The Hand from Beyond the Grave...

MANAGING YOUR DIGITAL PROPERTY IN THE AFTERLIFE

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Digital Assets

• What are digital assets?
• Value of digital assets
• What could happen if your clients don’t think ahead
• Steps to recommend to clients to avoid emotional pain and suffering involved in dealing with these issues
What are Digital Assets?

- Anything on your computer, tablet, iPhone – yes, even your wristwatch!
Types of Digital Assets

• Personal
• Social Media
• Financial Accounts
• Business Accounts
• Domain Names
• Blogs
• Loyalty Program Benefits
What are Digital Assets?

- Paying for things online... Etsy, Amazon, iTunes, PayPal, Google Play, GoogleBooks, eBay, overstock.com, HEB (yes!), taxes, etc.
What are Digital Assets?

- Communicating or storing things online... Email, Blogs, Websites, Dropbox, Google Drive, etc.
What are Digital Assets?

Handling health issues online... TexFlex; Caremark; Blue Curse/Blue Shield, etc.
Other states are thinking about this...
Other economic sectors are thinking about this...
Why Plan for Digital Assets in your Estate Planning?

• Easing stress for executors and family members
• Prevent identity theft
• Prevent Loss to the estate
  • Bill payment
  • Domain names
  • Encrypted files
  • Virtual property
• Avoid losing the deceased’s personal story
• Prevent unwanted secrets from being discovered!
• Prepare for an increasingly information-drenched culture
User Agreements

• Terms of Service
  • Facebook, iTunes, PayPal, Instagram, etc.: It is a violation of their policy to log into another person’s account

• Ownership
  • Some companies do not allow a transfer of interests (i.e. Yahoo). Once the owner dies, that is it.
The purpose of UFADAA is to vest fiduciaries with the authority to access, control, or copy digital assets, while respecting the privacy and intent of the account holder. This uniform law address four types of fiduciaries:

1. personal representatives (also known as executors) of a deceased person’s estate;
2. conservators (also known as guardians) for a living person;
3. agents acting under a power of attorney; and
4. trustees of a trust.
What Executor’s Duties Can Include...

• YEARS AGO
  • Identify assets & debts
    • Search of the decedent’s records, accounts and bills
    • Identified through stored records or subsequently received mail
  • Pay the decedent’s liabilities and debts
  • Distribute the decedent’s assets

• TODAY
  • All this and more!
    • email, smartphones, computers, online accounts, photo-sharing & social media accounts
    • However, because of laws and user-service agreements, our heirs may have trouble...even if they have the passwords!
    • Paper trail harder to follow...
PLANNING SUGGESTIONS

• Specify disposition according to provider’s instructions
• Back up tangible media
• Prepare comprehensive inventory of digital assets
  • Creation
  • Storage
• Provide immediate access to digital assets
• Authorize agent to access digital assets
• Place digital assets in a trust
• Use online afterlife company
Basic Language

• DISPOSITION OF ESTATE

• B. Digital Assets. My executor shall have the power to access, handle, distribute & dispose of my digital assets

• DEFINITIONS AND INTERPRETATIONS

• C. “Digital Assets.” “Digital Assets” includes files stored on my digital devices, including but not limited to, desktops, laptops, tablets, peripherals, storage devices, mobile telephones, smartphones and any similar device which currently exists or may exist as technology develops or such comparable items as technology develops. The term “digital assets” also includes but is not limited to emails received, email accounts, digital music, digital photographs, digital videos, software licenses, social network accounts, file sharing accounts, financial accounts, domain registrations, DNS service accounts, web hosting accounts, tax preparation service accounts, online stores, affiliate programs, other online accounts and similar digital items which currently exist or may exist as technology develops or such comparable items as technology develops, regardless of ownership of the physical device upon which the digital item is stored.
What can you do with your estate?

Step 1:
- Identify & inventory digital property

Step 2:
- Identify appropriate help/appoint a trustee

Step 3:
- Provide for access
What can you do with your estate?

Step 4
• Provide instructions

Step 5
• Drafting of documents
So how do you gain access?

**USE A SECURE ONLINE SERVICE**
- 1Password
- mSecure
- LastPass
- KeePass
- PasswordBox

**CREATE YOUR OWN DIGITAL LOCKBOX**
- Create an Excel spreadsheet and secure the password (review/protect & share)
- **Pros**: quick, easy, cheap
- **Cons**: If you work from more than one computer it can be challenging.
I’ve Taken Care of It! Really?

AFTERLIFE MANAGEMENT COMPANIES

- Asset Locker
- Dead Man’s Switch
- Great Goodbye
- If I Die
- Legacy Locker
- My Wonderful Life
- Slightly Morbid
Dealing with Digital Assets After a Loved One’s Death

• Do NOT Close accounts right away
• Do NOT Delete anything yet
• Change Passwords
• Copy and Secure all Hard Drives, Flash Drives and Data
• Copy and Secure all Websites, Online Accounts, Financial Info and Client records
• Remove Credit Card info from Online Shopping Accounts
• Notify Friends and Family (check contact lists, emails, social media)
• Get Technical and Legal help as needed
The Future

Connecticut, Indiana, Rhode Island, Oklahoma, Idaho, Virginia, Nevada

Have all developed digital estate laws
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