

What Can I Do If Executor Abuses Estate?

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If an *Executor* fails to properly administer an estate, it can have severe repercussions for the beneficiaries. An Executor has broad authority to control all aspects of an estate. When an Executor acts improperly, it can delay settlement of the estate and diminish the value of the estate's assets. If you are a beneficiary of an estate that is being damaged by an Executor, you have rights and can take action to enforce the estate and the executor's obligations.

Beneficiaries need to be aware that even simple problems, such as an Executor's failure to take timely action, can substantially damage an estate. I will provide a hypothetical estate to help demonstrate these problems. Suppose an estate consists of the following assets: (i) a car; (ii) a house worth \$650,000; and (iii) financial accounts worth \$2,000,000. If the Executor fails to list the house for sale, the estate incurs unnecessary property taxes, utilities, and operating costs. The homeowners and automobile insurance policies have to be transferred into the name of the estate, and failure to properly update the insurance coverage may jeopardize coverage. The house and the automobile have to be secured and sold. Failure to take these basic actions places estate assets at risk and incurs unnecessary costs.

The Executor is responsible for filing and paying income taxes and paying property taxes on the house. If income and property taxes are not paid on time, they accumulate interest and penalties. In addition, New Jersey imposes a lien for the collection of New Jersey Estate and Inheritance Taxes.

Using our hypothetical estate as an example, the Executor would have to file and pay these taxes before the liens are released by the State of New Jersey. Until the liens are discharged, the beneficiaries will have limited access to the estate's assets.

In more serious cases, Executors engage in misconduct that affects the value of the estate. We have seen situations where an Executor:

- Refuses to probate the decedent's Last Will and Testament;
- Fails to make distributions;
- Misappropriates estate assets;

- Refuses to account for assets taken during the decedent's lifetime;
- Lives in a residence owned by the estate without paying rent; and,
- Allows estate property to pass into the Unclaimed Property Fund.

These problems are very serious and costly for the beneficiaries, particularly where no action is taken.

Beneficiaries have rights and do not have to suffer through an improper estate administration. Executors are subject to court oversight including accountings, time limitations, sanctions, and removal. The nature of the remedies depends on the specific problems caused by the Executor. Until action is taken, the losses often grow worse with time. The first step is to know your legal rights, and the available options, so you can take the most effective course of action.

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