In the

Supreme Court of Florida

CASE NUMBER **78,358**

The Florida Bar

Re:

Advisory Opinion

NonLawyer Preparation of
Living Trusts

Initial Brief

The Real Property, Probate and Trust Law Section
of
The Florida Bar

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Table of Contents

Table of Authorities

Cases

Other Authorities

Other Authorities Continued

Argument

Summary of Position

The Real Property, Probate and Trust Law Section of The Florida Bar (in this brief referred to as "the Section") vigorously supports the proposed advisory opinion of the Florida Bar Standing Committee on the Unlicensed Practice of Law in this cause. The Section also supports the proposed modifications made by stipulation between the Standing Committee and the American Institute of Certified Public Accountants, the Florida Institute of Certified Public Accountants, and the Florida Bankers Association.

Specifically with regard to involvement by agents and employees of a chartered bank having trust powers or a chartered trust company (non-lawyer corporations), although those agents traditionally, as a part of their normal activities, have performed acts which, under the strict wording of the proposed opinion as published, would constitute the unauthorized practice of law, it is the position of the Section that, to the extent such non-lawyer companies and their agents do not (1) prepare trusts or other legal documents for their customers and (2) their customer is ***independently*** represented by an attorney, those traditional activities should not constitute the unlicensed practice of law. However, the Section believes that the practice by some trust officers of actually preparing trust documents by filling in blank forms supplied by their corporate offices, (often referred to as a "quick trust" or "instant trust") even if the trust as created is a "pour back" trust which terminates on death in favor of the estate, constitutes the unlicensed practice of law. While the majority of banks do not engage in this practice, it is none-the-less improper.

On the subject of giving legal advice, it would not be unusual, for an officer of a trust company in his conversations with his customer regarding use of a living trust as a part of a customer's estate plan, to discuss alternatives with regard to that customer's ultimate testamentary disposition of his assets. A specific example, which is also referenced in the proposed UPL opinion, is whether the devises or bequests to be included in the trust document would be ***per capita*** or ***per stirpes***. Another example of matters which might be discussed between the trust officer and the client would be, if the client's estate plan suggested use of a marital deduction, whether that marital deduction would be devised outright to the surviving spouse and qualify as deductible from the gross estate under Section 2056(a) of the Internal Revenue Code, or be continued in a general power trust, and qualify as deductible under code section 2056(b)(5) or in a qualified terminable interest property (QTIP) trust, and qualify as deductible under code section 2056(b)(7). The trust officer might discuss the relative merits of a general power marital trust as opposed to a qualified terminable interest marital trust. For example, in ***post*** mortem tax planning, if less than a full marital deduction were desired at the time of the death of the first spouse (as is sometimes the case), a disclaimer would be required in the former instance where a partial QTIP election is available in the latter. Each has its advantages and disadvantages depending on the facts present. In the case of a disclaimer, the estate plan (and relevant testamentary document) would probably include a special disclaimer trust or other disposition. Each planning devise has it advantages and disadvantages depending on the client's situation. This conversation and advice to the client is clearly legal advice.

However, since the client is not expected to act upon that advice (except through independent counsel), it falls more within the realm of "discussion". The ultimate decision will be made by the client's personal attorney when the document is prepared, and if the conclusions reached by the trust officer were incorrect conclusions, those will be corrected by the client's attorney when the document is prepared. Therefore such conversation, under the circumstance recited, is more in the nature of a discussion of general estate or gift tax effects of various alternative testamentary plans but might include a preliminary determination of that which is, in the opinion of the trust officer, most suited to this particular client. That preliminary determination might be correct or incorrect; however, the ultimate determination

would be made by the clien 's own attorney when that attorney meets with the client, confirms any information he has been given by the trust officer from his customer interview, elicits any further information deemed necessary, tailors the particular plan to accomplish the client's needs, designs the estate plan, determines the documents required to implement it, and prepares the necessary documents.

Furthermore, since the client may wish to have the corporate fiduciary serve in a fiduciary capacity in his or her estate, the corporation's employee has a compelling reason for conducting such discussions. However, the corporate employee does not and should not purport to represent the interests of the customer in the discussions. The corporate fiduciary's employee's involvement in that process is distinguishable from the involvement of a "door-to-door" non-licensed trust preparation company. It is the position and belief of the Section that a "door-to-door" salesman employee of a non-licensed trust marketing corporation has no broader authority in his or her activities than employees of a stockbroker, or, for that matter, any member of the general public. ***In re:*** The ***Florida Bar and Raymond, James and Associates, Inc.*, 215** So.2d **613** (Fla. **1968).**

Estate Planning, Document Preparation, and Implementation Constitutes the Practice of Law.

The process, as described in the title to this sub-division, is a continuum, The implementation may not be accomplished without the planning and document preparation; the document preparation may not be accomplished without the planning; and the planning is no more than discussion unless implemented. The five step process described in the proposed opinion is not sufficiently complete and the Section would propose to supplement the description of that process as follows (underlined material supplements the original material):

1) the gathering of necessary information;
1A) creation of the dispositive and tax plan;
2) the assembly of the documents incorporatine the dispositive and tax plan;
3) review with the client;
4) the documents' proper execution;
5) the funding of the trust document (assuming an inter vivos trust is a part of the plan).

Although the committee's opinion alludes to the necessity for preparation of a plan,[1] that part of the process is not given its rightful prominence. This is an additional part of the overall continuum which must be performed by a licensed attorney or a licensed certified public accountant, retained by and acting on behalf of the client. An informative description of the interaction of various professionals in developing and implementing the client's estate plan is discussed in Koren, ***Estate*** and ***Personal Financial Planning,*** sections 1:14 - 1:20.

The question presented in the proposed opinion relates to "drafting living trusts and related documents". Express living trusts may be either of the revocable or the irrevocable genus.

The proposed opinion and the responsive briefs speak in terms of "living trusts" and fail to specify whether the discussion relates solely to "revocable" living trusts, solely to "irrevocable" living trusts, or to both types. Presumably, if it is not the unlicensed practice of law to prepare revocable living trusts then, similarly, it would not be the unlicensed practice of law to prepare irrevocable living trusts, Within that logic, it would not then be the unlicensed

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[1] **"However, '[t]here is an important threshold question of whether a client needs a** living **trust and** if **so, what type.... Living trusts like any other agreement, are good for some, needed for others and downright harmful for some."'**

practice of law to prepare wills containing testamentary trusts of various types or, for that matter, wills containing no trusts.

It is suggested by counsel for Mid-America Living Trusts Associates, Inc. that his companies "usually include the following attorney drafted documents at no extra cost: (1) durable powers of attorney for financial management; (2) durable powers of attorney for health care and/or living wills; (3) transfer deeds on real property;..."[2] Elsewhere, he states: "[m]any living trust companies have policies limiting their estate planning to the living trust and associated documents, *i.e.* pour over will, durable powers of attorney, living will, and designation of guardian and health care surrogate."[3] If it is permissible to prepare powers of attorney for financial management or health care, deeds, living wills, and pour over wills in conjunction with the preparation of a living trust, then it could not be the unauthorized practice of law to prepare these documents separately or unrelated to the preparation of a living trust.

Also, although "[m]any living trust companies have policies limiting their estate planning ..." one is compelled to wonder about the scope of the estate planning activities undertaken by those which do not have such self imposed "limitations".

Would it also be permitted for a nonlawyer or a nonlawyer corporation to open a storefront operation known as "The Center for Living Trusts and other Legal Documents"? It must be since Tampa now has "We the People" and "Compuexpress" and Vero Beach and Port St. Lucie have "Marina Trust Services, Inc." See the Appendix to this brief.

Assume the following scenario: Lawyer Jones, who has been admitted to practice law in the state of California but is not admitted in any other state, has decided to practice in the legal specialty involving the preparation of living trusts and associated documents. However, he determines that the market for his services is unduly limited within the state of California and would like to market his services in other states as well. He hires various agents who work on a commission basis, to hold seminars and to canvass mobile home parks and retirement villages in Florida and in the other states. His agents "sell" their prospective customers on the benefits of a revocable living trust, gather information on the client's assets, family situation, and testamentary desires and forward these interview notes to Lawyer Jones in California. Lawyer Jones prepares the living trust document and related documents (or they are prepared by one of many legal assistants working "under the direct supervision[4] and control of Lawyer Jones), returns them to the selling agent, who takes them to the customer and supervises their execution. Lawyer Jones then collects a fee for the legal services performed.

If this activity were undertaken in the state of California by Lawyer Jones, it would not be the unlicensed practice of law (whether there are ethical violations involved is a separate issue). However, this activity would clearly fall within the definition of the unlicensed practice of law when it occurs in the state of Florida, and presumably in any other state in the United States other than California, because Lawyer Jones is not licensed to practice law in any other state. The Florida UPL Standing Committee gets wind of this activity and brings an action to enjoin Lawyer Jones from this activity in Florida.

Lawyer Jones realizes the mistake he made, so he forms a corporation in which he is the sole shareholder and the sole employee. His corporation, Quicki Trusts, Inc., is a "reputable

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2 **Mid-America initial brief page 19; emphasis in the original.**

3 **Mid-America initial brief page 26.**

4 **Mid-America initial brief page 2.**

living trust compan[y]"[5] with a "very conservative program[ ]"[6] which engages in "conservative marketing schemes".[7] Now, it is suggested, since Lawyer Jones no longer engages in this practice, rather a non-lawyer corporation (Quicki Trust, Inc.) which has "very conservative programs", "conservative marketing Schemes" and is a "reputable living trust" company, is engaged in the same activity in Florida, it is not guilty of the unlicensed practice of law. That logic must surely be transparent.

What Services or Products are Being Furnished to the Customer?

It is clear from the proposed opinion and from the interested parties' responsive briefs that the living trust documents which are prepared in the normal course of this business include death-time dispositions. They do not appear to terminate at death with the assets pouring back into the probate estate. With such death-time dispositions, estate planning services are being furnished, either actively, or by omission. It is a close call on whether improper estate planning advice, if given, does more or less harm to the public than inadvertent estate planning by omission. It is, of course, conceivable that estate planning advice given in connection with the trust preparation services is consistently of a high quality. However, as noted in the proposed opinion based upon the hearings the committee held,

> *Another points out that there is no licensing, knowledge or expertise required Tab 7, Composite 8. In fact, when a colleague of one of the witnesses inquired about becoming an "advisor," he was told that he could become an advkor by paying a fee, no other qualifications were necessary.*

that is unlikely at best.

With regard to the giving of estate planning advice, this Court has previously addressed that issue directly in In re: *The Florida Bar and Raymond, James and Associates, Inc.*, 215 So.2d 613,613-14 (Fla. 1968).

> *1. The following activities constitute the unauthorized practice of law and may not be carried on by Raymond, James and Associates, Inc., its individual officers, agents or employees and each of them is perpetually restrained and enjoined from:*
>
> > *(1) Giving legal advice, directly or indirectly to individuals or groups concerning the application, preparation, advisability or quality of any legal instrument or document or forms thereof in connection with the disposition of property inter vivos or upon death, including inter vivos trusts and wills.*

As noted in the Mid-America initial brief,[8] living trust companies also prepare pour over wills, durable powers of attorney, living wills, designation of guardian, and health care surrogate designations in connection with their services, It would appear that if preparation or implementation of these documents does not constitute the unlicensed practice of law, then (relating only to estate planning) the preparation of buy-sell agreements, marital agreements,

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5 Mid-America initial brief page 9.

6 Mid-America initial brief page 4.

7 Mid-America initial brief page 2; the selection of the term is interesting.

8 Page 26.

pension plans,[9] partnership agreements, business reorganizations, estate freezes, statutory and common law GRITS, irrevocable insurance trusts, charitable remainder unitrusts or annuity trusts, and lifetime gifting would not constitute UPL. Now, if estate planning and estate document preparation is "open season" for nonlawyers presumably bankruptcy, corporations, partnership, divorce,[10] adoption, collections and other substantive areas which require document preparation must also be open to nonlawyers.

Although counsel for Mid-America indicates that his marketing representatives "advise clients with large estates to seek an estate planning attorney for advice regarding irrevocable insurance trusts, charitable remainder trusts and gifting programs", that is apparently a voluntary activity on their part which may or may not be uniform throughout the "industry". If the proposed opinion is disapproved in substantial part, nothing would impede such supplemental activities on the part of living trust companies.

It is hard to imagine a more traditional legal activity than preparation of wills and trusts. Contrary to the implicit argument of Mid-America, a living trust, whether or not revocable, is not a simple nor a straight forward document, A number of very sophisticated legal questions arise in most trust drafting situations. All things considered, a lesser degree of skill is probably required to draft a will than to draft and implement a revocable living trust,

For example, how is estate tax to be apportioned between the revocable living trust, various probate assets, and other non-probate assets. Furthermore, within the trust itself, how are estate taxes attributable to the trust apportioned internally among the various trust bequests. Under a will, the statute provides that the taxes shall be paid from the residuary if it is sufficient and, thereafter, in order of preference, from property not specifically or demonstratively devised, and then from property specifically or demonstratively devised. Demonstrative devises are to be classed as general devises upon the failure or insufficiency of funds or property out of which the payment should be made. F.S. 733.817 and 733.805. We have no such statutory or case law direction regarding abatement within a living trust.

Then we know under Florida law that apportionment directions, if intended to apply other than intra-trust, must be contained in the will or they are not binding. *Guidry v. Pinellas Central Bank and Trust Co.*, 310 So.2d 386 (Fla. 2nd DCA 1975); *Yoakley v. Raese*, 448 So.2d 632 (Fla. 4th DCA 1984). Intra-trust apportionment must be in the trust document in order to bind the trustee and the beneficiaries.

We do not know from statutory law or court opinions whether the provisions regarding other matters of will construction, *e.g.* advancements (F.S. 733.807), effect of subsequent marriage/birth, etc. (F.S. 732.507), right of retainer (F.S. 733.809), improper distribution (F.S. 732.812), lapse and anti-lapse (F.S. 732.603), and other statutory and case law constructions also apply to trusts. Specific drafting in this area will answer that question.

We do not know if, and to what extent, the right of election provided in Part II of the Florida Probate Code applies to a living trust. *Also,* if that right of election is exercised in the probate estate as to assets subject to probate, which then, pursuant to the provisions of a

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[9] **The question posed and the proposed opinion differ significantly from the situation involved in *The Florida Bar re Advisory Opinion-Nonlawyer Preparation of Pension Plans*, 571 So.2d 430 (Fla. 1990). In that opinion this Court stated "[c]learly, we cannot prohibit authorized professionals from preparing and presenting the necessary documents to federal agencies before which they are admitted to practice." (At page 433). Here, the nonlawyer companies and their salesmen are neither "professionals" nor are they licensed to practice before any controlling agency. They are simply John Q. Citizen.**

[10] ***The Florida Bar v. Furman*, 451 So.2d 808 (Fla. 1984).**

pour over will (perhaps one prepared by Mid-America) are added to and become trust assets, whether the electing spouse is deemed to have predeceased with regard to the specific death-time provisions made for her in the revocable living trust or whether the spouse gets a "double dip".

What is the Potential for Public Harm?

Counsel for Mid-America convicts himself and his industry on another point. On page 11 of his brief under footnote 2 he suggests

> *Much of the evidence submitted to the Committee centered on the "Homestead Property" issue. It is apparently unclear as to whether homestead property should or should not, be held in a living trust. A clever trust writer, such as a Living Trust Company attorney, can easily craft trust language that would ultimately be construed by the Court in favor of the trustor's intent. "Me thinks the lady doth protest too much" Shakespeare.*

Counsel, who apparently reviewed the record in detail, still fails to understand the issue as it relates to placing a person's homestead real property into a revocable living trust. The Court has specifically invalidated an attempt by a settlor, who was survived by a minor child, to convey his homestead into and dispose of it an death through a revocable living trust. Judge Anstead writing for a unanimous panel in In *re: Estate of Johnson,* 397 So.2d 970 (Fla. 4th DCA 1981) said

> *If Section 689.075 was construed to authorize the devise of homestead property in the manner involved herein [without consideration to the grantor's revocable living trust], it would contravene the homestead provhions of the Florida Constitution, as interpreted by the Florida Supreme Court in* Johns, *supra. We hold only that Section 689.075 does not authorize a disposition of homestead property that is prohibited by the Florida Constitution.* (At page **973)** [Bracketed material added].

It is both a unique and a simplistic approach to believe, as Mid-America's counsel does (and presumably as Mid-America must also in conducting its business) that "a clever trust writer such as a Living Trust Company attorney, can easily craft trust language that would ultimately be construed by the Court in favor of the trustor's intent." Footnote 2 concludes by misquoting Shakespeare (Hamlet, Act III, Scene 2, Line 240), thereby adding literary mayhem to legal naivete.

The problem of homestead real property conveyed to a revocable living trust has been a vexing one for Florida lawyers; however most of them realize the problem exists and know that "a clever trust writer" is not the solution. Attorney's Title Insurance Fund, Inc. on August 2, 1991 held a summit canference with leading estate and real estate lawyers to address that, and other issues relating to homestead, One of the questions posed was:

> *Homestead property is deeded by the owner to himself or another as trustee of a revocable inter vivos trust, The original owner died May a trustee of the named trust convey the property?*

Those attending were Arnold, Belcher, Gay, Grimsley, Guttmann, J. A. Jones, Kelley, Laseter and Thornton. The Fund is issuing a white paper which will be published shortly and is revising various title notes to comport with the conclusions reached at the conference. Suffice it to say that "clever trust drafting" was not suggested as a solution to the problem.

As most attorneys who practice in the area of wills, trusts and estates know, execution of a will is a highly orchestrated ceremony which is compelled by statute. F.S. **732,502.**

Nonetheless, counsel for Mid-America himself believes that execution of wills "is very similar to the procedures involved in executing a close of escrow which the Florida Bar already allows...".[11] In executing an escrow, it is not required that either witness be present and see the other witness sign, whereas, a will is invalid unless that requirement is met. Furthermore, it is not required to close an escrow that the witnesses sign in the presence of the grantor, so long as they see the grantor sign. This procedure would likewise invalidate a will. F.S. 732.502(1)(c). Some of the practices apparently conducted by living trust companies as it relates to client's legal problems are chilling.

Mid-America responds to the discussion of trust funding included in the proposed opinion and states "[i]n addition, funding of the trust does not require legal skill or knowledge beyond that of an average person."[12] The Court is referred to *Flinn v. Devere*, 502 So.2d 454 (Fla. 3d DCA 1986) on the issue of whether certain real and personal property passed pursuant to the decedent's revocable living trust or pursuant to a residuary clause of decedent's will (presumably not a pour over will), The issue addressed is whether real and personal property listed on a schedule of assets attached to the trust, but not otherwise conveyed or transferred to the trust, would pass under the provisions of the trust. That court's determination was in the negative.

Contrary to the assertions of Mid-America, funding of a trust requires legal skill and knowledge much beyond that of the average person. For example, the selection of assets to place into the trust or to retain individually outside of the trust is sometimes of critical importance, especially as it relates to tax considerations. The related taxpayer rules of section 267 of the Internal Revenue Code generally deny loss recognition on transactions between trusts and their beneficiaries. That same asset held within a probate estate would not suffer the same denial. If S corporation stock is transferred to a revocable trust, there is no problem during the grantor's lifetime. However, upon the grantor's death, unless the continuing provisions of the trust fall within the QSST provisions of section 1361(d)(1), the S corporation status of the corporation will be terminated after two years following the grantor's death. This leaves the trustee with the alternative of either liquidating the closely held corporation (perhaps a family company which constitutes the sole or the major asset of the trust) or losing the benefits of the S corporation election, not only for the trust, but for all of the remaining shareholders as well. These and other funding issues require the special knowledge and expertise of an attorney.

One Size Doesn't Fit All

Contrary to what the trust salesman suggests to his customer, a living trust is not the correct solution to every person's estate planning problems, There are certain income tax disadvantages of utilizing the trust as a probate avoidance vehicle, as opposed to utilizing a will in a probate estate. The throwback rules, relating to income tax accumulations of subchapter J of the Internal Revenue Code apply to the revocable trust, but do not apply to a probate estate. Fiscal year planning is permitted in a probate estate but denied to a revocable living trust. The executor or personal representative of an estate may consent to the filing of a joint income tax return with the decedent's surviving spouse for the year of death while the trustee of a revocable trust may not. The personal exemption available to probate estates is $600 and to a revocable living trust is either $300 or $100 depending on whether the document creates a simple or a complex trust. A probate estate has a charitable "set aside" deduction for income which accumulates but is undistributed but earmarked for a charity while a revocable living trust does not. There is a serious open issue regarding the availability of the

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11 **Mid-America initial brief page 26.**

12 **Mid-America** initial **brief page** 12.

benefits of Section 2032A of the Internal Revenue Code relating to special estate tax benefits for farms or closely held businesses if that property is held as the asset of a revocable trust as opposed to being titled to the decedent and passing through a probate administration. Finally, gifts made individually by the settlor of the trust during his or her lifetime, which fall within the safe harbor limitations of Section 2503 (the $10,000 annual exclusion) if made from a revocable living trust are disqualified and become estate taxable.

Trusts have special and unique tax and other considerations which require the intervention of a licensed professional for proper planning, creation) implementation and management. Furthermore, that licensed professional if retained by or employed by the living trust company) is insufficient to represent the interests of the client.

While the point is validly made that there are many attorneys who are incapable by training or experience of handling the sophisticated issues relating to revocable living trusts; nonetheless) those same attorneys are restricted by the provisions of Section 4-1.1 of the Rules of Professional Conduct which do not permit an attorney to represent a client in a matter in which he does not possess the requisite skill. Not only is he constrained by considerations of malpractice liability but also of ethical enforcement provided by this Court. No such ethical restraints apply to the living trust salesman. He or his company may, with reckless abandon) handle matters far in excess of their levels of competence, with the requirement only that they respond in damages to the extent they are capable.

Mid-America suggests as an alternative to injunction, as a less severe remedy that

> ***Trust companies may be held to the same standards of competence and ethical conduct as attorneys. Registration, certification or licensing requirements may also be imposed to protect the public from incompetent nonlawyers.***[13]

While that may or may not be a viable alternative, such ethical standards and licensing requirements do not exist today and may or may not exist by future legislative action. In any instance) these are not something that this Court can impose. However, the public which now requires protection) will be served by the injunction which this Court may provide.

Conclusion

The Real Property) Probate and Trust Law Section of the Florida Bar concurs with the Standing Committee that the question presented should be answered in the affirmative. It must be kept in mind by all that "we are not dealing with authorized professionals who are admitted to practice before any agency. The individuals selling living trusts are totally unregulated." (Proposed UPL opinion). If the process of estate planning and preparation of estate documents is truly to be one which is unregulated in the same manner that selling shoes or washing machines is unregulated (the sale of used cars is regulated)) then the public must truly beware since the public expects competent professionals to be performing these services. There is great potential for public harm, The proliferation of living trust sales companies has only just begun. If the public in Florida is to be protected, now is the time for this Court to speak to the issue. If the question posed is to be answered in the negative, the Court must specifically recede from its holding in *In* Re: ***Florida Bar and Raymond, James and Associates, Inc., supra.***

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13 **Mid-America initial brief page 20.**

Respectfully Submitted,

The Real Property Probate and Trust Law Section of The Florida Bar

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Certificate of Service

I Hereby Certify that a true and correct copy of the foregoing has been delivered by U.S. Mail to those persons identified on the attached service list this 24th day of October, 1991.

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APPENDIX

A WILL IS NOT ENOUGH

A will does not avoid probate because it is governed by probate laws and the probate courts. Most wills, no matter how well written, end up being probated along with the associated costs and delays. Because a will can be contested by anyone so easily, it makes it very vulnerable to probate. Many attorneys continue promoting wills for these very reasons. Probate provides attorneys with millions of dollars.

JOINT-OWNERSHIP IS NOT ENOUGH

Joint-ownerships can avoid probate, but here are too many disadvantages associated with them. For example, if both owners should die simultaneously then the estate will end up in probate. If one owner dies, then the survivor must make the additional arrangements for avoiding probate. Why not plan it together? Joint-ownership with family members, other than spouses, can create problems. inflexibility with assets, and the inconveniences of having two owners when liquidating or managing your assets.

TRUSTS
A GOOD ALTERNATIVE FOR AVOIDING PROBATE

Trust agreements are the most effective and inexpensive ways to avoid probate. The key feature of Trusts is that they are governed by Trust Laws and not by Probate Laws. They are simple and inexpensive and can be completed easily by yourself or with the assistance of someone who is knowledgeable with trust agreements. You do not need, nor are you required to use the advice or help of an expensive attorney to avoid probate. You can use the advice and help of inexpensive independent paralegals to assist you in setting up your LIVING TRUST.

Trust agreements convey assets directly to the beneficiary in the same manner as an insurance policy conveys the principal to its beneficiary. Conveyance is simple and effective, without court intervention or attorney involvement. Under a Trust agreement, you hold your asset "In Trust For" any beneficiary you desire. without giving up the rights to that asset. Only in the event of death will that asset be conveyed to the specified beneficiary. Most assets can be conveyed this way; savings and checking accounts, stocks, bonds, CDs, just about any asset you own. Most financial institutions are routinely using trusts as part of their financial accounts.

MARINA TRUST SERVICES, INC.

Marina Trust Services, Inc. works directly with the L.A.W. Clinic, Inc.

Together we can help you, the consumer by giving you "LEGAL ALTERNATIVES" to the high cost of legal services in the area of estate planning and general law. We are NOT ATTORNEYS and DO NOT GIVE LEGAL ADVICE.

The program we offer is more than a simple estate planning service, it is an EXTENDED FAMILY service comparable to no other. We will be there when you or your family need us for advice and family assistance in managing or settling your estate. We offer you more, for a whole lot less. Quality and service are not compromised, but enhanced. We take pride in being your "LEGAL ALTERNATIVE"

We can provide you with a convenient "House Call" or free one hour office consultation TO SET UP YOUR ESTATE PLAN WITH A LIVING TRUST.

YES! I WOULD LIKE MORE INFORMATION ON "LIVING TRUSTS."

Name _____

Address _____

City/State/Zip _____

Day Phone _____

Eve. Phone _____

MAIL TO:

Marina Trust Services, Inc.

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(407) 231-5740

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AVOID PROBATE

What Is Probate?

Probate is the administration of an estate or the proving of a will, as being valid. Avoiding probate could be one of the most important things you do for your beneficiaries. What you leave them is not as important as how you leave it to them. Without making the proper plans to avoid probate you could be leaving your beneficiaries an expensive, frustrating, and very time consuming nightmare in the settling of your estate. However, with proper planning, your estate can be conveyed to your beneficiaries very easily, without delays, without court intervention, and without cost to your estate.

COSTS OF **PROBATE**

The cost of probate is one of the most expensive and unnecessary forms of legal services imposed on us today. Costs may be as high as 20% of the value of your estate. In his country alone, $180 million every week is paid for probate expenses in the form of attorney fees and court costs. For example, an estate valued at $100,000 could lose up to $20,000 in costs associated with probate; an estate worth $300,000 could easily lose $50,000 *to* probate expenses. The choice is yours, you *can* leave an extra 20% of your estate to your beneficiaries or you can leave it to an attorney. Without proper planning these costs are unavoidable. Experience may be *the* best teacher, but don't learn about probate the hard way, learn how to avoid it the easy way.

DELAYS OF PROBATE

The delays associated with settling an estate through probate take an average of 16-18 months. Rarely do they take less than twelve months and some take years to settle. Imagine having your beneficiaries wait for years before receiving their inheritance. It happens too frequently and it is one more important reason for avoiding probate.

IMPORTANT INFORMATION

We conduct free seminars at various locations throughout the Treasure Coast. If you are interested, please contact the office nearest you for a current schedule.

LIVING TRUSTS

THE **BEST ALTERNATIVE** FOR **AVOIDING PROBATE**

Individual trust agreements are good alternatives for avoiding probate. However, individual trust agreements are designed to convey your assets to a beneficiary only in the event of your death and has no effect in the event of incompetency or other events which may occur. If you should become incompetent, then only a court appointed guardian could control your assets. Therefore, it is important for you to have a general trust agreement which has control over your assets during events other than just your death.

A **LIVING** TRUST is designed to do just that. It is a Trust Agreement with your instructions for managing your assets in the event of incapacitation, incompetency, terminal illness, divorce, or death. You do not lose control over any of your assets. If something should happen to you, your LIVING **TRUST** agreement has appointed a successor to take over for you as the new trustee. With all the authority and powers granted by the LIVING **TRUST**, your successor can effectively manage or settle your estate without court intervention. With a living trust your successor trustee is your appointed guardian. if you should you become incompetent. without court costs or involvement.

A LIVING **TRUST** should be used instead of individual asset trusts. By retitling your assets in the name of the LIVING **TRUST**, you avoid the need for individual trust agreements. A LIVING **TRUST** is the most complete, most effective, and most inexpensive way of **AVOIDING** PROBATE.

COST OF A LIVING TRUST

LIVING TRUST agreements are standardized legal documents which should be inexpensive and asy to complete yourself or with minimal assistance. There are only two sources available offering LIVING TRUST agreements: an attorney who *can* be quite expensive, with the charges often based on the value of your estate and not on the value of the attorney's service, or an INDEPENDENT PARALEGAL, such as "THE L.A.W. CLINIC, INC.," who charges a standardized fee to cvcryonc, at a fraction of the cost.

DO NOT BE MISLED into thinking that there is extensive legal advice required in setting up a LIVING **TRUST** agreement. The documents are standardized and you make the decisions about beneficiaries, how your assets are distributed, and who settles your estate. It's as simple as that. In order to justify their fees. most attorneys try to make it sound more complicated than it is.

The COST OF A LIVING TRUST will depend on the use of an attorney or the use of an INDEPENDENT PARALEGAL. Whatever your choice it's important to make a LIVING **TRUST** the primary document of your estate planning. to avoid probate, and to make the conveyance of your assets to your beneficiaries a FAMILY matter and not a complicated legal matter.

We The People

"An Accountants opportunity to earn substantial revenue in legal forms."

July 9,1991

Greetings,

QUIT SENDING YOUR CUSTOMERS TO ATTORNEYS FOR ROUTINE LEGAL FORMS. It is time you offered this service yourself and retained the profits from it. Why send money to lawyers when you can earn it yourself with We The People's form service.

WETHE PEOPLE, **INC.** is a national document preparation firm known in Florida for introducing the first divorce and bankruptcy drive thru **with** three hour service. CNN HEADLINE NEWS, NBC NIGHTLY NEWS, PAUL HARVEY and numerous local radio and television news programs from coast to coast have featured WE THE PEOPLE and our revolutionary form system that brings the individual into **the** judicial system without expensive attorney fees.

Basically, we offer a fully computerized service **that** prepares routine, boiler-plate, fill-in-the-blank forms including divorce, bankruptcy, wills, trusts, living wills, small claims, name changes and many others, (see enclosure For full menu). Our software handles forms for every state but Louisiana. But **what** does this mean to you?

If you have a customer who needs **a** simple, uncontested Chapter 7, Bankruptcy, you will:

1. Charge the customer a low fee of $200.00.

2. Have your customer fill out **his own** intake **papers.**

3. A Toll Free number is provided for assistance should your customer need it. As a non-lawyer, you can not give legal **advice.** With our legal department, **you** are not burdened with it.

4. Fax to us the completed papers **when** your customer **completes** the requested information.

5. WETHE PEOPLE will prepare the bankruptcy for filing and all the necessary copies and deliver it to your **office.**

6. You will **have** a choice of:

a. Same day service, (computer upload to you, courier)
b. **Next** day service. (Federal express, **UPS)**
c. Second day service. (UPS)
d. Five day service. (U.S. Mail,.. not recommended)

4940 Northdale Blvd., Tampa, Florida 33624 (813) *265-3609*

There are no hidden costs to you, just a one time start up cost of $250.00 to get you started. That is all. Period. If additional income is important to you, lets talk about it. Please call me at (813) 265-3609 until 6pm daily to discuss it further.

Sincerely yours,

Howard Cox
813)265-3609 (Days)
813)265-3709 (Evenings)

Marcus Binghamton
Operations Director

{Your profit is 60% of the following pricing}

Bankruptcy	$ 200.	Uncontested Dissolution of Marriage	150.
Simplified Dissolution of Marriage	100.	Will w/ Testamentary Trust	80.
Corporate By-Laws	50.	Eviction	100.
Simple Will	50.	Corporations	80.
Living Trust	50.	Small Claims	100.
Shareholder Buy-Sell Agreement	50.	Name Changes	100.
Domestic Violence Petition	30.	Personal Injury Evaluation	100.
Living Will	30.	Power of Attorney	30.

Free Seminars

Find out how to avoid unnecessary; legal *fees* by filing **your own** documents **with the** courts.

Our informal group seminars arc under 2 hours **and are held** *to* **inform you, the public, of your rights 'as** Americans. There *is* no obligation.to use **the services** that we offer, **so please** feel free to Ieave your checkbook'at home.

You will receive an information **packet** with instructions on **how** to **use our** services-whenever **you** are ready and haveaneed.

Special legal advice **is** available **from our** consumer oriented attorneys **who advocate** "Pro Se" petitions for **those able** to file **on** thier own. Most **filings are** of a routine nature. This **means** that, with legal **advice,** computerized **form** preparation **and the** no-waiting services, you can **now** handle your:; own routine legaI matters.

Before you spend hundreds or **even** thousands of dollars in needless legal **fees - contact We The People and find** out how *to* file **your own** legal **actions** - without a lawyer.

We The People is a computerized document preparation service that will provide you with bankruptcy form preparation in **as** little **as** 3 **hours** or divorce **form preparation** in only **45** minutes. Call **us** to find out **about** ***the*** many **dozens** of other IegaI petitions; available from **We The People.**

We The People has the only **Drive-up;** Divorce and Bankruptcy **service** available anywhere. You can **even prepare** ***a*** Divorce, **Bankruptcy** or Will in the comfort of your own home **by using our unique** telephone **and messenger** service or direct mail documents.

Our objective is to provide the ***finest,*** **most** efficient and most **accurate document preparation** services. **It** is our **mission** to relieve **you from** pressure **and expense and** to provide you with information reluctantly disclosed **by some** members of the legal **profession.**

DO IT YOURSELF

DIVORCE
BANKRUPTCY

NO LAWYERS

also

Wills	**Personal Injury**
Trusts	**Small Claims**
Living Wills	**Guardianships**
Name Changes	**Homesteads**

STOP DOMESTIC VIOLENCE!!
File For Your Own Domestic Violence Injunction.

We The People
"Citizens Helping Citizens"
4940 **Northdale Blvd.**
Tampa, Florida 33624

(813) 265-3609
(800) 741-3744

As you can see, we inventory numerous legal and business forms to aid you, depending on your needs. All of the legal forms and petitions we handle are basically the routine, fill-in-the-blank type that anyone can file on his/her own, without the exorbitant attorney fees usually associated with it.

We also have special services. For example, we offer a personal injury analysis that you use BEFORE you shop for a lawyer. The analysis is based on over 150,000 actual jury verdicts involving personal injuries. It tells you what the range of settlements and awards are, (high, median and low). The analysis will tell you what you can expect in attorney fees, court *costs* and out of pocket expenses. And last but not least, the analysis will tell you the percentage probability of succeeding with your law suit. This will give you independent, scientific, information where you only normally would get "best guess" estimates from a lawyer.

OUR MENU:

Offer of Employment
Employment Agreement
Employee Confidentiality and Invention Agreement
Non-competition Agreement
Personnel Memo
Request for Reference
Employee Benefit Letter
Independent Contractor Agreement
Cover letter, Independent Contractor
Real Estate Broker Agreement
Sale of Personal Residence
Quitclaim Deed
Warranty Deed
Mortgage Deed
Residential Lease
Sublease
Assignment of Lease
Release from Lease
Simple Form of Will
Will with Testamentary Trust
Power of Attorney
Revocation of Power of Attorney.
Indemnification Agreement'
Non-Disclosure Agreement
Escrow Agreement
Assignment of Note
Promissory Note, Variable Rate
Promissory Note, Fixed Rate
General Security Agreement
Guaranty
Truth-in-Lending Disclosure Statement
Notice of Right to Cancel:(Truth-in-Lending)
General Release
General Bill of Sale
Consignment Sales Agreement
Earnest Agreement to Sell
Bulk Sales Agreement
Sales Agency Agreement - General
Distributor Sales Agreement
Dealer Sales Agreement
Sale of Motor Vehicle
-Attorney Fee Leter - Contingency
'Attorney Fee Letter - Contract
'Attorney Fee Letter - Hourly Rate
Bad Check Notice
General Partnership Agreement
Limited Partnership Agreement
Articles of Incorporation
Resolution for Subchapter S Election
Corporate Bylaws
Shareholder Buy-Sell Agreement
Pre-Incorporation Subscription Agreement
'Resolution Appointing Statutory Agent
General Proxy
Sample Invoice
Sample Statement
Sample Check, with Memo Field on Check Stub
Letter Confirming Appointment
Rejection Letter for Job Applicant
Request for Reference
Generic Letter to Accompany Documents
Personnel Department inter-office Memo
Simple Dissolution of Marriage
Dissolution of Marriage
Injunction for Protection Against Domestic Violence

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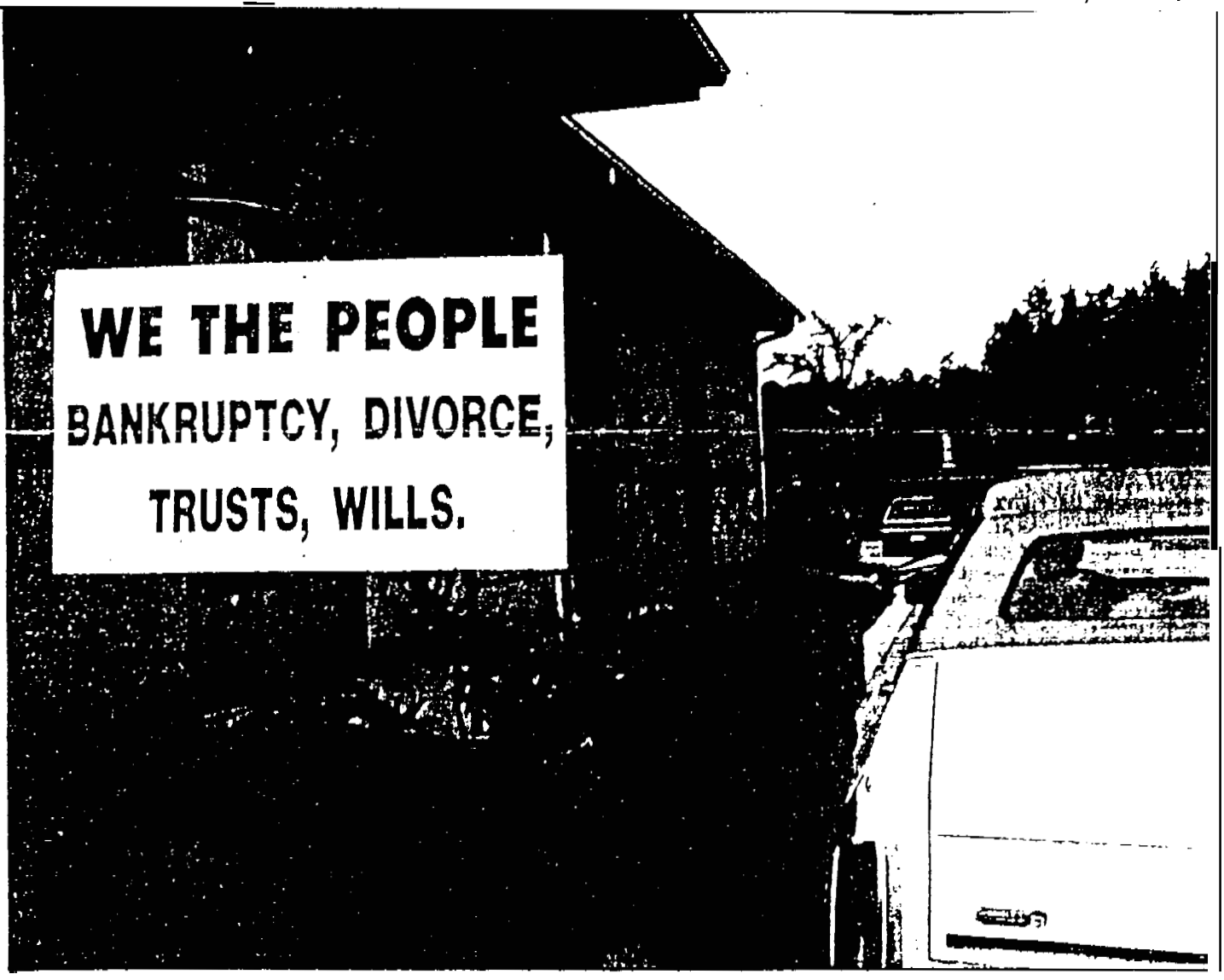
ST. PETERSBURG TIMES

MONDAY, JULY 1, 199



Office manager Anna Zakrewska helps customer John Cummings in the drive-up lane.

Times photo — ROBIN DONINA

Do-it-yourself legal aid available

■ We the People even offers drive-through services for work such as divorces and bankruptcies, and it runs specials.

By WENDY LEMUS
Times Staff Writer

NORTHDALE — These days, suburbanites can drop off their dry cleaning, do some banking and pick up a quick dinner without ever getting out of their cars.

Thanks to a new marketing tool of an unusual paperwork company, people can add a drive-up divorce or bankruptcy to their List,

found a quick and inexpensive alternative to costly legal fees people can pay when they hire a lawyer, said Larry Ballard, operations director.

For simple legal matters such as an uncontested divorce or a will, people can prepare the paperwork themselves if they are told how to do it, he said.

"The reason the average person can't do this is because the information isn't available to him," Ballard said.

And that's where his company has found its niche. With a staff that includes lawyers and computtr programers, the company has developed its own computer software package to help people fill out their own legal documents.

Two months ago, the office at 4940 Northdale Blvd. added the drive-up service. Ballard said the idea came after he

car-bound customer — even drive-up churches and drive-through film processing.

Ballard said We the People does not give legal advice, It gives customers booklets that tell them how to do the legal paperwork themselves. Customers fill out a form in the booklet and bring it back to the company. The information is put into a computer, and the customer gets back a computerized form that's ready to take to court.

Tampa bankruptcy lawyer Dennis LeVine said that programs such as the one offered by We the People can be appropriate in certain simple cases. But he added, "If you don't know the right questions to ask, and you don't know the law, how can you know if you have a

Legal from Page 1

simple case or not?"

LeVine said problems such as bankruptcies can become technical, and the laws change frequently. "I think you just have to be cautious," he said,

But unlike some lawyers and more like fast food, We the People's services are quick and cheap, Ballard said. Specials through July 1 include a $59 divorce, a $19 will and an $89 bankruptcy. The customer also pays courts costs,

"What we have is called supermarket pricing. It's consistent. When a customer comes here, he knows" how much he's going to spend, Ballard said, "He won't be manipulated here."

Larry Ballard, operations manager, says the company doesn't give legal advice, just software.

Prices quoted by several law offices ranged from $50 for a will to $500 for a bankruptcy.

"If's a much better deal for me as a consumer," said John Cummings, who recently took advantage of the company's services, "So much lawyers charge for is routine paperwork. There is a good place for a lawyer, but shuffling papers around at $125 an hour gets expensive."

The company, founded in 1986, has sold its software and information packages to about 85 associate offices nationwide. Ballard said the office in Northdale has been open for a year.

Another office will open on N Dale Mabry Highway in about two months, and plans for two officesin Pinellas County arc under way, Ballard said,

Ballard says retail outlets soon will be selling the information booklets, and customers will be able to access the company's services by home computer.

"I'd like to tell you the idea came to me in a dream," Ballard said. "But I actually got it from an attorney in Nevada."