

Characteristics of a Good Executor

Conrad Black is said to have told his shareholders that if they didn't like the way he ran their corporation, they could sell their shares. Whether there is any truth to this is not known to me personally, but what is commonly known is that when Conrad Black ran a corporation, he was definitely the one boss in charge and he was clearly not seeking to win any popularity contests.

In my last article, I suggested that administering an estate was a lot like running a corporation and that in my view it was important to have one boss in charge. But being the boss does not mean one should take a dictatorial approach. Quite the contrary.

Executors sometimes allow the power that goes with the position to get the better of them. They don't share information. They refuse to communicate with beneficiaries. They don't consult on matters that might be sensitive to one or more of the beneficiaries such as whether to sell the family homestead and if so, to whom. And because wills are usually crafted to permit the executor a great deal of discretion, the executor might be well within their legal rights to do so. But in my view there is more to being an executor than just compliance with the law.

Estates are almost always administered in the context of a surviving family. Although the deceased has passed away, the family lives on. It's safe to assume that in most cases the deceased wanted the family relationship among the survivors to be preserved. A person does not go to his or her grave indifferent to the relationships among the people they have left behind or how those relationships will continue after their death. A person might say flippantly, "I'll be dead, so it won't matter", but I don't think that's what people genuinely believe, and certainly not those who have taken the time and expense to make a will.

Executors should be mindful that they occupy a position of trust and that part of that trust is, I think, to ensure that to the extent possible the relationship among surviving family members is preserved. That means executors should exercise their powers with sensitivity and diplomacy. They should be communicative. And above all they should be mindful of how their actions and decisions will affect continuing family relationships. Many a family relationship has foundered on the shores of a poorly administered estate. Sometimes the damage is permanent.

I am worldly enough recognize that it is not possible to please all of the people all of the time. Occasionally, you come across a beneficiary who just cannot be satisfied. I think we've all met people like this. In such situations, it is unrealistic to expect the executor to do their job without stepping on a few toes. But it is for this reason that executors are empowered with the ability to make executive decisions. Sometimes a decision just has to be made. Fortunately, intransigent

people are in the minority and executors are rarely forced to rely upon their discretionary powers to get the job done.

A good executor is someone who is empathetic, considerate, and compassionate but who is at the same time decisive, efficient, and effective. A good executor is someone who can command the respect of the beneficiaries before, during, and after the administration of the estate. A good executor is someone who will work to preserve the family relationship when it is all over. No one said being an executor was easy. And neither is picking one. Would you want a Conrad Black as your executor?