard to your tax and non-tax objectives.

## **THE PROBLEMS WITH TRUST MILLS**

What are some of the problems with these “trust mills”? The trusts that are sold are usually not tailored to your specific needs but are mass produced from standard forms. Sometimes, the forms are not even very well prepared, causing tax problems that would (and could) have been avoided with competent drafting. Signing a trust document is only part of the solution. If the purpose of the trust is to avoid the probate process, then your assets must be transferred to the trust. Otherwise, the trust is worthless as a probate avoidance device. And yet most trust promoters don’t take responsibility for, or oversee, the transfer of assets, and do not adequately explain the procedure to you. Worse yet, the generic trusts that are sold are frequently over-priced -- with the trust promoter charging exorbitant fees for what amounts to pre-printed forms. Often, the fee is considerably higher than what would have been charged by a qualified lawyer for a customized document and individual and highly specific tax and legal advice.

The sale of a trust package, where the product precedes the problem (or solution), is the antithesis of good planning. Proper planning should be a process which begins with an investigation of your problems and goals, and ends with the selection and implementation of one or more appropriate tools or techniques -- that would solve your problems and achieve your goals in the most efficient and cost effective manner possible. When the trust promoter has only a single product to sell, then the investigative process of delving into many important (but unaddressed) issues and searching for viable alternatives or a more efficient mix of solutions is all but foreclosed.

View probate avoidance as one of many possible estate planning objectives, and consider the revocable living trust as another highly useful tool that, in many cases may (and, in our opinion, often should) be used in conjunction with a will and other appropriate and complementary wealth management/transfer and estate planning devices.

**AS ALWAYS, PLEASE FEEL FREE TO CALL TO DISCUSS THESE AND OTHER FINANCIAL ISSUES OF CONCERN.**

*IF YOU PREFER TO RECEIVE “GOLDEN BULLETS” BY EMAIL, PLEASE SEND A NOTE TO ME AT: [rwilson@fraserlawfirm.com](mailto:rwilson@fraserlawfirm.com). Thanks.*

**“Golden Bullets” is provided as a source of general information about current developments in the practice of estate planning and related topics. If you have questions regarding this issue or estate planning in general, please contact me prior to taking action.**