An Unexpected Trauma

By Lee R. Phillips

At the tender age of 27, I was told that I had three weeks to live. And although I ultimately recovered from the cancer that threatened my life, I also discovered how shattering an unexpected trauma can be to one's financial status and peace of mind. As a result, I switched my legal specialty from patent law to estate planning and asset protection. Today I travel the country teaching students how to shield their assets and pass them on with minimal taxes and troubles after they're gone.

No one wants to think about dying. In fact, some of the smartest people I know, investors who make difficult decisions every single day, put off the simple step of planning how to pass on what they've earned to their heirs. As a result, their families and loved ones end up spending months or years-and thousands of dollars in unnecessary taxes untangling the mess of deeds, leases, bank accounts, escrow instructions, options, and other affairs that real estate investors can be involved in.

Most people don't take the right steps to protect their financial futures for three reasons. One, as I've already mentioned, is an unwillingness to consider the fact that they might die at all. The second is that most people think that there will always be time to plan in the future. The third reason is that the whole topic of estate planning seems very complicated and difficult to the average person. Let me explain some of the reasons that you should start RIGHT NOW to create a plan that will protect your financial future.

When You Really Need It, It's Too Late to Get it

A death, whether untimely or expected, is not the only trauma that can befall a family and leave it destitute. Sudden or prolonged illness, business failure, lawsuits, accidents, mental illness or incompetence-all of these things can happen to us in our lives, all with tragic results for our families if we are unprepared. Without proper asset protection and estate planning, we could be unnecessarily sentencing our families-and ourselves-to financial tragedy.

When I had cancer, I was nearly comatose for a period of time, in intensive care for 5 months, and incapacitated for an additional three years. The question was never WHETHER I was going to die, only WHEN. Because we had done no planning, it was nearly impossible for my wife to legally make decisions about our joint property or to get access to my assets to help pay the bills during this time. As a result, the legal system took us to the cleaners. We lost everything that we had.

If you're committed to making plans to protect your assets and pass on your estate "when you get the time," you are doing your loved ones a GRAVE disservice. Just as I didn't expect to be told at the age of 27 that I was on my deathbed, you could be the victim of any number of unexpected events, major and minor, that could send your family to financial ruin.

The foundation of good estate planning is setting up the proper entities while you're still alive and healthy. When correctly maintained, these trusts, corporations, and partnerships will save you heartache and expense while you're alive AND make it easy to take care of your family when you're gone.

Why Will Is Not Enough

Most people, at some point in their lives, write up a will. They sign it, leave a copy with their lawyer, and figure they've done their duty in terms of passing on their stuff after they die. The truth is, a will is only one part of a well-planned estate. A will does NOT protect your family from the two biggest expenses associated with your death: taxes and probate costs.

The fact that you wrote and signed a will does not make it a valid legal document. In order for the instructions that you set forth in the will to be carried out, your heirs must first take it to a court that determines whether it's your REAL will, whether it's your LAST will, whether you owed money to any creditors that need to be paid before anybody else, etc. This process is called probate and it's expensive (3% of the value of the estate, or more) and time consuming (taking an average of 18 months in most parts of the country) and frustrating for the heirs, who have to work on the court's time schedule for wrapping up your estate.

A will is a good start to an estate plan, but it is not an estate plan in itself. If you are a real estate investor, ask yourself this_during the probate process, how are your heirs going to sign leases? How are they going to hire contractors to make repairs? How are they going to honor option agreements? There's only one way: they'll have to go back to court to get permission. And each court appearance means paying a lawyer and taking time away from work and less money, ultimately, that they will receive from your hard-earned assets. Do you really want to subject your loved ones to this hassle?

You Can't Build A House From The Roof Down

If saving your loved ones from taxes and pain isn't enough to send you running to your estate planning attorney, here's an argument that appeals to every real estate entrepreneur:

Having the strong foundation of proper asset protection and estate planning will help you make more money during your lifetime.

That's right-setting up the entities that protect your stuff will help you get more stuff. How? By greatly reducing the risk that you'll lose everything in a frivolous lawsuit. By making you more confident that a single mistake or bad investment won't wipe you out. By reducing the taxes that you owe the government every year.

Many of the same entities that we think of as pure asset protection also serve very well as estate planning tools. Family Limited Partnerships, Trusts, Corporations, and other "artificial persons" under the law can be passed on to heirs fairly seamlessly, if they are properly set up. These types of entities should be the "foundation" on which real estate investors build their empire - not an afterthought to be considered when a lawsuit, illness or business failure is pending.

Wealthy families have known these secrets for years. When a billionaire dies, you can bet that his estate is not probated, nor do his heirs lose any money to estate taxes. Perhaps your empire is a little smaller, but why should YOU pay for dying, when the rich don't?

"If He Weren't Already Dead, I'd Kill Him!"

One of the best gifts you can give to your loved ones is a well thought-out plan that allows them to take care of financial matters in case of your death or disability without hassling with lawyers, courts, taxes, etc. The stress that families go through trying to settle poorly planned estates is just impossible to understate. Ultimately, SOMEONE is going to sit down and pay an attorney to discuss what's going to happen to your estate. Shouldn't it be YOU, right now, while you're healthy and best able to make good decisions? Don't waste any more time. Start your estate plan TODAY, I will show you how!

Join me at the regular monthly meeting of the Bay Area Wealth Builders, January 15th at the Mill Valley Community Center, just off Highway 101, 180 Camino Alto in Mill Valley.