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And to My Dear Woofy...; These days, estate planning can include family pets. Helping clients care for their furry loved ones can bind them closer to you.

Joanmarie Kalter

Don't scoff. Oprah Winfrey just left \$30 million to her dogs. Like many people who didn't have children she considers her pets her "babies" and heirs. And pet trusts are not just for the likes of Leona Helmsley, who left \$12 million to her beloved white Maltese named Trouble. (The dog's security, grooming and chef-prepared meals-served on a silver tray-cost \$300,000 a year alone.) On the contrary, estate planning for pets is part of the lucrative and growing pet-care industry, and can be a valuable addition to the range of services offered to an increasing number of totally sane clients.

Consider the statistics: Two-thirds of American households have a pet, while only one-third has a child. According to the American Pet Products Manufacturers Association, pet industry expenditures have doubled since 1998, to \$43 billion a year. The **Mercanti** Group, a financial advisory firm, expects this to remain the fastest-growing retail sector after electronics. And that growth will be driven by high-wage earners.

Well-heeled animal lovers increasingly spend on doggie day care and posh pet hotels. What's more, all that doctors can do for humans these days, vets can do for pets. Does your dachshund need disc surgery? At Red Bank Veterinary Hospital in Tinton Falls, N.J., that costs \$10,000, plus \$90 a session for physical therapy. Should little Weiner need a kidney transplant, you're talking \$20,000, plus \$2,000 a month in anti-rejection drugs. No wonder, The **Mercanti** Group reports, households with incomes over \$100,000 accounted for 35% of all spending on veterinary care in 2006, up from 27% in 2003. "You can't expect a caregiver to pay for all that," says Annie Brody, who runs Camp Unleashed, where dogs and their owners romp in Becket, Mass. "You have to set aside the resources."

THE PET AND THE PLAN

Of course, not many people will leave more to their animals than to their human heirs. But even a modest pet trust can significantly benefit both client and advisor. To Dave Ness, president of Raymond James Trust, planning for a pet helps strengthen an existing fiduciary relationship. "These are frequently elderly

people, and their animal is their confidante, the one who is there for them in the dark of the night," he says. "They want that animal properly cared for, and rightly so. If you can help them solve that problem, you have helped them in an extremely important way." To Gina Barry, a lawyer with Bacon Wilson in Springfield, Mass., such planning can start a relationship. "People don't like to think about dying, but they will begin by thinking of their animal," she says. "That is the start to getting their whole plan done."

Most people still do it the old-fashioned way, says Ness. They leave all their worldly possessions, including the cat, to their grown children. (Yes, Kitty is considered property, with all the legal standing of a dust mop.) But what if they have no children? Or the children work long hours? Or, as Ness says, it's, "Great Dane, small apartment-bad fit." Then clients need to select a responsible caregiver, make the level of care they expect clear and specific, and fund it with a trust.

There are two main types of pet trusts. The simplest, a "statutory pet trust," is authorized in almost 40 states. This is a basic document, naming a trustee and making an animal the beneficiary; it requires nothing more than a provision in a client's will stating, "I leave \$15,000 in trust for the care of my dog, Fifi." The second, a "traditional pet trust," is effective in all states. In this, the client also names a trustee to manage his funds, but appoints a caretaker as the beneficiary, with the money earmarked for the pet's expenses. A traditional trust provides much greater control. The pet owner can direct what kind of care the pet will receive, what to do if the beneficiary dies, even where the pet will be buried.

A trust can be created while the client is still alive (an "inter vivos" or "living" trust) or when the client dies (a "testamentary" trust which is included in a will). The living trust has the advantage of providing for a pet if an owner becomes incapacitated, and can take effect immediately, if he dies, before the will passes probate. Those with a testamentary trust would have to make sure their power-of-attorney and health-care proxy provide for their animal should they become disabled.

An advisor can help clients calculate how much money pets will need. Consider, say the experts, the animal's life expectancy: A beagle, 15 years; a cat, 18 years; a tarantula 30 years; and a macaw 80 years. In addition to providing for inflation, calculate the cost of potentially expensive medical care, the cost of professional boarding when the caretaker is away, and whether the caretaker will be paid for his services.

ANIMAL ASSETS

The money may be invested in a bond mutual fund, for instance, with income for expenses and the principal for emergencies. Or the trustee can be made the beneficiary of a pet owner's life insurance policy; the policy may be taken out simply to fund the pet trust, or a portion of an existing policy may be made payable to the trust. Similarly, an annuity or retirement plan can be used to fund both inter vivos and testamentary trusts by making the trustee the recipient of some of the assets.

Problems, however, can arise. Ness cautions his clients not to leave a lump sum to a caregiver for a pet's well-being. "Accidents happen all the time," he says

darkly. "You may have created an incentive for the caregiver to plot the early demise of Fluffy." Better, he says, to make sure any money for the caregiver is separate from the money for the animal, and earmark the funds that remain after the animal dies to charity.

Animal lover Barry, who runs a horse sanctuary, advises that the pet be clearly identified, preferably with a microchip. She tells of the black cat that literally had close to nine lives: The caretaker replaced the cat several times to keep her payments coming.

Advisors should also warn clients not to leave too much to their pets. "A 12-year-old Pekingese can only eat so much," says Ness. If a client leaves more than her animal reasonably needs, "the other heirs can use that to say that grandma was goofy," and contest the trust. After all, says Ness, some "some people care the way they do for their animals because they feel abandoned by their families."

Generally, an advisor can broach the issue of a pet trust merely by asking, "What are you going to do with your cats?" and referring the client to a competent lawyer. In Ness's experience, \$100,000 invested at a 4% annual return "should be more than enough." In some cases, however, the bank becomes the trustee, and in rare cases, that can cause complications.

Joseph Macri, vice president and market manager for M&T Bank in Harrisburg, Pa., had such a case. A widow left \$600,000 for the lifetime care of her beneficiaries - three dogs-named a dear friend as caretaker, and directed the remainder of the money (once the animals died) to charity. The bank, which had served as trustee during her lifetime, continued in that role. Macri determined the salary of the caretaker and made periodic, unannounced visits to check on the animals' care.

In a twist, however, the pet owner had also left her house to the animals, making it "the most expensive doghouse in the world." Macri had to see that the lawn was mowed, the snow shoveled, the bills paid, including cable "so the dogs could feel someone was talking to them." Fortunately, Macri's staff, and the bank's tax and real-estate departments, shouldered the load. And he never found the caretaker negligent, abusive or extravagant.

Macri's preferred solution is much simpler: "Just give a friend a bequest and ask him to care for your animal."

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