

Wills of the Rich and Famous

After Michael Jackson died on June 25, 2009, it didn't take long for copies of his will to hit the internet. Being that I have an interest in things relating to wills & testaments, I decided to have a look.

So who stands to inherit all of Michael Jackson's money? The will doesn't say. The will says only that Michael's entire residuary estate (ie. everything he has) is to be added to the Michael Jackson Family Trust which he created some years ago. All such assets of that trust are to be held, managed and distributed according to its terms. The terms of the Michael Jackson Family Trust are not part of the public record.

This estate planning technique is known as a pour-over trust and is of interest to those who are concerned about privacy following death. A person implements such an arrangement by creating a trust during their lifetime. Often, only nominal assets are settled into the trust at first, the true purpose of the trust being to await the receipt of the person's estate upon their eventual death. The person then writes a will leaving everything they have to the trust they created. Following the person's eventual death, the trustees of the trust receive the property of the deceased's estate and distribute it according to the terms of the trust document. The detailed provisions about who gets what and how much are contained in the trust document, not in the will, so the details of who gets what and how much never have to form part of the public record.

Pour-over trusts have a long history. They have been used throughout history to permit a person (usually a man) to leave gifts to an illegitimate child. By making provision for the child in a pour-over trust, the terms of which could be kept secret, the man could go to his grave knowing he made provision for the child without embarrassing the family name. Only the trustee would know the details of the arrangement and, having been carefully selected, the trustee could be trusted to keep those details private. (One wonders whether in the modern era of dependent's relief legislation and DNA testing, this particular use of the pour-over trust continues to have any relevance. Probably not.)

Pour over trusts do not provide complete privacy protection. In most jurisdictions, the executor must still file an inventory of the assets and debts as of the deceased's date of death. This inventory, once filed, forms part of the public record and could in some cases at least make for interesting reading. I'm sure there are people out there somewhere who are waiting with bated breath to find out how much money Michael Jackson owed on his various credit cards and charge accounts. His pour-over trust arrangement may not protect these details from public inspection.

Most of us are happy to live in anonymity such that upon our deaths, no one will be inclined to find out the details of how much money we have, how much money we owe, and who gets what we have to leave. Although the information would be available to those inclined to go ask for it, chances are, no one would, because it wouldn't be all that interesting. But if you are a person who is concerned more than most about matters of

privacy, there are steps you can take to organize your affairs to keep them private. Even after your death.