



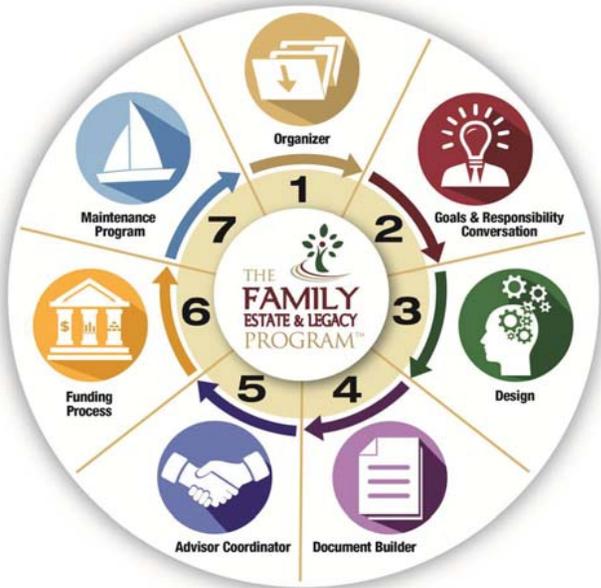
SELECTING YOUR TRUSTEE

Trustee Interview Questions & Conversation Points

Selecting who should serve as your trustee during your incapacity and, ultimately, after your passing is not as simple as one may think. It requires a lot of tough decisions and someone who is willing to take on such a responsibility. After all, it's not an honor, it's a job.

You're already taking your first steps in *The Family Estate & Legacy Program*™ toward developing a custom estate plan meant specifically for you. These pages serve to prepare you for the task of selecting your successor trustee. This task is part of Module 2 of the program — The Goals & Responsibility Conversation. Take this time to go over the questions and conversation points contained herein, and please discuss them with your loved ones and potential trustees.

This task should not be taken lightly! The financial future of your estate is currently in your hands. Review carefully, and, as always, feel free to contact our office with any questions you may have.



SELECTING YOUR TRUSTEE

Selecting who should serve as your trustee during your incapacity and, ultimately, after your passing is not as simple as you may think. Learn what characteristics to look for when choosing those who will handle the future of your estate.

Craig R. Hersch

Florida Bar Board Certified Wills, Trusts & Estates Attorney, CPA

THE FAMILY ESTATE & LEGACY PROGRAM
Expertise. Confidence. Clarity.

*For more information, refer to *Selecting Your Trustee*, a book exploring this and other topics in depth, authored by Craig R. Hersch.*

Corporate Trustee Interview Questions

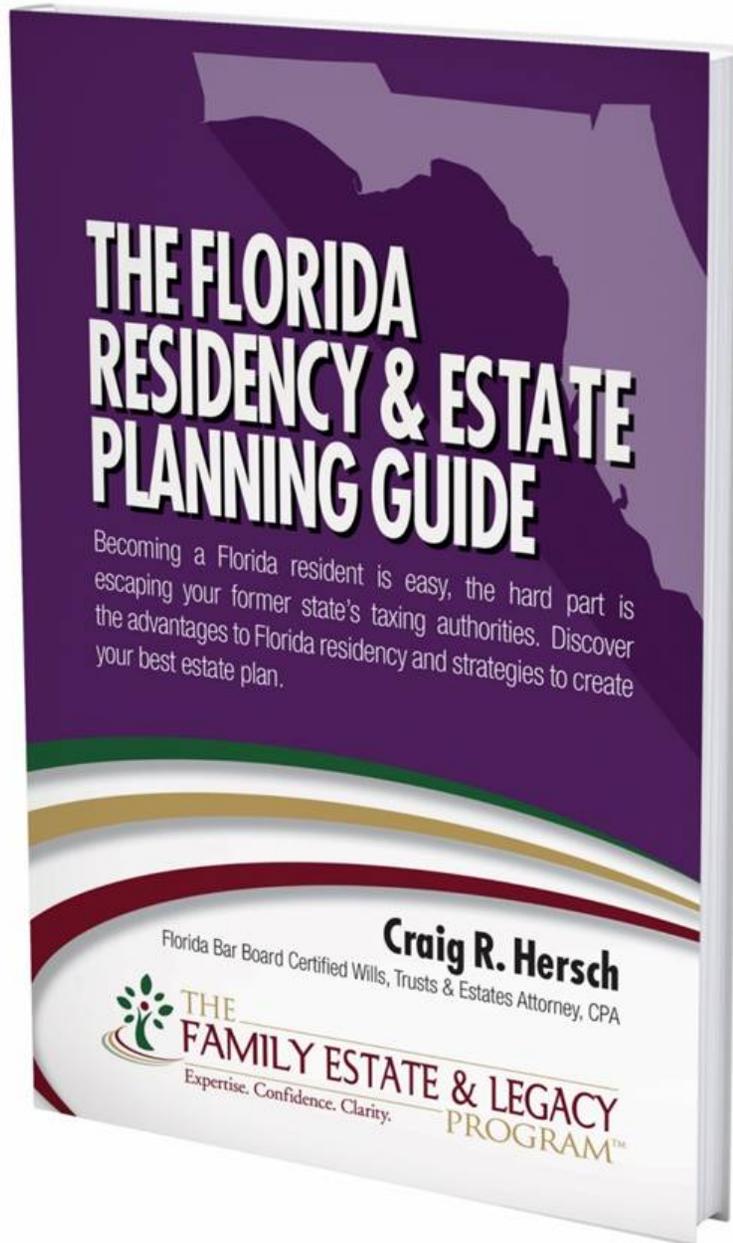
Sitting across the table from bank and trust officers can be intimidating. You may not be as familiar with the legal, tax and financial world as those you are interviewing so you might feel you're at a disadvantage.

Allow me to level the playing field for you.

Here is a list of suggested questions when interviewing financial advisors, banks and trust companies you are considering naming as your successor trustee. I've provided subheadings based on different topics you may be interested in. Don't be afraid to ask any question, including those not found on this list. If you don't understand an answer, follow up with other questions until you do.

Services

- Why should I become a client of your institution?
- Are you willing to serve as my successor trustee?
- Are you willing to serve as a co-trustee with me? With my spouse? With my adult children? With [name person who you are considering]?
- What does it mean to act as my agent? As my trustee? Describe the difference in the level of services you offer.
- If I am disabled, do you write my checks and pay my bills? Will you change the bank where my primary checking account is located? What about my automatic deposits and drafts that are established?
- Will you interact with my attorney and CPA? Have you had regular interaction with them? Describe your overall impression and experiences.



- How do you deliver your services during my lifetime and to my family following my death?
- Do your trust officers come to my residence or must we schedule meetings at your office? How do you interact with my family members who are not local?
- Who will be my trust officer? My investment officer? How long have those individuals been with your institution? Who are their backups in case they leave your firm or when on vacation?
- Will I have to deal with any 1-800 numbers? Will my spouse? Family?
- Do you have electronic banking services? Please describe them.

Assets and Investment Philosophy

- Where are investment decisions made? In the local office? Somewhere else?
- If you were to become my trustee, would you transfer all of my assets from their various institutions to yours?
- How do you decide what investments I should own when acting as my trustee?
- Do you consider the capital gains consequences before making trades? Do you notify me before acting?
- Same question for when you are trustee of a testamentary (after my death) trust? How do you decide what investments are appropriate for my spouse? For my children when serving as their trustee?
- Do I own any investments you won't hold in a portfolio? What happens to those investments when you become my agent? My trustee?
- What is your policy towards letters of retention?

Have I shared enough information about my assets and estate plan with you? What do you want to know now before you have to act?

For investment do-it-yourself clients — Do you feel comfortable continuing to manage my finances as I have with discount or online brokerage firms? If not, what additional help would you need? Would it be easier for you if I established those relationships now while I'm fine and capable of selecting a good advisor? Would you move all of my investments to your broker? Do you know where I keep my usernames and passwords for my online bank/investment accounts?

For tax return preparation do-it-yourself clients — Do you feel comfortable filing my tax return if I can no longer do so? Do you know where the copies of my tax returns are kept? Would you feel more comfortable if I established a current relationship with a CPA while I am still fine and capable of selecting a good advisor? Would you use your CPA in the event of my disability or death or continue to use mine?

What concerns you about your siblings when you are acting as my trustee? Would you be able to tell them "no" if they asked you for an improper or early distribution? Would it be easier if I named an independent co-trustee?

Are you concerned that my children will look at you as impeding their inheritance? If you are named as a trustee, how likely do you believe it to be that one of the children will claim you have conflict of interest both as a beneficiary and the decision maker over investment and distribution decisions?

Do you feel it would be best to name an independent trustee or co-trustee to serve alongside you to take some of the pressure off?

What other dynamics about our relationships with the children concern you?

With Your Adult Children

It's also common for my clients to name an adult child as the successor trustee. The child doesn't need a legal, tax or financial background as long as she is comfortable working with your professionals.

Do you feel you have enough time to manage my investments, write my checks and pay my bills, file my tax returns, and all the various things I now do for myself if I become disabled? Would it help if you had a professional co-trustee to assist?

How do you feel about dealing with your mother/father/step-mother/step-father in a situation when I am disabled? With your siblings? What concerns you most about that situation?

If you are the trustee during my husband/wife's lifetime, will you put his/her interests at the forefront? The temptation would be to preserve as much of my estate as you can for yourself and your siblings. Can you resist that temptation? What about that concerns you? Does naming an independent professional trustee as your co-trustee help with any of your concerns?

Have you met my attorney, CPA and financial advisor? Do you feel comfortable working with him or her either in the event of my disability or administering my trust estate after my death?

- How do you handle non-investment assets such as my residence, closely held business interests and other properties that my trust owns?
- How do you handle my annuities and life insurance policies?

Safety

- How safe is my money at your institution? If your institution fails do I lose all of my money?
- What is the financial strength of your institution?
- Have you been audited by a state or governmental agency? What resulted from those audits? Do you also conduct your own private audits? Please describe.
- How do you keep my personal financial information safe from hackers and other online menaces?
- Are your employees bonded? Please describe.
- Have you ever had an issue with an employee or related party stealing money or assets from a client? What was the result? Was the client made whole?
- How is my information kept confidential? Do you have me sign a release that allows you to speak to my family members? If not, how do you keep a record of which family members I would want you to speak with and which I wouldn't?
- Does your institution require any special language to be drafted into my trust? Describe it please. If it contains releases from self-dealing or conflict of interest, please describe why this is necessary.
- How do you feel about my attorney drafting a clause into my trust that allows certain family members to remove and replace your institution during my disability or death?

Hiring Agents

- After my disability and/or death will you continue to work with my attorney to administer my estate/trust?
- Does your institution prepare my tax returns or will you continue to use my CPA?
- What other agents do you hire? How do you go about hiring them? Who pays for their services?

Trust Administration

- Describe your services during the immediate period following my death and during my trust and/or probate administration?
- What information is provided to my beneficiaries?
- What are the normal timelines?
- How do you deal with my non-investment assets owned by my trust (residences, properties, closely held business interests) after my death?
- Do you prepare the fiduciary income tax returns and estate tax return if any? Or do you work with my CPA? How is this decision made?

Testamentary Trusts

- If I name your institution as a trustee or co-trustee of a testamentary trust for my spouse or any child or other beneficiary, how does that work?
- How are investment decisions made?
- How are discretionary distribution decisions made? Who makes them? How often are they made? Is there a process for any dispute resolution?
- How do you deal with beneficiaries who are not local?

relationship with a CPA while I am still fine and capable of selecting a good advisor?

What worries you most about our money and financial matters?

For Those Married Couples Who Have Children of Their Union

If I become disabled or die and you become the trustee, what worries you most about our family relationships?

Are you concerned that any one of our children might ask you for money? How would you react? Would you have trouble saying “no” if doing so would cause financial harm to us, you, or even to the child requesting the money?

If the trust continues on for your lifetime then distributes to our children, how do you feel about managing the investments in such a way to produce the income you need? Would you feel confident balancing your needs against the needs of our children who inherit one day? Should we tell the attorney that your needs are to be considered first and foremost, and give that specific direction in the trust document?

During the aftermath of my passing, will you need help with the legal, tax and financial day-to-day duties given a period when you might be grieving and not capable of making good decisions? If so, would you feel more comfortable naming an impartial trustee or one of our children?

For Marriages with Blended Families – Particularly Where the Trust Benefits the Surviving Spouse for Life and Then the Stepchildren

Please note that the same questions we ask of the spouse above apply to this situation. Add the following:

The above are just a few of the threshold questions to consider. What follows are conversations that you should have with various loved ones. Before engaging in these conversations, I highly suggest loaning this book to your loved one. Have them read it first, so they are most aware of the duties and responsibilities you are about to ask them to consider taking on.

With Your Spouse

Most of my clients name their spouse as the primary successor trustee, and often it works out just fine. I've also seen plenty of instances where it hasn't. Taking the time to have heart-to-heart discussions over the following issues can help.

Questions for the Spouse Who Does Not Handle Most of the Money and Investment Matters

Are you comfortable managing our money and finances? Why or why not?

What help might you need? Are you comfortable with our financial advisor?

For investment do-it-yourself clients — Do you feel comfortable continuing to manage our finances as I have with discount or online brokerage firms? If not, what additional help would you need? Would it be easier for you if we established those relationships now while I'm fine and capable of selecting a good advisor? Do you know where I keep my username and passwords for my online bank/investment accounts?

Are you comfortable with our attorney? CPA? Why or why not? Should we make a change?

For tax return preparation do-it-yourself clients — Do you feel comfortable filing our tax returns if I can no longer do so? Do you know where the copies of our tax returns are kept? Would you feel more comfortable if we established a current

- How are the interests of the beneficiaries balanced out? What if my trust contains specific direction? Will you review and comment on my trust now before I become disabled or die?
- If my trust provisions call for my spouse and/or adult children to become trustee rather than your institution following my death, how are the accounts turned over to them? When are they turned over? Can my spouse or other beneficiary move the account to any institution they choose?

Fees

- How are your fees determined and calculated? When acting as my agent? When acting as trustee or co-trustee?
- Do you charge fees when named in my trust but not acting in any capacity?
- Are your fees based on all the assets owned by my trust, even non-investment assets such as residences, real estate and closely held business interests? What fees might my trust incur with those assets?
- Describe the difference between your administration fees in the period following my death and ongoing trustee investment management fees?
- Are my family's assets congregated when determining the marginal rate fee charged? How does that work?
- Do you charge fees over assets where I have signed a letter of retention? Please describe.
- Are your fees the same for cash and cash equivalents? Do you charge different fees for actively managed accounts and how is it determined what kind of account my trust owns?

- Am I paying any other asset management fees to anyone else when you are serving as trustee?
- Contrast the fees I am incurring now with your fees, including the difference in services provided.
- Are your fees tax deductible?

Conversations with Loved Ones You Intend to Name as Trustee

Rather than the interview questions I suggest you ask corporate trustees, here I list various conversations to have with your loved ones who you intend to name as a successor trustee.

Too often when I ask a client who they wish to name as their successor trustee a conversation like this occurs:

“I want to name my oldest son Robert as trustee,” my client directs.

“Tell me about Robert,” I ask.

“Well, Robert sometimes gets himself into bad situations. He’s been divorced three times, declared bankruptcy twice and has had a couple of failed businesses,” client offers matter-of-factly.

“Why in the world would you want to name Robert as your trustee?! If you become disabled he has access to all of your money and accounts! He can even sell your home out from under you!”

“Robert’s my first born. He’d be upset if I didn’t name him.”

I am not exaggerating to say that the fictitious conversation above isn’t all that different than several I’ve had with real

clients. When considering naming family members as the successor trustee to your trust in the event of your disability or death, you must first realize that the position is one of significant fiduciary responsibility.

It is not an honor. It’s a job.

You’re not electing Congress. I’ve had other clients name all of their children as successor trustee in an effort not to offend anyone. While that can work out, it often does not because of sibling rivalry and baggage dating back to their childhood. If you name all three of your children as successor trustee keep in mind it takes two (if a majority is required) or three signatures to accomplish anything. Think of the logistics when you have family spread across the country.

Instead, I suggest that you consider the following questions for any loved one you intend to name in this important role:

- Is she likely to respond to your attorney, financial advisor and CPA or procrastinate until the issue at hand becomes an emergency?
- Is she likely to fire your professionals with whom you’ve had longstanding relationships and replace them with her own advisors who you don’t know?
- Are the duties and responsibilities associated with serving as a trustee something that your loved one would dread or be comfortable taking on?
- Does he have the time to make sure that your bills are paid, investments are reviewed, tax returns filed, and the host of other day-to-day responsibilities you take for granted?
- Does he have trouble making difficult decisions?
- Will she be able to stand up to a difficult sibling or other beneficiary?
- When taking care of your affairs during your disability would she have your best interests at heart?
- Would his spouse have influence over his decisions?