

THOUGHTS ON THINGS FINANCIAL



ROBERT R. SCHULZ, CFP®

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ON THINGS
FINANCIAL

YOUR GUIDE TO A
CHAOTIC MONEY WORLD

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Chapter 10

LIFE'S FINAL CHAPTER

It was calm and quiet, early on a Tuesday morning. I had just arrived at my desk in old Steindam Hall on the University of Texas campus. Newly married, graduated, and freshly commissioned in the US Navy, I was stashed there, as the Navy calls it, in my old ROTC unit, waiting on orders that would soon take Shelly and I far away to Newport, Rhode Island for my first duty assignment.

The big, old analog phone on my desk jumped to life, piercing the morning's serenity like an alarm clock. I paused and waited for the second ring as was customary back then. A dull thunk followed, as I pushed in the blinking button at the bottom of my phone labelled "Line 1" and answered in my best grown-up military voice, "Ensign Schulz." "Hey, it's Nick," came the reply from the other end. Then, in a low, somber tone, "I'm at your parents' house. You need to get over here, now."

That got my attention. Nicky Morris and I had been best friends since we were 10. At times, he had practically lived at my house. In recent years, he and his wife purchased a home just down the street. While I had been away at college, an early morning ritual between Nick and my dad had developed. On the way to work, Nick would turn the corner at Cecelia and Howard, drive past our old driveway, look over his shoulder, and wave at my dad, who was always there sitting on the back porch, waiting for the exchange.

But on this particular morning, as Nick turned his head there was something wrong. My dad was lying on the ground. He was gone. His heart had stopped suddenly. My mom was still asleep, so Nick was the first to realize what had happened.

“What’s wrong?” I said, rather forcefully. “You just need to get here. It’s your dad; you just need to get here, now.” Poor Nick just couldn’t say it. He probably still didn’t even believe it. He didn’t say it. I didn’t make him say it. I just did what he said.

Everybody reacts to tragedy differently. I go numb. Everything slows down as my dulled senses throw up a wall to protect and isolate me from what’s really happening. After 30 years, I still remember that phone call like it was yesterday, but the days that followed are a muffled blur. The Navy graciously provided me with two weeks of leave I hadn’t yet earned. I tried to use that time as efficiently as I could to handle what needed to be done. It was not enough time, but I did what I could.

The timing of my dad’s death was not good. My retired, 79-year-old grandfather still owned a majority stake in the family business where he worked. They were just coming out of an economic downturn. No transition plan existed, and my dad didn’t have life insurance either personally or through the family newspaper. He did not have a pension plan or much in the way of invested assets at the time of his death. Nearly all of my parents’ net worth was tied to their minority stake in the company. In other words, no plan existed for the unlikely and unforeseen circumstances that transpired. After going through every inch of my dad’s mounds of papers and projects, we could not find his Last Will and Testament. Needless to say, settling my dad’s estate proved to be a prolonged, agonizing, and expensive process with an end result that was to no one’s satisfaction.

The morbid point of me telling such a painful and personal story is this: we all need to plan on dying. There’s a 100% probab-

ity that it's going to happen at some point. When we plan for our kids' college, weddings, and our retirement, at least those are things we will personally experience and enjoy. When planning for our death, however, we're not around for the implementation. We are powerless *unless* we plan ahead.

This chapter is separate from the chapter where we discussed life insurance for a reason. Life insurance is used to complete your financial plan for your spouse if you die first, so it's kind of an extension of your financial plan. This chapter is different in that we will focus on planning points that are specific to dying, death, and what has to happen and be dealt with when it occurs. I saved it for last because it's the last thing anybody wants to think about, including me. But, if we think about it and take action, we can ensure that things go as smoothly as possible. Are you ready?

GET ORGANIZED

My dad was one of the smartest people I have ever known. He knew something about everything and a lot about most things. He was constantly reading, thinking, and tinkering. The fact that he didn't have a plan in place wasn't because he didn't know any better. He knew the ins and outs of a lot of it. He just didn't think he was going to die at the young age of 49, so everything turned into a big mess when he did.

Speaking of messes, my dad was notoriously messy. His cluttered office and desk at the newspaper plant were legendary. Piles and piles of paper were stacked on every square inch of table surface, sometimes reaching an unstable height of four feet or so before tumbling down in a domino-like landslide. Somebody had to go through all of that stuff when he died, and that somebody was me. It was nearly impossible to find and identify what was important and relevant to the situation and what was not. For one thing, I was only 22 years old, and for another, it wasn't my stuff.

So, what did I do? I created a three-ring binder and labeled it “Important Stuff,” and as I came upon things that we needed, I put them in the three-ring binder. When my two-week leave was up, and as Shelly and I (and Jessica the dog) headed out to the East Coast, I handed the three-ring binder over to my mom.

A three-ring binder is the Navy’s answer to just about anything that needs to be organized. I had learned this already in my short time within the ranks. And now, even in the paperless, electronic age we live in today, I still use three-ring binders. Every client of ours gets a three-ring binder divided into sections that provides a quick snapshot of everything that is financially important. More than one client has said to me that their three-ring binder is their most important earthly possession. I know that may sound crazy, but if you have ever experienced the loss of a loved one and had to scrounge around for missing information, you probably understand.

About eight years ago, I briefly did away with three-ring binders for clients. I thought an electronic vault would be better. I was wrong. We keep backups of all of the information in our binders in a vault on the web, but the real physical presence in cardboard, leather, and paper is too important. I encourage you to have a binder for yourself that includes some of the information as shown in the illustration that follows. Don’t lock it in a safe deposit box or a safe. Your binder should be somewhere secure in your home, but readily findable and accessible in the case of your death. Every once in a while, update your binder. If I had come across something like this when going through my dad’s office, I think things would have worked out a lot better.

Date

Client Name

Estate Information

Location of signed will _____

Date of last signed will _____

Executors _____

Bank Accounts

Acct# _____

Title _____

Transfer on Death? _____

Investment Accounts

Acct# _____

Title _____

Transfer on Death? _____

Retirement Accounts

Acct# _____

Custodian _____

Beneficiary _____

Contingent Beneficiary _____

Contingent Beneficiary _____

Acct# _____

Custodian _____

Beneficiary _____

Contingent Beneficiary _____

Contingent Beneficiary _____

Life Insurance

Policy#	Insurance Company
Insured:	_____
Coverage Amount:	_____
Premium:	_____
Riders:	_____
Death Benefit:	_____
Type of Coverage:	_____

Long Term Care

Policy#	Insurance Company
Insured:	_____
Coverage Amount:	_____
Premium:	_____
Rider:	_____
Maximum Benefit:	_____
Waiting Period:	_____

WILL

Of course, everybody should have a will. If you don't have one, the state has one for you, but you're probably not going to like it. If you die without a will, it's called intestate succession, and if you have any assets or property at all this is going to create an expensive nightmare for your family. So, you should definitely have a will.

Don't be cheap here. Wills are legal documents that should be prepared by an attorney. It's tempting to just try to find a template online and do it yourself, but this could create problems for your heirs. Wills fall under state laws and statutes which vary from state to state. If you have property in multiple states, or countries for that matter, your attorney will have to address this in your documents.

Your will mainly applies to property and assets that you have formal title or rights to. Your will usually does not list property or assets specifically. This way, it does not have to get updated every time you buy a new truck, for instance. Some states, like Texas, recognize community property. This means you and your spouse probably own a lot of stuff together, half and half, whether you like it or not.

For example, if you have an investment account with a million dollars in it and you die, half of it will probably go into your estate and be directed by your will. The other half is considered your spouse's money, regardless of what your wishes may be. This can lead to some complicated, unintended consequences, so it's important to identify what assets are community property and what assets, if any, are considered separate property.

Many times, the estate attorney will use trusts to accomplish different goals regarding the transfer of your property to your heirs. They will either use inter vivos trusts or testamentary trusts. What's the difference? Inter vivos means that the trust is created while you are still alive, while a testamentary trust springs to life once you are dead. Both kinds of trusts are really handy as they allow you to transfer your assets with specific instructions, guidance, and

supervision. Trusts are also used to minimize the impact of estate and gift taxes on large estates and provide liability protection if and when applicable.

A great example of the effective use of a testamentary trust is to designate somebody to take care of your assets in case you and your spouse die and leave minor children behind. If this occurs, a trust is created by the will, a trustee is named, as specified in the will, and the money is taken care of for the benefit of the children until they reach a specified age. At the age specified, the kids then take control of the assets, either within the trust or after the assets are transferred into their names and the trust is dissolved. If you have minor kids, you should definitely consider something like this.

MARITAL AGREEMENTS

Ah, the dreaded prenup. I like to call it a marital agreement because, technically, you can create one anytime you want, either before or after you get married. We all recognize this as a controversial document. If you believe everything you read in *People* magazine, then you know that marital agreements are used by rich, mean, powerful families to screw over a potential unmoneyed beau or belle. They can be, but most of the time, they are used as an effective tool for the benefit of both spouses and their families.

In the case of a second marriage where there are kids from previous marriages involved, we nearly always recommend clients consider a marital agreement. That's because it's an agreement between both spouses, and you can't get that in a will. A will can be written and revised unilaterally by either spouse whereas the marital agreement stands until or unless both spouses revise it together, and the provisions survive through your death. It keeps everybody honest.

For example, Jimmy and Suzie get married. Jimmy has an adult daughter from a previous marriage, and then they have another child together. When Jimmy and Suzie made their wills, they both decided that the proceeds from the sale of the house Jimmy

inherited from his mom should go to his oldest child and that everything else should be split between both children equally, 50/50 in their estate plan after both of them are gone. Years later, Jimmy dies.

At the funeral, emotions run high. Harsh words are exchanged, and next thing you know, Suzie and Jimmy's oldest daughter are no longer speaking to each other. Since Suzie is still alive, all of Jimmy's assets become hers. Suzie then decides to update her will and cut Jimmy's daughter out. This happens all of the time. It can be solved a few ways, but the easiest way is to try and specify who owns what assets. If they both had agreed the proceeds from Jimmy's mom's house was Jimmy's separate property, then he could specify its disposition easier and hold Suzie to it.

BUSINESS CONTINUATION PLANS, OR BUY-SELL AGREEMENTS

In the case of my dad's death, as I mentioned, he owned stock in the family newspaper with my grandad, who was 79 at the time. My grandad hadn't been active in the business for many years, and my dad was running it. So, when my dad died, nobody was left to run it, which put the entire plant in jeopardy of going out of business. Since Dad was gone, his salary stopped too, which put a great deal of financial pressure on my mom. The status quo was unsustainable, so within a short time, the newspaper was sold to an outside party. That's called a fire sale. If you want to get a decent price for a business, or anything else, it helps if you aren't in such a hurry.

The moral of the story is that, if you own a business, you need a business continuation plan. A business continuation plan is usually in the form of a shareholder agreement, where everything is laid out regarding what happens in case an owner dies. Usually, the plan calls for one or the other owners to buy out the family of the deceased owner for a specified price or one based upon a formula.

The best plans are insured with life insurance held on the owners that creates liquidity at death, so the transaction can occur. This way, everybody gets what they need. The surviving owner or owners are able to maintain and consolidate control and ownership while the surviving family receives money for their stock at a fair price that allows them to carry on financially.

POWER OF ATTORNEY

Usually, an estate attorney will draft powers of attorney for you and your spouse, along with some other important documents that relate to healthcare choices. Power of attorney gives someone else the authority to conduct financial transactions on your behalf. If it's a durable power of attorney, that means that the granted powers remain in effect even if you are incapacitated. In all cases, power of attorney terminates upon your death.

This document comes in handy if, for instance, you are mentally or physically unable to take care of financial matters. With power of attorney, your spouse or designated person, can conduct bank or financial transactions as if they were you. So, for instance, if you are in cognitive decline, your family does not have to go through the horrible and dehumanizing process of having you legally designated as incapacitated. They can simply take over financially where you left off. Along those lines, most advisors and planners these days have a trusted contact protocol. You can sign a document with your advisor that authorizes them to communicate with a family member to keep you safe if they believe you are having cognitive issues.

BENEFICIARIES

On many investment accounts and financial instruments, beneficiary designations are used to specify what happens to your accounts or money when you die. IRAs, 401(k)s, life insurance policies, and most other retirement assets have beneficiary designation forms that you fill out and sign. It's important to pay attention to

these and make sure they are always up to date.

Believe it or not, when you designate a beneficiary, your assets completely skip over your will and any careful planning you may have done and go directly to who you put on the form. If that's an ex-spouse, you may have created a problem. The estate attorney who completes your will should also provide instructions on how they want beneficiary designations to be completed. Make sure you take that extra step after signing your will and get all of your beneficiary forms filled out and signed too. As noted, all of your beneficiary designations should be documented in your three-ring binder.

TITLING

Non-retirement assets, like general securities accounts and bank accounts, have special titling that determines how the assets will be treated and transferred when you die. Just like beneficiary designations, you must be careful and ensure account titling dovetails with the intentions of your estate planning as a whole. An account in your name will be considered part of your estate when you die. This means your will takes over and provides instructions to your executor, the person you designated to probate your will, as to what to do with the account. Keep in mind, it can take time for the process of probating your estate to get going. In the meantime, accounts held directly in your name will be restricted.

This restriction means that your spouse or heirs may not be able to access funds for paying for your funeral and important stuff like that until a few weeks have gone by and the will is probated. To avoid this, you can add either a TOD or POD title to your account and specify who gets this money. These stand for transfer on death and payable on death, respectively. The account will still be locked down until a death certificate is available, but with a death certificate, the person you designated as TOD or POD will be able to take control of the funds independent of all the legal stuff going

on pertaining to your estate.

This can be good or bad, depending on how the estate shakes out. Once the money in an account transfers TOD or POD, it's completely out of the control of your executor and cannot be recaptured. So, for example, let's say that your estate is valued at \$1 million and that your will says you want it divided equally between your two children. If you have an account with \$700,000 of investments that transfers TOD to one child, that only leaves \$300,000 for the other one.

Besides individual accounts with TOD and POD designations, you can have joint accounts. Most of us have joint accounts with our spouse that allow both spouses full authority on the accounts for writing checks, investing, and so forth. Joint accounts are usually either designated as joint tenants with rights of survivorship (JTWROS) or tenants in common (TIC). Property, like your home, is usually also held jointly in a similar fashion. If your joint account with your spouse is JTWROS, then when you die, this account solely becomes your spouse's account. This is great, unless your estate planning calls for something different. Many times, especially with large investment accounts and multiple heirs, a TIC title works better. TIC splits the joint account in half, with one half going to the surviving owner and the other half into the estate so that it can be split among the heirs based upon your will.

TRUSTS

A few of our clients end up with a trust in lieu of a will. Sometimes it's called a living trust. When done properly, a living trust avoids probate so that, when you die, the trust provisions dictate what happens to your stuff instead of a will. It's not as common in Texas as it is in other states because probate is fairly inexpensive here. But in other states, a living trust can save a lot of money in court costs, taxes, and attorney fees.

For some people, the privacy of a living trust is appealing. Probate is a public process, so, when you die, your will is recorded as a public document along with any proceedings. A living trust is a private document that nobody sees unless you show it to them. The trick or challenge with living trusts is to try to get all of your assets into the trust. If you miss anything, then your estate will have to go through probate anyway.

LETTER TO HEIRS

Not everything about smoothly transitioning your affairs after your death is financial. Where some of the real drama and stress occurs after someone dies is around family heirlooms and important decisions and information that are not dealt with in the will or any other official legal or financial documents. So, after all of the legal documents and estate documents are complete, beneficiary designations changed, and accounts and trusts squared away, something might still be missing. Nowhere in any of the formal planning is there an opportunity to personally address those you leave behind and help them with the daunting task of planning a funeral and wrapping up your affairs.

I always suggest that my clients write a letter to their heirs. It's a hard letter to write. It has to be updated from time to time, and it is tough to know where to start or what to say. Try to do it anyway. Here are some general instructions and guidelines to help you get started. I pulled my letter out of the safe today and used it as a guide for the following bullet points:

- Address your letter to your heirs and explain the letter as general instructions that are not intended to be legally binding.
- Explain where you want to be buried, what pre-planning is in place, and other specific guidance regarding cremation, etc.

- List your favorite music for the service, Bible verses, and suggested participants.
- List out old friends you wish to be notified of your death.
- Name your suggestions for pallbearers.
- Provide guidance for obituary and other records. It is most helpful to be specific with dates, the spelling of names of relatives, work history, residence history, organizations, hobbies, etc. Realize that nobody knows any of this information off the top of their head like you, so save your heirs the time, effort, and stress.
- List your favorite charities.
- Provide general guidance on business issues like buy-sell agreements, client notifications, etc.
- Give general information on life insurance.
- Provide names of key advisors and friends whom you want your heirs to consult with in regard to business and personal financial affairs.
- Finally, provide some comforting words of encouragement, Bible verses, or philosophical insight that you believe will be helpful and remembered.

Like I said, this is a hard letter to write. If you have ever been involved with the planning of a funeral, I am sure you realize how helpful a letter like this can be. Block out time on your calendar and try to knock it out. You can seal it in an envelope and place it in your three-ring binder so that it's handy and readily available to your family in case of your death.