



Loyalty Returned - Caring for Fido From Beyond

It has been more than 10 years since real estate investor Leona Helmsley bequeathed \$12 million in trust to her Maltese named Trouble and nothing to two of her four grandchildren -- a move that was widely derided as frivolous at the time. In the years since Helmsley's passing, many people have started to pay closer attention to how their furry family members would be cared for should they outlive their owners.

While animals can technically be willed to a caretaker, provisions in a will may not be able to take effect until the will has been administered -- a sometimes lengthy process that could leave the pet wanting for care.

Under the current law, a pet owner cannot leave any part of his or her estate outright to an animal. New York pet trust statute enables owners to create a "pet trust", in which assets are designated for the care of the pet. The trust can be designed as (1) a testamentary trust, created under a will that takes effect upon the owner's death, or (2) an inter vivos trust, created and effective while the owner is alive. Under the amended New York pet trust statute, a pet trust continues to exist until "no living animal is covered by the trust" -- a change from a previous law that limited the trust's existence to 21 years.

The pet owner will want to name a trustee and a caretaker and it is also advisable to have alternate trustees and caretakers named. A trustee manages the trust and ensures that the assets are used to properly care for the pet. It is very important that a pet owner be specific in the trust documents about the pet's standard of care and guidelines for the caretaker to follow -- from frequency of vet visits down to the type of food the pet can eat.

Owners will also have to clearly identify their pet in the trust documents to avoid the possibility of fraud, whereby a caretaker might try to get a replacement pet following the death of the original one. As a related matter, the trust should also state how any remaining assets should be disbursed following the pet's death. In many cases, the owner designates an animal-oriented charity to receive any remaining funds.

Ensuring that the causes, individuals and creatures that evoked passion during life can still receive contributions after death comes with complexities. For more information, contact your Anchin Relationship Partner or Oxana Olach, a manager in Anchin Private Client, at 212.840.3456 or info@anchin.com.



Ehud "Udi" Sadan, CPA, CGMA
Leader
ehud.sadan@anchin.com



Jared Feldman, CPA
Leader
jared.feldman@anchin.com

1375 Broadway, New York, NY 10018 • 212.840.3456 • www.anchinprivateclient.com

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