



**KLING LAW OFFICES**  
**SUCCESSOR TRUSTEE**  
**HANDBOOK**



TO: The Successor Trustee(s)

You are now taking over as the Successor Trustee for the Trustmaker. We have prepared this Handbook to give you some instructions and ideas on the job you are undertaking. The position of Successor Trustee is not to be undertaken lightly, as it carries significant responsibilities.

This Handbook is not all inclusive and will not cover every situation. For special situations, if you have questions or need help, please to contact our office. We are committed to assisting you in any manner you may need.

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You may also want to work with the other members of the Trustmaker's estate planning "team," such as the CPA, insurance agent, real estate agent, and financial advisor.

In the Estate Planning Binder (the "notebook" or "portfolio"), the Trustmaker has provided you a simple and complete way of dealing with his/her assets and, when appropriate, transferring them to the named beneficiaries. In this Handbook, the word "Trustmaker" refers to the person who created the trust.

As the Successor Trustee, you have a wide range of powers and responsibilities, which become effective upon the death or incapacity of the Trustmaker, or whenever management of the trust is transferred to you. The instructions in this Handbook are aimed at making your job as Successor Trustee as easy as possible.

We update this Handbook from time to time when the need arises, so please call us to find out if there are any newly applicable laws or rules that may affect your duties and responsibilities as Successor Trustee.

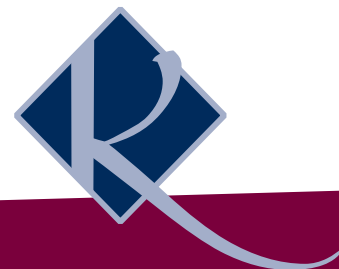
Very truly yours,

A handwritten signature in black ink that reads "Michael I. Kling". The signature is written in a cursive style with a large, sweeping flourish at the end.

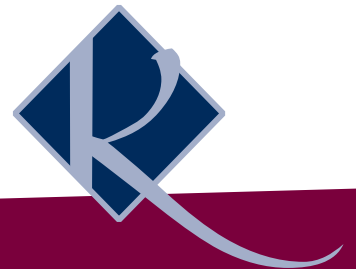
Michael I. Kling, JD, LLM, CPA, CFP®

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# ARTICLE ONE

## WHAT TO DO IF THE TRUSTMAKER IS DISABLED

### Section 1.01 Determine If The Trustmaker Is Disabled

If you are taking over as Successor Trustee because the Trustmaker is not able or willing to continue to act as his/her own Trustee, the primary responsibilities you will have include the following:

**(a) Determination Of Disability**

Call Kling Law Offices at the number given above. The law firm needs to know if/when there is going to be a determination of disability so we do not prepare any further legal documents for the client and so we can assist with the process, if needed.

**(b) Review Test For Disability**

This test is usually found in the Trustmaker's Trust, which is located in the Estate Planning Binder. The Article on Disability of the trust contains the test for disability. The Trustmaker may have named a Disability Panel that can determine if the Trustmaker is unable to act as Trustee without the necessity of going to Probate Court.

**(c) Obtain A Certificate Of Disability**

If needed, this form can be obtained from Kling Law Offices. All the members of the Disability Panel must sign individual certificates.

### Section 1.02 Review Terms Of The Trustmaker's Living Trust

Look carefully at the trust provisions for the Trustmaker's maintenance and support. These terms will generally direct you to spend whatever is needed of the trust assets to take care of him/her and perhaps others. Be sure you read the Article(s) of the trust which deal with disability issues. They will inform you of who is to receive the benefit of the Trustmaker's assets while he or she is disabled, and the priority of each beneficiary. Also, review the provisions for Trustee's powers so that you know the extent of authority you hold as Successor Trustee.

### Section 1.03 Health Care Decision Making

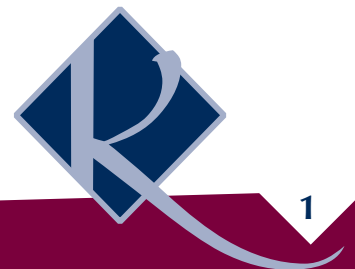
Follow the instructions. You will find the Trustmaker's Healthcare Power of Attorney (and his/her Living Will, if the Trustmaker has one) in the Estate Planning Binder under the appropriate tab.

### Section 1.04 Determine What Assets Are In The Trustmaker's Trust

You will be responsible for managing the Trustmaker's financial affairs, at least to the extent of assets and property held in his/her Trust. The first step is to determine what, and where are, those various assets. Most, or all, of the assets should be noted in the "Schedule A" section of the Estate Planning Binder.

### Section 1.05 Determine The Status Of All Assets

Double check the assets identified in the Estate Planning Binder on the Trustmaker's Schedule A, which is a list of the Trustmaker's assets that have been transferred into the trust as well as a list of assets that have beneficiary designations that are not typically retitled in the name of the trust. Make sure the list of assets is complete and the trust is funded. If you have questions about this, or if you know of an asset that is NOT listed, please notify our office of the details. Ensuring that all assets are properly controlled by the trust and that the trust is fully funded will avoid probate and will carry out the Trustmaker's wishes regarding how those assets are handled. Thus, it is vital that any



assets not currently titled in the name of the trust are transferred into the trust during the time of disability. The agent(s) named under the Durable Power of Attorney generally have the power to do this. If any asset needs to be transferred into the trust, please call us for assistance effectuating the transfer(s).

### **Section 1.06 Take Care Of The Trustmaker's Regular Financial Affairs**

You will be responsible for taking care of the Trustmaker's day-to-day finances. This includes such things as paying his/her regular monthly bills for living expenses and other such expenses, as well as seeing that his/her income tax returns are prepared and filed when they are due. **You must be aware that, at all times, you are acting in a fiduciary role and your actions must be for the benefit of the Trustmaker.**

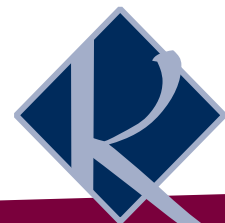
### **Section 1.07 Review The Trustmaker's Investments**

The Successor Trustee's responsibilities include overseeing any financial investments of trust property. Your duty is to manage the trust assets as a reasonable and prudent person would handle his or her own property, with a view towards security rather than speculation.

### **Section 1.08 Manage Property**

Follow the instructions. If the disabled Trustmaker has left any instructions as to how he or she wants property to be managed, follow those wishes.

Remember your fiduciary responsibilities. As Successor Trustee in the event of the Trustmaker's disability, you have the highest duty under the law to responsibly manage the affairs of the disabled person. You must do everything for his or her best interest. This means that you need to make wise investment and business decisions. You may wish to seek investment advice from a trusted professional. The trust may instruct you to seek the advice of the Trustmaker's trusted financial, insurance, or accounting advisor(s).



## ARTICLE TWO AFTER THE TRUSTMAKER HAS DIED

If you are taking over as Successor Trustee because the Trustmaker has died, you are urged to meet with us as soon as possible to discuss the details of administering his/her Trust. We will explain to you the various things which will need to be done. We can counsel you regarding all the tasks involved and, if you wish, we will take primary responsibility for seeing that these tasks are accomplished. However, to give you an idea of what is involved, these tasks will probably include all of the items discussed here in Article Two.

### **Section 2.01 Review The Trustmaker's Wishes for Burial or Cremation**

The Trustmaker's Last Will and Testament, in the Estate Planning Binder, should contain his/her request regarding burial services or cremation.

If the Trustmaker did not leave additional written directions regarding final services in the Estate Planning Binder, you may need to determine if he/she left instructions with anyone else, including a funeral home. It is desirable to allow for any service or memorial the Trustmaker requested upon his/her death so that his/her wishes are carried out to the extent possible.

### **Section 2.02 Review The Trustmaker's Living Trust**

Review the Trustmaker's Living Trust, particularly the sections dealing with his/her beneficiaries, the distribution of the trust property, and the Trustee's powers. Determine if any of the assets are to be distributed, or if they are to remain in the trust for later distribution to the beneficiaries.

### **Section 2.03 Order Death Certificates**

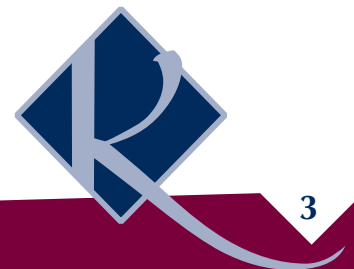
Generally, the funeral director will order as many death certificates as you request. At a minimum, you will need an original certificate for yourself, the law office handling the administration, each company carrying life insurance on the Trustmaker, and each financial institution at which the Trustmaker maintained an account (including both banking and brokerage institutions). **PRACTICAL TIP:** The cost of ordering a few extra certificates that you end up not needing to use is small compared to the inconvenience and delay of having to order additional certificates if you run out. Therefore, we suggest initially ordering at least 5 more than you think you will need.

As long as you, the Successor Trustee, have a copy of the Trustmaker's trust or a Certificate of Trust (which is in the Estate Planning Binder), and a certified copy of the death certificate, you should be able to manage his/her trust property just as the Trustmaker did while living. Some institutions may require you to have an Affidavit of Successor Trustee, or its equivalent.

### **Section 2.04 Check Safe Deposit Box And Checking Account**

If the Trustmaker has a safe deposit box, it should be checked for any instructions, which the Trustmaker may have left for actions to be taken after his/her death. It is also important to prepare an inventory of the contents of the box. You may need a copy of the death certificate and a copy of his/her Certificate of Trust, together with the safe deposit key, to gain access to his/her box.

Funds may be needed immediately to pay funeral expenses, so make sure that there is enough money available in the trust checking account.



You can gain access to this account with a copy of the death certificate and a copy of his/her Certificate of Trust which is in the Estate Planning Binder.

### **Section 2.05 Arrange A Settlement Meeting**

We can arrange a Settlement Meeting to provide you more information on settling the trust and performing your other duties. Please contact us if you would like to schedule a Settlement Meeting.

### **Section 2.06 Prepare an Inventory**

Prepare an inventory of all assets in the trust, including their values at the date of death. This is necessary to determine a new basis for these assets in order to take advantage of the "step-up" in the basis of the assets which may minimize the taxable gain when the assets are sold. It may be advisable to obtain a written valuation of one or more of the assets. We recommend getting a written opinion on the fair market value of any real estate in the trust. If the real estate has significant value, you may want to obtain an appraisal from a qualified appraiser.

The market value of securities can be obtained by checking the newspapers for the day of death, by calling a stockbroker, or by checking the Internet. Many brokers will provide these figures in writing, particularly if the Trustmaker had an account with them. The market value on the date of death becomes the cost basis. The total value of all property in the trust (including property passing to the trust by virtue of his/her Will) will determine whether it will be necessary to file federal and state estate tax returns. See Article Three for more information on taxes.

### **Section 2.07 Make Sure The Trustmaker's Assets Are Held In The Trust Name**

If there are any assets which are not in the trust, be sure to discuss this with us. We will be able to determine whether these assets require a probate court proceeding. We recommend you review the most recent federal and state income tax returns since they may provide information on assets owned by the Trustmaker.

### **Section 2.08 Apply For A New Taxpayer Identification Number**

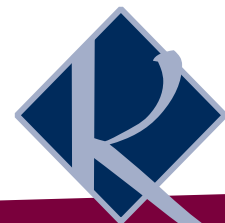
The Trustmaker's living trust has become irrevocable because of his/her death, so it will be necessary get a new Taxpayer Identification Number for that trust from the Internal Revenue Service. Use IRS Form SS-4 to get this number. If the trust thereafter has taxable income, it may be necessary to file IRS Form 1041 as the trust's income tax return.

### **Section 2.09 Determine If A Disclaimer Is Appropriate**

It may be appropriate for one or more of the beneficiaries to disclaim an interest in all or part of his or her share, so that property will automatically pass to the next beneficiary in line. **This absolutely must be done within nine months after the date of the Trustmaker's death.** We will be able to assist you in determining whether a disclaimer is appropriate. Disclaimers must be filed with the Probate Court within 9 months of the date of death and the beneficiary must not enjoy the benefit of the asset in the meantime.

### **Section 2.10 Notify All Life Insurance Companies Of The Trustmaker's Death**

This can be done by calling the local agent, if applicable, or writing a letter to the company's main office. Some companies require a certified copy of the death certificate; some companies will accept a photocopy of the death certificate or even a copy of the newspaper obituary notice.





## ARTICLE TWO AFTER THE TRUSTMAKER HAS DIED

### Section 2.11 **Review and Pay Bills**

Review any bills or accounts on which it is claimed that the Trustmaker owes money and pay amounts that the Trustmaker does owe.

### Section 2.12 **Review Business Agreements**

Review any business agreements, contracts, stock certificates, partnership agreements, etc., to which the Trustmaker and/or his/her trust is a party. If the trust property includes a business interest, it will be important to document the value of this interest. To obtain this valuation, we recommend hiring a qualified appraiser of business interests or a CPA who is experienced at valuing businesses.

### Section 2.13 **File Income Tax Returns And Pay Income Taxes, Both For Him/Her And For The Trustmaker's Trust**

Refer to Article Three for information concerning income and estate taxes.

### Section 2.14 **Collect All The Trustmaker's Credit Cards And Cancel Them**

Collect all of his/her credit cards and contact the issuer to cancel them unless the surviving spouse uses the cards.

### Section 2.15 **Distribute The Trustmaker's Personal Effects**

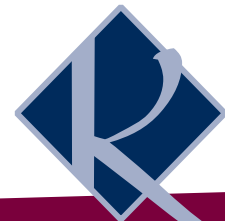
Distribute any personal effects and household furnishings as provided in the Trustmaker's trust, including the Personal Property Memorandum or any other written memorandum or instructions. These documents are generally contained in the Estate Planning Binder.

### Section 2.16 **Review Investments**

Make sure that the current investments retained in the trust are appropriate for the income and growth objectives of the trust, which will depend on the projected future needs of the trust. We recommend that you review the investments **at least quarterly** to determine whether, as a prudent investor, changes or reinvestments are necessary.

### Section 2.17 **Review The Allocation And Distribution Of The Remaining Trust Property Allocation Of Assets**

After all of the Trustmaker's bills and the expenses of administering his/her Trust have been paid, the final step is to distribute remaining trust property. Pay careful attention to the distribution and allocation of assets to insure it is done in accordance with the Trustmaker's wishes. It may be appropriate to sell some assets and distribute the cash to facilitate equal division among heirs, provided this is in accordance with the trust. If any beneficiary wishes to receive a distribution of property in kind, rather than a distribution of cash, be sure the trust allows such a distribution. Each trust created under the Trustmaker's trust must have its own EIN number.



## ARTICLE THREE TAXES AND TAX RETURNS

It will probably be necessary to file the Trustmaker's final income tax return. Kling Law Offices or a CPA can help determine this. In addition, if the trust has earned and/or retained income, it may be necessary to file federal and state income tax returns for the trust. If all of the trust income has been distributed to beneficiaries, then they are responsible for including such income on their own individual income tax returns. However, IRS Form 1041 must still be filed annually until all trust assets are distributed.

### **Section 3.01 Income Tax Returns**

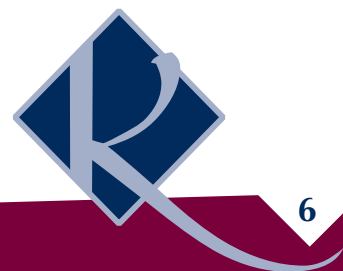
If the Trustmaker's spouse survives him/her and the couple had been filing tax returns jointly, then a final joint 1040 is to be filed by the surviving spouse. After that, the surviving spouse will file a 1040 every year until his/her own death, or until re-marriage.

During the period of administrating the Trust and until all trust assets are distributed, a Form 1041 is to be filed for the Trust using its own tax identification number (which you obtained following the directions of Section 2.08). This form will cover the period from the date of death until assets are transferred outright or into another trust.

If another trust is set up, a Form 1041 is to be filed every year until that trust is terminated.

### **Section 3.02 Federal Estate Tax Return 706**

When this Handbook was written, there was NO Nevada State Estate Tax in existence. There were, however, Federal estate tax laws that may apply to the Trustmaker's estate. You will need to check with Kling Law Offices or a CPA to determine the need for filing a return regarding Federal estate, or other applicable, taxes.



## ARTICLE FOUR

# CHECKLIST OF INITIAL RESPONSIBILITIES FOR SUCCESSOR TRUSTEE

As Successor Trustee under the Trust, you are authorized and empowered to carry out all duties and responsibilities to wind up the Trustmaker's affairs and thereafter distribute assets. Also, if you are nominated as the executor in the Will, the Probate Court will confirm your authority to act and conduct business on behalf of the Probate estate. Be prepared to demonstrate to third parties with whom you deal that you are in fact authorized and empowered to act.

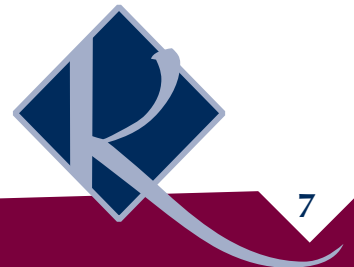
The following action lists are quick, summary guides to help you in the first few weeks of administration:

### Section 4.01 **Initial Tasks To Be Done As Soon As Possible**

- Contact the funeral home and accept their help.
- Remember the good times, grieve, cry, and miss him/her as much as you need to and without shame or embarrassment.
- Get the Trustmaker's Estate Planning Binder.
- Review the Anatomical Gift instructions.
- Review the Final Arrangements and make funeral (or other memorial) arrangements.
- Contact relatives and close friends.
- Notify the newspaper (funeral home director may do this for you); provide relevant information.
- Remove valuables from the residence if no one will be living there and store safely. If someone will be living there, be sure the valuables are properly secured.
- Consider changing locks on any property not occupied by the spouse or a primary beneficiary.
- Consider employment of domestic help, security guards, or any other type of assistance that might be required for dependent or beneficiary.
- Determine immediate cash needs for any beneficiary; identify accounts where cash is immediately available; determine if any immediate expense must be paid.
- Cancel credit cards, charge accounts, magazine subscriptions, and ask for refunds, if possible.
- Call Kling Law Offices to schedule a Settlement Meeting.

### Section 4.02 **Tasks To Be Done Within The Next Few Weeks**

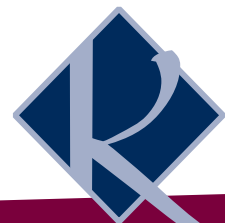
- Meet with the attorney.
- Notify insurance companies and/or agent(s).
- If a safe deposit box is in the name of the trust, you may remove the contents; all contents of the box must be inventoried.



- Gather personal records, including checkbooks and statements for at least three years; obtain copies of income tax returns for last three years.
- Contact individuals who owe money to the Trustmaker and arrange for continued collection.
- Gather all life and accident insurance policies; remember to check travel clubs, alumni associations, credit card companies, trade associations, and other organizations that might make life insurance available to its members.
- Notify Social Security Administration (at 1-800-772-1213) (have the Trustmaker's social security number with you).
- Contact VA if applicable.
- Hold any Social Security received after date of death so it may be returned to the Social Security Administration.
- Make certain that property and casualty insurance coverage continues on personal effects, automobiles, real estate, and any goods in storage.
- Check for fire insurance on dwelling (does it cover if dwelling is vacant?).
- Do NOT move or close IRA, 401(k), or other retirement accounts, or roll over any of them until you get professional advice on this subject.
- Open a new checking account if necessary (see Common Administrative Questions).
- Obtain death certificates (funeral director may do this for you).
- Notify the Trustmaker's employer personnel department (if applicable).
- Notify all advisors.
- Stop all direct deposits and/or payments.

#### Section 4.03 **Additional Things To Consider**

- Locate military papers (if applicable).
- VA may provide benefits for a funeral, headstone, and American flag.
- Notify utility companies and landlord (if applicable) of change in status.
- Notify credit card companies — change or cancel accounts; inquire about death benefits.
- Notify post office to redirect mail and then to stop mail when appropriate.



## ARTICLE FIVE

# COMMON ADMINISTRATIVE QUESTIONS

Many clients have common questions or concerns that arise shortly after their loved one has passed away. In order to assist you during the interim period between now and the time you are able to meet with an attorney, we have compiled some of these questions and answers. We hope this information will help ease your mind during this time.

### **Is there anything I need to do immediately?**

The first step is to locate your loved one's Estate Planning Binder (Kling Law Offices uses a burgundy 3-ring binder). In that binder, the Trustmaker may have left instructions for their final arrangements. In addition, the Trustmaker may have left a list of individuals you need to contact regarding funeral or other memorial services.

### **What should I do with any Social Security checks that arrive after the Trustmaker has passed away?**

Any normal monthly Social Security payment received after the date of death must be immediately returned to the Social Security Administration and must not be deposited or cashed.

### **What do I do with life insurance checks or other checks made payable to the decedent?**

Hold onto the checks until you meet with Kling Law Offices. We will discuss this issue during our meeting. If you are uncomfortable holding on to the checks personally, call our office to make arrangements for securing the checks.

### **(For the Surviving Spouse) How am I supposed to deal with my own personal income and expenses?**

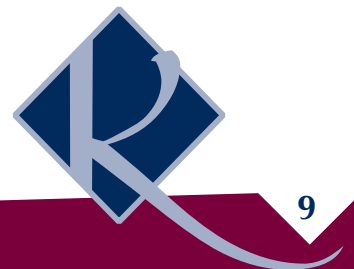
Any expense of your own (and not related to a debt or asset of your loved one or his or her trust) needs to be paid from an account titled in your name individually, or your trust. If you do not currently have a checking account owned individually or in the name of your trust, you will need to set one up. It is very important that you keep your income and personal expenses separate from your deceased spouse's accounts.

### **Should I be getting appraisals for any of the assets?**

Until you have the settlement meeting with Kling Law Offices, there is no rush on securing appraisals on your loved one's assets. However, eventually we will need a quoted value in writing for any real estate, personal property, vehicles, and business interests. The "formality" of an appraisal or valuation will depend on the type of asset.

### **Should I be dividing up any of the personal property among surviving loved ones?**

NO. You should not be dividing up any of the Trustmaker's personal assets among beneficiaries until you have had sufficient opportunity to assess the value of the items for tax reporting purposes. All distribution of the Trustmaker's property should be postponed until after the settlement meeting with Kling Law Offices and after the property has been properly valued.



## Mike Kling



Michael I. Kling founded Kling Law Offices in 2001 and has nearly 20 years of experience providing financial, estate planning, asset protection and business planning services. Mike offers full-service legal assistance and advice in the fields of estate planning, wills, trusts, probate, trust administration, asset protection, business, tax and corporate law.

Mike attended The Ohio State University in Columbus, Ohio, obtaining dual Bachelor of Science degrees in Accounting and Finance in 1986. Following college, he worked as a Certified Public Accountant with Ernst & Young before returning to The Ohio State University for a Juris Doctor, which he received in 1992. After receiving his J.D., Mike went on to earn his LL.M. in Taxation from Wayne State University in Detroit,

Michigan, in 1993. After completing this degree, Mike practiced estate planning and tax law in a number of established firms before pursuing his own practice. Mike is licensed to practice law in Ohio, Michigan, Nevada and California. He is also a Certified Financial Planner.<sup>®</sup>

In addition to his professional endeavors, Mike is dedicated to his family and is an active member of the community. He is a past member of the Board of Directors for the Boys and Girls Clubs of Las Vegas. He is former President of the Southern Nevada Estate Planning Council, was legal counsel for the North Las Vegas Community Foundation, is a former member of the Planned Giving Community for the Boulder Dam Area Council of the Boy Scouts of America, and has been on the planned giving committee for Heaven Can Wait Animal Sanctuary.

## Ann Kling



Ann Mackey Kling is an experienced and knowledgeable attorney who focuses her practice in elder law and estate planning. Ann offers assistance to clients in the practice areas of estate planning, wills, trusts, powers of attorney, elder law and guardianships.

Ann received a Bachelor of Arts degree in Political Science and Government from Miami University in Oxford, Ohio, in 1990 and then entered law school, graduating in 1993 with a Juris Doctor from Wayne State University Law School in Detroit, Michigan. Ann began her legal career with a focus on civil litigation, working predominately the areas of medical malpractice and healthcare issues. In 2014, Ann completed her LL.M. degree in Elder Law through Stetson University College of Law in Gulfport, Florida. She is licensed to practice law in Michigan, Nevada and California.

## Firm Overview

Kling Law Offices was founded in Las Vegas in 2001 by Michael I. Kling, J.D., LL.M., C.P.A., C.F.P. The firm provides legal services covering a range of disciplines, including estate planning, probate, asset protection, corporate matters and tax law. Serving both businesses and individuals, Kling Law Offices is dedicated to providing personalized service to each client. Utilizing our wide range of expertise and thorough planning, we work with you, individually, to best manage your specific set of circumstances.

## Client Services

Estate Planning

Wealth Preservation

VIP Membership Program

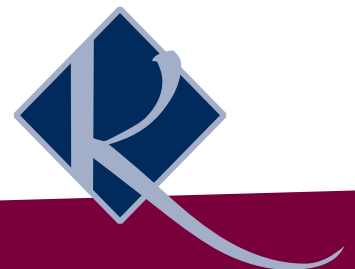
Probate

Elder Law

Tax Planning

Business Succession Planning

Corporate & Business Transactions





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