

INDEPENDENT
THINKING

A NEW FIDUCIARY PERSPECTIVE

EVERCORE

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Fifth Edition

**ADMINISTERING SPECIAL ASSETS:
KEYS TO SELECTING A CORPORATE FIDUCIARY**

Introduction

Family businesses, real estate, mineral interests, loans and notes, life insurance, tangible assets, and collectibles: These are all special assets. Their most common denominators from a wealth-planning point of view are their illiquidity and complexity. Managing these assets requires specific skills and experience.

Special assets can be difficult to manage, however. Pity the inexperienced fiduciary who is called on to retain or divide, say, a collection of a single artist's works or a vineyard on behalf of multiple stakeholders. The fiduciary is likely to soon discover that the investor's passion was the glue that preserved and developed the asset. Once that centripetal force is gone – through incapacity or death – cracks can quickly appear in the governance of the assets, which can lead to costly disputes requiring third parties to resolve.

The individual fiduciary doesn't have to face these challenges alone. A capable corporate fiduciary can support the individual and bifurcate responsibilities in a directed trust arrangement so that administration may continue in a trust structure, likely in Delaware or another favorable jurisdiction. But what if bifurcation is not an option? Perhaps the family doesn't have a suitable or committed individual to carry out the settlor's intent with a difficult asset, or the anticipated fiduciary declines the call to duty.

Before it comes to this, ask yourself: **Are your clients working with a modern fiduciary to administer complex, unique assets?**

At Evercore Trust Company, we view our organization's structure, speed, and service as the key characteristics for successful management of special assets.

STRUCTURE	<ul style="list-style-type: none">• Evercore Trust Company is a national trust bank, which provides us with the flexibility to operate in suitable jurisdictions.• Evercore Trust Company partners with Evercore Wealth Management, a registered investment advisor that provides wealth and investment management services.• Evercore is a leading independent investment banking firm, with top-tier research and wealth management arms – providing expertise in trust administration through Evercore Wealth Management and Evercore Trust Company.¹
SPEED	<ul style="list-style-type: none">• We have processes in place to deal with routine, complex, and emergency situations.• We are sensitive to evolving client needs, while maintaining our commitment to serving as a trusted and prudent fiduciary.
SERVICE	<ul style="list-style-type: none">• Our senior wealth and fiduciary teams include some of the most experienced professionals in the business.• We have extensive experience in managing and administering specialized assets, including the ability to address the additional complexity of family business interests.• We strive to preserve the intent and legacy of our clients, while serving as a bridge to the next generation, providing education on topics of stewardship, governance, and investments.

¹ Evercore Wealth Management was named among the Top 100 Independent U.S. Registered Investment Advisors by *Barron's* for 2023 (09/15/23). Evercore Wealth Management was named a leading registered investment advisor for 2023 by *Financial Advisor* (07/14/23). Evercore ISI was ranked No. 1 among all firms for analysts on a weighted basis in *Institutional Investor's* All-America Equity Research survey for the second consecutive year (10/25/22 and 10/24/23).

Case: The Family Business

BACKGROUND:

A closely held business provided the sole support for a family. The primary business owner's health unexpectedly deteriorated, and incapacitation followed. Soon there was conflict between the named successor individual fiduciary – the spouse – and the children from the owner's first marriage. At the same time, it became clear that there was no natural successor to step forward and capably manage the family business. Litigation ensued to settle divisions among family members, which resulted in court supervision of the administration of the family business. Sadly, the business owner died during the administration of the company's winddown.

SOLUTION:

The Evercore team was directed to serve as the fiduciary in managing the sale of the family business, while preserving resources for the benefit of family members and helping to bring the family back together. Our responsibilities included:

- ▶ Managing the sale of the family business and ancillary interests, which required hiring and retaining key professionals to ensure compliance with state and federal regulations and reporting requirements.
- ▶ Resolving outstanding litigation connected with the sale of company.
- ▶ Negotiating the timely release of guarantees and the sale of coinvestments and joint ventures in related business developments.
- ▶ Managing ongoing litigation between competing beneficial stakeholders, resulting in resolution of conflicting interests among beneficiaries.
- ▶ Negotiating IRS-accepted valuation discounts for estate tax valuation.
- ▶ Organizing formal communication and educational meetings between the disputing parties to address trust and estate administration issues.

Case: The Family Home

BACKGROUND:

A trust owns a home that has been in the family for three generations. The trust also owns low basis, highly appreciated marketable securities. After discussions with her Evercore team regarding the family's emotional attachment to the property, the primary beneficiary, who had lived in the home for 30 years, and her family concluded that downsizing was appropriate in achieving a sustainable lifestyle. The beneficiary decided to move to a local active senior community and to purchase her new home before the current home was listed.

SOLUTION:

After working with the beneficiary and her other trusted advisors on a collaborative plan, the Evercore team achieved the following:

- ▶ Arranged a third-party loan with a financial institution using the marketable securities as collateral, so the trust could make a cash offer to secure a replacement property and avoid a stock sale that would have resulted in significant tax consequences.
- ▶ Identified the new home and secured approved terms for the trust's cash offer within 48 hours.
- ▶ Assisted with the beneficiary's successful move while simultaneously listing the existing home for sale.
- ▶ Managed the sale process to achieve an attractive offer.

Case: The Family Farm

BACKGROUND:

When a multigenerational family in the Midwest inherited the family farm – a substantial asset – they discovered that it had been placed in a trust requiring unanimous approval of the three adult children for sale. While they all appreciated that the patriarch had wanted to keep the farm in the family, only two of the three children shared that goal.

SOLUTION:

The Evercore team was appointed trustee by the family and took on several responsibilities:

- ▶ Managing the farm during this interim period, including hiring specialists responsible for day-to-day activities.
- ▶ Dividing the trust into three equal trusts – one for each of the primary beneficiaries.
- ▶ Distributing income from the farm to trust beneficiaries.
- ▶ Developing a plan to sell the interest in the farm of the one family member who did not want to keep it to the other two trusts.

Managing special assets requires sensitivity and flexibility; assets like these are usually of great emotional – as well as financial – significance to the family. We were pleased to assist these families – and their other trusted advisors – in ways that all the members agreed was fair and to help the family members' relationships with each other remain amicable.

How can our modern trust company help you serve your clients?

Please feel free to reach out to any one of us, to schedule a meeting and learn more about our organizational structure, speed in decision-making, and our uncompromising service. We look forward to working with you.

Contacts and Disclosures

Wealth & Fiduciary Advisors at Evercore Wealth Management and Evercore Trust Company, N.A., can work with business owners and their other trusted advisors to protect wealth, establish a legacy, and help transfer a family's values, as well as assets, to future generations. To learn more about how we can help business owners, please visit us at evercorewealthandtrust.com or contact any of our Wealth & Fiduciary Advisors.

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