



Living Trusts – Tips that will keep you from being cheated

Many elders are solicited or respond to flyers from companies offering the sale of revocable living trusts. These “Trust Mills” often have an ulterior motive -- to sell annuities, unneeded insurance, and steal the identities of unsuspecting elderly victims.

Typically, revocable living trusts are sold for what seems to be a bargain when compared to a trust prepared by a local attorney who specializes in estate planning and elder issues.

During presentations, references are often made to qualifying for Medi-Cal in the event long-term nursing home care is needed.

- **Incomplete or improper information regarding Medi-Cal eligibility and repayment obligations are commonplace. Often times, additional insurance policies for long term care and the purchase of annuities are offered.**

According to the California Advocates for Nursing Home Reform (CANHR), elders often realize no financial benefits when using the services of these companies, commonly referred to as “Trust Mills.” CANHR reports that elders often lose a substantial amount of their resources and access to the remaining funds from the purchase of annuities offered by these companies.

As with all other things in life, let the buyer beware. Courts in Florida and California have issued opinions that the practices of at least some of the “Trust Mill” companies equal practicing law without a license, carrying possible criminal consequences.



The U.S. Senate Special Committee on Aging has issued the following list for seniors:

“10 Things to Remember when Selecting Living Trusts”

1. Choose a financial planning advisor **carefully**.
2. Ask first for a **written list of credentials**.
3. Call **references**.
4. Talk to several **experienced estate planning attorneys** who are licensed in your state about:
 - a. The **anticipated costs** of drafting a will, living trust and other estate planning documents.
 - b. How much **probate** in your state would cost and how much time it would take.
5. **Don't do business** with someone if their answers to your inquiries about their credentials make you **uncomfortable**.
6. **Before creating a living trust**, review the **amount and type** of your assets and decide **how you want your assets distributed**.
7. **Compare** prices of door-to-door sales people with those of **experienced estate planning attorneys**.
8. Decide what are the best financial planning tools **for your circumstance**. Don't let a “special limited-time offer” prevent you from **carefully reviewing your options**.
9. You must fund a living trust by **transferring money or property** to the trust. These continue to be counted as your assets.
10. Be aware of the **personal liabilities that may be imposed on the trustee** when distributing the trust assets after your death, including federal estate taxes and state inheritance taxes.



Additional information can be obtained from:

- California Advocates for Nursing Home Reform, 1610 Bush Street, San Francisco, CA, (414) 474-5171, www.cahhr.org
- A.A.R.P., 601 E. St. N.W., Washington, D.C. 20049, www.aarp.org
- The United States Senate Special Committee on Aging, www.senate.gov/~aging/hr53tips.htm
- Elder Law Clinic at John F. Kennedy University School of Law (925) 969-3341

Source: Area Agency on Aging