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## Family Trust Mistakes: When Mismanagement of Trust Funds Lead to Financial and Legal Ramifications

Many individuals appoint relatives to serve as trustees due to the belief that family members inherently prioritize the best interests of the family. This choice is often made under the assumption that family trustees comprehend the intricate family dynamics, share similar values, and can facilitate seamless collaboration through the familiar and open communication typical among family members. While most family members accept the role of trustee with the best of intentions, the [complicated dynamics of working “for” family](#) can cause emotions to overrule judgment, resulting in poor decision making.

Most people believe that their family members will make decisions that best serve the trust and its beneficiaries, but that is – unfortunately – not always the case. Even with the best of intentions, most family members do not have the legal, financial, and tax knowledge to perform the job effectively. Although being asked to serve as a trustee for a family member's trust can be flattering, many individuals are unaware of the liability and risk associated with accepting this role. Choosing a family member as trustee is often not in the best interest of the family member or the [family trust](#).

### Co-Trustee Abuses Family Trust

Potential conflicts can arise when one trustee acts inappropriately or misuses trust funds putting the other trustee in a difficult position. This situation can lead to strained relationships within the family and even legal battles over the management of the trust.

Take, for example, a couple who chose their niece, Jen, to be a successor trustee. When Jen's Uncle Dan and Aunt Joan asked her to be a successor trustee, she was honored and gladly accepted. Jen knew that she would only become a trustee when one of them passed away – so she thought that would be many years in the future – and she had some financial experience – so she was sure she could handle the job. Her cousins, Dan and Joan's children, were not the best choice because they were not “money people.”

Sadly, Joan passed away several months later, and Jen and Dan became co-trustees. Jen, taking her job as trustee seriously, began monitoring the trust accounts and noticed that Dan had transferred all the funds into his personal trust and began spending the cash. Jen was out of her depth and was now in a very awkward position.

### Expert Advice Is Required

If a trust is managed by more than one family member and one of those individuals does something questionable, it can put the other trustee in a very difficult position. That person

may be forced to take action which leads to strained relationships and even court battles, they must safeguard themselves as they are legally obligated to protect the trust assets for all designated and future beneficiaries of the trust.

In this case, Dan's activities did not seem right to Jen, so she reviewed the trust document and turned to a financial professional for a second opinion. As it turns out, Dan should only have had access to a portion of the funds, not the entirety. By misappropriating the trust assets, Dan took wealth away from the other intended beneficiaries – his children – and diminished the family's overall wealth by spending the money.

As a trustee, Jen is required to act in the best interest of all beneficiaries. If Dan spends all of the trust's funds, Jen's cousins may be keen to sue Jen for what they were eligible to receive from the trust. Jen would then be in a complex legal predicament, impossible to address without fracturing family relationships.

## **Preserve Your Trust and Family Relationships with a Third-Party Trustee**

You can avoid this type of family disaster by appointing an independent trust company to manage your trust instead of relying on a family member. No matter how much confidence you have in your family member, or how much they want to help, they cannot completely avoid the inevitable pitfalls of working with other family members. Independent trust companies like Sterling Trustees act as objective trustees, with one goal in mind: keeping your assets safe and administering your trust according to what is right for both the grantor and beneficiaries.

Sterling is completely neutral and independent in every aspect of what they do, so they are never influenced by family dynamics. Their independence from outside influences and profit motives drives their objectivity. By delegating investment management to best-of-breed investment advisors and separating the trusteeship from the management of the underlying assets of the trust, they avoid inherent conflicts of interest.

## **Benefits of Using an Independent Trust Company**

- **Objectivity** – An independent trust company such as Sterling Trustees ensures decisions are made without biases and are in the best interest of all family members.
- **Specialized knowledge and expertise** – Professional trustees have the legal, tax, and financial expertise required to administer even the most complex trusts.
- **Compliant trust administration** – An independent trust company ensures your trust is administered in compliance with all relevant legal and regulatory requirements.
- **Proper succession planning** – If the original trustee cannot continue, a professional trustee will have succession plans in place so there are no costly delays.


## Trust Sterling Trustees

Sterling Trustees has been administering family trusts for over 15 years. Because the firm is not compensated by commissions or finder's fees, they are completely objective and equipped to do what's in the best interest of all family members. Sterling is also a [South Dakota-chartered trust company](#). South Dakota has the most progressive trust laws in the U.S., and Sterling can help you leverage them.

[Contact us](#) to learn more about how Sterling's trust administration services can benefit your family.

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Antony Joffe, Chairman | (605) 593-8950 |  | [sterlingtrustees.com](https://sterlingtrustees.com)