

## WORKING WITH A KNOWLEDGABLE ESTATE PLANNING ATTORNEY

This month we would like to address the benefits of working with a knowledgeable estate planning attorney.

In recent years there has been an influx of individuals and entities offering and promoting the sale of living trusts to individuals, however, we would caution to be wary of anyone who is proposing to you, either in person or through a seminar, that you have a trust prepared without actually meeting with and developing a relationship with the professional and licensed attorney who is doing your work. We believe you are best served when you can create and have an ongoing relationship with the attorney who is advising you. Don't be confused. You are not buying a document when you work with a knowledgeable attorney. You are relying on the experience, education, special knowledge, and counsel of that individual to know that you are preparing your affairs in the right way.

We have recently dealt with several situations where individuals were sold trust documents, never met with an attorney, and after the death or incapacity of the person who signed the document, there have been significant problems, mainly because they never received good counsel and the documents were incorrect. Being told that an attorney has approved the document is not sufficient.

Recently, the Kansas Disciplinary Administrator brought discipline action against a Kansas attorney whose name we have chosen not to report in this article. A hearing panel recommended one-year suspension and published censure. The Supreme Court held that attorney's association with company that used attorney's name and engaged in fraudulent activities involving estate planning warranted two-years probation.

### FACT SUMMARY:

Respondent entered into a services agreement with ALMS, Ltd., a Dallas, Texas, company whereby he agreed to have ALMS, through its client service representatives and other affiliations, send mass mailings to a targeted group of residents in Kansas and Missouri soliciting trust, will, power of attorney, and asset transfer document preparation and other services to be performed by Respondent as an attorney licensed in Kansas and Missouri. Respondent knew that ALMS was affiliated with Addison Group and Addison Insurance Marketing, both of Dallas, Texas, and Advanced Legal Systems. Respondent also knew that the four entities had offices in Leawood, Kansas.

Under the service agreement with ALMS, Respondent paid on a weekly basis for each verified appointment with a prospective client made by ALMS or

the client service representative. Respondent knew that the client service representative used his name and acted on his behalf while they were employed wither by ALMS, Addison Group, Addison Insurance Marketing, or Advanced Legal Systems. The client service representative collected an attorney fee of \$1,995 from prospective clients. Of the \$1,995 attorney fee, Respondent paid \$1,745 per completed trust to ALMS.

Respondent did not know the identity of the people on ALM's mailing list and was unaware of a client's existence until after the client services representative had interviewed the prospective client, secured his or her signature, and collected the attorney fee from the client. Respondent knowingly authorized ALMS and the client service representatives to use his name to conduct client interviews; provide explanations of the different types of trusts, wills, powers of attorney and other legal documents; and obtain signatures and attorney fees prior to Respondent knowing the identity of the client. ALMS prepared and printed all the marketing material as well as the forms for the trust, will, and power of attorney documents in the name of the Respondent. The materials were later sent to Respondent for his use.

Not only did this result in problems for the attorney, but this type of arrangement likely constitutes the unauthorized practice of law by the other individuals involved.

Work with knowledgeable and reputable professionals with whom you can create a good continuing relationship. What they have to offer has considerable value.

Please be aware that the information provided herein is not intended as legal advice. Consult with a knowledgeable estate planning attorney about your special circumstances prior to taking any action.

**Tim J. Larson, JD, PA, has its offices in Wichita, Kansas. Tim J. Larson and Logan M. Brown are members of Wealth Counsel, the Wichita Estate Planning Council, and *e.Planners*, a select group of nationally known and recognized Estate-planning Attorneys.**