I'm an Executor, HELP!!!!!

How many of you have either served as an Executor, been requested to act as Executor, or are currently performing that task?

The Executor role, now referred to as Estate Trustee, can be a relatively simple if time consuming undertaking. In the event of the death of a spouse and if the Estate and Succession Planning have been well prepared no problems should arise with the benefits of joint spousal registration of matrimonial assets and spousal beneficiary designations on assets that allow this practice, Insurance Policies, RSPs, Annuities, etc. But what if the Estate is not a spousal roll-over of assets? This is where things can get a little more complicated.

These are some of the complications I have witnessed over the past years that lead to confusion, frustration, financial losses, legal expenses, family feuds, lengthy administration times, and even litigation.

1. The Trustees do not get along albeit that they are siblings.
2. The spouses of the Trustees have their own financial agendas.
3. A Trustee lives either out of Province or even worse out of Country.
4. The Trustees have no experience in handling the complexities of Estate Administration.
5. The Trustees have no time to devote to the Estate, demanding Professional careers or young families.
6. The Trustees have no knowledge of your financial standing.
7. The Will is not entirely fair in terms of equal distribution to children, relatives, or friends.
8. Personal items such as jewelry, art work, and family heirlooms are not detailed in the Will and lead to disputes.
9. The Estate has foreign assets, condo, bank accounts, etc..
10. The Trustees are not Beneficiaries and lack the enthusiasm to achieve a timely distribution.

There are many more scenarios, believe me.

So what is the answer and how can you avoid some of these issues?

Firstly you need to know that your chosen Trustees have the knowledge, available time, and have your families best interests at heart. They should be made aware of your appointment and agree readily to undertake the duties upon your death. They should know where valuable documents are stored, the Will, Insurance Polices, Bank Statements and Passbooks, Safety Deposit Box keys, Title Documents, Fire Insurance Policies, Stock Certificates, and Bonds. Every year literally millions of dollars flow into the Federal Government's coffers as a result of falling into a dormant status with Banks, Credit Unions, and Trust Companies. The majority of these funds are the result of poor Estate Administration.

Secondly review your Estate and Succession Planning on a regular basis, probably every 4/5 years or in the event of major lifestyle changes. You should try to involve your Solicitor and Accountant in this exercise.

Thirdly, if family considerations allow, let your children in on the process. Ensure that they are comfortable with the terms of the Will. Discuss legacies and bequests, if feasible draft a simple codicil to your Will listing how family heirlooms are to be distributed.

Fourthly ensure your Trustees are aware that they are not on their own in this process, under the Laws of Agency they can employ outside professionals to assist in the administration, Lawyers, Accountants, Real Estate Professionals, Banks and Trusts, and Financial Advisers. At no time are they relinquishing control to these individuals, they remain the Captain of the Testamentary ship, however have a crew working for them.

An average Estate of average size and complexity has approx. 60 duties that need to be reviewed and performed. If you would like a copy of the checklist "Duties of an Executor" to be sent to you please call or write to Graham J. Slattery, Senior Partner, ProContinum Estate and Trust Planning Services, Suite 112, 3029, Bloor Street West, Etobicoke, Ontario, M8X 1C5. Tel. 647-436-3838, or email: gslattery@ procontinum.com.

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