APPLETON TIMES

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APPLETON TIMES | MAY 2019

WELCOME TO THE FOUNDING EDITION OF THE APPLETON TIMES

Formerly Warwick Trust and Estates, Appleton Fiduciary Services administers in excess of R17 billion of Will value for its over 8,000 clients.

Commencing in May 2019, we will be sending you a brief summary of important issues relating to Wills and Estates, designed to assist you plan better and to ensure your peace of mind and that of your family and in time, beneficiaries.

The Appleton Times will also serve as a platform for you to communicate with Appleton and for us to respond to any queries or clarifications you require. All questions and queries will be dealt with in the utmost trust and confidence, but we would also welcome questions of a more general nature that we can respond to for the benefit of all readers.

We will also update readers on any relevant changes in legislation, regulation, estate and tax matters that may be of relevance to Wills and Estates.

As sensitive as it may be, the clear, thoughtful and accurate drafting of a Will is arguably the most important financial document you will sign in your lifetime. Paradoxically, you will never see the benefits of a well-drafted Will, but your family and beneficiaries will.

The skilful drafting of a Will is not just a key element of financial planning but, in fact, a living gift to your beneficiaries. Conversely, dying without a Will, or intestate, is a potential recipe for financial chaos, dispute, litigation and familial strife.

You may recall that, late last year, the world mourned the sad loss of beloved Aretha Franklin. As somebody said of her, she had a voice that was borrowed from heaven and brought down to earth for our enjoyment. Who could ever forget songs such as ‘Say a little prayer’, ‘Natural woman’ and of course, ‘RESPECT’? Perhaps only after her passing did the true stories begin to emerge of her difficult childhood, upbringing and adult life. Then, out of the blue, we read that the great diva died intestate. In other words, despite being one of the greatest singers of the modern era and amassing considerable wealth, Aretha Franklin left her financial affairs in a mess. So, while her musical legacy is unbridled, the financial legacy she left her loved ones was memorable for all the wrong reasons.

Time to reflect then that, no matter the hand that life deals you, or indeed how successful you have become, you have an obligation to yourself and your family to put and keep your financial affairs in order, primarily through a well-drafted Will.

So, before reading any further, please ask yourself, when did I last update my Will, have my circumstances changed substantially since then and have I informed my heirs and beneficiaries of all relevant information? If your Will is with Appleton (formerly Warwick Trust and Estates), we will have a copy of your Will and keep an original in safe custody, off site for you. So, if in doubt, simply give us a call and we can arrange for an update for you.

If you are unsure about any of these basic questions, please simply call Appleton (formerly Warwick Trust and Estates) on our Toll-free number 0800 50 60 70 and we will ensure you receive top-class service.

On-line correspondence has its place, particularly with the emergence of Fintech and AI, but with respect to Wills and Estates, our recommendation is that you liaise with your Wealth Specialist or Independent Financial Advisor and allow Appleton to draft your professional Will updates.

We are here to guide, help and inform. Please never hesitate to contact us on 0800 50 60 70 or by email on clientcare@appleton.com

Tim Hughes, BA (Hons), MA, MSt, PGD
Managing Director

WHY IS A PROFESSIONALLY-DRAFTED WILL SO IMPORTANT?

A Will is a legally-binding document that sets out clearly how you wish your assets/property/estate to be managed and distributed and to whom upon your death. Remember, your Will should contain a record and account of all of your assets from houses, share portfolios, savings, pensions, cars and other valuables.

Although legally binding, your Will has no force and effect until you die. Thus, it is of utmost importance that you update your Will regularly to reflect changes in your Estate and any wishes regarding your beneficiaries.

WILLS AND ESTATES
AVOIDING THE UNNECESSARY PITFALLS

Over many years as Executors, we have come across issues that cause unnecessary trauma, delay and cost when dealing with Wills and Estates. In each and every edition of the Appleton Times, we will publish for you a few handy tips to avoid these pitfalls.

With respect to Wills:

- Ensure your will is drafted by a specialist such as Appleton as a small mistake in the dating and signature can invalidate a Will or part thereof, e.g. if your Will is witnessed or written out by an heir or the nominated executor this would result in the witness being excluded from the Will
- Bequests need to be constitutional, as biased bequests can be overturned by the courts
- Review your Will regularly to ensure information and bequests are still relevant. Keep updated contact details for the heirs with your copy of the Will
- In the event of family complexities, ensure your Will gives clear instruction regarding disposal of assets
- You must read and check your Will before signing to ensure that your wishes have been interpreted correctly

With respect to Estates:

- Cash shortfalls cause major issues and unnecessary delays, so please ensure there is sufficient liquidity in the estate to cover debts and administration expenses.
- Keep a file with all important information and documents, or a certified copy, in a folder together with a copy of the Will to assist with the reporting as the tracing of heirs and investigating investments can be time-consuming and costly.
- Due to “red tape” and staffing issues, dealing with the various government departments, (SARS and Master of the High Court) and various institutions (Transfer Secretaries and Banks) can be very frustrating and long-winded causing delays in obtaining information.
- Co-executors need to provide updated FICA (Certified copy ID and proof of address) every three months.
- Family issues complicate an estate and can be avoided if the testator pre-empts the issues and gives clear detailed instructions in the Will.
- If you are in a relationship with someone, but not married, please ensure that your Will is in order and the you have a formal contract regarding the partnership.

PREPARATION IS KEY

The death of a loved one is a traumatic event in one's life and the administration of a deceased estate is an admin-intensive task and can take a lengthy time to bring to finality. To lessen the burden on your loved ones, be prepared for death. This doesn't mean that you need to talk about death or your finances, or share private, confidential or intimate details with your family and friends, you just need to bear in mind, that after you have passed on, there is no one to direct your family or the executor to your information, unless you have left the information available. If you have had an attorney, your financial advisor, accountant or the like draft your Will, whether they are nominated as executor or not, the more information you can divulge and hold with your Will, the better it is for everyone.

It is difficult enough for your family to deal with your loss, now they need to ascertain where to start. Who is going to attend to your burial or cremation, did you have funeral cover, etc. This is when a little bit of planning goes a long way. Let your family know who to contact when you die, who holds your Will, the details of your assets and liabilities, contracts, etc. If you choose not to leave the information with the person or company who holds your Will in safe-keeping, have all your information kept in a safe place and let someone you trust know of its whereabouts. If it is not a family member, ensure that your spouse, children, nearest blood relative, or friend has their contact number to immediately make contact with them on your death.

The estate of a deceased person must be reported to the Master of the High Court in order for an executor to be appointed and authorised to deal with the administration therein. The appointment can take 6-8 weeks and the quicker it can be reported, the more beneficial it is. Prior to this appointment, no one has authority to act on behalf of the deceased and unless you have login and password details, access to information is extremely difficult. In terms of Section 7(1) of the Administration of Estates Act 66 of 1965, *Whenever any person dies within the Republic leaving any property or any document being or*

purporting to be a will therein-

(a) the surviving spouse of such person or more than one surviving spouse jointly, or if there is no surviving spouse, his or her nearest relative or connection residing in the district in which the death has taken place, shall within fourteen days thereafter give a notice of death substantially in the prescribed form, or cause such a notice to be given to the Master… so although there is no penalty for not reporting the death of a person within fourteen days, it should be done in order to comply with the Act and is beneficial to all parties involved.

The Appleton Team

MEET THE TEAM

This month we focus on our Operations Director, Lauren Hean. Durban-born Lauren is a member of the Fiduciary Institute of South Africa and has 16 years' experience in fiduciary services. After launching her career with ABSA Trust, Lauren gained valuable experience at Maitland Trust where she worked for eight years before joining Appleton as Head of Estates. Renowned in the industry as a hard-working all-rounder, Lauren has an exceptional grasp and command of all aspects of the sometimes complex and complicated estates administration industry.

WE ASKED LAUREN A FEW GET TO KNOW YOU AND TOUGH QUESTIONS:

AT: Are there any particular personal characteristics that make for a good Estates Administrator?

"Well, firstly, there's no substitute for experience. It is helpful to have a legal or accounting qualification or background and important to be a member of the Fiduciary Institute of South Africa, but, really it is professional experience that counts most.

Often Wills and Estates look quite straightforward on paper, but are anything but in reality. I think experience gives you that early 'head's up' that a Will or Estate could be problematical and you are thereby able to pre-empt difficult issues on behalf of the client and beneficiaries."

As for personal characteristics, I would say that the Appleton website (www.appleton.com) sets out the foundations of who were are as a Company, that is to say, a focus on client care, integrity and diligence. If you are sincere about these values and live by them, then you have the basis for a good Fiduciary Services Company.

As for personal traits, I think there are two: empathy and professionalism. With regard to empathy, one is often dealing with clients and beneficiaries who are trying to cope with the loss of a loved one. Emotions sometimes run high. People are often unsure, confused and deeply insecure. So one's first obligation is to be able to empathise authentically with the client and beneficiary. In a sense, we have to be able to 'step into their shoes' and then take the lead in bringing clarity and delivering peace of mind as Executors.
One thing I should have mentioned is the need for regular, clear and informed communication during key phases of winding up the Estate. What I mean by professionalism is about carrying out one's duties as an Executor with full diligence and responsibility. This means acting in the interests of the beneficiaries at all times, while dealing with all stakeholders from the master's office to SARS, estate agents, stock brokers and financial advisors, but it may also mean having to make tough decisions about 'fairness and equity'. While families are the core of our society, familial relations can also be highly complex and disputatious during the Estate administration process. Our obligation as an Executor is to administer the estate in an efficient, ethical, diligent and fair manner. Ultimately, we need to ensure that our client's wishes are carried out to the letter, without fear or favour and yet do so with sympathy and empathy to all concerned.

AT: What's the most challenging thing about Estate Administration?

Lauren comments, "I don't think there's anything I haven't seen or experienced in a Will or an Estate, but while we can deal with just about any bequest, an intestate estate causes huge difficulties for families and Executors alike. The second big lesson, is that a poorly drafted, or inaccurate, or old Will is often at the root of a difficult and long drawn out Estate. A difficult Estate often means one that is complex, contested, unclear, and unnecessarily costly and can take years to wind up. Many of these problems (which can be very costly and frustrating for the beneficiaries), can be avoided by the professional and accurate drafting of a Will and one that is regularly updated to reflect changing assets and wishes. If ever in doubt, please just call us on 0800 50 60 70, we are here to help!" Ultimately, we need to ensure that our client's wishes are carried out to the letter, without fear or favour and yet do so with sympathy and empathy to all concerned.

CONTACT US

We would like to hear from you and welcome feedback for future editions of the Appleton Times.

Please contact us at clientcare@appleton.com, or call us on 0800 50 60 70 should you have any questions or queries.