

Price & Farrington's Estate and Tax Planning Fast Faxes

July, 2003

Estate, Tax and Wealth Planning for Advisors and Clients

Price & Farrington, PLLC

Attorneys and Counselors at Law

12501 Bel-Red Road, Suite 215

Bellevue, Washington 98005

425-451-3583

Email: pricefarr@aol.com

The Woolworth *Misfortune*: How *Not* to Provide for Heirs

Here's some lite but nutritious summer fare for your estate planning palate:

Forty-six years and seven husbands after inheriting her \$50 million Woolworth fortune, actress Barbara Hutton died with a mere \$3,000. Learning from her mistakes, your wealthier clients can better prepare their children and grandchildren for stable futures, both financially and emotionally.

Million dollar baby. At the age of 10, Barbara Hutton, granddaughter of dime store founder F.W. Woolworth and niece of brokerage maven E.F. Hutton, inherited some \$25 million. The money stayed

in trust, managed by her stockbroker father, Frank (E.F. Hutton's brother), until Barbara was 21. By the time the money became hers at age 21, the fortune had ballooned to about \$50 million, thanks in part to Frank's astute decision to sell out early enough in 1929 to miss the crash in October. After receiving the \$50 million inheritance in 1933, Barbara gave her father \$5 million as a thank-you gift for his management services. Then she embarked on the sad, lonely life of a socialite who was both envied and exploited for her money.

Keep in mind that \$50 million in 1933 would be worth roughly \$500 million today. And during the depths of the Great Depression, few Americans possessed such conspicuous wealth. Barbara Hutton's inheritance made headlines around the world. Suitors quickly lined up for the attentions of the "million-dollar baby" — even before she hit the magic age of 21.

Unlucky 7. When she was just nine, Barbara's butler offered her some sage words of caution: "Someday, you may be the richest girl in the world, but all that means is that somebody will want to marry you for your money." Ultimately, Barbara Hutton married seven times; the only husband who collected no alimony was actor Cary Grant. Each of her other husbands managed to walk away with a substantial part of her fortune after the divorce. When she died in 1979 at the age of 66, her share of the Woolworth fortune had dwindled to a mere \$3,000.

What could F.W. Woolworth have done differently to spare his granddaughter the misery of such relentless exploitation? And what could she have done to protect her assets from



\$

Barbara Hutton,
society diva

"The million
dollar baby"

\$

gold-digging husbands who charmed their way into her life, convincing her that they loved her and not simply her money? What lessons can we draw from her miserable life of spousal abuse, drug addiction, and outrageous spending? (Her "Cartier orgies" with her cousin were infamous; she once spent \$90,000 in one day) How can clients avoid the same mistakes F.W. Woolworth made when he set up his estate to allow his granddaughter to receive \$40 million in cash and securities on the day she turned 21?

An unsigned will made Barbara Hutton rich. Shortly before his death, F.W. Woolworth called in his attorney and wrote a will that would have distributed his estate among his wife, daughters, grandchildren, friends, and charities. By the terms of the new will, Barbara would have attained only average wealth. But Woolworth failed to sign the will — either due to forgetfulness or a change of heart. When he died, the entire fortune passed to his wife, Jennie Woolworth, a hopeless incompetent who, permanently hospitalized, tied up the money for the duration of her life. When Jennie finally died, the money was split three ways: two-thirds to Frank and Jennie's two surviving daughters, and one-third to Barbara, the only child of their third daughter, Edna, who had committed suicide when

From *"Epitaphs to Remember: Inscriptions from New England Headstones"*:

Henry Clay Barney, 1915, age 82,
Guilford, Vt.

*My life's been hard
And all things show it;
I always thought so
And now I know it.*

Winslow, Maine:

**In memory of
Beza Wood
Departed this life
Nov. 2, 1837
Aged 45 yrs.
Here lies one Wood
Enclosed in wood
One Wood
Within another.
The outer wood
Is very good;
We cannot praise
The other.**



Estate, Tax, Business and Asset
Protection Planning provided by
Price & Farrington, PLLC
Attorneys and Counselors at Law
www.estateplanning.com/pricefarr

Barbara was four. Because Barbara was then a minor, her share of the inheritance went into trust. But once she turned 21, the court had no choice but to turn the entire fortune over to her.

The right kind of trust would have solved everything. Had F.W. Woolworth designed the right kind of trust, Barbara Hutton might have led an entirely different life. The beauty of a trust is that the grantor — the trustmaker — can specify just about anything (s)he wants. Woolworth could have provided for a certain percentage of the assets to be paid out of trust to Barbara at certain intervals — 25% at age 25, 33% of the balance at age 30, 50% at age 40 and so on. Or he might have specified that a certain amount be paid out upon the happening of some event. A popular trust known as an “incentive trust” specifies that a fixed amount be paid out once the child achieves a certain level of education or earns a certain amount of income on her own or who otherwise achieves some significant benchmark. The point is to keep wealthy heirs from losing their motivation to be productive members of society. As Bill Gates, Warren Buffet and other wealthy parents have said: “I want my children to have enough so that they can do anything, but not so much that they can do nothing.”

Surfer boys and bimbo. With a “spendthrift trust,” the assets remain in trust and continue to be managed by a trustee. This type of trust is often used for children who may never be responsible enough to handle all of the money at once. The trustee pays for the beneficiary’s expenses and may distribute additional income at the trustee’s discretion. With the bulk of the assets tied up in trust, they are protected from spendthrift heirs who have a propensity for “Cartier orgies” and charming con men who want to marry them for their money. The term “spendthrift” implies irresponsible beneficiary, but these trusts are also used to protect assets from any outside assaults, such as frivolous lawsuits, aggressive creditors or conniving “predators”, such as the gold-digging surfer boy or the bodacious bimbo.

What about a prenup? Barbara Hutton could always have executed a prenuptial (or post-nuptial) agreement to

☞ Prenuptial Pitfalls ☞

Entering into a marriage with substantial assets and perhaps children, there’s a lot more at stake if the marriage fails than otherwise. Without a prenuptial agreement, the law in Washington says your spouse is entitled to half your assets if you die, even if your will specifies otherwise. In the event of divorce or death, a prenup can spare a messy court battle. But you’ve got to do more than just jot a few things on a legal pad the night before your vows.

Some considerations: (1) Both partners need to consult their own attorney or at least knowingly waive their right to do so. (2) The agreement should be completed at least a month before the wedding. (3) All assets must be fully disclosed — houses, bank accounts, antique sports cars — or after death the surviving spouse could claim to be entitled to them. (4) Couples must follow up on the specific stipulations in a prenup. If your spouse agreed to waive the right to inherit your IRA or 401(k) but fails to sign a waiver through your employer, he or she will get the proceeds anyway. It’s the law. (5) If your actions go against the grain of your agreement — say a couple opened a joint checking account after their wedding, despite a decision to keep all accounts separate — some of the force of the prenup is lost. (6) Finally, no judge will honor a prenup that is outrageously stingy or unfair, or one that tries to waive child support before there even are children. In interpreting and enforcing these agreements, courts look to fairness and equity.

Despite the prenup’s growing popularity, it’s still a difficult subject to broach. An advisor can raise the issue diplomatically or write a gently worded letter asking a couple whether a pre (or post) nup has been considered and pointing out that it might be in the couple’s best long-term interests.

☞
Under the terms of their prenup, actress Catherine Zeta-Jones is reportedly entitled to \$1.5 million for each year of her marriage to actor Michael Douglas.



protect her fortune in case of divorce (see “Prenuptial Pitfalls” above). Given her weakness for charming men and her spontaneous decisions to marry, however, she didn’t exactly seem to be the prenup type.

It’s hard to know how much of Barbara Hutton’s tragic life was caused by her early inheritance. Some of it, of course, may well be attributable to her sad family life -- her cold, philandering father and nonexistent mother. But her story still can be useful to help spare the children and grandchildren of wealthy clients the irreversible damage caused by too much money at too early an age. ☞

As always, please let us know how we can best help you and your clients accomplish important goals through proper planning.



Glen D. Pina