Living Trust Mills

The Office of the
Minnesota Attorney General
helping people afford their lives and live with dignity, safety, and respect

About 10,000 baby boomers retire every day. With the aging population, many people are thinking of estate planning. The best course if you want a will or estate plan is to hire an experienced local attorney. You should steer clear of "living trust mills," which hold themselves out as estate planning specialists but churn out boilerplate documents for a high fee, all to get their foot in the door to sell you annuities or insurance products later on that might not be suitable for your needs.

How Living Trust Mills Work

Living trust mills lure you in to learn more about estate planning. You may receive a phone call or flyer asking permission to allow someone to come to your home to give you guidance about probate or inviting you to attend a "free dinner" at a popular restaurant to learn more about wills, trusts, and estate plans. At the dinner, a spokesman may hold himself out as an estate planning expert. He may scare you about what will happen to your estate if you die without a living trust. For example, he may tell you that if you die without a trust, your estate will be swallowed up by probate fees, taxes or attorneys' fees or your finances will be open to public inspection at the courthouse. He may also misrepresent or exaggerate the benefits of a trust, telling you that a trust will save you money in taxes or protect your assets if you need nursing home care.

A trust mill usually tries to get a private appointment in your home. During the in-home visit, the salesman may again misrepresent the advantages of a trust and disadvantages of probate and recommend that you buy a living trust, often costing over $2,000. The salesman may call himself an estate planning specialist, advisor, or paralegal. He'll work to earn your trust and confidence.

The salesman who sells you the trust is likely an insurance agent or somebody who works with insurance agents. Once he obtains your financial information, he will usually try to get you to buy an annuity or other insurance product. He may have several meetings with you before he reveals his true intentions: to sell you insurance.

No "One Size Fits All" Approach

A living trust is an estate planning device created while you are alive. A person may transfer property into a trust before they die and, in some cases, if the trust is set up properly, that property may transfer to another person without going through probate.

A living trust is a complex legal document. Estate planning is not subject to a "one-size-fits-all" approach. Living trust mills often sell trusts to people when they are not necessary or suitable, and they may charge high prices for the trust and will. The trusts and wills may be drafted by non-attorneys or by attorneys in other states or without suitable credentials or who churn out boilerplate documents riddled with mistakes. Many times, the trusts are not specific to the individual's circumstances and may not even be drafted for use in Minnesota.

Not everyone needs or can benefit from a living trust. Under Minnesota law, personal property and estates under $75,000 without real property do not need to go through formal probate. There are other ways to transfer assets to someone else without being probated, such as holding a home in joint tenancy, having joint bank accounts, or listing a person as a beneficiary. In 2018, estates under $2.4 million will not be subject to estate taxes under Minnesota law, so a trust will not help those estates save in estate taxes. The threshold rises to $2.7 million in 2019. A living trust may impact your ability to qualify for Medical Assistance should it be necessary if you need long term or nursing home care. And if you have a living trust and fail to transfer all your property into the trust, the untransferred property must still go through probate.

A Hidden Agenda

In the course of asking you about your estate wishes, the trust salesman will obtain a lot of financial data about you. He will ask you how much money you have in the bank and where your investments and insurance are held. Unknown to you at the time, this "estate planning specialist" is likely an insurance salesman (or someone who works with an insurance salesman). He usually won't try to sell you insurance at the first meeting—because that would be a red flag for you; instead, he will try to build your trust over several meetings. He (or the person that delivers your completed trust documents) will usually try to sell you annuities or insurance at a later appointment, with the benefit of already having complete information about your finances.

Annuities are complex products. If you move your money from another product, you may have to pay fees or penalties. Some long-term annuities lock up your money for more than ten years, subjecting you to penalties if you need to access your money for living expenses. Annuities sometimes also have complicated interest-crediting provisions, leading to confusion about how much interest you will earn. Take time to think over the purchase of annuities or insurance—talk to family, friends, or an experienced local investment professional.

How to Protect Yourself

Be suspicious of ads for "free" dinners or workshops and salespeople who call you on the telephone to sell you estate planning advice. This adage holds true: "There is no such thing as a free lunch." The people who hold these "free" dinners want to sell you something—often a trust followed by annuities, insurance, or investments.

If you want a will, trust, or estate plan, seek out an experienced local attorney. To play it safe, the attorney should be somebody you seek out, not someone who finds you. People who call and write you want to sell you something.

Living trust mills may use non-attorneys or out-of-state attorneys to draft your will. Under Minnesota law, non-Minnesota attorneys are not supposed to draft trusts and wills for people in Minnesota.

Estate plan salesmen use high-pressure tactics. They may tell you they're only in town for a few days or may make you feel guilty because they have spent so much time at your kitchen table. These are big decisions, and you should take time to think about them and consult with a professional or trusted family member or friend. Remember: it is not impolite to say that you're not interested.

Minnesota law generally allows three business days to cancel most sales made in your home. The company is required to notify you of your right to do this using certain forms and language. If you get into a bad situation you regret, cancel right away in writing and keep a copy for your records.

For additional information or to file a complaint, please contact:

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