

Estate planning

Who will settle *your* estate?
 Death tax issues
 Core advantages that we
 bring to the job of estate
 settlement
 "Where's Dad's password list?"

Philanthropy

Hard times for charities



Investment & Trust Newsletter

September 2009

Who will settle *your* estate?

The choice of executor may be your most important estate planning decision.

In addition to his extraordinary musical legacy, pop icon Michael Jackson left everyone an object lesson in estate planning. First the good news:

Michael Jackson had a will. A surprising number of people never get around to the task of seeing a lawyer about their estate plans, especially younger people. One may hope that Jackson's example will inspire more people to take this important step.

The will had a no-contest clause. More and more people are employing provisions that revoke bequests for anyone who challenges the terms of the will. Such provisions have been enforced in many states, so they often have the desired effect of reducing public squabbling.

Jackson named separate guardians for his minor children. Different skills are needed for managing money and raising children, and many planners believe that it was wise of Jackson to separate the two roles. He also nominated a backup guardian, which was prudent given the age of the primary guardian, his mother.

But there may have been some mistakes.

Jackson apparently did not tell his family about the will. In early press reports after Jackson's death, the family seemed unaware of the existence of the will. Thus, they were taken by surprise by its provisions.

The estate could be crippled by taxes. We don't know the full composition of the estate, but it appears to be cash poor. (The estate planner's term for this is "illiquid.") See "Death tax issues" on page 2 for more on the tax exposures.

Apparently, Jackson's mother was disappointed not to be named executor of his estate. The latest development is that she has filed a lawsuit to get an answer to this question: If she files a lawsuit over who should be the executor, will that trigger the will's no-contest clause?

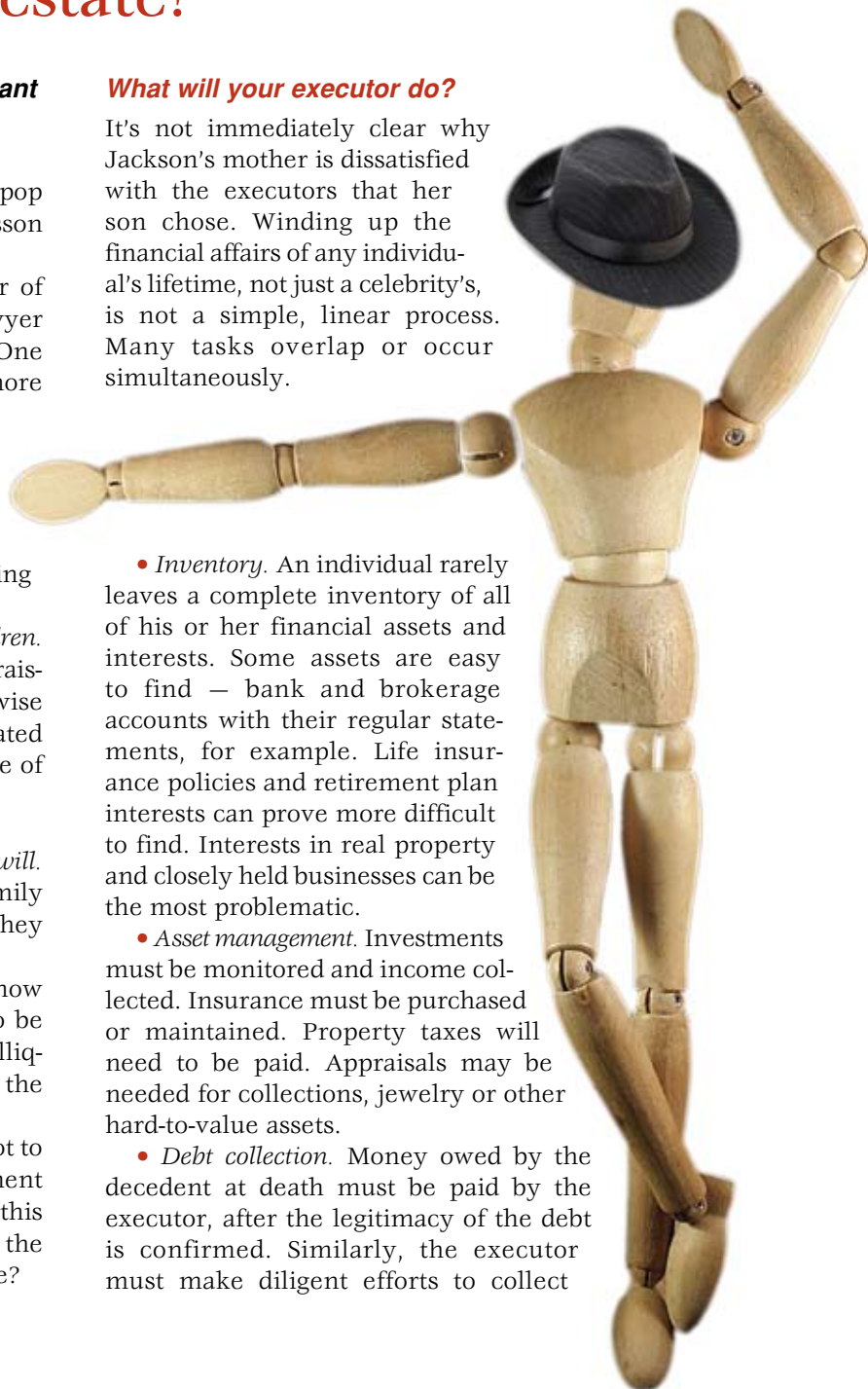
What will your executor do?

It's not immediately clear why Jackson's mother is dissatisfied with the executors that her son chose. Winding up the financial affairs of any individual's lifetime, not just a celebrity's, is not a simple, linear process. Many tasks overlap or occur simultaneously.

- *Inventory.* An individual rarely leaves a complete inventory of all of his or her financial assets and interests. Some assets are easy to find — bank and brokerage accounts with their regular statements, for example. Life insurance policies and retirement plan interests can prove more difficult to find. Interests in real property and closely held businesses can be the most problematic.

- *Asset management.* Investments must be monitored and income collected. Insurance must be purchased or maintained. Property taxes will need to be paid. Appraisals may be needed for collections, jewelry or other hard-to-value assets.

- *Debt collection.* Money owed by the decedent at death must be paid by the executor, after the legitimacy of the debt is confirmed. Similarly, the executor must make diligent efforts to collect



Death tax issues

Michael Jackson's estate could face a protracted battle with the IRS over the payment of federal estate taxes. The estate assets will be very difficult to value, which is an expensive problem to resolve in itself. But much like a life insurance policy that achieves its full value at the insured's death, Jackson's songs, both published and unpublished, as well as rehearsal footage for his planned concert, blossomed in value the day that he died. The estate also owns Jackson's right to publicity, and just because that interest is hard to value doesn't mean it won't be subject to tax.

The first approximation of the value of Jackson's estate comes from documents reported by the Associated Press. They showed that as of March 31, 2007, Jackson claimed assets of \$567.6 million and debts of \$331 million. That leaves a net estate of some \$236 million, which would indicate a federal estate tax bill of \$83 million if there are no marital or charitable deductions to claim. Reportedly, 20% of the estate will go to charities. Still, that is a lot of cash to come up with in nine months, when the federal estate tax return will be due.

On the positive side for the estate, California has neither an estate tax nor an inheritance tax, the two components that make up what are referred to as "death taxes." On the other hand, if Jackson owned property in other states that still do have one or the other death tax, those states could file a claim as well.

Who will settle your estate? . . . continued

all funds owed to the decedent. Tact will be needed when the debtor is a family member.

- *Raise cash.* Estate management requires cash for paying expenses and taxes. But most estates consist primarily of property. That means the executor will have to decide what to sell and when to sell it to meet the estate's cash needs. This is where strong investment planning skills can pay off. Funds should be raised without parting with the assets best suited for future family needs.

- *Pay taxes.* This year federal estate taxes are due on taxable estates larger than \$3.5 million. An estate tax return will be needed for estates of this size, even if no tax will be due because of the marital or charitable deductions. Some states have much lower thresholds for filing state inheritance or estate tax returns. A state tax return may be required for each state in which the decedent owned property. In addition, the executor will have to file the decedent's final income tax return and the fiduciary income tax returns for the estate itself.

- *Distributions.* Delivering the estate assets to beneficiaries, or to trusts for their benefit, is among the easier and more pleasant duties that the executor must perform.

- *Accounting.* The executor's final task is to account for all the money and property that has been received and disbursed. Therefore, accurate and detailed records must be kept from the beginning of the process.

We are ready to serve you

Who should you choose to settle your estate? We have the skills, the experience and the knowledge to handle the job of estate settlement properly. We understand the nature of fiduciary responsibilities, and we know how to discharge them. Would you like to learn more? Please call on us for more details about our estate settlement service. □



Core advantages that we bring to the job of estate settlement

When an estate includes very unusual assets, as does the estate of Michael Jackson, choosing a family confidant with special expertise in such assets for estate management can be wise. However, ordinary assets, such as real estate or securities portfolios, *also* require significant expertise for proper management. That is the skill and staffing that a corporate fiduciary, such as us, brings to the table.

Here are the basic benefits that a corporate fiduciary provides in estate settlement:

- We treat estate and trust administration as a full-time job.
- We have facilities and systems for asset management that individuals lack.
- Estate assets and trust funds in our care are doubly protected, by both internal audits and regulatory oversight by state or federal officials.
- We have an unlimited life, while an individual may die, become incompetent or just disappear.
- We bring long experience and group judgment to the job of investment management.
- We will treat all beneficiaries impartially, and most beneficiaries will appreciate that.

“Where’s Dad’s password list?”

Estate planning in the digital age

The first step in estate planning is compiling an inventory of all current assets. Financial records, life insurance policies, real estate interests, bank accounts, brokerage accounts, retirement accounts, collectibles . . . the list is extensive and can be exhausting. In the digital age, this first step needs to include more than paper.

More people are managing some portion of their financial life on personal computers and online. Some have online business interests. Many more will have digital files related to their finances or careers stored on their computers. In rare cases, such files can prove incredibly valuable — witness the unpublished novel discovered by Michael Crichton’s heirs.

The key to unlocking the value of digital assets is access. An estate plan today should include a digital inventory and the means for accessing all such assets.

The digital audit

Here are a few of the basic issues that can come up when estate planning for digital assets.

- *Computer access codes.* Power-on passwords and user account passwords may be required. Advanced users may have encrypted files or storage devices, such as external hard drives. A list of passwords should be useful, but it may need to be updated periodically.

- *Financial information and accounts.* Some people use programs such as Quicken® or Microsoft Money® to manage their finances. Others rely upon online banking or brokerage services, which usually will have

another layer of password protection. Credit card issuers may also offer online access to account data. Finally, those who do their own taxes with the help of their computers, using programs such as TurboTax® or Tax Cut®, may have stored digital copies of old tax returns.

- *E-mail.* An e-mail account is a convenient way to contact a network of friends. Once again, the family will need to know the password to access the account. Some Internet service providers will give the password to appropriate family members with a simple phone call, but Yahoo!, for example, insists on a court order.

- *Social networks.* Neither MySpace™ nor Facebook® will provide a member’s password to family members when a member dies. They instead give the family the option of closing the page or leaving it up, as is, as a memorial to the member, where friends and family can still leave messages.

Business issues

For people who have been conducting online businesses, there are more areas of concern.

- *Domain names.* Online businesses have domain names that

will need to be protected, the rights renewed regularly. A few domain names develop significant independent value.

- *Online sales accounts.* If goods or services are being offered on eBay®, Craigslist or other Internet service providers, some provision should be made to follow up on any pending sales.

- *Web pages and blogs.* Most personal Web pages and blogs are of interest only to family members, but there are some that can generate ad revenue. Whether the account can be transferred at death depends upon the policies of the hosting company. Once again, passwords and user names will be needed for access.

- *Avatars from virtual worlds.* Online virtual worlds, such as World of Warcraft and Second Life®, have evolved to the point that they have real-world repercussions. For example, a World of Warcraft character that had become powerful through extensive experience was sold for about \$9,500 in 2007. Similar “real-world” transactions have been reported for Second Life®. At a minimum, if one has built up a stack of a game’s virtual currency, it would be a shame to let it go to waste.

Do you recognize yourself here? Do your loved ones know how to access your accounts in case of emergency? If not, this might be a good time to make that information available and share it with your estate planning professional as well. □



Hard times for charities

That recessions are hard on charities should surprise no one. Charitable giving is a ready target for scrimping in tough times. Ironically, that is just when the charitable mission is most important, and perhaps for that reason, charitable giving has tended not to fall as fast as, say, tax receipts do during a downturn.

The latest *Giving USA* reports the numbers for 2008. Most gifts come from individuals, and they gave \$229.3 billion last year, a 6.3% decline from the year before.

Bequests also were down, by 6.4%, to \$22.7 billion. This most likely was not because of cutting charities out of wills, but because of the drop in prices for the stocks that often are used for charitable bequests. Together, these sources accounted for 82% of all charitable gifts in 2008.

Foundation grants dropped only 0.8%, to \$41.2 billion. Corporate donations tumbled 8%, falling to \$14.5 billion.

A survey by Target Analytics confirmed that the pain continued into the first quarter of this year. The total number of donors to 79 of the nation's largest charities fell a median 5.8%, and total donations were off 7.8% compared to the year-earlier quarter.

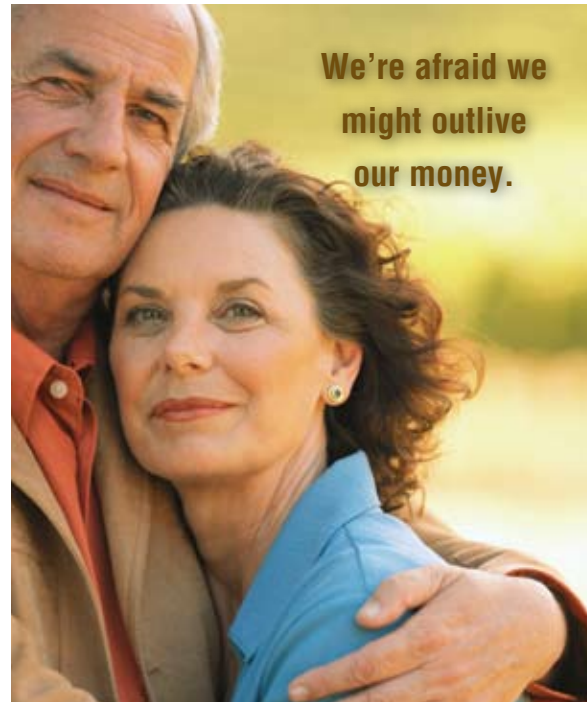
Not all sectors of the nonprofit world are suffering equally, however. Religious causes and those aimed at general public benefits actually had an up year, albeit an anemic 1.6% and 1.5% respectively. Education and environmental organizations were each down 9.0%; arts, culture and humanities groups and health-related causes were down about 10%; and human services brought up the rear, down 15.9%.

Clunker clunkers. The federal government's Cash for Clunkers program was so successful that additional funding had to be rushed through Congress to keep it going until Labor Day. However, there has been a downside for those charities that promoted charitable gifts of old cars. Such gifts fell sharply around the country, according to journalist Kay Bell, writing on her blog *Don't Mess with Taxes*. No surprise there, the cash offered for qualifying vehicles was far larger than the value of a tax deduction for a donation. But Ms. Bell concludes, "So if you're getting a good deal on a new fuel-efficient car, especially one you bought with a CARS rebate, consider redirecting some of the gas money you'll save to your favorite charity via a donation."

In these tough economic times, it's especially important for everyone to remember the vital work performed by America's charities. □

"If this recession turns out to be like the one in the mid-1970s, donations won't rebound until at least 2012."

The Chronicle of Philanthropy, June 18, 2009



We're afraid we might outlive our money.

We are hearing this worry more and more — from pre-retirees as well as from those who've already retired.

If you are concerned about the management of the investments that you've earmarked for retirement, see us today to learn about our services for investors.

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Michelle Mease
Assistant Vice President
& Trust Officer

Miles Coffland, CPA
Trust Officer



Phone: 989-772-9471 Fax: 989-773-3735