



An Unfunded Trust is a Useless Trust

A Revocable Living Trust (RLT) is developed with the intent to avoid Probate and to ensure that your assets are distributed in accordance with your directives. When the Grantor dies, the named trustees simply follow the trust instructions and distribute the trust assets accordingly. No judge or court hearing is needed. Unlike a will, a trust is completely private and the public never knows how the assets pass and to whom they are passed.

A trust is a great tool to have in anyone's estate planning toolbox. However, one of the most common mistakes people make is never actually funding their trust.

Music legend Michael Jackson made this exact mistake.

Michael Jackson had a revocable living trust created in order to protect his massive estate for the benefit of his three children and his mother. Reports state the trust was designed so that his children would inherit 50% of his estate and the other 50% would go to his mother. The trust detailed that the children would be receive specific amounts at ages 21, 30, 35, and 40.

Since his death, reports estimate Jackson's estate is worth about \$600 million dollars. Upon review of Jackson's estate planning documents, it was discovered the trust was never funded.

So, what happens when a trust is not funded?

When a person creates a trust they also create what is called a "pour over will". This type of will ensures that any asset not placed in the trust will end up in the trust and distributed according to the trust. Since a "pour over will" is a will, the asset must be probated before being placed in the trust.

In Jackson's case, his entire estate was left out of his trust. Therefore, his entire estate has to go through the probate process before the trust can be funded. This caused several issues.

First and foremost, the estate is essentially "frozen" and cannot be distributed to Jackson's named heirs. The children and his mother are living off an allowance that is managed by the estate executor's and overseen by a judge.

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Second, the estate being probated means the estate is now open to litigation. Jackson's siblings are contesting the distributions of his estate to only his mother and his children, alleging fraud, as being omitted from the distribution plan.

Third, a funded trust would have protected Jackson's estate from creditors. Since the estate has to be probated, creditors can now take advantage of the statutory period allowing them to make claims against the estate. Reports indicate the amount of creditors making claims against the estate could take several years to sort out and address.

In sum, all of these impediments serve to prolong the probate process, which will cost the estate money. Once the process is over, and the creditors, courts, and attorneys are paid, then whatever remains will be placed in the trust.

Lesson of this story? FUND YOUR TRUST. A revocable living trust is designed to avoid probate and all of the possible issues associated with the process. When you fail to fund your trust, you essentially invalidate the entire point of creating one.

An unfunded trust is a useless trust.

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