



January 28, 2003

Bob and Pat  
1234 Street Drive  
DFW Metroplex, TX

**Re: Complimentary Estate Planning Recommendation**

Dear Bob and Pat:

Thanks for visiting willpartner.com and filling out the Estate Planning Fact Finder. I am pleased to make a preliminary estate planning recommendation based on the information you provided. This recommendation outlines the estate planning options we could use to implement a plan that will accomplish the goals that are important to you.

I have restated below the goals that are important to you along with the course of action I recommend to accomplish the goal. At the end of this letter I have provided a fee range so you can see what it would cost to implement the recommendations outlined in this letter.

***Goal 1: I want to be in control of who makes business, financial, lifestyle and healthcare decisions for me if I am not able to make those decisions myself.***

Recommendation: This issue is often overlooked in estate planning. The complications and expense that may be incurred if you do not plan for your disability can be mind boggling. For decisions related to health care and life support you need a Medical Power of Attorney and a Directive to Physicians. Caution: It is estimated that in 75% of the cases where people have completed these types of documents, they are not available at the time of need. We can help you with preparing the documents properly and then take steps to make sure the documents are available when needed.

There are a variety of options you could employ to address who will make decisions related to your business or financial affairs if you can not make them yourself. The three most common approaches to this are (1) to hold title to your assets jointly with another person or (2) to designate an agent to act on your behalf under a power of attorney or (3) set up and transfer your assets into a living trust. Holding your property jointly is in direct conflict with Goal 3 below and is not recommended. A power of attorney could work to accomplish this goal and is the only option for your retirement plan assets, but third parties are not obligated to honor powers of attorney and extreme caution and follow up work to insure that it will be effective are required. The best alternative for assets other than your retirement plans is to set up and fund a revocable living trust.

***Goal 2: I do not want to incur the cost, publicity, and loss of control of court conservatorship proceedings if either my spouse or I become disabled.***

Recommendation: Any assets that you hold title to in your own name may become subject to court control and supervision if you become incapacitated. This is known as a guardianship or conservatorship. A court designates a guardian to

protect your interests in your assets. A guardianship proceeding is usually initiated when a third party who is in control of some of your assets (a bank, a brokerage house, or a mortgage company) requires authorization for another to act on your behalf with respect to assets that are titled in your name. The three most common approaches to protect against a guardianship are (1) to hold title to your assets jointly with another person or (2) to designate an agent to act on your behalf under a power of attorney or (3) set up and transfer your assets into a living trust. Holding your property jointly is in direct conflict with Goal 3 below and is not recommended. A power of attorney could work to accomplish this goal and is the only option for your retirement plan assets, but third parties are not obligated to honor powers of attorney and extreme caution and follow up work to insure that it will be effective are required. The best alternative for assets other than your retirement plans is to set up and fund a revocable living trust.

***Goal 3: My highest priority is to provide for my spouse if I am the first to die, but I want to structure my estate plan so that what I leave to my spouse is protected and preserved for our children if my surviving spouse remarries.***

Recommendation: There are a number of estate planning options available to accomplish this objective. Unfortunately, most people, including attorneys who do not specialize in estate planning, are not familiar with any of the options. Based on your family and financial situation, I recommend that you include instructions in your basic estate planning documents to provide for a trust to be created with the assets of the first of you to die for the primary benefit of the surviving spouse. The instructions should include provisions for distributions from the trust if the surviving spouse should remarry. Other issues that could be addressed in the design of this trust include: creditor protection and Medicaid eligibility planning. This type of trust can be part of either a will or a living trust. To insure that your plan addresses this goal as well as Goals 1, 7, and 8, I recommend that you use a living trust. You will make decisions on these matters when we meet to finalize the details of your plan.

***Goal 4: I want to be in control of who takes care of my minor children if, either because of death or disability, I can not provide the care and nurturing they need.***

Recommendation: The decision regarding who will take care of your children if you are not able to is of vital importance. This designation should be made in your will and in a Declaration of Guardian. You will make decisions about whether an individual or a couple will fill this role, successors and whether you want your children in a “two parent” home when we meet to finalize the details of your plan.

***Goal 5: I want to leave specific instructions to the guardian of my children regarding the use of what I leave my children so that it is not wasted or an obstacle to my children developing their full potential as productive members of society.***

Recommendation: It is sad but true, many people leave more instructions for a babysitter who will take care of their children for just a few hours, than they leave for the guardian who might be caring for their children for several years. The level of detail and content of these instructions vary from case to case. For matters of vital importance to you, these instructions should be left in the trust that is established to provide funds for the care and keeping of your children. You should also complete what some people refer to as an “Ethical Will.” We will guide you through the decision making process in regard to these matters so the level of detail and topics covered reflect those matters that are important to you.

***Goal 6: I have purchased life insurance to provide for my loved ones and I want to make sure my life insurance and my estate plan are coordinated so the life insurance is used for its intended purposes.***

Recommendation: It is not uncommon for life insurance proceeds, regardless of the amount, to be completely spent within 18 months of the death of the insured. Many times, people purchase life insurance to provide for the long term care, keeping and education of their children and surviving spouse, but leave no instructions for the use of the money other than the beneficiary designation. I recommend that you create the trusts outlined in the recommendations for Goals 3, 4 and 5 above and then coordinate the beneficiary designation on your life insurance with your plan. This will provide a mechanism to prevent the life insurance proceeds from being wasted or held up by the Court or life insurance company because your beneficiaries are minors or otherwise incapacitated.

***Goal 7: I want to create an estate plan that is valid in every state because I may move to another state and I do not want to have to redo my plan if I do.***

Recommendation: Each state has its own laws regarding the requirements for making a valid will. In most cases, there are only slight differences in the requirements, but it can be very expensive and time consuming to probate your will even if it is only a little bit off the mark. You can try to make a “universally” acceptable will, or you could create a living trust. A trust is a contract and under the provisions of the United States Constitution, each state is obligated to honor the contracts made in other states. Therefore, trusts move from state to state a lot better than wills. Given this goal and your other goals, it is my recommendation that you use a living trust rather try to design a “universally” valid will.

***Goal 8: All things being equal, if my estate can be administered without court intervention or supervision, that would be my preference.***

Recommendation: There is no way to guarantee that your estate can be administered without court intervention or supervision. There are any number of things that could happen that could pull an otherwise perfect plan into the courts. There are a number of estate planning options that can be employed to avoid court control or supervision of your affairs. Given the information you provided and the other recommendations outlined above, it is my recommendation that you use a living trust as the basis of your estate plan to avoid both living and death probate. In addition, you should designate an agent under a power of attorney to deal with your retirement plans if either of you should become disabled.

As I mentioned at the beginning of this letter, the recommendations discussed above form the outline of an estate plan that will accomplish your goals. The specific estate planning options recommended above and the ancillary documents necessary to make your estate plan effective would include the following:

<b>BASIC DISTRIBUTION PLAN</b>	
1	Joint Living Trust
2	Pour Over Will
<b>PLANNING FOR A SURVIVING SPOUSE</b>	
1	Family Trust
<b>PLANNING FOR CHILDREN</b>	
1	Common Trust
3	Convenience Trusts for Adult Children
<b>DISABILITY PLANNING DOCUMENTS</b>	
2	Durable Power of Attorney
2	Medical Power of Attorney
2	Living Will (Directive to Physicians)
2	Declaration of Guardian
<b>FUNDING DOCUMENTS</b>	
2	IRA/401(k) Beneficiary Designation
3	Life Insurance Beneficiary Designation
1	Real Estate Deed
1	Blanket Bill of Sale/Assignment (Personal Property)

There are details that are not addressed in the recommendation outlined above that will require more input from you. Depending on the decisions you make regarding those details, the fee to implement the recommendation outlined above would be in the range of \$1,850 – \$3,000.

I would be happy to meet with you to discuss in more detail your situation, my recommendation and to answer any of your questions related to the recommendation or the details of your estate plan.. My fee for such a meeting would be \$250 and I would at that time quote you a fixed fee, within the range mentioned above, to do the legal work to implement your estate plan. You would have no obligation to hire me, but if you do, the consultation fee would be credited to the fee quoted to do the work.

Thanks again for submitting your Estate Planning Fact Finder. Please call Jeanne at 972-888-6050 to schedule a time to come in and discuss this recommendation and finalize the details of your plan.

Sincerely,

Tim Ketchersid