

WHY IS THE BILL SO HIGH?

By George E. Zola, Esq.
CARLISLE, PATCHEN & MURPHY, LLP
366 E. Broad St.
Columbus, OH 43215
614-228-6135

Unfortunately the question posed by the title of this article is one which we as probate lawyers hear much too frequently. Some clients and beneficiaries of estates believe that if probate is avoided there will be little or no legal work required at the time of death. While avoiding probate will reduce the amount of professional work required to settle an estate, it will not fully eliminate the expense. Too frequently, clients focus on probate avoidance rather than estate organization in an attempt to reduce the legal expenses. The following are several suggestions which can be followed to stream line the administration of an estate and hopefully reduce expenses whether it's a probate or non probate estate.

Maintain a Family Tree

Taking a couple of minutes now to list the names and hopefully addresses of your immediate family members can save considerable time and effort in gathering this information following your death. At the time of death it is necessary to notify all individuals who would inherit property under your will and those who would inherit if you had died without a will. Therefore, given your family circumstances, it may be necessary to notify your brother, sister, niece or nephew whom you have not had contact with in over 40 years. Even worse, it may be necessary to locate a child of a deceased relative. If you have kept this information on a family tree, the executor of the estate would have a starting point in an attempt to locate the proper individuals.

Organize

Organize, organize, organize. Designate a file drawer or binder to maintain copies of important documents. Keep a copy of at least one statement from all financial accounts you maintain including stock accounts, checking accounts, saving accounts, CD's, etc. If you close an account, removing the statement will eliminate contacting the financial institution, only to learn that the account has been closed.

Maintain copies of your last three years of tax returns in a central location. In the event that an estate is audited by the IRS or state, one item they will request is a copy of the last three years' tax returns. The tax returns can

also provide information regarding investments and assets which may not be found on a monthly statement.

Keep copies of your current beneficiary designation forms for all life insurance policies, annuities, individual retirement accounts and 401K plans. If you are leaving a portion of these assets to someone other than a family member who is listed on the Family Tree, a current address or contact information for the beneficiaries will once again reduce the overall cost of administration.

Eliminate Stock Certificates

Some individuals like the security of maintaining individual stock certificates rather than owning the investments in street name through a brokerage house. If ownership is maintained in certificate form, following a death the certificates need to be sent to the transfer agent to be reissued in the name of the beneficiaries. Each transfer agent will have their own forms and procedures regarding the reissuance of the certificates which will result in considerable time being spent to complete the task. If the investments were held in street name, the broker could merely change the ownership on the account or open a new account for the beneficiaries transferring the appropriate securities into the account. Do not overlook your dividend reinvestment accounts if you have made the reinvestment election. You may have a stock certificate for an investment and an additional account maintained by the company to evidence your securities purchased through reinvestment. It is not uncommon for the reinvestment account to be omitted from a list of investments resulting in additional time required to transfer the investment as well as processing minimal dividend checks.

Clean House

Keep only current information regarding bank and brokerage statements, annuities, life insurance, etc. that are still in effect. When searching for assets, the executor will not be able to ignore a beneficiary form for a life insurance policy without contacting the company to determine if the policy is still in force. Discarding unnecessary data can result in lessening expenses.

Unclaimed Funds

When working on an estate we will contact the Attorney General's website to determine if the decedent has any unclaimed funds. There are numerous times where we will spend \$200 worth of time to recover a \$50 asset. The following is the website for the Attorney General where you should review periodically to determine if you have any unclaimed funds in your name.

www.com.state.oh.us

The asset we see most often is for stock in a life insurance company which switched from a mutual company to a stock company.

Titles

Keep copies of your deeds to real estate including any property you may have inherited from another individual. It is costly to locate property in other states, particularly where your ownership may be a partial interest. The titles to all motor vehicles, water craft and modular homes should be available. If you are leasing your automobile, a copy of the lease should be kept with these documents. Additionally, also keep copies of your Certificate of Ownership to all cemetery plots. We have worked on estates where the decedent thought that a burial plot would be provided for them only to learn that the plot did not exist. Plus, we have handled an estate where the decedent owned 10 other plots which we needed to account for and then transfer. Since the original documents had been lost, considerable time was spent corresponding with the cemetery, attempting to retrieve the necessary information.

Unexpected Items

There are some costs which are beyond the control of the client or the lawyer. Unfortunately, some of the individuals employed by banks, brokerage firms, etc. are not well trained. Listening to the advice which they provide can severely impact the options available to the beneficiaries and have a financial cost associated with it. At times we need to educate the bank's employees regarding their products and if they do not agree, then we must work our way up the corporate ladder. In one case the decedent had a CD from a bank which had a branch located in a retirement home. When the beneficiary contacted the bank to redeem the CD following the owner's death they were told the redemption would be subject to an early withdrawal penalty. After several conversations we finally reached a Vice President who realized that enforcing an early withdrawal penalty on a deceased resident at a retirement home could impact their future business with residents in similar circumstances and finally the penalty was waived. Unfortunately, it took lots of billable time to get the penalty removed.

Most attorneys are currently charging based upon the actual time spent on a case, rather than a percentage of the assets in the estate, resulting in a lower fee in most cases. However, with the increase in billing rates for attorneys and paralegals and the increased paperwork required to transfer assets, your executor or beneficiary may still ask: "Why is the bill so high?".

Letters



Dear **Dreamweaver**,

I really enjoyed the Christmas issue of *Dream Weaving*. Thoughtfood always makes me think, cry, or laugh. Laughter is the only medication I can take that doesn't have a bad side effect. I am still busy farming, even though my leg had to be removed. My life has gotten easier now, because I only have one foot to put my sock on, to get cold or to get "going".

- **Lee Oswalt** Mansfield, OH



Loved all the past *Dream Weaving*. I praise **God** that we met, Ron, and that we will move His kingdom forward in His service.

- **James R. Thomas**, Greenville, OH



Great issue! I read it cover-to-cover as soon as it arrived.

- **Alice Sweeley**, Grove City, OH



I'd like to subscribe for *Dream Weaving*. Never saw the magazine, but we'll try it awhile. We don't get read what we get, but we'll try it anyway!

- **Mark Troyer**, Fredericksburg, OH

***Your chance of receiving another
Dream Weaving is shrinking...
unless you are a subscriber!***

*I want to subscribe to **Dream Weaving!***

Enclosed is _____ **\$20 for 6 issues**

or

_____ **\$35 for 12 issues.**

Thanks in advance for your support!

Name:

Address:

*(Make check payable to BEPSU
at P.O. Box 458, Grove City, OH 43123)*