

## **Pet Trusts Offer Peace of Mind**

### *Protecting Finn*

At the age of 80, Mary, who already had an acute medical condition, was diagnosed with early dementia, but Mary was determined to live independently. Her husband of 55 years had already passed, and her poodle, *Finn*, became her best friend and constant companion. When she went to her doctor appointments or hospital stays, she insisted that *Finn* had to come too. As Mary declined, she became less able to not only take care of herself, but also *Finn*. *Finn* naturally was devoted to Mary and he stuck to Mary like glue, as he sensed her illness.

As Mary's need to leave her home and enter the long-term care maze became evident, the problem of what to do with *Finn* was an additional piece in the puzzle. *Finn*'s presence would be a comfort to Mary, but who would take care of him when she entered an assisted living or a nursing home?

Fortunately, Mary had the foresight to set up a Pet Trust for *Finn*. In the Pet Trust, Mary appointed a local trusted Caretaker for *Finn* and a Trustee to distribute the funds she had set aside in a trust account to pay for *Finn*'s care costs. She also included a stipulation for the Caretaker to bring *Finn* to visit Mary on a regular basis. A final trust stipulation will require the Caretaker, after Mary's passing, to continue *Finn*'s care in the same way.

### **How Pet Trusts Started**

The ability to establish a trust for animals is quite new. Previously, only humans and charities were permitted to be named as trust beneficiaries under State probate laws. Michigan, and 36 other States, now expressly allows pet owners to establish trusts which name pets as beneficiaries.

### **Selecting a Caretaker**

The two key people you will need to appoint in a Pet Trust are the Trustee and the Caretaker.

The Caretaker of your pet would be called into action upon your illness, incapacity, or death. It is best to select a local Caretaker for immediate and/or temporary service and a more permanent Caretaker for long-term care services. The temporary and/or permanent Caretaker can be a close friend or nonprofit organization satisfying your desires and wishes. If you cannot decide on a Caretaker now, you can give your Trustee the power to pick a Caretaker when needed.

### **Selecting a Trustee**

The next key part is to select a Trustee. The role of the Trustee will be to distribute funds to the caretaker and make sure the caretaker is doing a good job. The Trustee can either be a trusted family member, friend, nonprofit or professional trust department.

The Trustee and Caretaker can be the same person or organization. In many cases, you may feel so comfortable with a person or organization that you trust that person or organization to serve in both jobs. In other cases, it may be best to appoint different parties as Caretaker and Trustee in order to create a *check and balance*.

As an additional security measure to protect your pet, you may appoint a *Trust Protector*. A Trust Protector will have the power to monitor the Trustee and caretaker and remove and replace either or both.

### **Specific Instructions Help to Protect Your Pet**

The more specific your instructions, the smoother the transition for your pet will be when you can no longer care for your pet. Your Pet Trust can include all significant aspects of the pet's care, from the brand of food to the preferred veterinarian. You need not name your pet in the Trust, although you can.

### **Setting Up a Pet Trust**

Most of our clients include a Pet Trust as a sub-trust within their Living Trust plan. By titling an account or mutual fund in your Living Trust, the Pet sub-trust will automatically be funded.

Other clients prefer to set up a stand-alone Pet Trust.

Please keep in mind that drafting a Pet Trust with all of your wishes adds professional time and expense to your estate plan. The extra cost may vary between \$200 and \$400, or possibly more if your instructions become complicated.

### **Conclusion**

As we travel on the Elder Care Journey, we will experience times of intensive hospital care and periods of mobility and/or memory decline. Not only must we plan for our care during the Journey, but also for the care of our animal companions.

A Pet Trust can give you peace of mind in knowing that quality care for your pet will continue when you will not be available.

Our firm has designed Pet Trusts for many of our clients.

For additional information, contact our website at [www.upelderlaw.com](http://www.upelderlaw.com) or Rachel Hirchfeld's website at [www.pettrustlawyer.com](http://www.pettrustlawyer.com).

### Foot Notes

1. MCL Section 700.2722. In Michigan, Pet Trusts are valid up to 21 years.