

Problems of Probate: Access to Assets

Recently, I received a call from a client, who is named as the Executor of his mother's estate, and is attempting to settle his mother's estate through the probate process. He has run into some of the problems of probate: where and how to access all of the assets. His mother once worked as a teacher for the Commonwealth of Virginia. Then she moved and worked for many years for the State of North Carolina. The problem is that no one in the family is certain whether she has any retirement assets that are being held by the Commonwealth.

Because of privacy concerns, confidentiality waivers must be signed for many financial matters these days. My client's mother had likely not known to, and likely had not signed any such waiver, before she passed away. Thus, the retirement system for the Commonwealth of Virginia would not give my client any information about whether his mother has any retirement assets currently being held by the Commonwealth's retirement system.

The Executor is attempting to settle his mother's probate estate in North Carolina without having access to all of the relevant information about his mother's assets. Now, he must incur the expense and delay to hire an attorney to represent the estate in order to find out the necessary legal hoops that must be overcome in order to make an accounting of all of his mother's assets for purposes of probate.

Developing a legal estate plan should include generating and maintaining an accurate listing of all of your assets and liabilities in an easily accessible place. If your Executor does not have a complete and updated listing of all of your financial information, they will likely hit a major roadblock on the road to settling your estate.

You can help to make your Executor's job a bit easier by taking the time to create an **inventory** (see example [here](#)) of all of your financial information, and keep this inventory in a safe place. It is a good idea to keep this inventory with your last will & testament so it is easily accessible to your Executor.

You could even create a small **folder** with a **current statement** for each of your bank accounts, and other financial institutions, along with recent retirement/investment statements from DFAS or other financial institutions. Putting your active life insurance and/or annuity policies, or a recent statement showing you have life insurance coverage, in this folder is also very helpful. These statements may be very outdated by the time this folder is used, but it will give your Executor a snap shot of your assets, along with valuable policy information and account numbers.

It is a good idea to review your estate plan, and this inventory and asset folder every few years to ensure it is up to date. Nothing may have changed, or you may have the benefit of updating the information to make it a little easier for your Executor to settle your estate.

BYLINE: The author, Ms. Jane Hansch, is a Legal Assistance Attorney with the Fort Lee Office of the Staff Judge Advocate.