



Do You Know What a Professional Fiduciary Is? You Should - Here's Why

Last year, nearly 500 private professional fiduciaries in California (members of the Professional Fiduciary Association of California (PFAC) managed investments and expenditures totaling nearly \$6 billion for their clients.

In California today, accountants, lawyers, real estate agents, investment advisors, bankers, appraisers, and many others get tens of millions of dollars of business every year from private professional fiduciaries. Fiduciaries pay the bills and handle the investments of trusts, decedents' estates and conservatorships.

Some private professional fiduciaries employ several full and part-time staff. Their firms manage \$10 million, \$15 million sometimes \$20 million or more. Their phones are ringing off the hook and many are not taking on any new clients at this time, even though most people could not define the term "professional fiduciary."

Trustees manage money, and oftentimes, difficult people and situations. When money is involved, beneficiaries and trustees sometimes have disagreements, and family arguments can be among the most rancorous. There are plenty of traditional families, blended families, dysfunctional families that are faced with an abundance of problems and issues when a parent dies or becomes incapacitated and there is money in an estate to be protected and invested. Sometimes non-professional trustees mismanage or neglect their trustee duties, and sometimes he or she may ignore the directions of the trust. Beneficiaries get angry, get an attorney and go to the probate court for resolution. That resolution often names a private professional fiduciary as the new trustee. Many attorneys, accountants and estate planners, who know good private professional fiduciaries, sometimes suggest a professional be named as trustee when a new trust is written. Business is booming for experienced professional fiduciaries.

Every demographic study and statistic about our aging population clearly documents the anticipated abundance of seniors in the population over the next several decades. This graying of America is also why the amount of money being managed by private professional fiduciaries will continue to grow rapidly over the next several decades.

Here are just a few statistics:

- According to the most recent census, roughly 3.6 million of the 34 million people living in California on April 1, 2000, were 65 or older.**
- Important shifts in age distribution of the California population are forecast over the next 50 years as mortality rates decline and life expectancy increases. Currently, life expectancy in California is 78.8. By 2050, we estimate a 50% probability that life expectancy in California will reach 84.2. As a result of this as well as other factors, the state's population age 65 or older is expected to double in 25 years (over 7 million) and triple in 50 years.**

- It is estimated that the number of Americans between the ages of 70 and 85 without a living spouse, without any biological or stepchildren and without living siblings or half-siblings, will total more than 2 million people by the year 2020. (*Kenneth W. Wachter, Ph.D., chair of the dept. of demography, U.C. Berkeley in an interview with Geriatric Times magazine, 2004*)
- At least a quarter of the people (in the age group 80 years or above) have significant clinical cognitive impairment. Many are living alone after the death of a spouse – the spouse suddenly disappears – and they can't fend for themselves. That cognitive impairment is a big part of the problem. (*Joel Streim, M.D. president of the American Association for Geriatric Psychiatry in an interview with Geriatric Times magazine, 2004*)

***Center for Economics and Demography of Aging, UC Berkeley. CEDA Papers Special Report: The Growth and Aging of California's Population: Demographic and Fiscal Projections, Characteristics and Service Needs, 2030. Ronald Lee, Timothy Miller, Ryan Edwards*

What exactly is a professional fiduciary? He or she is a person who assumes a position of trust and responsibility serving an individual by probate court appointment. Last year, PFAC members in California managed nearly \$6 billion in cash and assets, as trustees, conservators and personal representatives of estates. A fiduciary as trustee has the responsibility of carrying out the terms of a testamentary or living trust. The trustee is usually a person named by the creator of the trust, but in some cases, the trustees cannot carry out his or her duties because of incapacity or death. If there is no successor trustee who can serve, the court has the responsibility of appointing a trustee, usually someone nominated by the trust beneficiary who then safeguards the assets and invests them according to the Uniform Prudent Investor's Act (as set forth in the Probate Code). Professional trustees working under the UPIA are held to a higher standard than others.

The fiduciary as conservator is the person who is legally appointed to manage the conservatee's estate and/or person. A conservatorship is a legal tool designed to provide management for the financial and/or personal affairs of individuals deemed by the court to be physically or mentally incapacitated, often because of dementia. Alzheimer's disease (the most common form of the dementias) is the eighth leading cause of death among people 65 or older in California and its prevalence doubles every five years beyond the age of 65 (National Institute of Aging, 1997). California (along with Florida and Texas) will continue to have the greatest total number of cases in the country and will experience significant growth rates (a 50% increase in California) by 2025 (Alzheimer's Association Study, 2004).

As larger segments of our population swell the growing ranks of seniors and the "oldest old," working members of society are increasingly faced with the complications of caring for elderly parents while still raising their own families and managing careers. Many elderly people do not live near their adult children, and sometimes relationships between siblings and other relatives create conflict and strife, causing problems rather than solving them for elders. Many of the elderly are easy prey for a gold-digging family member or friendly stranger ready to lighten a senior's pockets while they are still living. In these situations and certainly for elder orphans in need, professional fiduciaries are a godsend.

How do you find professional fiduciaries that are trustworthy? It is safe to say that many are; however, the members of the Professional Fiduciary Association of California (PFAC) deliberately hold themselves and their peers to a high standard. They are committed to safeguarding the reputation of their profession and the trust of their clients as evidenced by

their Code of Ethics. It is a growing field due to the growing number of seniors in need, and the anticipation of even greater growth led a group of professional fiduciaries to form PFAC in 1995 that would ensure that current and future practitioners be qualified, certified and/or licensed and dedicated to high standards of practice, continuing education and a strict code of ethics. PFAC members meet statewide annually to provide training workshops, exchange professional information and expertise on case management and assess the achievements and challenges experienced in the field of professional fiduciary management.

“Most of us entered this profession because we want to help people,” says Norine Boehmer, CLPF, PFAC President. “The safety and welfare of vulnerable people is the reason we work in a service field where success is dependent upon our own integrity, good judgment and expert skills. As professional practitioners in this field we must be bonded and are held legally and personally accountable by the court. We shoulder not just the personal burdens of our clients, but the scrutiny of the law and a great deal of liability if we make a mistake.”

In order to be a member of PFAC, professionals must be licensed, agree to adhere to the code of ethics, and demonstrate a commitment to their own professional skills by completing continuing education units annually. At California State University, Fullerton (CSUF) and the University of California, Riverside, courses in professional fiduciary management leading to certificates for conservators and trustees were initiated at the urging of PFAC and are now established. Many PFAC members are also members of the National Guardianship Association (NGA) which administers a national certification exam that was developed by PFAC and CSUF.

More importantly, since July 2008, professional fiduciaries have been required to be licensed by the Professional Fiduciaries Bureau, a licensing entity within the State of California’s Department of Consumer Affairs. PFAC sponsored the legislation, the Professional Fiduciaries Act (SB 1550) in 2006, which enacted the licensing requirements. A California Licensed Professional Fiduciary, or CLPF, must renew his/her license annually, earn at least 15 hours of continuing education from approved providers, and submit an annual statement, certifying its accuracy under penalty of perjury and complying with statutory requirements.

The Professional Fiduciary Association of California (PFAC) is a statewide organization with over 500 members dedicated to serving and protecting the best interests of those who have placed their trust in them by ensuring the highest standards of ethics and practice, requiring licensure, maintaining high qualifications for membership, requiring the continuing education of members, and the mentoring of new members.