

Estate of Michael Jones: A Reminder to Keep Designations of Non-Probate Assets Consistent with Your Testamentary Intentions

Article By:

W. Joseph Salvador

A recent New Jersey Appellate Division decision should remind you to keep track of the designations of all non-probate assets to ensure they pass in accordance with your testamentary intentions.

In the Matter of the Estate of Michael D. Jones, decedent and his spouse separated for several years and eventually divorced pursuant to the terms of a divorce settlement agreement. The agreement called for the decedent to pay his former spouse a total of \$200,000, in installments of \$50,000 per year. In the event he predeceased his former spouse, the estate was to compensate her for the remainder of the balance. The decedent passed after having paid only \$110,000.

The former spouse subsequently filed a creditor's claim against the estate, seeking the remaining balance owed under the divorce settlement agreement. The estate opposed her claim, noting that she had received over \$77,000 already by way of the decedent's federal bonds that designated the spouse as the pay upon death ("POD") beneficiary. The trial court found that the POD designation was presumptively revoked pursuant to N.J.S.A. 3B:3-14, a New Jersey law providing that a divorce automatically revokes a disposition of property to a former spouse in a governing instrument.

The former spouse successfully appealed the decision. The appellate court noted the bond was subject to federal regulations that set forth a specific procedure for revising the beneficiary of a federal bond. The appellate court, supported by case law from around the country, noted that the federal regulations preempt state laws that conflict with them. Thus, the bond proceeds passed to the former spouse outside of the estate without being considered to satisfy part of the payout required under the divorce settlement agreement.

This decision reaffirms the importance of monitoring and properly revising POD designations to reflect your intentions for gifts upon your passing. This pertains not only to bonds, as in this case, but to items that are not considered probate assets, such as retirement

accounts, insurance policies, or bank accounts with payable upon death designations. Those designations are not superseded by a decedent's last will and testament.

©2024 Norris McLaughlin P.A., All Rights Reserved

National Law Review, Volumess XIII, Number 341

Source URL:<https://natlawreview.com/article/estate-michael-jones-reminder-keep-designations-non-probate-assets-consistent-your>