

ESTATE PLANNING CASE STUDY – ESTATE ADMINISTRATION AND FAMILY DISPUTES

Peter and Christine have two adult children, Percy and Emily.

Emily is an accountant and is very stable and financially savvy. Percy has had issues throughout his life with gambling and addiction. He has rising debts and is under a lot of financial pressure.

Peter and Christine both pass away in a car accident. They had valid Wills in place which had appointed Emily as the sole executor. They had both left all of their assets to be shared equally between the two children.

Emily begins working through the estate administration process. She applies for probate, calls in the estate assets, arranges for property to be secured and insured, organises for any outstanding debts to be paid and completes the final tax obligations for her parents. This is a very time-consuming and difficult process which, on top of her regular work and family responsibilities, is hard for Emily to manage. The estate administration process is therefore delayed.

Percy would like access to his inheritance as a matter of urgency as he has interest accruing on a number of debts and he is being hassled by creditors for overdue amounts payable. He puts pressure on Emily to “give me my money!”

Emily responds to Percy that she is unable to legally distribute any estate assets until the expiration of the Testator Family Maintenance Period which in Victoria is six months from the date of probate. This further delay angers Percy who accuses Emily of stealing his inheritance. The siblings argue and their relationship deteriorates.

If Peter and Christine had appointed Equity Trustees as their Executor, they could be sure that the estate would be administered in a timely and professional manner. Furthermore, having an independent third-party managing the process would help to prevent family disputes as all beneficiaries are treated equally. Preserving family harmony during these difficult times is a priority for us and our clients.