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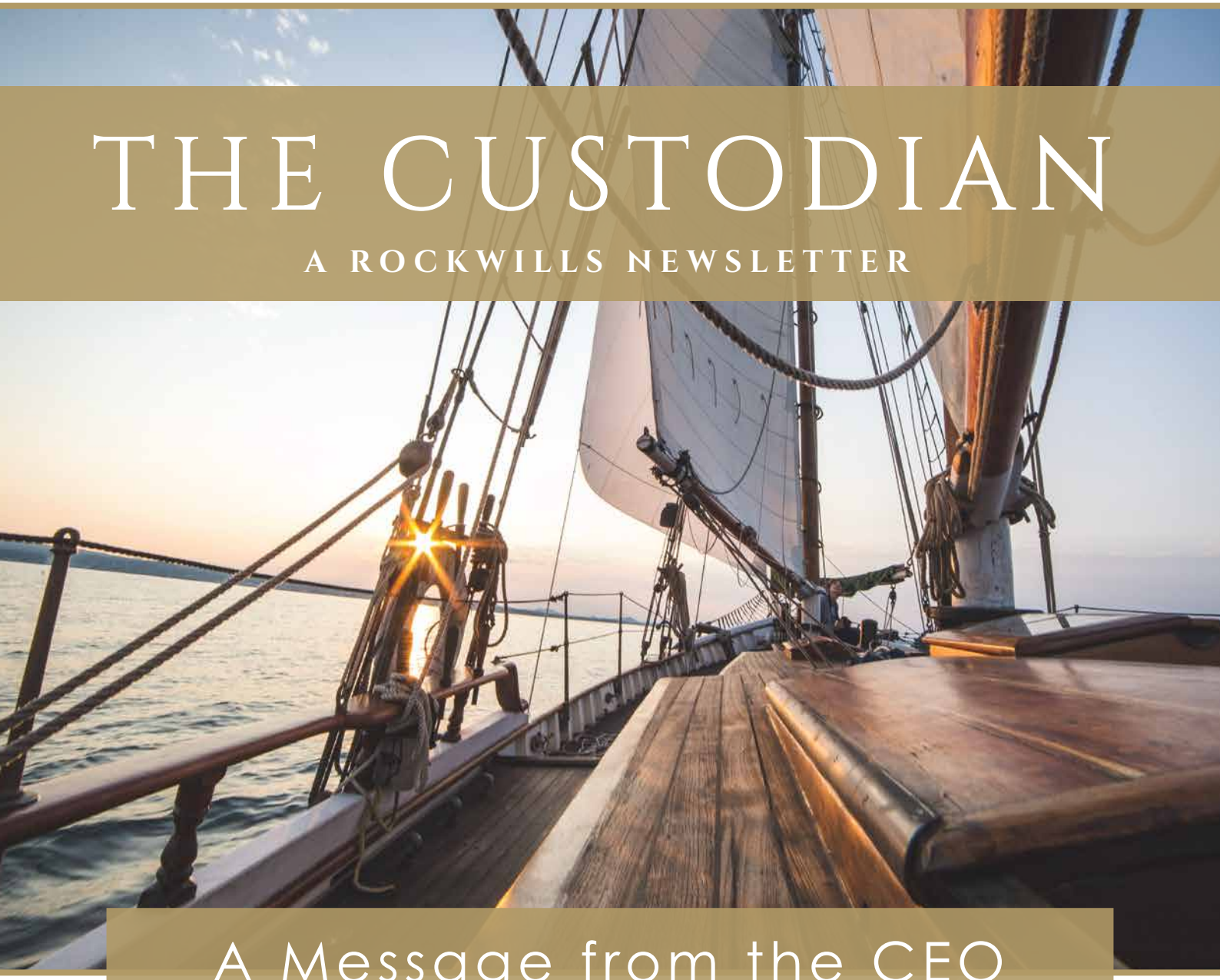
Rockwills

THE CUSTODIAN

A ROCKWILLS NEWSLETTER



A Message from the CEO

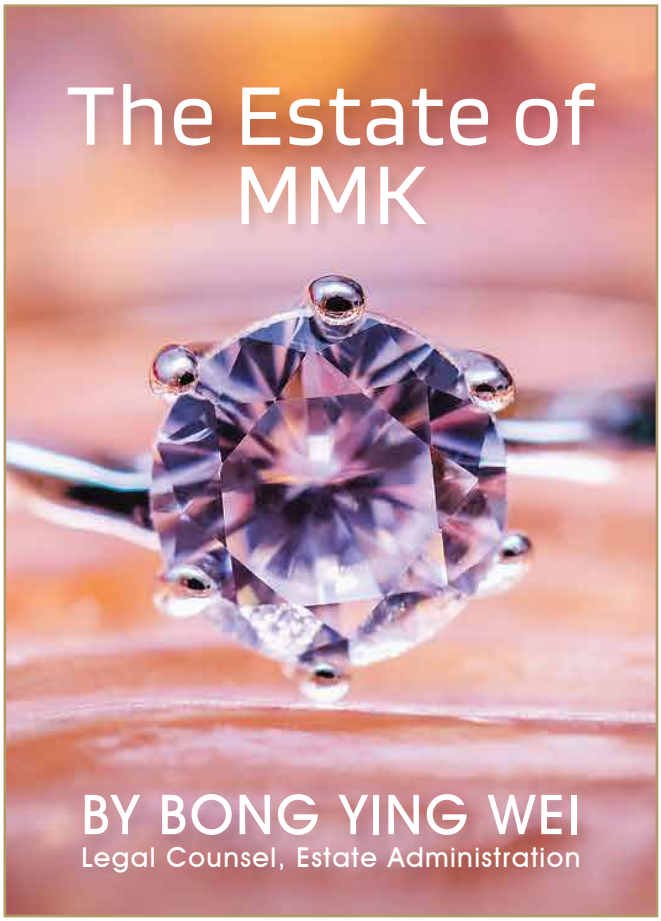
As we enter the final quarter of 2019, we are delighted to have already experienced the build-up of what is to be a great year festooned with exciting and momentous events. Firstly, we celebrate the positive conclusion of a protracted dispute that lasted 4 years as illustrated in the Estate of MMK. It emphasises the importance of appointing the best person who is well-equipped and experienced to take on the onerous responsibilities as an executor of your Will.

Being at the forefront of the Estate Planning industry, we are proud to have achieved important milestones that have contributed to our current position. We are constantly expanding our capabilities especially in response to the rise of digital technology trends, where the implementation of digital Wills has already begun. This will add an extra dimension to it, creating more dynamic Wills that have the potential to hold more than just a testator's wishes.

In conversation with our Estate Planner, Leslie Ng, he describes his own successes – supported by the Rockwills platform – that have boosted awareness of the importance of Estate Planning. Also, in this issue, we focus on the misconceptions of setting up Trusts and why having one is essential in this day and age.

Come 2020, we anticipate higher growth and promise you phenomenal developments as we look forward to more exciting times. We thank you for supporting us through the years!

By Lee Chiwi
CEO, Rockwills Singapore



In one of the more prominent cases we've had in recent years, the Estate of MMK case ended after a long drawn-out 4 years of legal proceedings.

It began in January 2015, when the Deceased passed away after a 2-year battle with cancer. She named her best friend as her sole executrix in her last Will, signed in 2013. After her passing, her best friend, who did not reside in Singapore and without experience in administering estates, appointed Rockwills to take over her role.

Prior to filing for the Grant of Probate, Rockwills made a surprising discovery – a "Mr. K" claiming to be the next of kin of the Deceased (he was not named as a beneficiary in the last Will of the Deceased), had applied for the Grant of Letters of Administration. This was done on the basis that the Deceased had died intestate and that he was the sole beneficiary in accordance with Singapore's Intestate Succession Act.

With the original last Will in hand, Rockwills immediately filed for a Probate Caveat* to arrest the situation, preventing Mr. K from proceeding. If this had been delayed, Mr. K would have ended up taking over the entire estate.

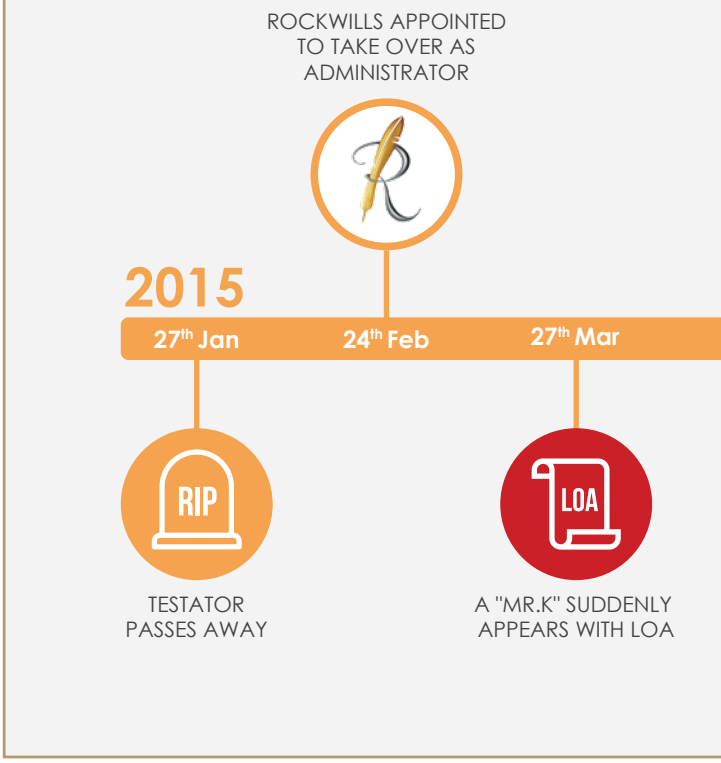
Rockwills requested for Mr. K to withdraw his application. However, after 6 months of communication between solicitors from both sides, Mr. K sprang a surprise. In an unexpected turn of events, Mr. K produced a document, claiming that the Deceased had signed it 6 days before her demise, to revoke all her earlier Wills.

This newly produced revocation document was not an updated Will by the Deceased, but a one-liner to revoke all her earlier Wills. If it was valid, her last Will signed in 2013 would have been revoked and her entire estate transferred to Mr. K.

It was highly suspicious that the revocation document was produced only after 6 months. There was no logical reason as to why the Deceased would have signed it before her demise. She had lived through a continuously acrimonious relationship with Mr. K. To add to our doubt, the only witnesses present during the signing of the document were those related to Mr. K.

With a genuine desire to protect and preserve the interests of beneficiaries named in the last Will of the Deceased, Rockwills commenced a legal proceeding against Mr. K for all the relevant issues to be tried in court. The revocation document was

TIMELINE OF EVENTS

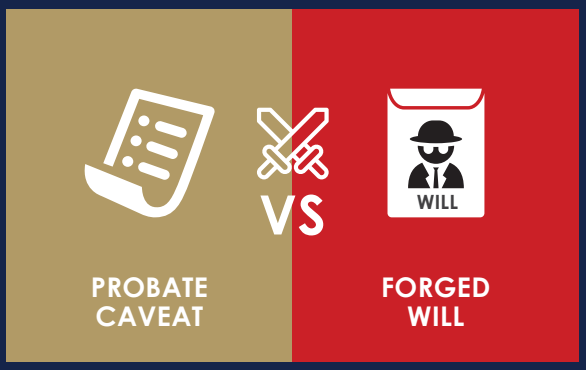


sent to a handwriting expert for examination, together with specimen signatures of the Deceased, which took 2 years to gather from her ex-employer, insurance companies, banks, court and other authorities.

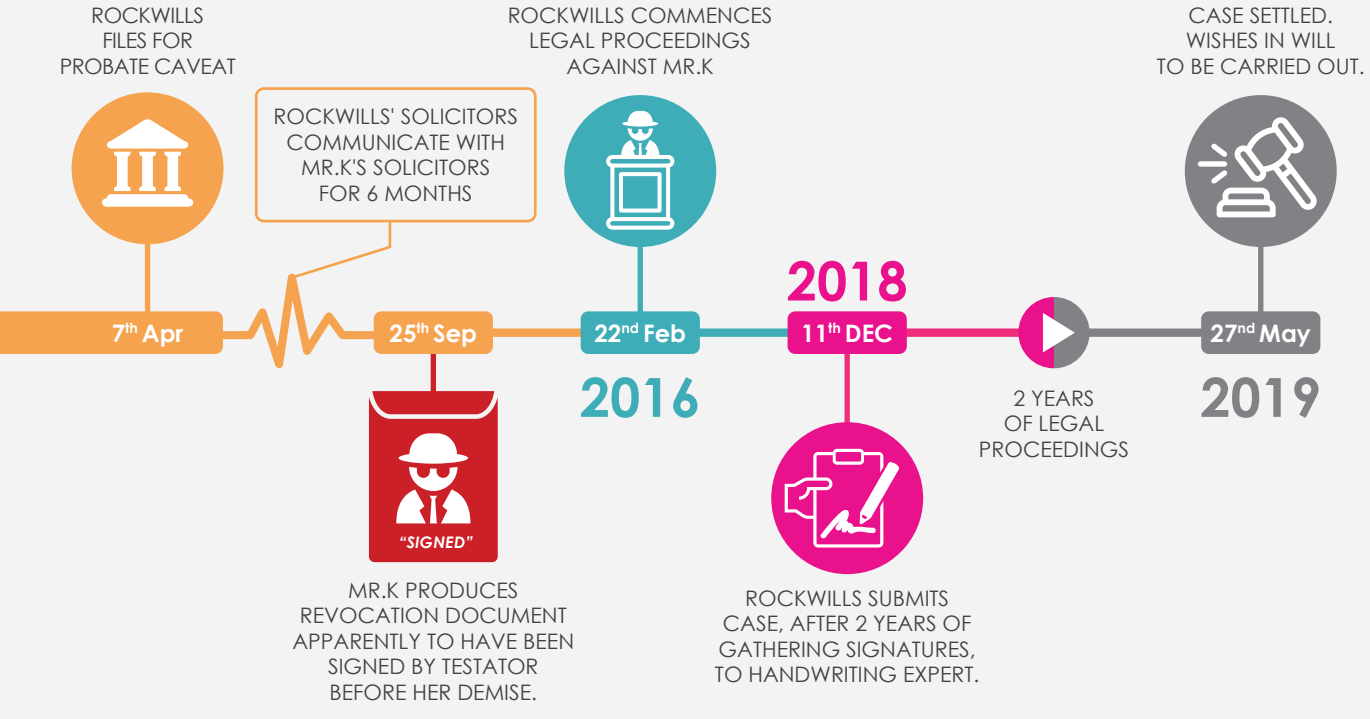
The legal proceedings went on for another 2 years and in 2019, everything was eventually settled. After receiving favourable results from the handwriting expert, the other party agreed for Rockwills to carry out the wishes of the Deceased stated in the Will.

What could have been a simple estate matter turned into a complicated one. Many do not expect to face onerous responsibilities when taking on an executor's role. In reality, the challenges can be massive for some cases. If the best friend of the Deceased handled this case without passing it on to Rockwills, abandonment of the case is almost guaranteed when stress levels and legal fees surge. This would have resulted in all the beneficiaries named in the Will being disinherited by the revocation document produced by Mr. K. It is therefore advisable to appoint a suitable person to be the executor of your estate.

WHAT IS A PROBATE CAVEAT?



A probate caveat is a document that is used to prevent an administrator – in this case, Mr. K. – from having the authority to administer the estate of the deceased. This is usually used to challenge a document where there is suspicion that it was not written and signed by the Deceased before he or she passed on.



WHAT HAPPENS TO MY SOCIAL MEDIA ACCOUNTS ON DEATH?

We're living in an increasingly digital age, where most people maintain some form of online presence. This may be via maintaining their own personal websites or interacting with social media. Most people interact with social media on a quite mundane level but making a career out of social media is becoming increasingly common. In recent years, we've seen a rise in 'Instagram influencers' and YouTube vloggers who are using their social media accounts to make a substantial revenue. This leads to the question, what happens to my social media accounts when I die? In the following page, we will look at the big four social media platforms and how they can be managed on your death.

Series Abstract from "The Succession Law EMag" of The Society of Will Writers (SWW) from United Kingdom (UK)

FACEBOOK

Facebook is probably the biggest social media platform in existence, dwarfing Twitter, LinkedIn, and other well-known websites and boasting 2.38 billion monthly active users (Facebook investor relations report 24/04/19). If you're one of those regular users you've probably built up quite a profile, likely filled with pictures, videos, and memories and you need to decide whether you want to share these or delete them forever on your death. Facebook allows a number of options for dealing with a deceased user's account.

The first option allows you to plan in lifetime for what will happen to your account on death. You can appoint a 'Legacy Contact' to look after your account should you pass away. This Legacy Contact will then have access to your account after your death and manage it in future with a few restrictions. The Legacy Contact may manage your account, memorialise it, post a final status update, and update your profile and cover photos. If you've given them permission, they can also download a copy of everything you've ever shared on Facebook.

What a Legacy Contact can't do is log into your account, remove or edit any past posts, comments or photos you've made, remove friends, or read any of your private messages.

The second option allows you to tell Facebook that you want your account to be permanently deleted on your death. As with assigning a Legacy Contact, this can be requested in lifetime through the options in your Facebook account.

The last option is to request that your account is memorialised on your death. If Facebook becomes aware of your passing and you have not opted to have your account deleted on death, then your page will be memorialised so friends and family can still view your profile and any content you've shared.

INSTAGRAM

Firstly, let's address who actually owns the photos you post to Instagram. You own the copyright to any images that you post to Instagram but give them a non-exclusive and royalty free licence to use and distribute the content that you post.

Instagram's deceased user policies are similar to Facebook's, which is to be expected as Facebook is the parent company. When you pass away, your Instagram account can either be permanently deleted or memorialised. The difference here though is that you can't plan for this in lifetime, so what happens to your account will be down to your family. What you might want to consider instead is leaving clear instructions in your Will as to what you want to happen to your Instagram account. Your executors or your family can't be given access to your account, and there is no tool to download all of the content you've uploaded to it, but they can be directed to contact Instagram to delete or memorialise it.

TWITTER

Twitter doesn't have any policies in place for memorialisation or allowing a family member access to your account. All they offer is permanent removal of a deceased user's account, and they express that they will work with an individual who is authorised to act on behalf of your estate. Again, you can leave instructions in your Will for your executor to contact Twitter to have your account removed. Twitter will ask for your account username, your full name, the executor's relationship to you, as well as their full name and email address. They will also need a copy of your executor's ID and your death certificate before they can close the account.

YOUTUBE

The video sharing website YouTube attracts millions of users per month, and for dedicated vloggers, it can earn them quite a substantial amount of money. Last year, the highest earning YouTuber, Ryan ToysReview made $22 million in advertising revenue from his channel! Clearly it's important that you have plans in place for your YouTube account if it's producing an income for you.

YouTube is owned by Google, and Google has a similar system in place to Facebook when it comes to allowing you to plan in lifetime for what should happen to your various Google accounts on death. Through your settings in your Google account, you may appoint an 'Inactive Account Manager'. This allows you to appoint a trusted person to be notified when your account has become inactive and give them access to it to manage. When doing this, you also have the choice of when your account should be considered inactive and the plan triggered. Google will try to contact you multiple times before passing any details on to your Inactive Account Manager, so they can be sure that you've passed away.

If you haven't assigned an Inactive Account Manager then your immediate family or executors can work with Google to deal with the account. They may request that the account is permanently deleted or that certain data is obtained from the account. They can also request funds from a deceased user's account, as they may have died leaving funds in their AdSense account that were earned from advertising on YouTube videos.

Contact your Rockwills Estate Planner to find out more on how you can plan for your Digital Accounts as part of your Estate Planning.

One Powerful Instrument

TO PROTECT BOTH YOUNG & OLD

BY KEE SIEW POH

The Importance of Setting Up a Trust

The average Singaporean family is among the world's wealthiest, and yet also experiences one of the lowest replacement ratios. In the past, an HDB flat could be worth $20,000 and the number of children in the family could reach up to 10. There was not much to plan for with each child inheriting $2,000. Today, an HDB flat could be worth $1m, and it will be shared by only a few.

Proper Estate Planning for the average Singaporean family, therefore, goes beyond a simple nomination and writing a Will. A family Trust can be used to provide asset protection for your loved ones against perils of mismanagement of hard-earned monies. Wealth and assets could be lost very quickly if you do not plan for potential pitfalls and challenging family circumstances in the unforeseeable future.

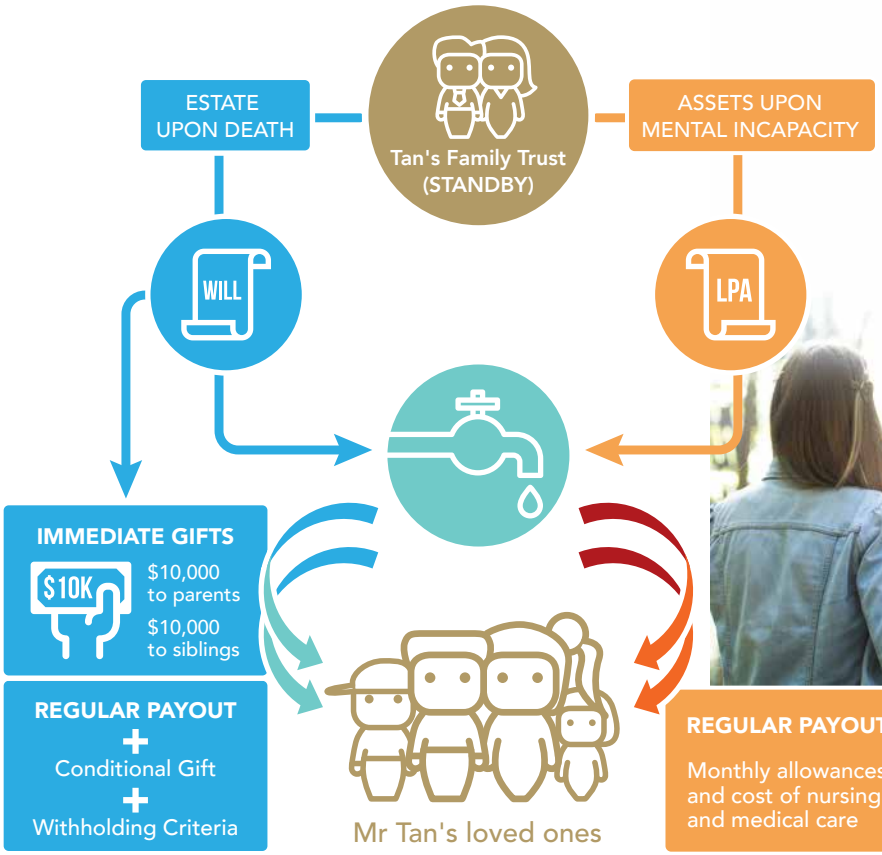
The Young: Too Much, Too Soon, Too Unprepared. The question we need to ask ourselves is whether our loved ones would be too young and too financially immature to handle wealth. With only a simple Will in place, our estate will simply be distributed as a lump sum. Hence, when children reach the age of 18, they will have the full insurance proceeds which sometimes can be worth $1m or more. When they turn 21, they will acquire the title of the properties which effectively could catapult them into the millionaire status. In short, while we take years to build our wealth, our children could become instant millionaires without even lifting a finger to work. Many of us work hard for a comfortable retirement. In our children's generation, some of them could be born to retire. If you are a parent of young children today, in the event of a common disaster, would you be concerned with your children receiving too much, too soon? Will this enrich or ruin them? Will this be in their best interest?

With a Trust in place, you have the ability to time your estate distribution, whether it be delayed or staggered. So, instead of receiving the proceeds at 18 or 21, our children can receive it at a later age (e.g. 30 or 35) when

A TRUST FOR EVERY FAMILY SITUATION

Every family is different and unique. For every family situation, there is always a Trust that can be constructed to suit the objectives. The solution can be cost effective and flexible, yet allowing the settlor to retain control. Below is an example of how one can effectively combine a Will, Trust and LPA.

In the event of Mr Tan's demise, aside from the assets which he has designated as immediate gifts, the rest will be poured into the Standby Trust for distribution to his loved ones in accordance to the Letter of Wishes. In the event that Mr Tan loses his mental capacity, the LPA will be triggered such that some of the assets could be poured into the Trust and provide a monthly payout for both him and his loved ones.



CASE STUDY

Dr Freda Paul was a beloved Doctor who worked as a Paediatrician at the Singapore General Hospital. Before her death in 2016, she befriended a construction worker and an engineer, who worked near her home. They subsequently exploited her vulnerability as she suffered from dementia. Together with the maid, they schemed and blocked access to the Doctor from her relatives. They also sold her house, and pocketed millions of dollars from the proceeds of the house. They argued that Dr Paul was in sound mind when she gave away her millions to them, and had willingly done so. At one stage, the Doctor was found sleeping on newspapers on her bed. They also changed her Will to benefit from it. In her original Will, she had planned to set up a bursary fund for needy medical students at the National University of Singapore. After discovery and legal suits by her relatives and top lawyers, sadly, despite best efforts and court judgement in favour of her estate, millions have not been recovered and the trio was never charged for criminal offences. Setting up a Trust would have possibly prevented such developments.

they are more financially mature. It is also possible for us to structure the payout in accordance to their development and educational needs.

The Old: Mental Incapacity

Recent statistics show that dementia affects more than 1 in 5 persons above 65 years old and more than 1 in 2 persons above 85. One of the major concerns about mental incapacity in elderly people is their loss of the ability to manage their assets and properties. If one suffers from mental incapacity and he is the sole operator of his bank account and other financial affairs, during the time of his mental incapacity but prior to death, no other person has the authority to manage his affairs unless so authorised by the Court.

With a Lasting Power of Attorney (LPA) Form 2, the entire process is simplified and one can choose to appoint a Corporate Trustee (e.g. Rockwills Trustee) to manage their property and financial matters. Once appointed, Rockwills Trustee is known as the Property & Affairs Donee. The other person to be appointed would be the Personal Welfare Donee and this is the trusted person to take care of one's personal welfare.

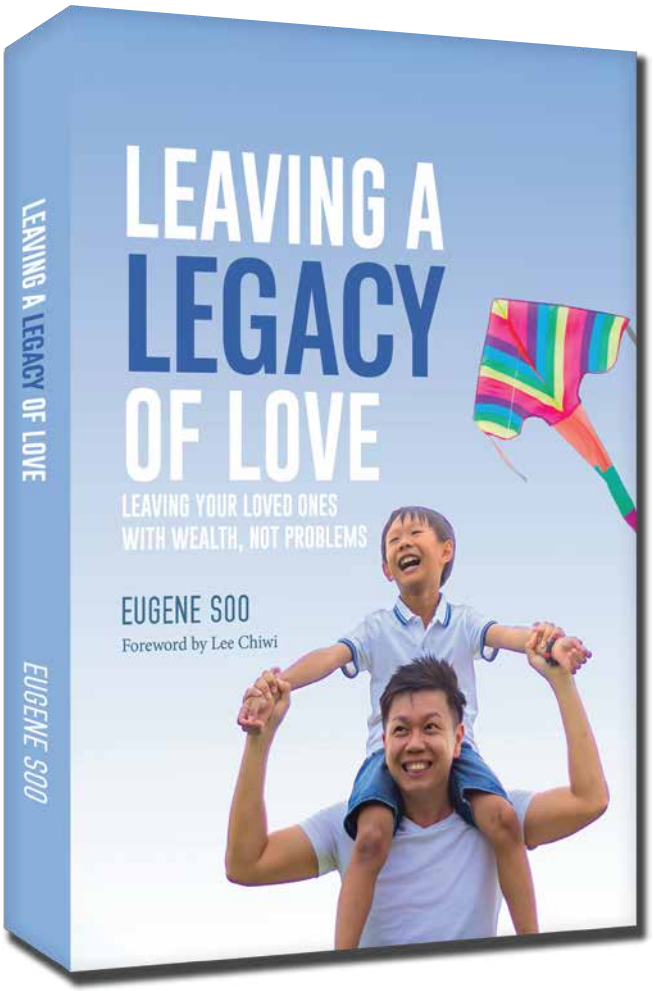
When the LPA Form 2 is linked to the Trust, it is an effective way to ensure that one is well-protected financially and well taken care of in the event of mental incapacity. This is especially important as the Singapore population ages, because one may be alone with considerable assets upon the demise of their spouse. When one is alone in his twilight years, the risk of being swindled rises dramatically. We saw this in the case of Chinese tour guide, Yang Yin who was eventually sentenced to jail for cheating Madam Chung, a wealthy widow.

Important Facts of Flat Ownership

PROPERTY: A HOUSE OR A HOME?

BY EUGENE SOO

Excerpts from "Leaving a Legacy of Love".



While many home owners in Singapore sign the home purchase agreement with overwhelming excitement of obtaining the house keys, not many put in much thought about the different types of property ownership in Singapore, namely Joint Tenancy and Tenancy-in-Common.

Joint Tenancy is the most common arrangement in the ownership of a property, in which all joint owners share equal ownership of the property. This is usually the default arrangement for matrimonial homes for spouses, in which in the event of any of the owner's demise, the ownership shares under him/her will be automatically passed on to the surviving co-owners of the property. This is regardless of whether the deceased owner has made any Will to dictate his/her asset distribution upon death.

On the opposite side of the fence, property that is purchased for investment purposes or purchased with siblings usually falls under the Tenancy-in-Common structure, which states that the share that you own in the property remains your share, before and after your death. As such, in the event of your demise, the shares that you own in the property is passed on to your designated beneficiaries as per your Will. In the absence of a Will, the Intestate Succession Act will come into play to assign the shares that you own in the property to your legal beneficiaries.

To find out what are the **3 areas** of consideration for property distribution, get the book, "Leaving A Legacy of Love" by Eugene Soo.

His book is available for purchase at Rockwills office at $25.

"...the individual who has been given the 'living interest' does not hold any ownership rights in the property."

There is a less-known assignment in property matters that is known as a 'living interest'. What it basically means is that the individual who has been given the 'living interest' does not hold any ownership rights in the property. What he/she is entitled to, is to stay in the property for as long as he/she lives or for as long as he/she wants to do so. This usually applies to elderly parents or siblings with special needs, although there is no real restriction on how the 'living interest' can come into play.

One well-known case of a 'living interest' is in the case of our late Senior Minister Lee Kuan Yew's expressed instruction of letting his daughter, Ms Lee Wei Ling, stay in his property for as long as she wishes to. During which period, no action can be done with regards to selling or renovating the property. Interestingly, the person(s) who has been awarded a 'living interest' in the property, does not hold any rights in the decision-making of the property. Once the person(s) moves out of the property or passes away, it is up to the beneficiaries who have inherited the property to decide the next course of action.

The above applies for both government owned HDB property, as well as private property such as condominium units and landed houses. While HDB property has rules that the surviving members of the deceased need to abide by, private property comes fully under the individual's Will or Trust structure in Estate Planning.

Talking With: Leslie

Mr Leslie Ng - Affiliate member of the Society of Trust & Estate Practitioners (STEP), Chartered Financial Consultant (ChFC/S), Associate Estate Planning Practitioner (AEPP) and Associate Specialist in Estate Planning (ASEP)

Over the years, Rockwills has built a team of dedicated Estate Planners who have established a strong foundation for the company. This group of visionaries are stalwart advocates of planning for and fortifying the future for our clients. Through their own enterprise, these extraordinary individuals have created successful Estate Planning businesses for themselves, while steadily driving their passion through constant efforts to achieve peace of mind for families in the community.

In this issue, we share a short interview with one of our Estate Planners, Leslie Ng, to understand what it takes for Estate Planners to succeed in this business.

RW: When did you become a Rockwills Estate Planner?

Leslie: I joined Rockwills as an Estate Planner in 2016.

RW: What were you doing previously?

Leslie: I was, and still am, a Financial Adviser Representative and I was also managing my general insurance agency.

RW: What prompted you to consider a career and start a business in Rockwills as an Estate Planner?

Leslie: After more than 20 years in the financial service sector, I was seeking a fresh approach to my financial planning practice. The more I learnt about Wills and Trust, the more Estate Planning became an integral part of my business.

Leslie: Estate Planning now forms the backbone of my financial planning practice, so that the risk management and investment planning portions can fit into the client's overall plan. More affluent families worry about their children attracting the wrong life partners, or whether their assets will end up in their children-in-law's, or even worse, ex in-law's hands should an unplanned inheritance occur. Through proper Estate Planning, my clients now have complete control over who, what and when they want to give, with regards to the fruits of what they have painstakingly laboured for their whole life.

RW: What is the difference that Rockwills makes in your journey as an Estate Planner?

Leslie: Rockwills has given me much training in the area of Estate Planning and provides me with customised solutions which I am able to recommend to my clients, whether they are families with young children, divorcees or families with special needs children.With Rockwills Trustee Ltd being a licensed trust company regulated by MAS, my clients have the confidence and assurance in the very organisation that will look after their assets for their beneficiaries in the future.

RW: How much time in a week do you spend on your Rockwills Business?

Leslie: I usually do no more than 10 appointments in a week. I have staff to help me out with administrative work and I also spend a fair amount of time on the preparation of my cases. At least 50% of my weekly appointments are discussions on Estate Planning. I always tell my clients that creating funding through insurance is the easy part. Once that is sorted out, the deeper discussions involve whether beneficiaries are financially mature enough to receive large sums of money should the unforeseen happen.

RW: What do you enjoy most about the Business?

Leslie: I enjoy meeting people and being able to offer suitable Estate Planning solutions for them, to safeguard their assets in the event of something unpleasant, such as a divorce. Estate Planning has added the kind of depth to my practise in financial planning which I never previously had. I just wish I had started my Estate Planning journey earlier.

RW: Tell us more about any memorable parts of the business.

Leslie: I remember a divorced client who was so relieved that our solution allowed her children to be materially provided for, with a close family friend as the appointed caregiver, and the ex-spouse being denied access to her assets. Shortly after, I was referred to 2 more similar cases to work on. It dawned on me that the solutions from Rockwills really provides clients with peace of mind.

The 6 Great Misconceptions

TRUST ISN'T WHAT YOU THINK IT IS

BY ROCKWILLS

When the word "Trust" is mentioned, it is likely that this term will go over the heads of majority of us. That's because of the common perception that it is a subject reserved for discussion among only the ultra-high net worth community. In this piece, we will attempt to provide a clearer understanding of what a Trust is, and debunk the misconceptions that are stopping individuals from taking full advantage of its benefits as an Estate Planning instrument. Depending on the objectives of an individual, some Trusts have a more complex structure, but the bulk of most are used in very direct and practical ways.

WHAT IS A TRUST?

Imagine you're holding on to a bowl of candy. Before leaving the house for a weeklong work trip, you hand this bowl over to your spouse together with a set of instructions on how you want your candy to be distributed to your children. If you are concerned that your children aren't disciplined enough to ration the candy on their own (and worry they may gobble up everything at once), your instructions to your spouse could include giving them one candy each after mealtime for the entire week.

Similarly, the archetypal Trust is a legal arrangement by which you, the owner ("Settlor") of the assets, create the Trust and appoint another party whom you trust ("Trustee") to manage your assets according to your instructions ("Trust Deed") for the benefit of the loved ones ("Beneficiaries") you have listed down in the Trust Deed.

So figuratively, the bowl of candy is like a Trust.

THE 6 MISCONCEPTIONS

Before you decide to bury the idea of Trusts as a potential solution for your Estate Planning, here is a list of common misconceptions that many people have about Trusts which may encourage you to reconsider setting one up for yourself. You're not alone if you find yourself falling into one or more of these categories.

Continued on page 12 >

PDPA NOTICE

Starting from 1st September 2019, the Advisory Guidelines on the Personal Data Protection Act ("PDPA") for NRIC and other National Identification Numbers issued by the Personal Data Protection Commission of Singapore ("PDPC") with the aim of enhancing consumer protection against indiscriminate and unjustified collection, use and disclosure of individuals' NRIC numbers and retention of physical NRICs, had come into force.

Rockwills wishes to assure our Clients that we adopt a very high standard in safeguarding the personal data under our possession. In view of the Advisory Guidelines, we have upgraded our internal processes and will perform regular reviews on our business processes to ensure compliance.

For more information, please refer to our Data Protection Policy available at: https://www.rockwills.com.sg/data-privacy/.

Should you have any further enquiries, please contact our Data Protection Officer at dpo@rockwills.com or by writing to the following address:

Data Protection Officer,
10 Anson Road,
#06-17, International Plaza,
Singapore 079903

Misconception #1: Trusts are Only for the Wealthy
This is perhaps the most common assumption about Trusts. While it is true that many wealthy people set up Trusts, there are many in the middle-income group who make full use of the benefits of a Trust for a variety of purposes in their Estate Planning. In general, a Trust is set up to ensure the Estate does not become misappropriated.

Misconception #2: A Trust is Expensive
While there are set-up fees payable, a Trust need not be actively administered or managed by the trustee. For example, with a Standby Trust, one only needs to pay a one-time set-up fee upon creation. Thereafter, there are no on-going Trust administration fees until the Standby Trust is activated, usually upon the occurrence of a triggering event, e.g. death or mental incapacity of the Settlor, when assets are transferred into the Trust.

Misconception #3: Trusts are Complicated
Usually, setting up a Trust is not as confusing as it seems. Depending on your Estate Planning goals, you can set up a Trust that is as simple or as complicated as you want it to be. All you need is to list down your objectives – whether it is for protection of assets, provision of funds or anything else – and exactly how you would want the Trust to work for you.

Have a chat with your Estate Planner so that he/she may take you through the process for easier understanding. The last thing you would want to have is a Trust that doesn't serve its purpose.

Misconception #4: A Trust "Locks Up" Your Assets
Again, it depends on what your requirements are for setting up a Trust. As stated above, with a Standby Trust, you need not settle any assets into the Trust until a triggering event (such as death) has occurred. Meaning during your lifetime, you retain control over your assets.

If you wish to set up a Trust and immediately settle assets into the Trust, you may retain the power to revoke the Trust (revocable trust) which allows you to withdraw your assets if you change your mind.

Misconception #5: A Will is Enough. There's No Need for a Trust.
A Will is required to undergo the process of Probate, which grants the Executor authority to deal with the deceased's estate. Without the Probate, the Executor cannot execute what is written in the Will. Also, Wills can be challenged and may cause unnecessary delays in the execution of your wishes. In addition, your Will will become a public document once it has gone through the Probate process.

A Living Trust does not need to go through the process of Probate, so the release of the trust assets to the beneficiaries will be made within a shorter period of time, in exactly the way you want it to. Arguments over assets can be avoided as well, because whatever that has been instructed by the Settlor will be done. Furthermore, should one set up a Trust, there is strict confidentiality among the beneficiaries.

Misconception #6: Family or Friend Makes for a Better Trustee
It is understandable that people would choose to appoint a close family member or friend as their Trustee. After all, who else would make a better choice, right? Unfortunately, many fail to understand the huge amount of work and responsibility they will take on should they agree to act as a Trustee. In addition to creating potential tensions within the family, there are also legal implications if the Trustee's role is not fulfilled properly.

A suitable alternative would be to appoint a Trust Company. This solution shifts the workload entirely to a neutral party who has the expertise and capability to manage the Settlor's estate. Any disagreements regarding the distribution of assets will then be significantly reduced.

WHAT WE SAY
It is important to evaluate your list of assets, decide what your goals are and how you want them to be managed after passing on. After which, a chat with an Estate Planner would be in order, so as to help you understand the processes and provide you with the right support before setting up a Trust for yourself.

Disclaimer: *Any information in this feature is intended to provide only a general understanding of Trusts. It should not be misconstrued as material to be used for advice of any kind especially with regards to financial, legal or tax related practices. Should you need further advice relating to your own Estate Planning, do approach our consultants to discuss about how to structure your Trusts according to your requirements.*

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