

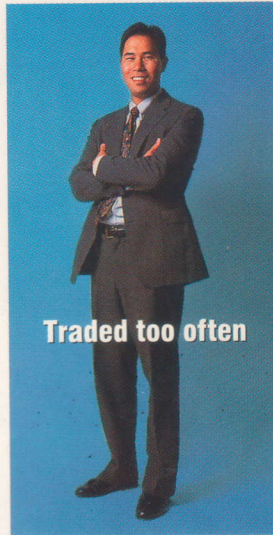
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September 1999 www.money.com

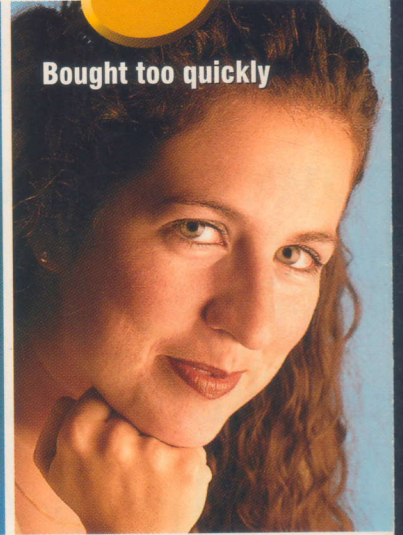
Investors' Biggest Mistakes

And What You Can Learn from Them

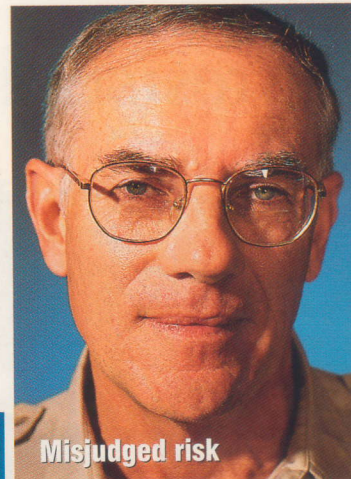
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Traded too often



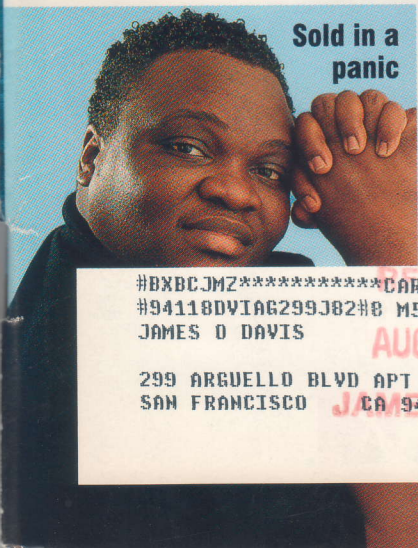
Bought too quickly



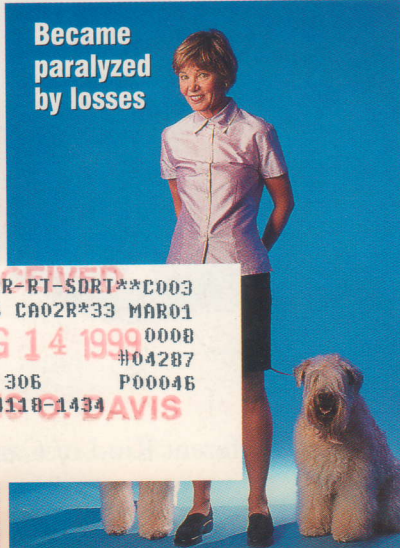
Misjudged risk



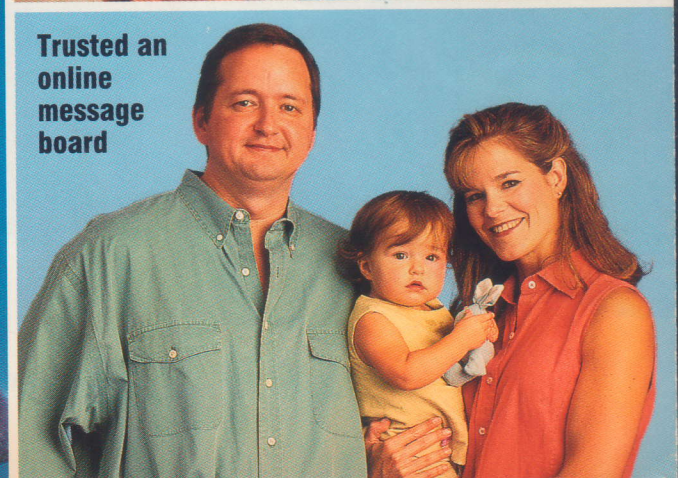
Listened to a friend



Sold in a panic



Became paralyzed by losses



Trusted an online message board

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JAMES O DAVIS 0008
AUG 14 1999 #04287
299 ARGUELLO BLVD APT 306 P00046
SAN FRANCISCO CA 94118-1434

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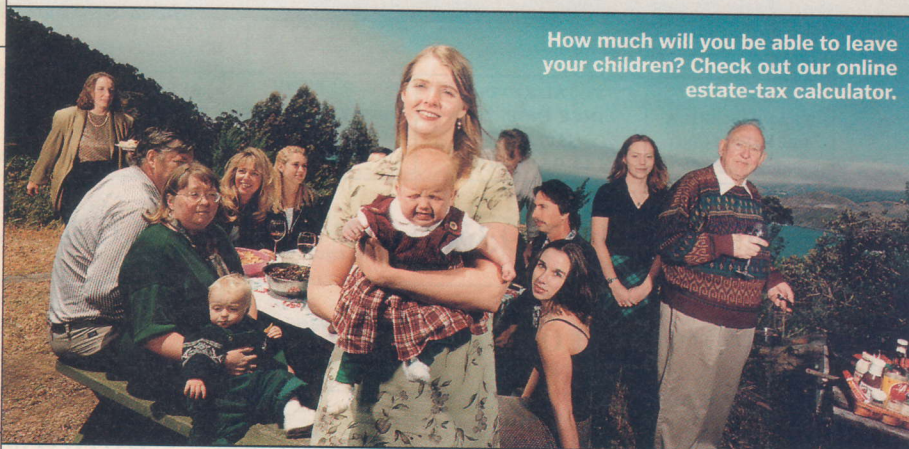
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Calculate Your Potential Estate Tax

In addition to trusts to protect your heirs ("Family Trust," page 134), sound estate planning involves minimizing estate taxes. To find out whether your estate will owe federal tax—and how much—plug your assets, liabilities and bequests into our estate-tax calculator.



How much will you be able to leave your children? Check out our online estate-tax calculator.

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FAM



WITH THREE CHILDREN EACH FROM THEIR PREVIOUS MARRIAGES, JIM AND DIANE JEFFERSON ARE USING TRUSTS TO ENSURE THAT EVERYONE SHARES IN THE INHERITANCE.

FAMILY TRUST

To tailor an estate plan to your family's unique circumstances, you probably need to establish a trust—or two. Here's how a few popular trusts work for three families.



BY KELLY SMITH

PHOTOGRAPHS BY DAN PEEBLES

IN A PERFECT WORLD

you would segue effortlessly from a lifetime of work to a comfortable retirement. And when you died, your fortune would amply provide for your spouse and eventually flow to your children, who would in turn use their inheritances as you'd always hoped they would. Mitigating against that scenario, however, are the confounding circumstances of real life: divorce, remarriage, stepchildren, illness, untimely death and the vagaries of human nature itself. That's not to imply, though, that life is so unpredictable you can't secure your wealth—you can. But doing so requires more than having a will that simply divvies up your assets. As the real-life stories in this article illustrate, addressing a family's unique circumstances requires setting up trusts that can be tailored more carefully than a will to reflect both your wishes and your family's needs.

If you're like many people, you may assume that trusts are only for the wealthy who need to cut taxes. Not so. Trusts are the most versatile tools in estate planning, allowing you to accomplish such disparate goals as providing for heirs who are minors, disabled or from previous marriages and naming a loved one to manage your assets if you become incapacitated. Indeed, many estate-planning experts now recommend using a so-called living trust as the foundation of your estate plan and from there devising more intricate trusts to address special situations. (For more on living trusts, see the box on page 138.)

The three cases presented below will help you grasp the basics of trusts. Of course, you will need to consult an estate-

planning attorney to set up the ones that best meet your particular goals. The cost: Depending on the complexity of your situation, the size of your estate and your attorney's customary legal fees, you could pay anywhere from \$1,500 for a simple trust to \$5,000 for a complicated one that is incorporated into a thorough estate plan.

A TRUST FOR MINORS The two easiest ways to transfer assets to a child are to open a custodial account for the child at a bank or brokerage or to bequeath the assets in your will. But both of those methods are inappropriate for substantial sums because they let the child have full control of the stash at the age of majority, generally 18 or 21, regardless of whether he or she is mature enough to handle the money. However, if you establish a minor's trust to hold a child's assets, you can

FOR JULIE AND JASON
SCHOELLKOPF, COLLEGE WILL
BE PAID FOR FROM TRUSTS
SET UP FOR THEM BY
THEIR GRANDFATHER,
WOLFGANG SCHOELLKOPF.



*By placing a young heir's assets
in a minor's trust, you can
influence how the inheritance
will be spent.*

keep the money under wraps beyond the child's 18th or 21st birthday and influence how the money is ultimately used.

Consider the trusts established by 67-year-old retired bank executive Wolfgang Schoellkopf of New York City. Motivated by memories of his struggle as a young man to raise a family, buy a house and pursue a career, Schoellkopf was determined to help his son and daughter-in-law. His solution: set up college funds for his grandchildren, Julie, 7, and Jason, 1. On the advice of his attorney, Cheryl Hader of New York City, Schoellkopf established a \$20,000 minor's trust for Julie in 1997 and a \$20,000 minor's trust for Jason in 1998. He appointed the children's uncle, who is a stockbroker, as trustee.

The trust documents dictate that the funds must be used to pay for tuition, books, room, board and other living expenses while Julie and Jason are attending a four-year college or university—and that each will receive \$10,000 upon graduation. Whatever is left in the trusts goes to them at age 30. If either of them doesn't attend college or goes to a two-year junior college, she or he gets half of the money at 30 and the rest at 35.

A caveat: While minor's trusts let you hold on to hefty sums for a long time, they're not entirely leakproof. In exchange for tax breaks on your trust contributions, you must generally give the beneficiaries limited access to the trust principal. Schoellkopf's trusts, for example, include typical provisions that require the trustee to notify the children (through their parents) whenever Schoellkopf makes subsequent contributions to the trust; they then have 45 days from the date of notification to withdraw an amount equal to the contribution. In practice, however, most beneficiaries never demand the money, so the brief window of opportunity to tap the trust is generally considered a risk worth taking to qualify for tax advantages.

A TRUST FOR HEIRS WITH SPECIAL NEEDS

Providing for a disabled relative requires a more complex type of trust. That's because money that is paid to a disabled person—either directly or from a minor's trust—could disqualify him or her from vital government aid, such as Medicaid and Supplemental Security Income. Thus the aim of a special-needs trust is to preserve an heir's eligibility for public assistance while providing support that will allow for a higher standard of living than would be possible on government aid alone. Indeed, without a special-needs trust, a disabled heir is likely to quickly deplete an inheritance, leaving him or her with only public assistance to live on.

Jeannette Stevenson, 46, an insurance claims adjuster and single mother in Fair

Oaks, Calif. has directly confronted the legal and emotional complexities of special-needs trusts. Her son Scott, 17, suffers from schizo-affective disorder. With medication and psychotherapy, the 12th-grader is at times well adjusted. But he also experiences delusions and depression and can become violent. "Scott could get better, or he could get worse," says Stevenson. "I have to plan for both."

So far, Stevenson has amassed assets worth \$380,000. Upon her death, her estate plan directs that the assets are to be placed in a special-needs trust with Scott as the beneficiary. Under the trust terms, however, Scott can never demand money from the trust. Rather, trust distributions are at the discretion of the trustee, Stevenson's sister Betty. (In the event Betty is unable to serve as trustee, the trust instructs her to appoint a professional trustee or to name a trustee recommended by the Planned Lifetime Assistance Network, or PLAN, a nonprofit program that helps adults with lifelong disabilities.) Since Scott doesn't control the money, the government isn't likely to include the trust payouts in the formulas it uses to determine his eligibility for government aid.

To further ensure that trust payouts won't disqualify Scott from public assistance, Stevenson has included a provision that forbids the trustee to pay for anything that would oth-

WILLS VS. LIVING TRUSTS

Until recently, a will was considered the cornerstone of any estate plan. Even today, a will is vital if your children are minors, since it's in a will that you nominate guardians for them should they be orphaned. Moreover, a will is adequate if you have few assets. For transferring sizable or complicated estates, however, estate-planning attorneys favor living trusts, so named because you place your property that does not have

a named beneficiary in the trust during your lifetime. You can change the trust terms at any time and serve as the trustee, so you don't give up control of the assets while you're alive. When you die, the trust assets are distributed to the beneficiaries you named, according to instructions you set forth in the trust document. Or you can instruct that the assets flow into a different type of trust, such as a special-needs trust for a disabled heir. Here's how wills and living trusts stack up in five key areas:

■ **PROBATE.** Assets you transfer via a will must go through probate, the potentially costly and time-consuming court process of administering your will. Assets you transfer via a living trust avoid probate.

■ **PRIVACY.** When a will is probated, its contents are made public. Since living trusts are not probated, there are no public records of the trust's terms.

■ **INCAPACITY.** In a living trust, you can name a successor trustee to manage the trust assets if you become mentally or physically unable to do so. If you don't have a living trust, you will need to draw up a durable power of attorney to name someone to take charge of your assets if you become incapacitated.

■ **HASSLE.** With a will, you simply bequeath your separately owned assets that do not have a named beneficiary. In contrast, the property you want to put in a living trust must be retitled to the trust. Anything that is not so titled when you die will have to be probated.

■ **COST.** An attorney can draw up simple wills for a husband and wife starting at about \$200. A living trust can run about \$1,500. So weigh the benefits and costs before you decide what's best for you now. And remember, as your circumstances evolve, you should update your estate plan.

erwise be covered by government aid—such as housing, food, clothing and necessary medical care. Instead, Stevenson expects the trustee to use some of the money to support Scott's passion for car racing. "He eats, sleeps and dreams race cars," she says. "It's his connection to the real world."

As a last resort to preserve both his government benefits and his inheritance, Stevenson's trust also has a provision that calls for the trust to terminate if the state tries to seize its content as payment for the public aid. At that point, the trust assets would be paid out to Betty. Although Stevenson has faith that Betty would continue to support Scott financially, Betty would not be legally obligated to do so. "A situation where a trust terminates is far from ideal, but without these carefully worded trusts, parents like Stevenson wouldn't have a prayer of preserving a child's government benefits," says Trudy Nearn, an estate-planning attorney in Sacramento who drew up the trust for the Stevensons.

A TRUST FOR BLENDED FAMILIES A husband or wife typically leaves all of his or her assets to the surviving spouse, with the understanding that the survivor will then arrange to convey the estate to the couple's children. But what if you have children from a previous marriage whom you want to provide for after you're gone, in addition to providing for your spouse? Can you safely assume that your spouse will provide for children who are not his or her biological offspring?

Those questions worried retired Navy officer Jim Jefferson, 73, and his wife Diane, 60, who recently retired from IBM. When the Pacifica, Calif. couple were married 27 years

ago, Jim and Diane each had three children from previous marriages. With an estate now worth roughly \$800,000, they want to ensure that all six kids share in the stash. "We've seen cases where family members start out with high ethics and good will, but somehow the children of the first to die get cut out, and the surviving spouse's children get the lion's share of the assets," says Jim. "We wanted to avoid that."

Accordingly, the Jeffersons' estate plan includes a QTIP trust (which stands for qualified terminable interest property). In brief, a spouse—say, the husband—puts property intended for the wife in a QTIP. When the husband dies, the wife is entitled to all of the trust income. After her death, however, the trust principal passes to beneficiaries who were named by the husband when the trust was established. Assume, for example, that Jim dies first. Upon his death, assets intended for Diane go into the QTIP. Diane will receive the trust income during her lifetime, but she can withdraw trust principal only if she has no other means to pay for her health care, education, maintenance or support. When Diane dies, whatever is left in the QTIP goes to all six kids. If Diane dies first, the QTIP will operate the same way, but with the trust income going to Jim before the principal is divided among the kids.

As the Jeffersons demonstrate, leaving a financial legacy is not the only aim of estate planning. Through the judicious use of trusts, you can also leave a legacy of family harmony.



Join an online chat with Trudy Nearn, an estate-planning attorney in Sacramento, who will answer your questions about trusts and estates on Sept. 14 at 7 p.m. ET at the MoneyLive Chat Center, chat.yahoo.com.

JEANNETTE STEVENSON WANTS SOME OF THE MONEY SHE LEAVES TO HER SON TO SUPPORT HIS PASSION FOR RACE CARS.

A special-needs trust provides for a disabled heir without disqualifying him or her from public assistance.