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Celeb Deaths Offer Estate-Planning Lessons



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By Will Swarts
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IT'S NOT OFTEN the lives of celebrities mirror the day-to-day existence of the masses, but the messy fallout from the deaths of James Brown and Anna Nicole Smith offers lessons about common estate-planning mistakes that affect millions of people every year.

The Godfather of Soul and the goddess of over-the-counter dietary supplements left tangled, well-publicized legacies for their heirs. While members of the mass-affluent investing bracket — people with between \$500,000 and \$3 million in investable assets — may not be grappling with the same sorts of numbers as Brown's and Smith's families, the underlying problems can be similar. Both celebs, each of whom had complex personal issues that's fodder for tabloids, illustrate the imperatives of having a thorough estate plan that leaves a clear legacy rather than a series of legal and bureaucratic tussles.

For Martin Shenkman, an estate-planning attorney in northern New Jersey, Brown's death — and the unseemly public squabbling that preceded his eventual burial — inspired him to offer his clients some pointed advice in his monthly newsletter.

"Clearly written legal documents (wills, trusts and more), proper ownership of assets, and a plan that addresses real issues — not just legal technicalities — can avoid the problems that appear to have so quickly affected Brown's estate and memory," Shenkman wrote. That applies to younger people starting families, or older people who want to ensure an orderly transfer of wealth.

This may sound like a topic best avoided, but that's exactly the sort of thinking that causes problems for survivors, usually at a time when families want to focus on grieving the loss of a loved one rather than bickering over the disposition of the estate.

Cal Brown, vice president of planning at Monitor Group, a McLean, Va., wealth-management firm, frames it as a question of probability, and makes basic estate planning part of his initial client consultations.

"It may be uncomfortable to contemplate, but the odds are pretty clear," Brown says. "This isn't like blackjack or roulette. It's a 100% proposition."

To get started, take inventory and make some basic decisions *before* devising or revising a plan with an attorney, who'll charge hundreds of dollars an hour to do the same work, suggests Dan Prebish, a vice president at A.G. Edwards & Sons and manager of the investment firm's estate-planning group.

"You might want to start by contacting your financial advisor or CPA, someone who can help organize what you have and put it into a net worth statement," Prebish says. "You don't want to pay a lawyer to sort through a shopping bag of statements you've brought in. Before you go to the lawyer you want to be somewhat organized. You don't want to sit around for two hours deciding who to designate as your minor children's guardian."

Once you've covered the initial steps, an annual update allows your advisors to stay on top of changing circumstances and take steps for advanced planning.

Drafting a will, describing all familial relationships and your intentions regarding those people and your assets, spelling out

instructions for medical care if you're not able to communicate your wishes and assigning a power of attorney to someone to carry out your plans are among the pillars of basic estate planning¹, but that's just the beginning if you're sitting on considerable wealth.

One vital move, particularly for mass-affluent investors, is ensuring the beneficiaries of work 401(k) and stock-option plans, individual retirement accounts and insurance policies are lined up with the names in your will. If you've named a primary beneficiary, check to make sure there's a secondary beneficiary as well. Spell out who has the power-of-attorney to manage those accounts, but make it clear that person isn't empowered to change your designated beneficiaries, Brown advises.

"It's a very common, practical issue," says Prebish. "Even people who have a will or a trust have beneficiary designations that aren't consistent with their estate plans. Those always override what's in your will or trust."

Setting up the appropriate types of trusts for your surviving family members, from your spouse to your grandchildren, and making tax-free gifts to them will help clarify your intentions and reduce the tax burden² on your estate. Federal rules allow annual gifts of \$12,000 a year — money that the government won't touch when estate taxes are assessed. It's not difficult, but it's important, says Shenkman.

"These people, the mass affluent, are at a level where it's dangerous to ignore the tax issue," he says. "On the one hand, they can't afford to give away millions of dollars, because they'll need it for retirement, but you do have to have a plan to reduce taxes."

Brown says that pending changes to federal tax laws increase the necessity of updating your estate plan annually, as do changes in your family makeup. Not adjusting for these changes, as appears to be the case for James Brown — who left six adult children as well as a five-year-old son with a longtime partner who may or may not have been his fourth wife — left an estate with problems the size of the singer's achievements.

"Some of this stuff may sound boring or insignificant, but once a year — we recommend the holiday season, because it's family time — sit down with these documents and go through them, then make changes with your advisor," says Brown. "It can save months and months of heartache."

Links in this article:

¹<http://www.smartmoney.com/estate/>

²<http://www.smartmoney.com/estate/index.cfm?story=estateplan2004>

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