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- Lee-Norah Sanzo, ATFA

Trusts at LNW are built on relationships that grow and are reinforced over time. One of the key relationships we have as a corporate trustee is with the people whom our clients designate as co-trustees. To understand how LNW works with co-trustees, we sat down with LNW Wealth Manager Lee-Norah Sanzo, an expert in trust management and strategies that allow families to make the most of significant multigenerational wealth.

Q&A with Lee-Norah Sanzo, LNW Wealth Manager and Trust Services

Lee-Norah, let's start with the basics. What is a co-trustee, who can be a co-trustee and why?

Lee-Norah: Co-trustee simply means that the terms of the trust (be they in the trust document or in a will) name more than one trustee. It is not unusual for trusts that are created by high-net-worth and ultra-high-net-worth families to designate co-trustees.

A corporate trustee, such as LNW, which has served as a corporate trustee since 1967, can provide a combination of expertise, continuity and reliability that is very difficult to find in any one person, no matter how capable.

So why add a co-trustee?

Lee-Norah: The idea is to combine the expertise and longevity of the corporate trustee with the knowledge and insights of an individual who is very familiar with the people who set up the trust, the beneficiaries or the assets in the trust. Keep in mind that multiple individuals can be appointed as co-trustees, but there is usually only one corporate trustee for reasons pertaining to asset custody and accounting.

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How common is it to have co-trustees?

Lee-Norah: In my experience, it is fairly common but certainly not universal. The majority of trusts we administer for LNW clients have a single trustee – one of the LNW trust companies.

However, LNW has also been a co-trustee for trusts that have existed for several generations. As corporate trustee, we bring a depth of experience in administering and interpreting trust documents, investment expertise and tools for estimating the sustainability of the trust under a variety of distribution levels. The individual co-trustee adds their understanding of the family's priorities.

What are some situations in which a co-trustee might be a good idea?

Lee-Norah: Each trust is unique and family situations vary widely, but there are certain circumstances in which a co-trustee can be very useful in carrying out the intent of the trust creators. I would say in most cases, a co-trustee is designated for one of these three key reasons:



- **To advise the trustee on the needs of the beneficiaries**, who tend to be family members but can also be charitable organizations. A co-trustee is especially helpful when:
 - The trust has very broad distribution provisions
 - There are many or varied beneficiaries
 - The beneficiaries are young children
 - The beneficiaries may face physical or intellectual challenges

The co-trustee in this case is usually a close family friend or relative. That way, decisions about trust distributions can be made with input from someone who knows and has a deep understanding of the beneficiaries' needs and concerns.

- **To provide specialized knowledge about assets in the trust**, which might be a business, investment real estate, or an art collection. In this case, a co-trustee who is very familiar with the asset – such as a business manager, attorney or accountant – can provide experienced and hands-on input regarding asset valuation, operations, potential sale and the timing of distributions.
- **To gain knowledge from the trustee**. In these cases, a young adult who will eventually inherit or control significant wealth, including from the trust, becomes a co-trustee. Co-trustees who are also trust beneficiaries generally do not participate in decisions about trust distributions, but they can join in other aspects of trust management and in that way gain first-hand experience stewarding wealth. Typically, we start working with young people as co-trustees when they are age 30 or older.

What are the rules that apply to co-trustees? What aspects of the trust administration are they involved in?

Lee-Norah: Legally, all co-trustees (be they a company such as LNW or individuals) are held to the fiduciary standard, which is to act in the best interest of the beneficiaries at all times. And each co-trustee is legally responsible for making sure the terms of the trust are not breached.

Co-trustees can be involved in all aspects of trust management and administration. But the reality is that quite often individual co-trustees delegate their duties and responsibilities to the corporate trustee. That is totally fine if allowed by the terms of the trust or permitted by state law where the trust is based.

For example, if there is a special-purpose co-trustee, such as a business manager, the trust terms can specify the manager be excluded from making trust administration or distribution decisions.

Can co-trustees assign away their legal liability to the corporate trustee?

Lee-Norah: No, not completely. The delegation process described above allows a co-trustee to assign responsibility and liability for some trustee duties to another. But no trustee is allowed to avoid liability for failure to act in the beneficiaries' best interest and the duty to avoid or prevent breach of trust.

What happens when there are disagreements among co-trustees?

Lee-Norah: As with any other human interaction, co-trustees can disagree on all sorts of issues. Trustees can disagree about the selection of particular investments or the timing and amount of distributions, which significantly impacts both the sustainability of the trust and the beneficiaries' well-being.

“Unless otherwise specified in the trust terms, all decisions made by co-trustees must be unanimous.”



Unless otherwise specified in the trust terms, all decisions made by co-trustees must be unanimous. The situation can get especially tricky if there are more than two co-trustees. In that case, majority rules. If there are three co-trustees, two of them can decide to do a special trust distribution, even if the third trustee disagrees. In that situation, most state statutes would allow the disgruntled third trustee to document their objections and thus avoid legal responsibility for that transaction.

What allows LNW to work constructively with co-trustees?

Lee-Norah: When there are one or more co-trustees in addition to LNW, we work to make sure that roles and responsibilities are clearly defined in the terms of the trust or otherwise agreed to by the co-trustees.

At LNW, we have a distinct advantage working with co-trustees because we tend to have existing relationships not only with our clients, but also their family members and their outside advisors. That is a big head start because whomever is named as co-trustee we are likely to know.

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We are also proactive. If we are advising on a new trust for a client, early in that discussion we bring up the possibility of co-trustees: why there might be a need for a co-trustee, whom that co-trustee could be and their ideal role, as well as designation of a successor co-trustee. By exploring all of this as the trust terms are being drafted, we can enable the designated co-trustee to contribute in a way that works well for them and also for the trust creator and the beneficiaries.

What about existing trusts that already have co-trustees?

Lee-Norah: We are proactive there as well. If there is a designated co-trustee whom we do not know, we make a big effort to get to know that person. A realistic assessment of how we can work with the existing co-trustee is critical to the future success of the trust.

What is the optimal way to achieve legal clarity on co-trustee duties and obligations not already specified by the trust?

Lee-Norah: As I noted earlier, the trust laws of most states allow individual trustees to delegate some trustee responsibilities to another co-trustee by signing a document. For trusts intended to exist through multiple generations, however, it may be preferable to make changes to the terms of an existing trust, in order to clearly define and assign trustee responsibilities.

In that case, the trust terms can be legally changed by seeking court approval, or if allowed by state law, through alternate procedures requiring the consent of all interested parties including the trust creator (if still living), all trustees and the current and future beneficiaries. Either method of change requires some effort working with legal counsel. But there are ways to refine the terms of the trust to further the long-term goals for the trust in the best interest of all beneficiaries.

What is the process that LNW uses to make decisions about trust distributions not already specified in the trust terms?

Lee-Norah: We have a dedicated committee -- the LNW Trust Administration Committee (or TAC) -- that discusses and approves most distribution requests that come from the trust beneficiaries and other trust matters where the

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trustee exercises discretion, such as selling a major trust asset or incurring debt. TAC is comprised of senior members of the LNW trust services group as well as senior LNW wealth managers and analysts.

The Trust Administration Committee (TAC) is how LNW makes trustee decisions. When the TAC recommends not allowing a trust distribution, there is a strong rationale as to why. Still, LNW has just one vote when we work with co-trustees. If there is a disagreement that cannot be resolved -- which is extremely rare -- the next steps are going to court for a decision or for one of the co-trustees to resign.

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What would you say is the key to productive co-trustee relationships?

Lee-Norah: As with any relationship, there has to be a high level of respect, trust and understanding between and among the co-trustees. This is accomplished through regular and open communication. As corporate trustee, our goal is to collaborate with co-trustees in specific ways to get outcomes that our clients would want for their trust assets and for the beneficiaries.



ABOUT THE INTERVIEWEE



Lee-Norah Sanzo, ATFA has more than 30 years of experience in wealth management and private banking, with most of her career focused on trusts and estate planning. At LNW, Lee-Norah is responsible for advising clients on trust strategies as well as managing trusts, working to ensure trust longevity and adherence to changing tax laws and regulations.

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