

# Wills and Trusts:

The Key to Elder Estate Planning

**SIRS Branch 62**

**Mariani's Restaurant**

**2500 El Camino Real**

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**Presented by**

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Los Altos, CA

# Purposes of Estate Planning

- Distribution
  - Wills
  - Trusts
- Management of Estate
  - Appoint Guardian
  - Guidance for Heirs
- Avoid Probate
- Avoid Conservatorship
- Maintain Control & Choice



# Estate Planning Objectives

- Property Transfer
  - ◆ (Real and Personal / Heirlooms)
- Avoid Court Appointed
  - ◆ Guardian or Conservator
- Tax Reduction
  - ◆ (Capital Gain and Estate)
- Spousal Options
- Financial Power of Attorney
- Advance Health Care Directive

# Caregiver Concerns

- Attorneys / Courts
- No Direction
- Taxes / Costs



# Transfer Methods

- ✓ Gift
- ✓ Will
- ✓ Intestate
- ✓ Contract
- ✓ Joint Tenancy
- ✓ Trust

# What is a Will?



# Statutory Probate Fees

GROSS ESTATE	ATTORNEY'S FEES
\$150,000	\$5,500
\$500,000	\$13,000
\$1,000,000	\$23,000
\$3,000,000	\$43,000
\$5,000,000	\$63,000

**Executor also receives same fee**

# What is a Living Trust?





# Parties Involved in a Trust



**Settlor**



**Trustee**



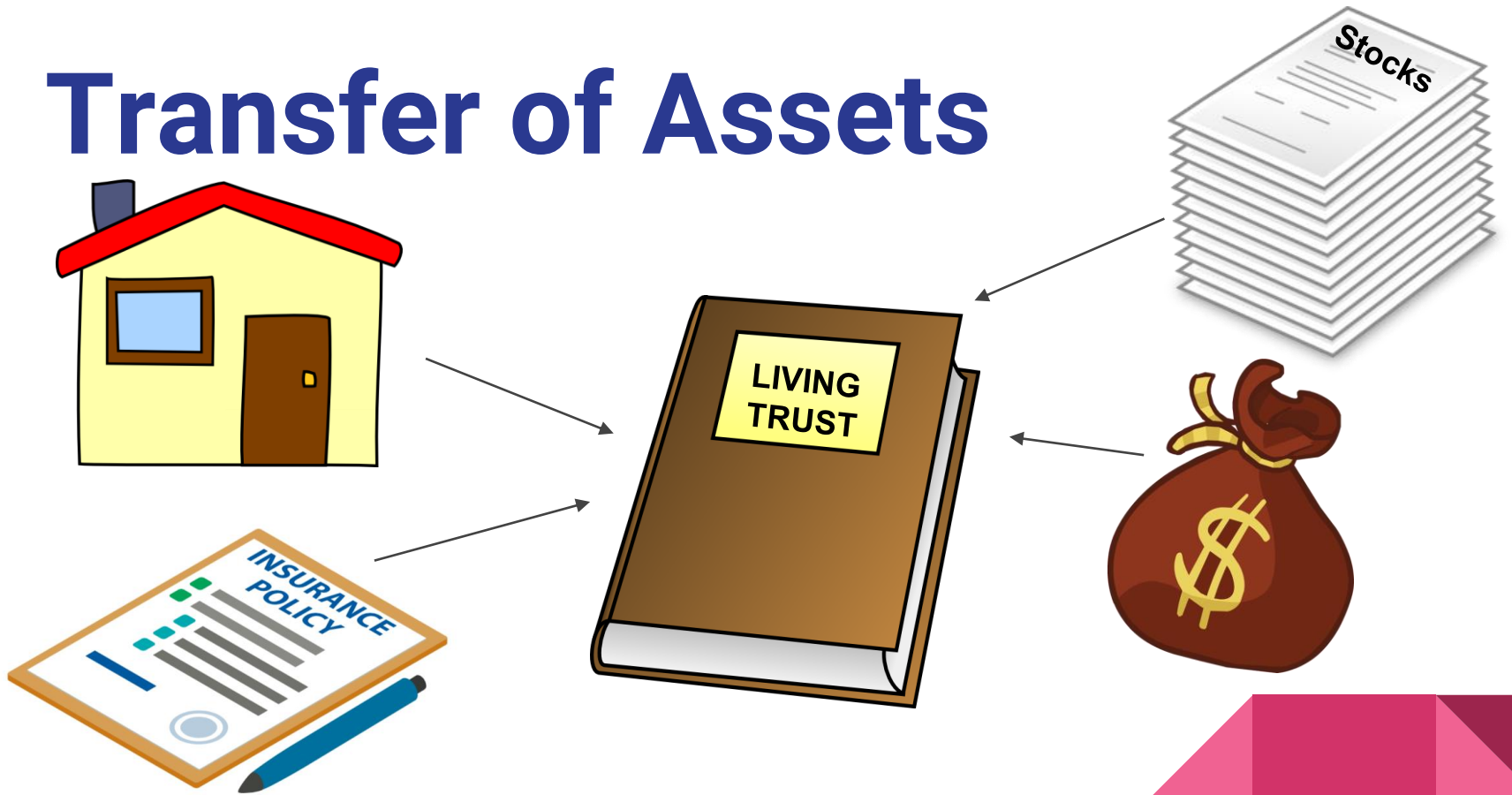
**Beneficiary**

# Creation of a Trust

- Settlor (Creator)
- Trustee (Manager)
  - Successor Trustee
    - ◆ Incompetence
    - ◆ Death
  - Beneficiary
    - ◆ Settlor (during lifetime)
    - ◆ Heirs



# Transfer of Assets



# Advantages of a Trust

- ✓ Substantial Tax Savings
- ✓ Private and Confidential
- ✓ Avoids Court Proceedings
- ✓ Less Expensive to Settle
- ✓ Reduces Settlement Time
- ✓ Avoids Conservatorship



# Non-Tax Benefits of an Estate Plan

- ✓ Provide for Heirs
- ✓ Stagger Payments to Beneficiaries
- ✓ Arrange for Disposition of Personal Property
- ✓ Provide for Continuation of Business
- ✓ Clarify Guardianship of Children
- ✓ Manage Elder Care
- ✓ Ensure Property of Management is in Hands of Trusted Individuals

# Power of Attorney For Finance



# Full Signing Authority

## Control of Assets

- ✓ Buy, Sell, Trade, Lend, Gift
- ✓ Apply for Benefits
- ✓ Maintain Digital Accounts
- ✓ Assert ALL Privileges Held



# Conservator Named





# Advance Health Care Directive

- ☑ Choose your Agent
- ☑ Give Complete Instructions
  - Life Support Systems
  - Ongoing Care
    - ◆ Hospital
    - ◆ Home
    - ◆ Other
- ☑ Organ Donation
- ☑ Funeral/Burial/Cremation
- ☑ Religious Decisions
- ☑ HIPAA



# Act According to Known Wishes

“...consent, refusal of consent, or withdrawal of consent for any care, treatment, service, or procedure to affect my physical or mental condition, ...”



# Elder Abuse

- What is it?
- Who is Mandated to Report it?
- How do you protect yourself and/or those you care for?



# If Elder Abuse is Suspected

## Adult Protective Services

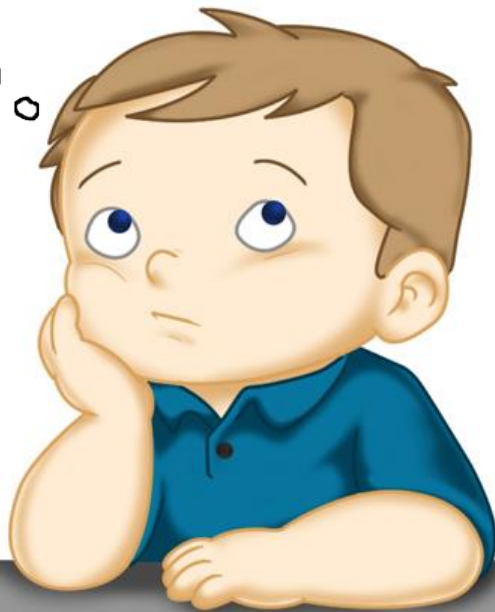
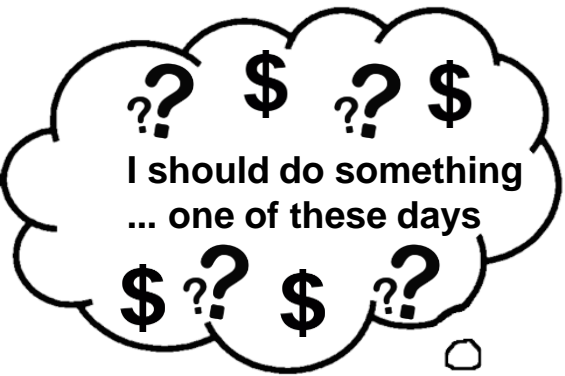
### **Santa Clara County**

800-414-2002 OR 408-975-4900

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### **San Mateo County**

800-675-8437





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