

Executor, Personal Representative Seeking Attorney

By Deborah Cohn

Your parent or spouse just passed away and you've been named the executor or personal representative of the estate. You know you need a lawyer who can help you probate the will or administer the revocable trust. How do you go about finding an estates and trusts attorney? What specific qualities and credentials should you look for in your search?

- 1. You need a lawyer who is licensed to practice law in the state in which the decedent resided.**
- 2. The lawyer should devote a substantial portion of his or her practice to estate planning, probate administration and trust administration.** Having experience in each practice area can assist the attorney in dealing with issues in other legal fields. A knowledge of estate planning, for example, can enable the lawyer to identify the less obvious tax planning opportunities or pitfalls that may be embedded in the will, the revocable or living trust agreement and any irrevocable trusts included in the estate plan.
- 3. The attorney should be comfortable administering taxable estates.** Attorneys who've worked with only non-taxable estates are unlikely to have the sophistication and experience to handle more complex estates. In contrast, lawyers experienced in administering taxable estates often will prepare the federal and state estate tax returns, although they may recommend that an accountant prepare the estate's or trust's income tax return (referred to as a fiduciary income tax return).
- 4. The attorney's staff should include seasoned estate administration paralegals.** The "right" paralegals can be invaluable in helping you handle the endless practical questions that arise when administering an estate or trust. They can guide you in locating appraisers, accountants, realtors, moving services and others you may need to engage while probating the estate or administering the revocable trust. Experienced teams of estate administration lawyers and paralegals will know how to negotiate with banks and credit card companies, sell an old car or deal with a sibling unhappy with what he or she has been awarded from the trust or estate.
- 5. The law firm should have experience dealing with the various types of assets in the estate or unusual features of the estate plan.** Much of the wealth in the estate you are administering may be concentrated in particular types of assets. In many estates, IRAs and qualified retirement accounts represent a substantial part of the total estate assets. Some include significant amounts of rental real estate or interests in limited liability companies and partnerships while others consist primarily of interests in a closely-held business.

Some estates feature a valuable collection of art, jewelry or antiques, or may include royalties, patents or similar intellectual property. Still others may include foreign assets, have foreign beneficiaries or involve decedents or spouses who are not U.S. citizens. Sometimes it is clear from the outset that estate litigation or trust litigation is a significant risk. If the estate involves a high concentration of a particular type of asset, unusual assets, some international components or unusual issues, look for an attorney or law firm with experience handling the particular assets or issues involved in the estate.
- 6. The law firm should be able to provide ancillary legal services.** Firms with strong practices in real estate, banking, tax planning, executive compensation, retirement planning, business planning, estate and trust litigation, business litigation and real estate settlements will be able to bring wide ranging expertise to the probate of the estate and administration of the revocable trust.
- 7. How the lawyer charges for his or her services is, of course, an important consideration.** Some attorneys charge fees based on a percentage of the value of the decedent's assets, regardless of the amount of time spent to assist you. Others use hourly rates so that you pay only for the services you require. Some attorneys may be willing to guide you in handling some aspects of the estate administration

yourself, while others will not.

8. The attorney should be well respected by his peers. Here are some questions that are well worth asking - and answering: Has the lawyer chaired a state or local bar association committee on estate planning, estate administration, tax planning, retirement planning or other related fields? Is the attorney a member of a local estate planning council? Is he or she a fellow of ACTEC, the American College of Trust and Estate Counsel, a national organization of highly respected estate planning attorneys? Has the lawyer served on a state bar association committee or council relating to estate planning or estate administration? Does the attorney frequently teach estate planning or estate administration courses to other attorneys, law students or related professionals? Has the attorney published articles in respected law journals or bar magazines? Of course, many attorneys who have not achieved these types of recognition from their peers are still experienced estate administration attorneys. Yet peer recognition is another big factor to consider in selecting an attorney.

9. Make sure you feel comfortable with the attorney and his or her staff. You will be working closely with both the lawyer and the estate administration paralegal over several months. When you meet with these individuals, do you feel that they understand you? Are they compassionate, patient and sensitive in addition to being experienced and knowledgeable? You may be going through an extensive period of mourning and loss. Do you feel that the professionals you select will support you and understand what you are experiencing?