KRAMER RADIN, LLP

LAW FIRM

ESTATE PLANNING MATTERS

SUMMER 2016

PROTECT YOUR ACCOUNTS— MONITOR THEM REGULARLY

In the course of developing your estate plan, choosing the right person(s) to manage your finances and your health care needs is very important. The designated representative(s) will be able to take over while you are living but either you no longer wish to or you are unable to manage on your own. The designated representative you choose for financial management will also administer your estate following your death. Obviously, the designated representative(s) you choose must be trustworthy to act in your best interest.

However, there continue to be reported incidents in which a bank or brokerage account is robbed by a crook who gained access through false documentation and emptied the account over a fairly long period of time. This was possible because the owner of the account, or the owner's designated representative, did not monitor the account on a regular basis. An account statement usually comes every month or every quarter but if it is not opened and/or the transactions are not verified, theft goes undetected. But, is the activity on the account all legitimate or are there unidentified deposits or withdrawals? Usually the targeted account has little activity. Often the victim is elderly and either forgetful or careless and has not allowed his/her named representative to help monitor the accounts.

Often when the designated representative realizes or is otherwise notified that help is needed, the situation has become desperate and the representative, not knowing where or how to begin the process, feels overwhelmed.

We can help. We regularly assist the representative in gathering the necessary information and continuing with the on-going management of the assets and liabilities and, hopefully, nothing illegal or detrimental occurred prior to the representative assuming control.

ATTORNEYS AT LAW

Linda C. Kramer* -Partner
Deborah G. Kramer Radin* -Partner
Jerome Galli* -Partner
Betsy Marder Friedman
Tricia L. Manning
Lisa M. Kajani

*Certified Specialist, Estate Planning, Trust and Probate Law, State Bar of California Board of Legal Specializations

CONTACT INFORMATION

280 Second Street, Suite 100
Los Altos, CA 94022
Phone: 650.941.8600 or 408.377.7845
Fax: 650.949.5648
Email: inquiries@kramerradin.com
www.kramerradin.com

… *you can report the death directly to the Social Security Administration representative by calling toll-free, 1-800-772-1213 Monday through Friday between 7:00 AM and 7:00 PM local time..*

REPORTING A DEATH TO SOCIAL SECURITY

When a loved one has died, the Social Security Administration needs to be notified as soon as possible. Usually the funeral director with report the person's death when he or she has been provided the decedent's social security number. However, you can report the death directly to the Social Security Administration representative by calling toll-free, 1-800-772-1213 Monday through Friday between 7:00 AM and 7:00 PM local time. Deaf or hard of hearing people may call the TTY number 1-800-325-0778.

If you are a widow/er, you must choose whether you will continue to receive your own Social Security benefits or receive your deceased spouse's benefits and, of course, you will choose the higher amount. Current benefits for children will automatically change to survivor's benefits after the death is reported. Additional information is available on their Web site (**www.socialsecurity.gov**) in the FAQ "How Social Security Can Help You When a Family Member Dies".

A one time payment of $255 can be paid to the surviving spouse if he or she was living with the deceased. Certain family members may be eligible to receive monthly benefits including a surviving spouse and a minor child of the deceased (age 19 if full time elementary or secondary school student). Others may be eligible provided they meet special circumstances.

Also, if the deceased was receiving Social Security benefits, you must return the benefit received for the month of death or any later months. For example, if the person dies in July, you must

CONTINUING CARE RETIREMENT COMMUNITIES
CONSIDERATIONS AND QUESTIONS

Sally Smith's widowed mother is aging and, while she currently lives on her own, in the last few months she has begun to need more assistance with daily tasks. Sally is exploring alternative living situations for her mother and her mother is weighing her priorities including her desire to: be near family, maintain social connections and make new friends, participate in a variety of activities, as well as make a choice that will allow her to live within her means. Sally and her mother asked us to review a contract from a Continuing Care Retirement Community (CCRC) that they visited and are considering.

The following questions and issues arose in our review of the contract and in our discussion with Sally and her mother:

- Does it make financial sense to sell your primary residence now? Are there alternatives?
- If you do sell your home, will you be able to secure a space in an appropriate CCRC?
- Once you have identified a CCRC that interests you: How long is its waiting list?
- Is the entrance fee refundable or repayable? How have fees historically increased? Is there a limit to the additional fees that can be tacked on? It is essential that you understand and feel comfortable with the terms of the financial commitment associated with the contract.
- Some CCRCs offer "Life Care" contracts that ensure your care for the rest of your life. Are there exceptions to this policy and circumstances under which the CCRC can terminate the contract? In addition, what can you expect if you must transition to a different level of care in the future?
- What can you learn from speaking with current residents of the CCRC you are considering? It can be particularly useful to reach out to those active on committees as they should be well-equipped to provide insight into what life in the community is really like.

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We are available to review CCRC contracts and provide you with advice as you navigate this part of the process.

CONTINUING CARE RETIREMENT COMMUNITIES
CONSIDERATIONS AND QUESTIONS (continued)

There are a number of types of contracts pertaining to CCRCs. Several different types of contracts and models for participation you might encounter are:

- Life Care Contract (Type A): Offers unlimited assisted living, medical treatment and skilled nursing care for the rest of your life (this is generally the most expensive option);
- Modified Contract (Type B): Offers a set of services provided for a set length of time and when that time has passed, other services can be obtained for higher monthly fees;
- Fee-for-Service Contract (Type C): Offers a lower initial enrollment fee, but assisted living and skilled nursing will be paid for at their market rates on an "as-needed" basis;
- Rental/Lease Agreement (Type D): Usually requires no entrance fee but guarantees access to CCRC services on an "as-needed" basis; and
- Equity model: Instead of paying an entry fee, a resident purchases a unit, membership or equity share in the community.

No one type of contract is best for all situations. Individual circumstances vary widely and, thus, must be considered to ensure you enter into an appropriate and/or more advantageous contract.

We are available to review CCRC contracts and provide you with advice as you navigate this part of the process. Please call our office to let us know if we can be of assistance before a decision is made.

DISCLAIMER

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Los Altos, CA 94022
Phone: 650.941.8600 or
408.377.7845
Fax: 650.949.5648
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ABOUT US

Kramer Radin, LLP is a firm of professionals dedicated to the practice of law in estate planning, probate and trust administration, conservatorships and all aspect of trust and estate litigation.

Our team of experience legal professionals encourages our clients to plan and administer their estates wisely t provide for their loved ones, protect their assets from unneeded legal and tax expense and carry out smooth and will-thought-out estate continuity.

Our attorneys deal with related issues including gifting, charitable giving, prevention of elder abuse, Medi-Cal planning and dispute resolution.

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280 Second Street, Suite 100
Los Altos, California 94022-3642

Phone: 650-941-8600
Fax: 650-949-5648
E-mail: inquiries@kramerradin.com
www.kramerradin.com

Newsletter
Summer 2016

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