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HOW TO FIX A PROBATE MESS: CASE STUDIES

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Probate is an odd business. There are long waits punctuated by firm deadlines. The rules and forms can be daunting, confusing, and intimidating. As advisors, it is easiest for us to start a probate from the beginning, but we have found our clients much more appreciative when they hire us mid-stream after things become clouded and unclear.

Probate need not be scary, but it is inherently slow. A quick probate takes 6 months. A more typical probate takes one or two years. A long probate can continue indefinitely. Probate begins when a personal representative or PR (the modern term for 'Executor') first appears at the courthouse, produces the will to the court and swears to faithfully execute their duties to administer the estate. These duties are to protect the assets, pay off debts, and divide the estate according to the terms of the will.

After the initial trip to the courthouse, a PR deals with a court-appointed Commissioner of Accounts for the remainder of the process. Filings of notice to the heirs, inventories of the estate, and accountings are due at certain intervals. The estate is closed only after the Commissioner approves the final accounting; at that point the books are closed and the PR is no longer liable for estate assets.

Many PRs are surprised to discover that they have personally guaranteed the assets of the estate. Out of state PRs must buy an insurance bond to cover this liability. Local PRs for whom the court waives bond still have promised to pay for any missing funds from their own coffers. Thus said, being a PR is a serious duty and a lot of work.

Below are some examples of how we have been able to help our clients get out of their Probate messes. To protect the privacy of our clients, some details have been altered in each case study.

Mess One: Overwhelmed Executor. A few years back, Lily came to my office the week before Christmas. She had lost her husband, filed the initial paperwork, and then found herself so overwhelmed with stress and grief that she had not been filing the necessary paperwork. At the time of our meeting, I saw that the next required filing could not possibly be finished by the due date (the next week) but I wanted to help. I took the case, got her an extension, and was able to take this poor widow from a place of great stress to full relief upon completion of the Probate by the following fall.

Mess Two: More Debts Than Assets. Sally came into my office looking depressed. She had lost her husband and discovered he owed over \$75,000 in credit card debt she had not known about. I was able to help her administer the estate and have the court write off the lion's share of the liabilities. She was thrilled.

Mess Three: I Can't Handle The Accounting. Wally, a young professional, came into the office looking frazzled. "I agreed to take care of my Aunt's estate, but I had no idea how much time it would take." He had begun the process just fine and was certainly sufficiently intelligent and organized enough to do the work

himself, but he had simply not counted on the amount of time it would take to keep track of all the invoices, receipts, statements, and copies of checks. He hired us to take care of the accounting for him and we made sure everything was filed in order and on time. He stayed in control, but left the paperwork and onerous details to our office.

Mess Four: I Just Don't Want To Do This Anymore. Sam came into our office looking tired. He had agreed to take care of his father's estate out of a sense of fealty and family but never had an interest in nor aptitude for paperwork. His siblings constantly complained about every expense, action, and delay. He wanted to quit as executor. I told him he could not quit unless we balanced the books and got the Commissioner's approval. What he did instead was hire us to clear up the accounting, direct communication within the family and close out the estate faster than he thought was possible. By engaging our office, he was able to fulfill his obligations while ridding himself of the frustrations of paperwork and family in-fighting.

After agreeing to serve as an executor, one often finds oneself overwhelmed and confused. Know that help is only a phone call away from professionals who can guide you through this often murky process and provide you with peace of mind.



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About the Author:

Dan Gasink is an experienced problem solver who helps individuals and businesses achieve and protect their goals of prosperity, stability and growth through appropriate planning. Dan takes great pride in making sure that his work for clients is always reliable, correct, and on time.

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