



## Lahti, Lahti & O'Neill, LLC

Estate Planning and Elder Law



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*Estate Planning Solutions*

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## The Elephant in the Room

By Stephen T. O'Neill

Let's face it... when we talk about estate planning, we're talking about the inevitability of death and the possibility of disability. While we hope that all our clients toddle off as sharp-witted centenarians, we must plan for the possibility that they will not. And in doing so we want to be sure that as these events occur, those left behind know where to turn.

For a number of years, we have been including in our clients' Estate Plan Binders instructions entitled "Steps to Be Taken upon Death or Incapacity." If you don't find these instructions in the Overview Section or the Funding Instructions Section of your Binder, the next time you come in for a complimentary triennial review of your Estate Plan, you should remind us and we will make sure that a set of these instructions gets added to your Binder. And for those of you who are so gripped with excitement that you cannot wait that long, we have included the instructions as follows, with separate instructions for both married and single individuals.

### *Steps to be Taken Upon Death or Incapacity of a Trustmaker – Married Couple*

Within a week or so after the first Trustmaker passes away, it is advisable to contact us to arrange a meeting. At that meeting we generally review the ownership and value of all assets of both Trustmakers in order to determine whether any probate proceedings are necessary and to determine whether or not federal and/or state estate tax returns must be filed.

We also talk about what must be done with respect to the assets as a result of death of the first Trustmaker. In a joint trust where there has been no estate tax planning, this generally involves nothing more than advising the custodians of the assets that the first Trustmaker has passed away. In estates where there has been estate tax planning, this generally involves splitting the assets between a Marital Trust and a Family Trust, or similar trusts. It may also involve notifying the custodians of the assets that there are different or additional Trustees. We establish a timetable for all of the actions that must be taken as a result of the first Trustmaker's death, and we determine which of these items should be taken care of by us, by the surviving Trustmaker, or by others. The objective is to achieve as smooth and economical a transition as possible.

Upon the death of the surviving Trustmaker, the successor Trustees and/or heirs should contact us to arrange for a meeting. At that meeting, we again generally review the ownership and value of all assets, both those of the surviving Trustmaker and those which were held in further trust as a result of the death of the first Trustmaker, in order to determine whether a probate is required and whether a federal and/or state estate tax return is required.

We provide guidance and assistance in paying debts, expenses and any taxes that may be due. We also begin the process of putting the successor Trustees in actual possession and control of the assets so that they may distribute them and/or allocate them to any continuing trusts. We establish a timetable for all actions that must be taken as a result of the death of the surviving Trustmaker, and determine which items should be taken care of by us, by the Trustees, or by others. Again, the objective is to establish as smooth and economic a transition as possible.

If one of the Trustmakers should become incapacitated so that he or she is no longer able to manage his or her property or financial affairs, the other Trustmaker should contact us so that we can make sure that the disability Trustee(s) are placed in control of the trust assets in order to continue to manage them and use them for the continuing benefit of both Trustmakers. If the surviving Trustmaker is incapacitated, or if both Trustmakers become incapacitated, then the successor disability Trustees and/or family members should contact us.

## **Request a Speaker**

*Lahti, Lahti & O'Neill will be happy to conduct complimentary Estate Planning & Elder Law educational workshops and seminars for professional management organizations, retired professional groups, financial advisor firms and senior support groups. To arrange an educational seminar or workshop for a group of 25 or more people, email or call us at (401) 331-0808.*

We can make arrangements to put the disability Trustees in control of the assets in order to continue to manage them and use them for the benefit of the Trustmaker(s).

Also, if at the time a Trustmaker is disabled, there are any assets still outside the trust, we will provide assistance in having these assets transferred into the trust using the Durable General Powers of Attorney or other appropriate means. If there are any assets which cannot be held in the trust, such as individual retirement accounts or retirement plans, or any other actions which need to be taken that cannot be handled by the Trustees, we will provide guidance on using the Durable General Powers of Attorney or other appropriate means for this purpose. Unfortunately, you can never be certain that all institutions will accept powers of attorney, and therefore in some cases it may be necessary to institute guardianship or conservatorship proceedings following incapacity.

## ***Steps to be Taken Upon The Death or Incapacity of a Trustmaker – Single Individual***

Upon the death of the Trustmaker, the successor Trustees and/or heirs should contact us to arrange for a meeting. At that meeting, we generally review the ownership and value of all assets in order to determine whether a probate is required and whether federal and/or state estate tax returns are required. We provide guidance and assistance in paying debts, expenses and any taxes that may be due. We also begin the process of putting the successor Trustees

## **Introductions**

*Lahti, Lahti & O'Neill is always grateful to receive referrals from our clients and professional colleagues. If you know of anyone interested in our estate planning or elder law services, please have them contact us for a free consultation.*

## **Email Addresses?**

*We're updating our email address list. If you have a new email address, or if you never gave it to us originally, simply send an email with your name to [Rose@LLO-Law.com](mailto:Rose@LLO-Law.com)*

in actual possession and control of the assets so that they may distribute them and/or allocate them to any continuing trusts. We establish a timetable for all actions that must be taken as a result of the death of the Trustmaker, and determine which items should be taken care of by us, by the Trustees, or by others. The objective is to establish as smooth and economic a transition as possible.

If the Trustmaker is incapacitated, then the successor disability Trustees and/or family members should contact us so that we can make arrangements to put the disability Trustees in control of the assets in order to continue to manage them and use them for the benefit of the Trustmaker.

Also, if at the time a Trustmaker is disabled, there are any assets still outside the trust, we will provide assistance in having these assets transferred into the trust using the Durable General Power of Attorney or other appropriate means. If there are any assets which cannot be held in the trust, such as individual retirement accounts or retirement plans, or any other actions which need to be taken which cannot be handled by the Trustees, we will provide guidance on using the Durable General Power of Attorney or other appropriate means for this purpose. Unfortunately, you can never be certain that all institutions will accept powers of attorney, and therefore in some cases it may be necessary to institute guardianship or conservatorship proceedings following incapacity.

## **Steve O'Neill to Retire at Year's End**

In a personal letter to his clients dated October 21st, 2014, Stephen T. O'Neill announced that he will be ceasing the active practice of law as of January 1, 2015. However, he will be associated with Lahti, Lahti & O'Neill, LLC as a consultant for the indefinite future, particularly in regard to transitioning his clients over to his partners, Michael and Mia Lahti.

*Pursuant to U.S. Treasury Department Regulations, we are required to advise you that, unless otherwise expressly indicated, any federal tax advice contained in this communication is not intended or written to be used for, and may not be used for, the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.*

*This Newsletter should not be construed as legal advice but rather as general guidance on matters as to which you may wish to consult with a qualified professional advisor.*

Steve's retirement will occur exactly 40 years after having been first admitted to practice law in New York. Since his initial work on Wall Street, Steve has concentrated on estate planning and retirement distribution planning. After relocating to Rhode Island in 1976, Steve became the Chair of both the Estate Planning and the Employee Benefits Departments of the Providence law firms of Adler, Pollock & Sheehan, Incorporated and Tillinghast, Collins & Graham. Steve established a solo practice in 1990, and merged his firm with Lahti & Lahti, P.C in 2011, to form Lahti, Lahti & O'Neill, LLC.

Steve stated in his letter that, "I have felt a special duty to my clients to leave them in the most capable hands possible." In referring to his partners, Steve went on to write, "Perhaps my best fortune has been my partnership with Michael and Mia Lahti. Michael and Mia share my ideals of law practice excellence and the highest possible level of client service."

## **Introducing Alicia D. Luft, J.D.**

Lahti, Lahti & O'Neill, LLC is pleased to welcome Alicia D. Luft as an associate attorney with the firm.

Alicia started her full-time position in April of 2014, and is currently working in both Estate Planning and Elder Law. She passed the Rhode Island and Massachusetts bar exams during the fall of 2013.

Alicia graduated from Bryant University where she majored in Business Management and minored in Legal Studies and Psychology. She studied law at the Roger Williams School of Law in Bristol, RI, receiving her J.D. degree in May of 2013.

Prior to joining Lahti, Lahti & O'Neill, LLC, Alicia worked as an intern with a law firm practicing Bankruptcy and Family Law. She also gained experience working with the Rhode Island Mortgage Foreclosure Project, and the Rhode Island Office of the Public Defender.

Alicia resides in Bristol, RI with her fiancé and her two cats. In her free time, she enjoys local beaches, reading and cooking.

Please join us in welcoming Alicia to Lahti, Lahti & O'Neill, LLC



## **An Interview With Alicia D. Luft, J.D.**

*Interviewed By  
Brian McCarthy*

**1. Tell us about your legal education at the Roger Williams School of Law.** Roger Williams provided me with a fantastic legal education. Aside from the typical law courses (contracts, torts, criminal law, etc.) Roger Williams also has great in-depth legal drafting courses and externships that allow you to get an idea of what it would be like as a practicing attorney. Although I learned a lot in the first year taking basic courses, I absolutely learned the most during my Contracts Drafting course as well as during an externship in the Rhode Island Superior Court.

**2. Do you feel Roger Williams fully prepared you to practice law?** This is a trick question! I absolutely feel like Roger Williams provided me with a great foundation to begin my legal career. I gained exposure to a bunch of different legal topics. However, I feel like a person will never be fully prepared to practice law without spending time in a law firm setting, meeting with clients, and solving legal problems on a daily basis. Nonetheless, Roger Williams definitely prepared me to practice law by helping me develop important attributes such as time management and how to practice ethically.

**3. Did you take any special Bar Review courses prior to taking the Rhode Island and Massachusetts Bar exams?** Yes, I took a Bar Review course called Barbri to study for the Rhode Island and Massachusetts Bar exams. It was an intense schedule of lectures combined with homework assignments and practice tests to help you prepare for the tests in July. Studying was my full time job for two months! Although it was rigorous, it was definitely worth it because I passed both tests on the first try.

**4. Have you always practiced Estate Planning & Elder Law?** I have not always practiced Estate Planning and Elder Law. This is my first attorney position after having passed the bar. I have experience working with a few different areas of law including bankruptcy and family law. However, I have always had an interest in drafting legal documents as well

as being able to interact with clients on a daily basis. This type of law allows me to do both!

**5. How did you get together with Lahti, Lahti & O'Neill, LLC?** LL&O had an open associate attorney position and I was just lucky enough to land the job after just being sworn in to the Rhode Island and Massachusetts bar in November, 2013.

**6. How do you like LL&O so far?** I love working with LL&O! I love the work that I do and it is very nice to be able to interact with clients on a daily basis. Also, the entire staff at LL&O is great, and they have been extremely helpful while I learn the ropes around the office.

**7. What inspired you to choose law as a profession?** The honest answer is that I kind of fell into it. I did not know what I wanted to do upon graduating from Bryant University with my undergraduate degree, so I decided that I might like to become a lawyer. I have always been very strong minded and I love to help people, so it seemed like a great fit. Besides the student loans, I would not change a thing in my career choice!

**8. What do you like the most about the work you do?** What I like most about my work is that I am able to do something different every day. Although we solely practice estate planning and elder law, every client comes with a unique set of facts and problems to solve.

**9. Describe a typical day at LL&O.** There really is no "typical" day. Every day I am working on something new. A majority of my time is spent working on estate or trust administrations or probate paper work, but Attorney Michael Lahti will also have me sit in on estate planning meetings.

**10. What is the best advice you are offering your clients now?** The best advice we are offering to our clients right now is to create an estate plan if they do not have one already. If a client has an existing estate plan, it is essential to contact our office every few years to see if anything needs to be adjusted. As family dynamics and finances fluctuate throughout life, it is necessary to adjust estate plans to reflect these changes. Maintaining an up-to-date estate plan can minimize or eliminate exposure to probate and taxes and even help qualify you for Medicaid or Veterans' benefits.

*Brian McCarthy is an independent marketing consultant*