

Estate Planning Lessons from Michael Jackson

By: Randall A. Denha, Esq.**

For a guy who dangled a child over a balcony, wore a mask, squandered millions, consorted with chimpanzees and dressed like a Christmas nutcracker, Michael Jackson did something surprisingly sensible before his death.

He set up a very smart estate plan.

Jackson's will provides for the care of his loved ones. A separate document gathers his assets — said to be over \$500 million, exceeding his debt by about \$200 million - into a pour-over trust, ensuring that his affairs stay out of the courts and out of the public eye.

Here's what you can learn about estate planning from the King of Pop.

Write a will.

A no-brainer? Actually, about **two-thirds of Americans neglect** to take on this basic estate-planning chore, allowing a probate court to divide their assets by default according to state law. Had Jackson failed to do what many in our community have failed to do, his property would have been split among his three children, as dictated by California law. Instead, he divided it the way *he* wanted to, reportedly leaving 40% of his estate to the kids, 40% to his mother, Katherine Jackson, and 20% to charity.

Jackson avoided potential misunderstandings by citing each of his children by name and by specifically excluding his former wife and mother of his two older children, Debbie Rowe, from any inheritance. That exclusion may not have been necessary, because the couple were no longer married, but it makes clear that Jackson purposely omitted her, rather than committing an oversight.

Consider a living trust.

Along with a will, Jackson established a living trust, also called a revocable trust. As you already know from dozens of past articles written, this estate-planning tool lets you transfer all your property, including personal property, autos, business interests, bank accounts and real estate, into a separately owned entity—in Jackson's case, the Michael Jackson Family Trust--while maintaining control as trustee. At your death, control transfers to your designated co-trustee or successor trustee. Most people, including Jackson, set up their will to "pour over" so that whatever property remains outside the trust at their death eventually is added to it.

The beauty of a living trust for some is that the assets it holds at the time of death avoid probate, a public process. Avoiding probate makes sense for all of us with assets or property in more than one state because it spares heirs the aggravation of a prolonged legal process.

Name a guardian.

In writing his will, Jackson created a legal framework for naming a guardian for his children, all of whom are minors. Without that document, the state—not Jackson-- would have made the choice about who would raise the kids. Jackson selected his mother as primary guardian and singer Diana Ross, his longtime friend and mentor, as backup. Although the court has to sign off on the selection, most judges abide by a parent's wishes unless there is a compelling reason not to do so.

One big reason: The other biological parent demands custody. Unless such biological parent is deemed unfit or has given up parental rights, the court is going to favor the surviving biological parent. Deborah Rowe reportedly gave up her parental rights several years ago and later petitioned to have them reinstated, leaving the legal picture murky. She has yet to say whether she will seek custody. (The third child's mother, a birth surrogate, has not come forward.)

As far as naming the right guardian, most lawyers would recommend that parents go with a trusted friend or relative who is reasonably close to their own age and circumstances. In choosing his 79 year old mother, Jackson chose trust and continuity over relative youth.

Assemble a good team.

Known as an astute businessman, Jackson named a top-notch lawyer, John Branca, and a savvy business executive, John McClain, as co-executors of his will and co-trustees of the family trust (a third representative dropped out before Jackson died.)

By relying on these and other experts, Jackson improved the odds that his wishes would play out. Bottom line: A good estate plan is very important and he put one in place prior to death.

Can you say the same thing?

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