

Should You Serve as Executor?

When someone asks you to serve as executor of his or her estate, it is generally meant as a compliment that he or she trusts you to serve in this important role. But don't simply accept the role before you have given the matter serious thought. Not only does the job come with significant responsibilities, but you may find yourself in the middle of family squabbles. Before agreeing to take on the role of executor, consider the following:

Understand the duties involved. They include:

- *Locating and valuing all assets.* This includes dealing with the probate court and filing all required documents; preparing a complete inventory of assets; notifying life insurance companies of the death; collecting money owed from employers, pensions, Social Security, and other sources; and arranging for property appraisals. While the will is in probate, the executor is responsible for maintaining and investing the assets. If a family business is involved, the executor may need to manage or liquidate the business.
- *Paying the estate's obligations.* This includes paying creditors; arranging for the family's immediate living expenses; and preparing and filing all income, estate, and inheritance tax returns. If assets must be sold to pay debts, the executor must decide which assets and when to sell them.
- *Distributing the estate.* The executor must decide when and how to distribute the estate's assets to the heirs. The executor may find himself/herself resolving conflicts among family members. After the assets are distributed, a final accounting must be prepared for the court.

Look for potential problems. In most situations, executors perform their duties with no problems. If any of the following situations apply, however, you might want to decline from serving as executor:

- *The person is unwilling to show you his or her estate documents.* Without knowing all the details about the estate, you can't determine whether heirs may disagree or whether the estate plan is more complex than you are comfortable handling.
- *An heir is disinherited or heirs receive substantially unequal distributions.* While it is certainly within the person's rights to disinherit an heir or make unequal distributions, those situations are more likely to lead to court battles. You should decide whether you want to get involved in that situation.

- *The person isn't well organized.* One of your primary duties is to track down, manage, and distribute assets. If the individual doesn't have his or her affairs well organized, you could spend excessive time hunting for documents and assets.

Take safeguards. If you decide to serve as executor, try to protect yourself by taking these steps:

- *Ask the person to limit your liability.* Executors can be sued by heirs. Make sure your liability is restricted unless you commit "gross negligence."
- *Make sure you can hire an attorney and/or accountant.* Be sure to use those professionals to help you with your duties. The use of professionals will also help limit your liability, since they will be more familiar with the process and can help you perform your duties appropriately.

The Law Office of Eugene Gorrin, LLC
17 Watchung Avenue, Suite 204
Chatham, NJ 07928
973.701.9300
egorrin@gorrinlaw.com
www.gorrinlaw.com