

## How To Be An Executor 101: Managing the Aftermath

by Nancy R. Larson

*"No good deed goes unpunished."* The flattery of being named an executor in someone's Last Will and Testament fades quickly. It is a daunting task and something most executors only perform once in a lifetime. If you are named as **executor**, you will act as the personal representative legally in charge of handling the estate which may go through probate court. If you are named as the **trustee** in a trust, you will be in charge of handling the trust estate. Trust assets do not go through probate court, but there are many similarities in the duties to be performed.

As executor, your mission is to follow the instructions given to you in the Last Will and Testament. In short, you must account for all of the assets, pay bills, debts and taxes, account for your actions and then distribute to the beneficiaries named in the will. Here are some tips for executors:

\_ **FIND THE ORIGINAL WILL!** Without the original Last Will and Testament, there is a presumption that the Will was destroyed. That is not a good thing. Without a Last Will and Testament, the laws of the fine State of Illinois will dictate how the estate is to be distributed and who has priority to act on behalf of the estate.

\_ **Hire an Attorney.** Choose a lawyer with extensive experience in working with wills, trusts, probate and estate settlement and administration. The attorney will guide you through the process, including opening a new estate checking account using a Tax Identification Number (TIN or PIN). Avoid using a joint account!

\_ **Locate safe deposit boxes and the key.** Inventory the box to search for the Last Will and Testament, titles to real estate and vehicles, certificates of deposit (CDs), and other important documents.

\_ **Locate income tax returns** for the past several years and provide copies to the lawyer. The executor may be personally responsible for tax penalties incurred for missed filing dates.

\_ **Pay the funeral bill.** Your lawyer will advise you of the order of priority of debt payment and options you may have if there are not enough liquid assets to pay the funeral bill immediately.

\_ **Identify and give notice to the beneficiaries named in the will.** Note that in probate, all heirs must be notified even if no provisions were made for a particular heir, whereas that in a trust such notice is not generally required.

\_ **List all assets**, including all checking, savings, investments, household contents and other personal property, and real estate. Real estate should be appraised in most cases. It may be necessary to sell household contents and real estate prior to paying bills or making distributions to the beneficiaries.

\_ **Maintain insurance on any residence** or other real estate and the contents. Advise the insurance agent that the owner has passed away and is not occupying the premises.

\_ **Make a list of all debts, expenses, and claims** including funeral expenses, expenses of the last illness, credit card debt, mortgages, liens, utilities, any outstanding taxes including income tax, real estate tax, estate tax. Provide this list to the attorney.

\_ **Locate all beneficiary-designated accounts**, including retirement accounts, IRAs, 401(k)s, life insurance, and annuities. Forward a certified copy of the death certificate to start the process of having the policy or account paid to the beneficiary.

\_ **Develop a calendar for the estate**. Work with your attorney to develop a calendar of critical dates for required filings, reports, and due dates with a projection of when the estate will be ready to distribute and finally close.

\_ **Close creditor claims** against the estate.

\_ **Distribute the remaining assets**. The estate will be distributed according to the terms of the Last Will and Testament after all asset have been located (and possibly liquidated) and the debts paid.

Your attorney will advise you if any probate court proceedings are required. Probate is designed to be an orderly process for empowering an executor to take the steps necessary to administer an estate from start to finish. Many, but not all, estates that pass according to the terms of a Will require probate. Probate can be avoided with the use of a Revocable Living Trust.

Nancy R. Larson is an attorney with Harter, Larson & Dodd LLC  
with offices in Belleville and Mascoutah.

The firm has an emphasis on intergenerational planning for estates of people of all ages, and for the concerns of elders and their families.  
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