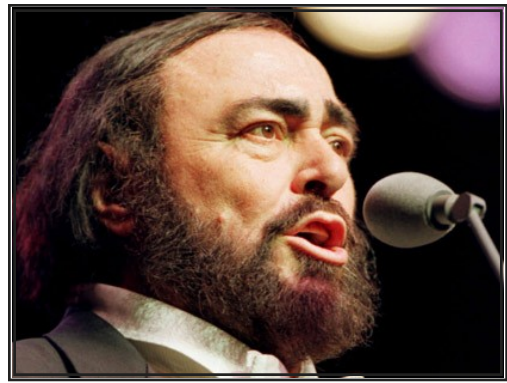


ESTATE PLANNING

of The RICH & FAMOUS



PAVAROTTI'S PLANNING PREDICAMENT

In conjunction with the last issue's *Lessons from Leona*, we continue our series on "Estate Planning of the Rich and Famous" with Pavarotti's Planning Predicament.

Luciano Pavarotti's voice was enjoyed by nearly everyone. Unfortunately, the world lost Pavarotti September 6, 2007. Pavarotti, like many individuals, finalized his affairs in the last months of his year-long battle with cancer. Planning an estate and preparing a Will is something most people do not enjoy, but such planning is necessary to ensure that a person's final wishes are carried out as smoothly as possible.

Because Pavarotti owned property in the United States and Europe, he executed two Wills. His first Will was dated June 13, 2007, and was executed in accordance with Italian law and intended to deal with property in Italy. Pursuant to that Will, half of his assets were to be distributed to his wife, Nicoletta Mantovani, and half of his assets were to be distributed to his children from his two marriages (three adult daughters and one minor daughter).

Alabama does not recognize partial revocation of a Will by physical act. This means an individual cannot simply mark through a single provision to remove a beneficiary.

His second Will was dated July 29, 2007. This document was intended to govern his United States assets. According to the second Will, he left certain New York apartments in trust, with his wife, Mantovani, in charge of managing the trust. It is estimated that the two Wills govern a \$250 million fortune (although his adult daughters have made comments indicating his estate is not that large). There have been accusations that the second Will was improper.

Regardless of the size of an individual's estate, certain lessons can be learned from Pavarotti's Wills and unfolding estate administration. First, if an individual owns property in two countries, it is important that the probate law for both countries be reviewed. In some cases, it may be necessary to have a lawyer in each country prepare a Will and to make

sure the lawyers are communicating so the Wills are consistent and can be administered together. The United States has entered into treaties, including conventions with many other countries, to help alleviate inconsistencies between different countries' laws.

Second, even if an individual does not own property in two countries, it is important that amendments, addendums, or supplements to a Will are executed with proper formality and work in connection with the underlying primary document. If there is a chance for any misunderstanding, it is best to clearly explain in the documents themselves the testator's intent to help the executor and the beneficiaries understand how all of the documents are intended to work together. It is important to make it clear in the addendum whether the amendment or codicil replaces the previous provisions, adds to the previous provisions, or deletes the previous provisions.

An issue that can arise, especially in Alabama, is an attempted partial revocation of the provisions of a Will. Alabama does not recognize partial revocation of a Will by physical act. This means an individual cannot simply mark through a single provision to remove a beneficiary.

Instead, the beneficiary removal must be carried out in accordance with Alabama law, which requires the formalities of executing the Will -- i.e., a separate written document with the appropriate number of witnesses, etc. Without proper revocation of a provision in a Will, beneficiaries will be left wondering about the testator's intent, and the Will may be carried out contrary to what was actually intended.

Pavarotti's estate demonstrates that even with advisors involved, terms can conflict, and miscommunications and misunderstandings can arise. Both his Wills demonstrate the importance of clearly stated provisions along with a clear understanding of how all the documents work together.

As a side note, the story may become even more complex as people speculate that Pavarotti's first wife of 35 years may make a claim for assets. The Wills left nothing to her, but it is reported that they reconciled their friendship before his death.



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