

Estate Planning Lessons From James Gandolfini

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The latest celebrity to demonstrate the importance of estate planning is “Sopranos” star James Gandolfini, who died last month in Rome at age 51. According to reports, much of Gandolfini’s \$70 million estate will go to pay taxes, something that could potentially have been avoided, or at least mitigated, with better planning.

That’s a lesson the rest of us can apply to our own lives, says estate lawyer Russell Fishkind, author of the book “Probate Wars of the Rich and Famous.” Fishkind argues that celebrities really are just like us, even in death. For example, Anna Nicole Smith’s heirs argued over the care of her daughter, one of the most common sources of tension in families filled with multiple marriages and relationships.

Michael Jackson avoided a lot of trouble for his estate by selecting executors outside the family to manage it, but by choosing his aging mother to serve as the guardian for his children with Diana Ross as a back-up, he created uncertainty about what would happen if his mother dies before his youngest child is an adult. Would the children uproot their lives with family to live with Ross?

“Families turning their backs on each other and the value of the estate being diminished by legal fees—that is not just stuff that happens to celebrities,” Fishkind says.

Here are six mistakes that celebrities make, along with lessons the rest of us can learn from them:

1. Choosing inappropriate guardians. While Fishkind doesn’t doubt that Michael Jackson’s mother loves his three children and works hard to care for them, he questions whether she should have been selected as their primary guardian. “If grandma dies, [the children] have to go across the country to Diana Ross to someone who’s not a family member. It’s just not well thought out,” Fishkind says.

The lesson: Pick a guardian who is willing and able to care for children until they are adults.

2. Failing to update estate plans and account for complicated family situations. Divorces, second marriages, new children—family changes have a big impact on the flow of money after death, but people often forget to update their estate plans. Anna Nicole Smith’s situation was complicated by the fact that her teenage son died shortly before her, and she had also recently given

birth to a baby daughter. “The vast majority of cases being filed involve second marriages and children from a prior marriage,” Fishkind says.

The lesson: Estate planning attorneys generally recommend that celebrities and non-celebs alike update their estate plans after every major life event (including marriage, divorce, and births), and at least every three years.

3. Having scattered financial accounts. People often have multiple bank accounts, investment accounts, insurance policies and assets, and that can complicate matters for those trying to make sense of an estate. For someone who runs a business, that task gets even more complicated. “Michael Jackson was his own family business. He had memorabilia, the rights to Beatles’ songs, royalties to albums... Any time someone has a business, you have to ask, ‘What happens when you die?’ How do you allow the business to continue?” Fishkind says.

The lesson: Get organized. “The best place to start is to gather information, from life insurance policies to income tax returns to stocks and mutual funds,” Fishkind says. Family members often don’t know where money is or how to access it.

4. Appointing an executor with conflicts of interest. This is one area where Jackson made a smart move, says Fishkind. Instead of naming his mother or father as executors of his estate, he named professionals he had long worked with, which avoided a conflict of interest. “That’s one reason you’re not hearing much about the estate in the news now. His executors really do have a skill set that enabled them to administer the estate efficiently,” Fishkind says.

The executors have had to defend as well as prosecute lawsuits against people improperly using Jackson’s name, as well as account for Jackson’s estate and trusts for his children. Since some of his estate was inherited by his mother, she would have been conflicted if she served as executor as well, Fishkind adds. Grateful Dead guitarist Jerry Garcia, for example, named his third wife as executor of his estate, which led to conflicts between her and other family members after his death.

The lesson: Choose an unbiased person, such as a lawyer, to be the executor. (The executor does not need to be a financial or legal expert, but such expertise can certainly help.)

5. Paying too much in taxes. For all he did right, Jackson erred in failing to prepare his estate for Uncle Sam, Fishkind says. He was a highly paid star since childhood, so he could have taken out a huge life insurance policy as a young man and put it in a trust, or he could have put the rights to the Beatles songs into an LLC and given them to his children over time, which would have frozen their value.

The lesson: Anticipate estate taxes in advance and try to minimize them through tools such as trusts or gifts to heirs.

6. Diluting their legacy. “Estate planning that’s done well fosters your legacy, so people can remember you. When you don’t go through the estate planning process properly, people start fighting and saying terrible things. Lost in all that arguing and lawyering is [the deceased’s] legacy and spirit. It gets trumped by the ugliness of litigation,” Fishkind says.

The lesson: “Plan, plan, plan,” he says.