ESTATE PLANNING

Death-Styles of the Rich and Famous

By Alison Arden Besunder

Truth is sometimes stranger than fiction, even beyond anything Hollywood could make up in the movies.

Whitney Houston's death on February 11 prompted much discussion and questions surrounding her estate plan (or lack thereof) and the extent of her assets (or lack thereof). All of the drama surrounding her estate teaches valuable lessons for everyone in overseeing their own estate plan.

As it turns out, Whitney's only child will receive 100 percent of her estate, with the proceeds held in trust to be distributed to her outright in chunks at the ages of 21, 25 and 30. The will was signed in 1993 when Whitney was still married to Robert "Bobby" Brown. Although Whitney had executed a codicil in 2000 (when they were still married) naming her mother as executor, her mother has declined that appointment and Whitney's sister-in-law will serve.

Whitney never amended or re-did her will after she divorced Brown in 2007. He remains named as the guardian of the now-19-year old Bobbi Kristina although it is not clear who will serve as trustee of her trust. And, the will still leaves assets to Brown if her daughter had predeceased her (think of Anna Nicole Smith's will, whose son, Daniel, did in fact predecease her, and Anna had not updated her will to provide for her after-born daughter Danilynn). Moreover, she did the will in New Jersey but never changed it when she moved to Georgia, where her will is being probated.

The fact that all this is publicly known is due to the fact that Whitney – the biggest recording star in history – did not have a living trust, which would have privately administered her assets. Instead, she relied on a will-based plan which required that her will be publicly filed for all the world to see.

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Ironically, Whitney had just emerged as the victor in an estate battle with her stepmother over her father's death in 2002. Her father had secured a $1 million life insurance policy naming Whitney as the beneficiary to secure payment of a loan she made to him. The stepmother claimed, unsuccessfully, that the balance of the proceeds in excess of the loan balance belonged to the stepmother.

Celebrities are notoriously difficult to deal with in general and most likely are psychologically unwilling to face the prospect of their own demise. A number of celebrities have died without completing a will, including: Sonny Bono, John Denver, Jimi Hendrix and Steve McNair. More importantly, celebrities continue to earn long past their death, some of them even more so than in life. Consider that the Forbes top 5 earners in 2011 include three deceased celebrities: the King of Pop Michael Jackson generated $170 million largely from posthumous sales of his music by his own publishing company; the King of Rock n' Roll Elvis Presley generated in $55 million with revenues from Graceland admissions and licensing and merchandising; and Candle in the Wind Marilyn Monroe generated $27 million, primarily from the use of her images in an ad for J'Adore fragrance (Authentic Brands Group recently bought the rights to Monroe's estate last year from residuary beneficiary Lee Strasberg's heirs). And, cartoonist Charles Schulz, who died of cancer at age 77 in 2000, made $25 million in 2011 due to the 1,200 licensing agreements for the Peanuts cartoon characters with Met-Life, Warner Home Video, ABC and Hallmark.

Many celebrities fail to specifically address their intellectual property. As a result, they wittingly or unwittingly pass it to their heirs as part of their residuary estate. Marilyn Monroe, for example, left for the most part the entire balance of her residuary estate to Lee Strasberg. Other important figures of note have left behind interesting legacies. George Washington wrote all 29-pages of his own will, in which he freed his slaves and provided for their children. By contrast, Warren Burger, Chief Justice of the U.S. Supreme Court from 1969 to 1986, wrote his will as he wrote his opinions: with brevity. Burger drafted his own simple one-page, three-paragraph will that (1) directed payment of claims: (2) appointed his executors; and (3) directed his estate distributed one-third to his daughter and two-thirds to his son. Benjamin Franklin, on the other hand, had a lengthy will that wins the prizes for both the most interesting bequest of personal property *and* the most interesting clause effectively disinheriting his son, who wound up on the wrong side of the war from Uncle Ben:

> The king of France's picture, set with four hundred and eight diamonds, I give to my daughter, Sarah Bache, requesting, however, that she would not form any of those diamonds into ornaments either for herself or daughters, and thereby introduce or countenance the expensive, vain, and useless fashion of wearing jewels in this country; and those immediately connected with the picture may be preserved with the same.
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> [...] To my son, William Franklin, late Governor of the Jerseys, I give and devise all the lands I hold or have a right to, in the province of Nova Scotia, to hold to him, his heirs, and assigns forever. I also give to him all my books and papers, which he has in his possession, and all debts standing against him on my account books, willing that no payment for, nor restitution of, the same be required of him,

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by my executors. The part he acted against me in the late war, which is of public notoriety, will account for my leaving him no more of an estate he endeavored to deprive me of.

The deaths of famous individuals can yield significant questions and lessons about estate planning:

Heath Ledger: The passing of the *Dark Knight Rises* star showcases one of the most common estate planning mistakes. When he died his will had not been updated to include his partner, actress Michelle Williams and their daughter Matilda. Instead his estate was left to his parents and sister. Although the Ledgers indicated that they would "do the right thing" and provide for Matilda there are no assurances that family members will in fact do so and, in any event, there are tax consequences. These situations can lead to endless court battles and contestation of wills. Lesson learned: update your estate plan when major life changes such as births, marriages or divorces occur, and at least every three years.

Jerry Garcia: What a long strange trip it's been. Garcia appointed his third wife as the executor of his will, leading to a long legal battle with an ex-wife. In contrast, Michael Jackson appointed neutral, impartial estate planning experts who administer the estate impartially and are skilled in avoiding conflict and defending against legal challenges. Lesson: update your fiduciary selections to prevent unnecessary disputes, or choose unbiased professionals to be the executors of your estate.

Leona Helmsley: Famously leaving $12 million to her dog Trouble, the court struck the bequest to $2 million, rendering a $10 million windfall to the beneficiaries of her pet trust. She also provided for her dog's burial with her, overlooking the legal prohibition in New York of the burial of humans with animals.

Whether you're on the A-list or D-list, proper estate planning is critical for everyone. Clients should be encouraged to revisit their estate plan and beneficiary designations every few years or following a major life change event (birth, death, divorce) to ensure that their documents are in place and continue to meet their needs.

For more fun facts on celebrities and their wills, go to: http://www.willsandtrustslawfirms.com/famous-wills

Note: Alison Arden Besunder is the founding attorney of the Law Offices of Alison Arden Besunder P.C., where she practices estate planning, elder law, and related guardianship and estate litigation. Her firm assists clients in New York City, Brooklyn, Queens, Nassau, and Suffolk. Ms. Besunder is also of counsel to Bracken Margolin & Besunder LLP in Islandia, New York.