

# Unintended consequences when designating your life insurance beneficiary: is the right person getting your money?

by Marc F. Derendinger

The late baseball manager, Billy Martin, told a tale of his mother, lifting her skirt and urinating on his father's grave. While her reasons were probably personal, this vivid image jumps to mind when I think of a mishandled Beneficiary Designation.

Yeah, "ticked-off" isn't the word for it. In 1968, Francois Derendinger started taking POA life insurance applications. Since then, our office has seen more than our share of death claims, where the death benefits were distributed to unintended recipients e.g. old and long forgotten girlfriends, former spouses (even the wrong former spouse), and so on.

Please be advised your Will or Living Will (Revocable Living Trust) cannot override these oversights.

Many of you are updating your P.O.A. life insurance, thanks to the new and improved S.J.P.O.A. life insurance program, available beginning January 2003. This is the perfect time to review your Beneficiary

Designation. There are two areas on the IBT Beneficiary Change form, which require completion in order to name or change your Beneficiary:

- 1) Primary Beneficiary Name
- 2) Contingent Beneficiary Name

If you die while the Primary Beneficiary is still living, the Primary Beneficiary (or Beneficiaries) will receive 100% of the policy benefits, and the Contingent Beneficiary will receive zero benefits. Remember, the Contingent Beneficiary is a back-up beneficiary, named in the event your Primary Beneficiary has predeceased you. It is acceptable to name more than one Beneficiary by listing each name, with the corresponding amount of insurance. For example:

John Smith, Brother, born March 21, 1963 - 50,000 and Sally Smith, Sister, born August 1, 1959 - 100,000.

If the Beneficiaries are receiving equal amounts, then you may state "Equal Shares" after their names. Please do not name minor children as Primary Beneficiaries nor as Contingent Beneficiaries.

This leads to all sorts of problems, as the insurance company cannot pay death benefits to a minor. Your survivors will be required to go to court and ask a judge to name a financial guardian. Even if the judge appoints the same financial guardian as requested in your Will, the court's permission may still be required for certain types of investments decisions. Avoid this is a cumbersome, frustrating and costly way of fulfilling your wishes.

A far better method is setting up a Living Will (Living Trust). I have met two attorneys who work regularly with POA members; they are both excellent. Phone the POA office for their names and phone numbers. When a Living Trust is named as Primary Beneficiary, there is usually no need for a Contingent Beneficiary. Example:

Primary Beneficiary: the John Smith Family Trust, dated November 11, 2002, or any amendments thereof.

Your trust document is a very flexible estate planning device, capable of handling multiple contingent beneficiaries, and trustees.

Additional advantages include privacy, surrounding the decisions of your trustee. Also, the Living Will functions without court permission or oversight. Basically, the Living Will is an effective vehicle to represent your wishes in the distribution of your Estate.

Consider this: by naming your spouse Primary Beneficiary, you have empowered him or her to make all financial decisions for surviving children or step-children, and without conditions: although you and your spouse may have discussed your wishes, your spouse may change his or her mind after your death. Conversely, using the Living Will allows your wishes to survive you.

Let's be smart, safe, and think: is the right person getting your money? It's all about how you want to be remembered. Phone the S.J.P.O.A. and review your life insurance program today!

*Editor's Note: Marc Derendinger is our SJPOA insurance broker and can be reached at (408) 252-7300 or by email at [marc@derendinger.com](mailto:marc@derendinger.com)* ♦

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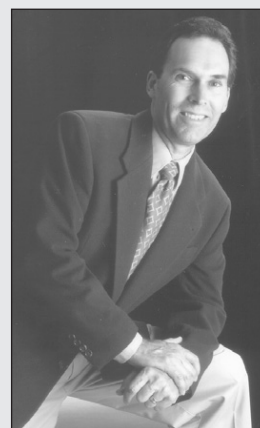
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