



Sound Financial Bites 029 - Dennis Brislawn Episode Transcription

“If you're willing to invest in yourself by listening to these podcasts, we're willing to invest right back in you.”

Hello, Paul Adams here. Welcome to Sound Financial Bites, where we help you with bite-sized pieces of financial and life knowledge to help you design and build a good life.

Hello, and welcome to Sound Financial Bites. My name is Paul Adams, president and CEO of Sound Financial Group. It's great to have you with us today. Today we've got a unique guest, Dennis Brislawn, one of the owners of WealthCounsel, and what he's going to be talking about, as an estate planning attorney, is this idea of how do we deal with your stuff. Your assets in your life and your planning, and making sure that they go to who you want them to go to in the way that you wanted to go to them.

We're going to look at a few specific categories, but before we get to Dennis, let's just kind of tilt back a little bit and talk about the podcast a little bit, some of our unique areas where we want to focus for all of our listeners.

So, you've heard me talk about the fact we're separating these into financial philosophy, analytical financial cast, business and career type of podcast. We're going to focus on what you could do to grow your career, grow your business. And last but not the least, those that focus on building a good life which might be somebody who's a biohacker, it might be somebody who is a marriage counselor, about improving those things that are outside of our money that are certainly a part of us designing and building a good life.

So, if you've got an idea for a future episode, just email us info@sfgwa.com. Send it to us on Facebook, reach out to us, we have our contact form on our website. We'd love to hear from you and we're always happy. If you've got a pressing concern, or you just want to speak to somebody, we're always happy to take 30 minutes with one of our listeners. Because if you're willing to invest in yourself by listening to this podcast, we're willing to invest right back in you. We're glad you're with us today.

So, Dennis brings a unique background to our conversation today. Twenty-eight years in practice, admitted in three different states along with being admitted to the federal bar, and this ownership of WealthCounsel is unique. WealthCounsel is a member driven organization that has attorneys across the country who want to increase their capacity as an estate planning attorney. So they do CLE credits which is the educational credits for those in law, and helping them better understand planning so that we certainly has a firm to look up attorneys in WealthCounsel to make sure our clients in other parts of the country, are getting with a competent estate planning attorney like Dennis wherever they are in the countries. So, it's great to have you with us today, Dennis.

Thanks. The funny thing about WealthCounsel is, we started as a group of friends trying to solve our own problems. The next thing we knew we had world class software. So when I refer to a colleague or you do, and say, "Dennis, who do you know in?" It may well be somebody I've known for 20 year to 25 years, and they're using the same software platform I am. So if you and I work for somebody here and they move there, we send the software answer files to the other attorney, and they pick up where you and I left off. They know that you find it easier to represent people nationwide, perhaps than I do because the laws are so state specific.

Anyway, having a bunch of colleagues around the country that I study with and get to know and see in person, one to three times a year and have for decades is huge. But we have a common



Sound Financial Bites 029 - Dennis Brislawn *Episode Transcription*

learning platform which is even bigger. That kind of leads us to some of the things that you and I are excited to talk about today, because it comes out of that 5,000 membership experience where we all keep hitting weird, strange opportunities in planning.

And that rolls back up to all of you that are members of WealthCounsel, or in your case, owner of WealthCounsel, one of the owners to be able to garner the best possible knowledge for every kind.

Sure, because we'd take that to our thought leader series or word on the street, or our annual symposium. Anytime we come across something that seems intriguing, interesting, or particularly valuable to people, it's our job to put it out there. Because what happens to one of us, it may happen to a lot of us.

Yes. I get that. Well, let's talk a little bit about our conversation we had prior. This idea of they're special people, and that's where most of a estate planning kind of tends to land, and it's important. It's important for us to think about, you know, this child is different than that child, and planning for that appropriately, but we're going to zoom back from that a little bit. Because there's an all too often not talked about domain, which is planning for special stuff, not just special people. So, how do we make sure that the stuff that we have that might be important to us, and it might be important to us right now and it might be the kind of thing we don't think is going to be important for our kids today, but might be important to them later on in life. How do we have that transition?

What we talked about before was things like a family cabin or compound, vacation home, that might be important to somebody. Collections of things like wine or stamps, or figurines for that matter. Firearms, firearms collection has a whole domain of legal concerns around it, and then things like pets that people have. I know people who have tortoises from back in my time in Nevada, that have to be planned for multi-generations.

So, we're going to talk a little bit about the disposition of stuff. What we're going to do is extract from then is these unique stories of things that have gone well and gone badly in each of these domains. It's really just for the purpose of letting you reflect about the conversations that you'll want to have with your spouse about the things that you want to make sure go generation after generation, not just the money. So Dennis, maybe we'll just start of on that kind of cabin, vacation home, family compound idea and what do you do. The big problem is right at the fractional interest.

I learned a couple of years ago that I needed a process to meaningfully plan for anything. If I don't engage my client in the question early on, it doesn't go anywhere. Family cabins are a perfect place to start in our analysis of things because they tend to be a legacy item that somebody put times with money into -- maybe even inherited it from their own mom or dad, and it means something because it represents a lifetime of experiences. But here's the pragmatic issue, if you have 3 kids, one loves the cabin and slaves on it, but doesn't have a lot of money. One of them is really well to do, and perhaps doesn't really use it at all, has kids that are putting through college. And another one likes to use it but doesn't contribute anything to it at all, and frankly lose it -- kind of trashed after they've used it for the weekend. So, if we have 3 kids or 2 kids or 10 kids that might inherit one single resource, how do you govern it? How do you create a succession plan for the cabin, such that it doesn't gets sold. I mean if your vision -- it's your cabin.

If you are the one saying "I want the legacy to continue," you've got to ask yourself, "What is this

"If it happens to one of us, it may happen to a lot of us."



Sound Financial Bites 029 - Dennis Brislawn *Episode Transcription*

“If we have three kids that might inherit one single resource, how do you govern it?”

cabin mean to me, why?” And what does it mean to the people one level below me? Then go on level below that. Where's the money to put a new roof on? Where is the governance to compel people to utilize it in a particular way that's half healthy and happy, without anyone feeling abused? If you think this isn't a big deal, remember, I am a lawyer, and my favorite question, Paul, is what could go wrong?

Yeah, and I even think about, you talked about that fractional interest that how quickly two generations down even if somebody just has 2 kids. If each kid has 3 -- you've got 6, 7, 8, 10 owners in a couple of generations if they manage to keep a hold of it. And now, you nearly guarantee either -- in airplanes there's a story from when I was working on my pilot's license, if everybody owns it, nobody owns it. And the idea -- I could see that with a cabin especially when now you're two generations out from grandma and grandpa having left that the grand kids are now charged with it. Nobody wants to throw money in because nobody gets any benefit from it. So how do people solve that?

Well, you've got to start with the end in mind, but you've got to start with mom and dad. Here's an easy mnemonic that you can use for the value of an asset. First for yourself, is it a legacy item - precious beyond money? Legacy item for you? Or is it an investment for you? You're planning for it with Paul's help, rampage up in value then sold that baby, that would be an investment. Final value is commodity. It's a problem for me in a way, I can tolerate it now, but if you can unload it for me Paul, that would be a great thing. So, is this item to you -- what is it's value to you right now? Commodity, investment or legacy? Then go one level below. I'm going to pass this on as part of my estate plan to my children or whoever. What does it mean to each of them, each of them individually?

What I love just kind of as a quick pause which I think is key, you go through with our clients using our tools like living balance sheet. Look through that, they may have this one is legacy, this one's a commodity -- like they've got a lot of different things that would be legacy, commodity, or investment for anyone of them.

Absolutely, and if you and I share that, if you learn that, you can trigger me. If I learn that, I can trigger you, because the value of the asset will drive the planning choice and it may change. You may find that none of the kids want the family cabin.

So to them it's commodity, but to you it's legacy, which means beyond this conversation, what you do with your documents, you may have to do some work while you're still here. Creating part of your legacy is that it occurs as legacy to them.

We have the same problem with business owners that don't recognize that a business must transition. It's called Business Succession Planning. But whatever success you and I have with business owners, Paul, you and I know that this discussion about the family cabin or the gun collection or whatever collection. By the way, your picture of a plane co-owned by everyone, I was picturing McDonald's wrappers in a cockpit. That would really be nasty, but your Subway wrappers in there from the prior pilot.

So speaking of governance, what we did to manage that is we are all members of an actual airplane club, and the club had governing rules about the aircraft and accountability on their aircraft. So how does that work when it comes to doing an estate plan around the cabin?

So people always ask me, if I do a will or trust, can I do everything in that one will or trust? And I



Sound Financial Bites 029 - Dennis Brislawn *Episode Transcription*

say "Yes, kind of, sort of, in a way. It depends." The truest lawyer answer to everything is, "It depends." I don't recommend that you do everything in one estate planning document. If that thing we're planning for, whether it's a special person or a special asset, which is probably new concept for many of our listeners. We have special people like grand kids or special needs children, but what about pets? Pets, I think of them as a person, but under the law they're generally are not. They're an asset, but they're special to me and they may not be special to the next person that takes over for me. I don't have kids. So my planning choice is I'm going to have some professional or friend in charge of my stuff, to take care of me, but they may not honor my pet the way I do. So I need to plan for that pet or plan for that cabin. And so, it's going to be a trust or an LLC in almost every case or maybe the two combined.

For that asset specific.

And the way we combine these things, the advantage of an LLC is it's made for asset protection. It's a business tool. It can own things and improve them like a piece of property. But if you want to bind the ownership in control of benefits, it's not normally the LLC that you do that with. You need another tool like a trust, where you can impose a dynastic multi-generational regime of your own, and you can have exit strategies from people that don't want to play. You could say, "Gee Johnny, you don't want to do what the agreement requires to benefit from this thing, but you don't get pod out, you don't get this. We're just going -- if you don't want to play by the rules, you don't get to use the cabin." So without going too deep here. Sometimes I just the way a trust -- I never just do an LLC because an LLC might wrap a piece of land or property, but it's really a business to all and it's not a pure 100% estate plan.

When I die, I give away my LLC whether I own 50% of it or a 100% of it. If I give away the LLC and I don't have a control mechanism from voting and how it would run, you might as well just handed the cabin to 10 people to argue over.

So the trust becomes the governing document for the LLC and LLC might own the cabin or something like that.

Correct. There are alternatives to what you and I just agreed upon. But if you have a dynastic cabin, it needs money to function, it needs someway to carry itself on, it's going to need a new roof someday. But if you don't want to give ownership to 10, 20, 30, 50 family members directly, you have a trust that owns a 100% and doles out the ability to use the cabin.

And it sets forth here the people, either my lineage or something else that can make decisions.

Entitled to benefits. Yes, you got it.

These people can make decisions. In that document you can have the ethos, like everybody who is going to use a cabin needs to read grandma and grandpa's 4-paged document they wrote about why this is meaningful for the family and why it's important for grand kids to come, or whatever.

Absolutely.

And then, let's talk about the financial piece for a moment, because if it's in my mind it goes immediately.



Sound Financial Bites 029 - Dennis Brislawn *Episode Transcription*

It should go. How do we make this work? There's no money, just a cabin. How do we make it work?

Would you fund something like that, with your general kind of orientation be, between property taxes or placing roof every 15 years, remodeling things like that?

Maybe, in maintenance or upkeep, even homeowners do this. Some family cabins are in organized communities where there is dues. So here's what I say. If the vision is important to you, we want to create a time-frame. I don't mean to be plugging my friend Paul here, but, I'm plugging my friend Paul here. Somebody needs to crunch some numbers and say, "What is the support plan require? What is the logistics plan to keep this cabin in play for those that want to be part of it?" You either have to charge dues to people, which they may or may not pay, or something. What if you did a second to die life insurance policy that said, "I'm funding the dynasty trust." You could put some money into play that would be leveraged one way or another, and would invest in the controlling system to maintain the cabin.

So, you said to yourself, I think on average every year maintaining this compound cabin, whatever the piece of property, beach house, all-in every year including keeping it updated is going to be \$40,000 a year, we might just make it as if we're trying to produce an income stream of any kind, and the trust owns the cabin and controls the LLC, and the trust also ends up with a million dollars of inheritance. Because that million dollars were more than enough to be able to -- based upon distribution scenarios, should be able to support that cabin indefinitely. If one day everybody agrees, at least two generations from now they could sell it, they could sell it and they all split up the money and the cabin.

We can do all those things. It's no different than planning succession for a business. What is your vision, how long does it extend, how much control do you want. You just gave me an idea when we're talking about this resourcing, you gave me a cool idea. I was just thinking, if there was a pot of money that was invested to support the vision, what if somebody lived in Southern Cal and they were school teacher, they were doing some job that was really good for them, but it was hard for them to get a plane ticket to bring their 3 kids up here, to have family fun at the cabin. Well, if we have enough money being invested, you can do essentially grants. Trust distributions, let's say, "Hey! You need help to get up here." The other kids live here. They can walk to the darn cabin or drive their car. But you, we want you to be part of our family. We need to make it possible for you to come up here. See, having more, people try to cut this too fine. They say, "What is a cabin roof cost?" Once every 15 years. So they under fund the vision.

Frankly, I think it's so neat that people don't think about this often enough about that. If what we want to do is have this asset be there in the family, is that reflection of, it's going to be a legacy from that types if assets - legacy, investment, or commodity. If it's going to be legacy, then we need to do is have a vision for -- we're going to live a piece of some of our stuff, some of our assets that we want to be legacy. What is it we envision that looking like 20, 30, 40, 50, or even 100 years from now, and if we have that vision, document it, write it down, and then meet with a professional team, it's going to sit down and say, "Let's make that document support the outcomes that you want," because it's so easy for somebody to say, "I want this cabin to stay in the family." But we talk to our clients about -- when you're thinking about legacy or things that are important to you as a yellow pad conversation. With a bottle of wine, or your favorite growler of beer, or if you don't drink, get a pitcher of lemonade, but you and your spouse sit outside and tell it's gone with the yellow pad to come for that vision.



Sound Financial Bites 029 - Dennis Brislawn *Episode Transcription*

I love the idea of, moms and dads often in my experience, or grandmas' and grandpas' try to involve kids and grand kids and others way too early. Because I think that the greatest honor, the greatest gift is figure out what it means to you and then share it with people in a way that matters to you. But you can do it anyway you want. You can bring the family and then have a vote if you want. I find that it's hard to get a decision that way.

Set the vision first before maybe involving anybody.

It seems to work in my experience for the better. So, the issue here is identifying the value of a special item to you, be it a cabin, a pet, your gun collection, or a plane, your car collection, what is it valued to you? Here's one you'll look, "Is it a problem for my spouse?" You can't even get me on the two of us without asking, "It's precious to me, is it a problem to you?" Now, I ran into that, for example, with firearms collections. Usually there's one enthusiast in the family, sometimes two, but that hasn't been my comment experience. So one person says, "I kind of tolerated. That's his or her deal." And this could apply to anything. A wine collection, any kind of collection. Well, if it's going to be a problem for your spouse, you haven't even gotten to the kids yet, and I would say -- you can say, "I'll leave it up to them. It's their problem." But if it's valuable to you, maybe we are to have a discussion about it.

So, and I go back to this idea of vision. So if somebody has a firearms collection and you want to leave that as legacy, then the question becomes why. Why is it important you leave that as legacy? Is it because -- for some people it's important. They want every child and grandchild in their family to at least have one chance to go hunting with great grandpa's rifle. We are all left -- that's often lock, whatever. Like if there's something very special they want to -- so we're going to pay every year, we're going to leave a little bit of money in trust, and we think for at least 3, 4 generations we are going to be able to pay for an outfitter, to be able to go out, teach that child how to harvest an animal, and do something very unique and different to what would happen, otherwise, and where you can get that specific because it ain't too often. I've been thinking, my own stepbrother has a set of firearms that he wants to leave me. One of the things -- right now it ends with, I gave him one of my old safes that he's gotten in, so I know the combo is like you just come get that thing when I passed, but now what I'm realizing is I need to spend some time with him saying, "What's your vision for that? What would you like to see that do beyond you?"

And as your attorney, what? I'm not yet, but I will be. I'm going to suck you in here. Here's the issue I think of, I don't know anything about the two of you, whether you're in the same state or not, but there's two federal legal systems that might affect that sharing, and at least two state systems. Because right now, firearms in particular are cautionary assets. Right now, you can become a felon by doing a transfer or possessing a firearm wrong. Now I call it kind of innocently, you didn't mean to do anything wrong but you did.

So meaning, like grandpa wanting to do the right thing, now he has no ill intent.

Hands a gun to you today.

Or worse yet, he doesn't hand it to me, grandpa died, everybody in the family knows, grandpa wanted Johnny, the grandson, to take all his firearms. He could literally be committing a felony in having done so.

So for example, what if Johnny is a prohibited person? That would be a federal and state felony. Number two, what if Johnny is from another state, and you bundle them up and ship them to



Sound Financial Bites 029 - Dennis Brislawn *Episode Transcription*

him. Well, that's a type of one gun control like problem because you have to go through -- unless there are exceptions or exclusions under federal or state law. Think of it this way, everyone out there. It is a crime for anybody to have my gun in their hands unless it's not. That's Dennis' rule. It's a crime for you to have my gun unless it's not. That's Dennis' rule literally.

It's a little bit like the old saying of, your innocent until proven guilty. In this case, possessing a firearm is a crime unless it happens not to be his gun.

Unless it's not. Well, it's the safe way to think about things, whether you love guns or you don't love guns. The fact is, that most of us are going to see one in an estate anyway. Regardless of your political belief about these kind of assets. So I want to be a good lawyer to people, not an advocate at this moment in time for anything. By the way, I had a client that said, "I'm just going to dump the firearms down at the police station," and I kept thinking, "What could go wrong?" You're going to drive up and dump a bunch of guns off, you're going to walk in there, fest you with guns, that idea. Horrible idea. Number two, do you know what they're worth? I had a family show me a collection of firearms that had been in their family for a couple of hundred years. Some of the guns didn't look like much, do you know what they were worth?

I can't wait to hear that.

They were worth \$10,000 here, \$30,000 there, because they were guns that had been preciously maintained by this family all this time. They were kind of at the collectible stage, they were before 1898. So they're all antiques, they were working guns, but the family knew the providence of them. They could demonstrate continuous ownership for a couple of hundred, hundred years. See what I'm saying? So if somebody said, "Well, I hate those things," and just dump them somewhere...

They might be dumping off a couple of hundred thousand dollars.

Well yeah. You might be able to donate them for a charitable purpose or there's many things you can do. By the way...

Donate them to a museum at that point.

I want to tell you another exciting thing that does and occur to people. Somebody in the family has a firearms collection that's worth X dollars, let's say more than \$30 thousand. They don't have anybody that really wants the guns to leave them to. But the guns are important to the owner. Did you know that we can do a charitable gift annuity? I know a way to do this where there is absolutely no seller side commission, no buyer side commission, which is typically 15%. You would lose 30% of the transaction. So, what if I had 100 grand worth of guns and optics and stuff? We auctioned them for no cost, and then we paid an annuity to a special needs trust for a grand kid or to a family member that needs the cash, not the guns. For instance, what we want to do is look at assets as what do they mean to me, what would they mean to you, the person that I might dump them on, and is that the best thing to do? Or can I use these as fuel for a vision? See, it's really creative.

This is great. So, let me recap a little bit, because we've covered a lot of ground and I want to make sure people know how to get in contact with you. So we have one, assess from your perspective, what is this thing to you. Is it legacy, is it investment, is it a commodity? And if it's that commodity to you that you want to offload or your kids are going to want to offload it, that's



Sound Financial Bites 029 - Dennis Brislawn *Episode Transcription*

something to be aware of. You don't necessarily need a vision for that. But if it's legacy...

But we might have solutions that help people leverage the offloading. If there's going to be a tax or something, your job and my job is always minimize the tax hit on this deal.

Yes. So, but if we got it it's legacy, we need to set the vision first. Then we need to see if anybody downstream who's going to inherit it shares the vision, and if they don't share the vision, if you're competent enough still and you're psychologically aware with all the "do this" planning then you could probably get somebody else to adapt your vision, and then you can go to work on that as well.

Or, you give the asset to the people with the vision, and if you want to you give the other parties something else. I had a client do that. They had a \$1 million asset, I take it back, \$3 million legacy vision. Three kids. Goods news is it was a huge estate. So they gave 1 kid the \$3 million legacy asset. The other 2 kids that could care less, they gave them something else.

Yes, and so you want to make sure you have the vision, you've got legacy, your generation legacy and the next generation. Then you need to take and engage somebody who can help you document the vision, which is both going to be your ethos which might be, I mentioned earlier, about maybe a 3 or 4-paged document that all the kids and grand kids read before getting a chance to engage in the cabin. But what is it you wanted to be, how are you going to build that for the future and then engage a professional to be able to get some of the planning done around, which might include like we talked about, funding. Then really important when you talked about things like firearms, that people are doing to trust work necessary to make sure that they're not unintentionally either causing somebody to commit a crime or leaving a potential mess behind, because the complex in regulatory we're dealing with some of those assets.

Some firearms are federally regulated, and there's a process you must go through to transition them to a new owner. I have found such firearms in people's estates that were never registered at all, meaning, they were contraband in the hands of the dead person, and they become contraband in the hands of the person they dumped it on. So whether it's pets or firearms, or cabins, there's this special assets out there that means something to our clients, and if we don't ask or clients don't tell, we will miss a planning opportunity. I've seen family disputes and meltdowns over the grandfather clock that everybody wanted but only one person could get.

It wasn't named as something specific as legacy. So, the kind of the last lesson for today is that idea that there maybe things that people are going to find really really meaningful that aren't in one of these classes we just talked about, that you're going to have to be very specific in your planning and your communication to heirs to make sure that doesn't create those disagreements. Dennis, you're at the law firm Oseran, Hahn right down here in Bellevue long time, well respected law firm here in town, how do people get a hold of you if they have questions, want to engage with you, what's the best way for them to reach you?

I'd love to hear from people. My email is D as in delta, Brislawn B-R-I-S-L-A-W-N @ohswlaw.com or easier, phone number, 425-455-3900. So it's oseranhahn in Bellevue.

We'll have all that right here in the base of the podcast so people can look it up in the notes and be able to get a hold of you.

I would say call Paul, he knows. If I can help -- I want to put a plug in here for the way we look at



Sound Financial Bites 029 - Dennis Brislawn Episode Transcription

planning. You need structure but you need resources and then you need some compliance. I don't know who needs an attorney or financial planner and a CPA, but I do know that those 3 disciplines are required whether you do it yourself, or you get some help, because you need structure which is attorney, you need resource which is going to be the financial planner, and the CPA is the compliance expert. So, but the three of us together, if you really have a good team, you know Paul, the reason you and I are working together is you kind of go -- without going into the other person's area of folly, we know what the other guy or gal is doing, and we're always trying to position our service to leverage the other service. Particularly, with family cabins, if I do my job and nobody else is involved, I don't think it's going to work. I think the chances for success are low, because there's no resource.

Yeah, you got to have the team.

You got to have some money to keep that cabin going. It won't -- hot air and good thinking isn't going to make that cabin succeed across three generations.

Indeed. That's great. You got to have all 3 disciplines that work to be able to make the plan work and the vision work. So, thanks again for being here Dennis. We continue to want to hear from you, so don't hesitate to engage with us. If you have ideas for our upcoming podcast, send those into usinfo@sfgwa.com and we look forward to seeing you on an upcoming podcast.

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Sound Financial Bites 029 - Dennis Brislawn *Episode Transcription*

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