



Enterprising Rural Families™

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TIP OF THE MONTH:

MORE MARKET ANALYSIS

Your product and/or service:

- What specific products and services will my business offer?
- What is my customer profile? Characteristics you need to know are things like: gender, age, income bracket, occupation, location, family status, children, education, and ethnic origin.

Competitive Analysis

Compare your business to the competition—you must have some “edge” that brings people to your business. Compare with major competitors in several areas: products, price, quality, selection, customer service, product service, reliability, expertise, image and reputation, location, store layout, appearance, sales method, credit policy, availability, management, stability, and advertising.

Some hard questions:

- Who are your strongest competitors and where are they located?
- How do their products and services meet the needs of the consumer? What do they do well? How do you know this? How do their prices compare to yours?
- How will your products and services better meet the needs and wants of your customers? How are your products/services unique and different from those of the competition? What can you do better than your competitors – how do you know this?
- What are your key competitive advantages?

CHOOSING YOUR PERSONAL REPRESENTATIVE

by

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Your personal representative is the person you designate to carry out the directions in your will. Other terms are “executor” and “administrator.” This responsibility involves much more than just handing out a few items to beneficiaries or writing some checks to empty the deceased’s bank accounts. The list of duties is long and complicated and choosing the wrong person could be disastrous to the estate and your beneficiaries.

Here is a partial list of what the personal representative named in your will be expected by the court to do:

- Carry out written instructions of the decedent relating to his or her body, funeral, and burial arrangements.
- Arrange for the immediate needs of survivors
- Locate the will and other important papers and information
- Make application to probate the will, to terminate joint tenancy, and/or for appointment as personal representative
- Give legal written notice of his or her appointment to heirs and devisees
- Indicate whether a bond has been filed and describe to the court where papers relating to the estate are on file
- Take possession of estate property
- Notify the decedent’s life insurance companies.
- Pay expenses for last illness, funeral and burial expenses, and other outstanding debts
- Have real and personal property appraised
- Prepare an inventory of all of the decedent’s property
- Publish a notice to creditors for debts of which the personal representative may be unaware
- Prepare and file a federal estate tax return if the estate is subject to estate tax



- Prepare and file state and federal income tax returns for the decedent's last year of life and, if necessary, for the estate
- Arrange for care or guardianship of minor children and any other incapacitated family members
- Determine which estate assets will be needed to pay federal estate taxes, administration expenses and other costs of settling the estate
- Satisfy charitable pledges in the decedent's will
- Ascertain values at the date of death for all of the decedent's bank accounts. Depending on circumstances, close those accounts and open an estate account
- Deposit or invest liquid assets of the estate in federally insured interest-bearing accounts, readily marketable secured loan arrangements or other prudent investments, if funds are not needed to meet debts and expenses currently payable
- Notify various state and federal agencies of the decedent's death and discontinue automatic deposits into and debits from decedent's accounts
- Receive payments due the decedent and estate (dividends, unpaid wages, other benefits)
- File all required documents with the probate court in a timely manner
- Finally, distribute assets to the beneficiaries as required by law for intestate succession (no will) or by decedent's will

Settling even a simple estate often takes significant time and effort. Because the personal representative is a legal "fiduciary," they may be required to post a performance bond to cover the value of the estate, until the estate has been settled to the satisfaction of the probate court.

As you can see from the list of duties, the personal representative will be required to put in significant time, effort, and possible travel, over a number of months, and possibly even years, depending on the complexity of the estate. This may cause considerable stress and strain on the personal representative, especially if they have many other business, job, and/or personal responsibilities, or if there are hard feelings or pressures from beneficiaries and family members. If there are insufficient funds in the estate for reimbursement, the personal representative could also end up paying expenses out of their own pocket.

When thinking about who to name as your personal representative, there are several questions you should ask:

- Will they have sufficient time to carry out the many duties involved?
- Do they live close enough so as not to incur excessive travel time and expense, or do they have the ability and resources to travel to your location to provide sufficient oversight in the process?
- Do you expect them to be of sound mind, health, and ability at the time you pass away?
- There are many legal and financial issues to deal with in addition to the personal issues. Can the person you have in mind adequately deal with all of these issues? It is possible for them to hire an attorney, investment broker, etc. to advise and assist them, but those associated fees will come out of the estate.

So, what qualities should you look for?

- **Ability.** This person will need to make many serious and potentially long-term decisions which may affect others.



Enterprising Rural Families™

November, 2013 Volume IX, Issue 11

- **Availability.** A significant amount of time and effort may be required.
- **Geographic Proximity.** How much will they need to travel to administrate your estate? Would you want your children living where they live?
- **Trustworthiness.** Do you completely trust this person to handle your affairs honestly and fairly?
- **Willingness.** Have you spoken to them and are they willing to take on this burden?
- **Practical.** Planning to double the worth of the estate in Vegas might not be the most practical course!
- **Organized.** There will be many details and arrangements to keep straight and deadlines to meet. This will take someone who is well organized.
- **Tough.** Most people think **their** family will be cordial and cooperative after they die. Unfortunately, this is often not the case and hidden greed and self-interests can make the job of the personal representative extremely difficult.



After working through all of the above considerations, you finally have to come up with specific names. If a name or names is not readily apparent, make a list of all the possibilities, including relatives, friends, attorneys, banks, trust corporations, etc.

Professionals, especially those you know and are familiar with, can provide a degree of expertise while maintaining emotional detachment. However, professionals will normally expect payment for their services from the estate. Be sure to check the references of any attorney, bank or corporation you do not know well and trust.

If you do not designate a personal representative, the court will do it for you and the probate judge's choice may not be the person you would be most comfortable with settling your affairs.

When a will is present, the estate process is called "testate." If a personal representative has been named in the will, the probate judge will most often approve the wishes of the decedent. However, if the judge finds that the decedent's choice does not meet the requirements, or if someone successfully contests the will or the personal representative, the judge may appoint someone else who meets the requirements or they feel will do a better job of representing your' and your beneficiaries' interests.

When there is no will, the estate is "intestate" and state statute dictates to the court who to consider for personal representative in priority order. People in these categories must still meet the eligibility and capability requirements.

A personal representative is normally entitled to a fee for their service and the amount is set by state law. If the personal representative submits properly receipted expenses in the performance of his or her duties, they are entitled to payment of those expenses from the estate. All bills and expenses against the estate are paid before any remaining portion is distributed to the beneficiaries.

The choice of guardian of your children or other dependents is a very important, and often difficult, decision. Often a family which already has children is more readily adaptable to taking on your children



Enterprising Rural Families™

November, 2013 Volume IX, Issue 11

then a household which is not used to children. On the other hand, you do not want to overwhelm a relative or friend with more responsibility or emotional and financial load than they are prepared to handle. Realize that it is not the responsibility of your named personal representative to solely care for your dependents. It is their responsibility to find and provide proper care. This could be by caring for your children or family members themselves or by placing your dependents with another relative or friend or a proper institution.

Let's look at a number of questions you should consider in choosing a guardian:

- How do their values and lifestyle compare to yours?
- Will your children continue with the faith teachings that are important to you?
- Will your children have to move? What type of environment will they be in?
- If you choose a non-family guardian, will family members still be able to maintain a productive relationship with your children?
- Will the proposed guardian have the resources to provide the education and opportunities you feel are important for your children?



Once you have gathered the possible names for your personal representative, begin eliminating those **least** likely to be the best choice. Try to narrow the list down to two possibilities and then determine which will be your first and second choices. **Always** name a second person or institution as an alternative in case your first choice is no longer available or finds they are unable or unwilling to serve in that capacity.

An alternative method is to name separate specific personal representatives for different parts of your estate, such as guardian of children, general legal and business matters, investments, trusts, etc.

Always be sure to notify those who are actually named as your personal representative. If you have talked to multiple persons, it is only common courtesy to also inform those whom you did not choose.



Be sure your personal representative and alternate have copies of your will, health directive, power of attorney and other legal documents or know where to find them quickly upon your death or disablement. Be aware that your safe deposit box will be frozen upon your death and will **not** provide quick access to these documents. Provide a listing of all accounts, documents, passwords, life insurance policies, etc. as well as any special expectations that you have for them and your estate. And, finally, provide them with a list of all the duties that a personal representative will be expected to perform in handling an estate.

Much of this information was taken from a document on estate planning written by Aaron Lytle, attorney-at-law with Long, Reimer, Winegar, & Beppler.



Enterprising Rural Families™

November, 2013 Volume IX, Issue 11