



PET trusts

Providing for your pup after you're gone

By Rebecca Wallick, J.D.

When “Queen of Mean” Leona Helmsley left \$12 million in trust for the care of her beloved Maltese, Trouble—a move that took third place on Fortune magazine’s list of the “101 Dumbest Moments in

Business” for 2007—she was ridiculed for excessive generosity toward a mere animal, just as during her life she was ridiculed for her stinginess toward people.

Yet the high-profile case of Trouble has increased awareness of this valuable tool—the pet trust—for the rest of us. If, through the use of these trusts, more pets are cared for after their guardians die, then Mrs. Helmsley will have

accomplished something positive.

While the idea of providing for a pet after death has been around for centuries, laws supporting pet trusts are a fairly recent creation. According to Gerry W. Beyer, a law professor at Texas Tech University School of Law specializing in estate planning, “Trusts for pets are very similar to trusts for children.”

Beyer urges anyone considering a pet

trust to find a knowledgeable attorney. “What if all of their property is in survivorship form? Then funding a pet trust through a will provision may not work. It’s just too risky to do without legal advice.” Beyer also points out the importance of planning—realistically—for the pet’s lifespan. “Discuss whether or not you want the trustee to pay for heroic medical care. Get real specific.”

Stacey Romberg is a Seattle-area estate planning attorney specializing in pet trusts. At least half of her clients are concerned about providing for their pets. “Not every client needs a pet trust,” Romberg says. “Trusts are complex. Instead of setting up a trust, a client could give \$10,000 and Buddy to a caregiver; lots of people do. It’s my job to explain the options and let the client decide.”

Romberg cites the case of one client who had a sickly dog with special needs, including a cart for his hind legs. The client left \$50,000 in trust for her dog, knowing that otherwise, her family or friends might be reluctant to spend that amount for a pet’s care.

On the other hand, Steve Smith, co-founder of Rolling Dog Ranch Animal Sanctuary in Montana, provides a cautionary tale about trusting family with your pet after your death. “We’ve found that family members sometimes can be unreliable caregivers; their willingness to care for a pet can change over time. People make assumptions regarding their family loving their pet, when what will literally happen is, the day after the funeral, the pet is taken to the nearest shelter.”

Linda Griffin, a 52-year-old Seattle resident, plans to avoid such a tragedy. She and her partner are guardians of four dogs: an older German Shepherd mix, and three younger Miniature Poodles (whom Griffin calls porta-pups). Twelve years ago, when exploring estate planning, Griffin asked Romberg about cre-

Eric Hanson

Practical Considerations

- Choosing a caregiver. They must be willing and able. Your pet should get along with the caregiver's family and pets. Name an alternate or two.
- Choosing a trustee. Make sure the trustee is willing. Consider paying the trustee or naming a corporate trustee.
- Transferring ownership of the pet. "A specific gift of the animal to the trustee, in trust, is required, with instructions to deliver the pet to the caregiver," says Beyer.
- Indicating the desired standard of living. Leave specific, detailed, written instructions.
- Funding the trust. Common arrangements include a set monthly amount, discretion for unexpected expenses and reimbursement of expenses. It's a good idea to require random inspections of the pet in the caregiver's home.
- Dispensing leftover funds. Consider giving the remainder to an animal welfare charity.

Source: Gerry W. Beyer
professorbeyer.com

ating a trust for their pets. "They're like our kids," says Griffin. "You wouldn't leave who cares for your kids up in the air, would you?" She talked to her sister and niece about being caregivers. "I told them I didn't expect them to keep all four dogs, or however many I have at the time, but I do expect them to find good homes for any they can't keep." When asked if friends or family were shocked at the idea of a pet trust, Griffin replies, "They already think we're a little nuts about our animals, so they weren't surprised!"

Finding the best trustee and caregiver for your pet is critical to the success of your planning. Beyer strongly recommends choosing different people for each task, to prevent any conflicts of interest. And the pet covered should be clearly identified. "In one case, a caregiver went through three black cats before anyone

realized the original cat had long since died," he says.

Make sure the named caregiver is willing. That seems basic, but as Smith points out, you simply can't assume.

Romberg advises clients to anticipate the costs of your pet's care over its lifetime. "Figure out an average yearly expenditure, multiply that by the expected lifespan of the pet, then add for contingencies, like increased medical expenses and special needs as the pet ages," she says. "I provide an information sheet that the client fills out for the trustee. It's very detailed, intimate information, like how Buddy enjoys being scratched on his belly but not behind his ears—all the information the trustee and caregiver need." (Singer Dusty Springfield left a trust for her cat, with instructions that one of her songs be played each night at bedtime.)

What if you don't go to an attorney to have a pet trust included in your estate planning? What if you just add a sentence to your simple will, something like, "I leave \$1,000 for the care of my dog, Fred." Currently, in 40 states, this would create a *statutory* pet trust, and your state's laws regarding pet trusts will determine who actually spends that money on Fred's behalf and where Fred lives. In the remaining states, a traditional trust (like those for children) would be created. If you want more control, then a pet trust drafted with the help of an experienced estate planning attorney is the way to go.

Romberg emphasizes that any pet trust you end up with needs to be clear and understandable, both to you and to your chosen trustee.

Rachel Hirschfeld is an estate planning attorney in New York City. "My whole life is making sure pets are safe," she says. She helps people create pet trusts and pet protection agreements. "What if you're alive, but in the hospital, unable to care for your pet?" she asks. Hirschfeld's pet protection agreement is like a power of attorney for your pet—it allows you to designate someone to step in, either temporarily or permanently depending on

the circumstances, to care for your pet.

Hirschfeld has clients complete a manual of care, with details about the pet's life and usual standard of living. "I ask each client to go ask the proposed pet guardian, 'Are you willing to sign my Manual of Care?' If not, they ask someone else. This avoids a situation like Leona Helmsley's brother," says Hirschfeld. Helmsley named her brother as Trouble's caregiver, but he refused; the alternate, a grandson, also refused. "I had a client who assumed her husband would be willing to care for her pet," says Hirschfeld. "When I insisted she ask him, he admitted that he couldn't care for the pet as well as she did and revealed that he didn't want the responsibility. The wife named a different guardian." Hirschfeld says the manual eases the transition for the pet and the caregiver.

The beauty of pet trusts, pet care agreements and manuals of care is that they can be tailored to suit the quirky or special needs of our individual pets, while providing peace of mind that, in the event we can't be with them ourselves, we've done everything we can to make the rest of their lives as wonderful as possible. **B**

Resources

Attorneys

Gerry W. Beyer
professorbeyer.com

Rachel Hirschfeld
pettrustlawyer.com
petriarch.com

Stacey Romberg
staceyromberg.com

Websites

Estate Planning for Pets

Includes links to organizations, commercial and nonprofit, that will take in your pet after your death.
estateplanningforpets.org

Pet Guardian, LLC

Associated with Best Friends Animal Society; provides links and resources for pet caregivers.
petguardian.com