# Complications Arising from Death

Travis J. Graham
(540) 983-9420
graham@gentrylocke.com

# WELCOME!

To the world of estate

and fiduciary

litigation --

-- it's like domestic relations

law, except with the

added grief of the recent death or

disability of a loved one,

and a certain

difficulty in communicating

with the chief witness.

# Am I at risk of being involved in estate or fiduciary litigation?

Question 1: Do you have any family members?

☐ Yes ☐ No

Question 2: Do you or your family members, if any, have any money or property?

☐ Yes ☐ No

If you answered “yes” to any of these questions, you are at risk of being involved in estate or fiduciary litigation.

# BONUS QUESTIONS:

- Are you or any of your family members rich?

- Does your family contain a Black Sheep, Redheaded Stepchild, Bad Seed, or family member generally regarded as Sorry, Good-for-Nothing, A Big Disappointment, or Crazy as a Fruit Bat?

- Does your family contain more than one lawyer, or a paralegal?

- Do you have a step-parent who is younger than you?

- Does one of your siblings live in a parent's home and "take care" of him or her?

If you answered "yes" to any of these questions, you might as well hire me now.

# The Three Categories of Estate and Fiduciary Litigation:

Category A: Cases that involve stealing from an old or disabled person before he or she dies.

This category includes:

- Misuse of a power of attorney
- Mismanagement of trusts
- Plain old stealing

Category B: Cases that involve doing things while an old or disabled person is alive, but which will cause effects after he or she dies.

This category includes:

- Misuse of a power of attorney
- Making changes to deeds, accounts, beneficiary designations, and characteristics of property
- Changing or executing wills

Category C: Cases that involve stealing from a person's estate, i.e., after he or she dies.

This category includes:

- Mismanagement of estates
- Plain old stealing

# Category A: Theft Before Death

## The Power of Attorney: The Worst Thing in the Whole World

- **Creation**

> **§ 64.2-1603. Execution of power of attorney.**
>
> A power of attorney shall be signed by the principal or in the principal's conscious presence by another individual directed by the principal to sign the principal's name on the power of attorney. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments. A power of attorney in order to be recordable shall satisfy the requirements of § 55.1-600.

* *Does not have to be witnessed.*
* *Does not have to be notarized.*
* *Does not have to be filed or recorded.*
* *Does not have to be revealed before use.*
* *No accounting is required.*
* *You can have as many as you want.*
* *Available online.*

- **Duties Under Power of Attorney**

> **§ 64.2-1612. Agent's duties.**
>
> A. Notwithstanding provisions in the power of attorney, an agent that has accepted appointment shall:
>
> 1. Act in accordance with the principal's reasonable expectations to the extent actually known by the agent and, otherwise, in the principal's best interest;

2. Act in good faith; and

3. Act only within the scope of authority granted in the power of attorney.

B. Except as otherwise provided in the power of attorney, an agent that has accepted appointment shall:

1. Act loyally for the principal's benefit;

2. Act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interest;

3. Act with the care, competence, and diligence ordinarily exercised by agents in similar circumstances;

4. Keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

5. Cooperate with a person that has authority to make health care decisions for the principal to carry out the principal's reasonable expectations to the extent actually known by the agent and otherwise act in the principal's best interest; and

6. Attempt to preserve the principal's estate plan, to the extent actually known by the agent, if preserving the plan is consistent with the principal's best interest based on all relevant factors, including:

a. The value and nature of the principal's property;

b. The principal's foreseeable obligations and need for maintenance;

c. Minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes; and

d. Eligibility for a benefit, a program, or assistance under a statute or regulation.

**. . .**

- # Authority

  * *What can you do with a power of attorney? Pretty much anything, except signing a will. But there are some special rules about gifts.*

## § 64.2-1622. Authority that requires specific grant; grant of general authority.

A. Subject to the provisions of subsection H, an agent under a power of attorney may do the following on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent the authority and exercise of the authority is not otherwise prohibited or limited by another statute, agreement, or instrument to which the authority or property is subject:

. . .

2. Make a gift;

. . .

B. Notwithstanding a grant of authority to do an act described in subsection A or H, unless the power of attorney otherwise provides, an agent that is not an ancestor, spouse, or descendant of the principal may not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise.

C. Subject to subsections A, B, D, and E, if a power of attorney grants to an agent authority to do all acts that a principal could do, the agent has the general authority described in § 64.2-124 and §§ 64.2-1625 through 64.2-1637.

D. Unless the power of attorney otherwise provides and subject to subsection H, a grant of authority to make a gift is subject to § 64.2-1638.

E. Notwithstanding the provisions of subsection A, if a power of attorney grants to an agent authority to do all acts that a principal could do, the agent shall have the authority to make gifts in any amount of any of the principal's property to any individuals or to organizations described in §§ 170(c) and 2522(a) of the Internal Revenue Code or corresponding future provisions of federal tax law, or both, in accordance with the principal's personal history of making or joining in the making of lifetime gifts. This subsection shall not in any way impair the right or power of any principal, by express words in the power of attorney, to authorize, or limit the authority of, an agent to make gifts of the principal's property.

## § 64.2-1638. Gifts.

A. In this section, a gift "for the benefit of" a person includes a gift to a trust, a custodial trust under the Uniform Custodial Trust Act (§ 64.2-900 et seq.), an account under the Uniform Transfers to Minors Act (§ 64.2-1900 et seq.), and a

tuition savings account or prepaid tuition plan as defined under Internal Revenue Code 26 U.S.C. § 529, as amended.

B. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to gifts authorizes the agent only to:

1. Make outright to, or for the benefit of, a person a gift of any of the principal's property, including by the exercise of a presently exercisable general power of appointment held by the principal, in an amount per donee not to exceed the annual dollar limits of the federal gift tax exclusion under Internal Revenue Code 26 U.S.C. § 2503 (b), as amended, without regard to whether the federal gift tax exclusion applies to the gift, or if the principal's spouse agrees to consent to a split gift pursuant to Internal Revenue Code 26 U.S.C. § 2513, as amended, in an amount per donee not to exceed twice the annual federal gift tax exclusion limit; and

2. Consent, pursuant to Internal Revenue Code 26 U.S.C. § 2513, as amended, to the splitting of a gift made by the principal's spouse in an amount per donee not to exceed the aggregate annual gift tax exclusions for both spouses.

C. An agent may make a gift of the principal's property only as the agent determines is consistent with the principal's objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal's best interest based on all relevant factors, including:

1. The value and nature of the principal's property;

2. The principal's foreseeable obligations and need for maintenance;

3. Minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes;

4. Eligibility for a benefit, a program, or assistance under a statute or regulation; and

5. The principal's personal history of making or joining in making gifts.

* *How does all this stuff about gifts actually work?*

*There are two types of authority to make gifts under a power of attorney, express and implied.*

*Start with the proposition set out in § 64.2-1622(A)(2) that an agent may only make a gift if the power of attorney expressly says so. This is "express authority." But, this is subject to the rule set out in § 64.2-1622(H) that, if the power of*

*attorney says that the agent can do "all acts" that the principal can do, then the agent can make gifts to individuals or charities "in accordance with the principals personal history" of making gifts. This is "implied authority."*

*Then, § 64.2-1622(D) says that, unless the power of attorney says otherwise, an express grant of authority to make a gift is subject to §64.2-1638. That section says that, unless the power of attorney says otherwise, gifts to any one recipient are limited to the amount of the federal gift tax exclusion, which is roughly $15,000 per year.*

*In short, unless the power of attorney says different, gifts made under an express grant of authority are limited to the annual federal gift tax exclusion, while gifts made pursuant to implied grant of authority must be in accordance with the principal's history of making gifts.*

*All gifts are limited by these factors as set out in § 64.2-1638(C):*

1. *The value and nature of the principal's property;*

2. *The principals' foreseeable obligations and need for maintenance;*

3. *Minimization of taxes, including income, estate inheritance, generation-skipping transfer, and gift taxes;*

4. *Eligibility for a benefit, a program, or assistance under a statue or regulations; and*

5. *the principal's personal history of making or joining in making gifts.*

* *The case that explains all of this is Davis v. Davis, 298 Va.157, 835 S.E. 2d 888 (2019).*

- # Misuse

**"My name is Legion, for we are many." Matthew (8:28-34)**

* *Signing checks, making bank withdrawals.*

* *Making or taking gifts.*

* *Buying or selling stuff.*

* *Contracting for services.*

* *Changing living arrangements*.

- **Remedies**

**§ 64.2-1612. Agent's duties.**

H. Except as otherwise provided in the power of attorney, an agent shall disclose receipts, disbursements, or transactions conducted on behalf of the principal if requested by the principal, a guardian, a conservator, another fiduciary acting for the principal, or, upon the death of the principal, by the personal representative or successor in interest of the principal's estate. If so requested, within 30 days the agent shall comply with the request or provide a writing or other record substantiating why additional time is needed and shall comply with the request within an additional 30 days.

I. Except as otherwise provided in the power of attorney, an agent shall, on reasonable request made by a person listed in subdivisions A 3 through A 9 of § 64.2-1614 who has a good faith belief that the principal suffers an incapacity or, if deceased, suffered incapacity at the time the agent acted, disclose to such person the extent to which he has chosen to act and the actions taken on behalf of the principal within the five years prior to either (i) the date of the request or (ii) the date of the death of the principal, if the principal is deceased at the time such request is made, and shall permit reasonable inspection of records pertaining to such actions by such person. In all cases where the principal is deceased at the time such request is made, such request shall be made within one year after the date of the death of the principal. If so requested, within 30 days the agent shall comply with the request or provide a writing or other record substantiating why additional time is needed and shall comply with the request within an additional 30 days.

**. . .**

**§ 64.2-1614. Judicial relief.**

A. In addition to the remedies referenced in § 64.2-1621, the following persons may petition a court to construe a power of attorney or review the agent's conduct, and grant appropriate relief:

1. The principal or the agent;

2. A guardian, conservator, personal representative of the estate of a deceased principal, or other fiduciary acting for the principal;

3. A person authorized to make health care decisions for the principal;

4. The principal's spouse, parent, or descendant;

5. An adult who is a brother, sister, niece, or nephew of the principal;

6. A person named as a beneficiary to receive any property, benefit, or contractual right on the principal's death or as a beneficiary of a trust created by or for the principal that has a financial interest in the principal's estate;

7. The adult protective services unit of the local department of social services for the county or city where the principal resides or is located;

8. The principal's caregiver or another person that demonstrates sufficient interest in the principal's welfare; and

9. A person asked to accept the power of attorney.

B. 1. Whether or not supplemental relief is sought in the proceeding, where an agent has violated duties of disclosure imposed by § 64.2-1612, any person to whom such duties are owing may, for the purpose of obtaining information pertinent to the need or propriety of (i) instituting a proceeding under Chapter 20 (§ 64.2-2000 et seq.); (ii) terminating, suspending, or limiting the authority of the agent; or (iii) bringing a proceeding to hold the agent, or a transferee from such agent, liable for breach of duty or to recover particular assets or the value of such assets of a principal or deceased principal, petition a circuit court for discovery from the agent of information and records pertaining to actions taken pursuant to a power of attorney.

2. The petition may be filed in the circuit court of the county or city in which the agent resides or has his principal place of employment, or, if a nonresident, in any court in which a determination of incompetency or incapacity of the principal is proper under Chapter 20 (§ 64.2-2000 et seq.), or, if a conservator or guardian has been appointed for the principal, in the court that made the appointment. The court, after reasonable notice to the agent and to the principal, if no guardian or conservator has been appointed, or to the conservator or guardian, if one has been appointed, may conduct a hearing on the petition. The court, upon the hearing on the petition and upon consideration of the interest of the principal and his estate, may dismiss the petition or may enter such order or orders respecting discovery as it may deem appropriate, including an order that the agent respond to all discovery methods that the petitioner might employ in a civil action or suit subject to the Rules of Supreme Court of Virginia. Upon the failure of the agent to make discovery, the court may make and enforce further orders respecting discovery that would be proper in a civil action subject to such Rules and may award expenses, including reasonable attorney fees, as therein provided. Furthermore, upon completion of discovery, the court, if satisfied that prior to filing the petition the petitioner had requested the information or records that are the subject of ordered discovery pursuant to § 64.2-1612, may, upon finding that the failure to comply with the request for information was unreasonable, order the

agent to pay the petitioner's expenses in obtaining discovery, including reasonable attorney fees.

3. A determination to grant or deny in whole or in part discovery sought hereunder shall not be considered a finding regarding the competence, capacity, or impairment of the principal, nor shall the granting or denial of discovery hereunder preclude the availability of other remedies involving protection of the person or estate of the principal or the rights and duties of the agent.

C. The agent may, after reasonable notice to the principal, petition the circuit court for authority to make gifts of the principal's property to the extent not inconsistent with the express terms of the power of attorney or other writing. The court shall determine the amounts, recipients, and proportions of any gifts of the principal's property after considering all relevant factors including, without limitation, those contained in subsection C of § 64.2-1638.

D. Upon motion by the principal, the court shall dismiss a petition filed under this section, unless the court finds that the principal lacks capacity to revoke the agent's authority or the power of attorney.

E. In a judicial proceeding under this chapter, if the court finds that the agent breached his fiduciary duty in violation of the provisions of this chapter, the court, as justice and equity may require, may award costs and expenses, including reasonable attorney fees, to any person who petitions the court for relief under subdivisions A 1 through 8, to be paid by the agent found in violation. This provision applies to a judicial proceeding concerning a power of attorney commenced on or after July 1, 2019.

## § 64.2-1615. Agent's liability.

An agent that violates this chapter is liable to the principal or the principal's successors in interest for the amount required to:

1. Restore the value of the principal's property to what it would have been had the violation not occurred; and

2. Reimburse the principal or the principal's successors in interest for the attorney fees and costs paid on the agent's behalf.

## § 64.2-1621. Remedies under other law.

The remedies under this chapter are not exclusive and do not abrogate any right or remedy, including a court-supervised accounting, under the laws of the Commonwealth other than this chapter.

***** *This is all pretty much useless.*

- # Legal Principals

  * *Davis v. Davis, 298 Va.157, 835 S.E. 2d 888 (2019) explains the extent of an agent's authority to make gifts.*

  * *The relationship between an attorney-in-fact and his or her principal is, by definition, a confidential relationship.*

  * *A transaction conducted by an attorney-in-fact that benefits him or her is presumptively fraudulent. It does not matter if the power of attorney was actually used to conduct the transaction.*

  * *Once the presumption arises, the burden shifts to the agent to go forward with evidence showing that the transaction was legitimate.*

  * *However, once the agent produces evidence to support such a finding, the presumption disappears, leaving the challenger with the burden of proving his or her case by clear and convincing evidence.*

- # Helpful Tips

  * *No one understands how powers of attorneys work--not even lawyers and judges.*

  * *Guardianships/conservatorships do not automatically cancel powers of attorney.*

  * *For best results, do not execute a power of attorney*.

# Category B: Bad Conduct Before Death; Payoff After

## The Power of Attorney: Still the Worst Thing in the Whole World

- **Misuse**
  - *Transferring real estate, with a retained life estate for the former owner.*
  - *Changing or adding transfer-on-death provisions on accounts.*
  - *Changing insurance beneficiary designation.*
  - *Recharacterizing assets.*

## Creation of New Wills

## Grounds for Contesting Wills

- **Invalidity of the Will Due to Errors in Execution**
  - *Here's what you remember from law school:*

**§ 64.2-403. Execution of wills; requirements.**

A. No will shall be valid unless it is in writing and signed by the testator, or by some other person in the testator's presence and by his direction, in such a manner as to make it manifest that the name is intended as a signature.

B. A will wholly in the testator's handwriting is valid without further requirements, provided that the fact that a will is wholly in the testator's handwriting and signed by the testator is proved by at least two disinterested witnesses.

C. A will not wholly in the testator's handwriting is not valid unless the signature of the testator is made, or the will is acknowledged by the testator, in the presence of at least two competent witnesses who are present at the same time

and who subscribe the will in the presence of the testator. No form of attestation of the witnesses shall be necessary.

* *Surprise! None of that matters anymore:*

## § 64.2-404. Writings intended as wills.

A. Although a document, or a writing added upon a document, was not executed in compliance with § 64.2-403, the document or writing shall be treated as if it had been executed in compliance with § 64.2-403 if the proponent of the document or writing establishes by clear and convincing evidence that the decedent intended the document or writing to constitute (i) the decedent's will, (ii) a partial or complete revocation of the will, (iii) an addition to or an alteration of the will, or (iv) a partial or complete revival of his formerly revoked will or of a formerly revoked portion of the will.

B. The remedy granted by this section (i) may not be used to excuse compliance with any requirement for a testator's signature, except in circumstances where two persons mistakenly sign each other's will, or a person signs the self-proving certificate to a will instead of signing the will itself and (ii) is available only in proceedings brought in a circuit court under the appropriate provisions of this title, filed within one year from the decedent's date of death and in which all interested persons are made parties.

## § 64.2-410. Revocation of wills generally.

A. If a testator with the intent to revoke a will or codicil, or some person at his direction and in his presence, cuts, tears, burns, obliterates, cancels, or destroys a will or codicil, or the signature thereto, or some provision thereof, such will, codicil, or provision thereof is void and of no effect.

B. If a testator executes a will in the manner required by law or other writing in the manner in which a will is required to be executed that expressly revokes a former will, such former will, including any codicil thereto, is void and of no effect.

C. If a testator executes a will or codicil in the manner required by law that (i) expressly revokes a part, but not all, of a former will or codicil or (ii) contains provisions inconsistent with a former will or codicil, such former will or codicil is revoked and superseded to the extent of such express revocation or inconsistency if the later will or codicil is effective upon the death of the testator.

# Last Will & Testament
## of

_____

I, _____ , being of sound mind,
do hereby dispose of my estate as follows:

_____

_____

_____

_____

_____

_____
Signature

_____
Printed Name

_____
Date

- # Lack of Testamentary Capacity

  * *Testamentary capacity is "the degree of mental capacity required for the valid execution of a will." It exists if, at the time the testator executed the will, he or she "was capable of recollecting his or her property, the natural objects of his or her bounty and their claims upon him or her, knew the business about which he or she was engaged, and how he or she wished to dispose of her property."*

  * *It is an extremely low standard. It is not the same as illness or dementia. It is not the same as mental weakness. It is a lower level of capacity than that which is required to execute a contract. The fact that a person is a subject of guardianship or conservatorship does not establish that he or she lacks testamentary capacity.*

  * *The capacity only has to exist at the exact moment of executing the will.*

  * *The person seeking to establish the will has the burden of proving that the testator had testamentary capacity. However, compliance with all of the statutory provisions creates a presumption that testamentary capacity existed. The person challenging the will must then go forward with evidence to overcome the presumption, although the ultimate burden remains with the person trying to establish the will.*

  * *Clear and convincing evidence is not required.*

- # Undue Influence

  * *Undue influence is a species of fraud. It exists when a person is clearly deprived of his or her own free will. It is a form of coercion, and does not include things like "resistible persuasion," "solicitation," "advice," "suggestions," and "importunity."*

  * *Under influence must be proven by clear and convincing evidence. However, a presumption of undue influence arises under either of two circumstances. First, such a presumption arises when 1) the testator was old or ill and his or her will was established; 2) the testator named the beneficiary who stood in a relationship of confidence or dependence; and 3) the testator previously had expressed an intention to make a contrary deposition of his or her property.*

  * *Note that this is slightly different from the standard relevant to inter vivos transfers. There, a presumption of undue influence arises when 1) a person's weakness of mind and grossly inadequate consideration or suspicious circumstances regarding the transaction are shown, or 2) when the transaction benefitted a person in a confidential relationship.*

  * *Under pre-2022 law: Once a presumption of undue influence arises, the burden shifts to the person seeking to establish the will to go forward with evidence to*

*rebut the presumption. Once this occurs, the presumption disappears, and the person challenging the will is left with the burden of proving the undue influence by clear and convincing evidence.*

* *No one actually understands how this is supposed to work.*

* *New law: Va. Code§ 64.0-454.1*

  *In any case contesting the validity of a decedent's will where a presumption of undue influence arises, the finder of fact shall presume that undue influence was exerted over the decedent unless, based on all the evidence introduced at trial, the finder of fact finds that the decedent did intend it to be his will.*

* *As-yet untested; retroactive application is not clear.*

- # Statutory Requirements

**§ 64.2-448. Complaint to impeach or establish a will; limitation of action; venue.**

A. A person interested in the probate of the will who has not otherwise been before the court or clerk in a proceeding to probate the will pursuant to § 64.2-444 or in an ex parte proceeding to probate the will pursuant to subsection B of § 64.2-446 may file a complaint to impeach or establish the will within one year from the date of the order entered by the court in exercise of its original jurisdiction or after an appeal of an order entered by the clerk, or, if no appeal from an order entered by the clerk is taken, from the date of the order entered by the clerk.

B. A person interested in the probate of the will who had been proceeded against by an order of publication pursuant to subsection B of § 64.2-449 may file a complaint to impeach or establish the will within two years from the date of the order entered by the court in the exercise of its original jurisdiction, unless he actually appeared as a party or had been personally served with a summons to appear.

C. A person interested in the probate of the will who has not otherwise been before the court and who was a minor at the time of the order pursuant to § 64.2-444 or 64.2-446 may file a complaint to impeach or establish the will within one year after such person reaches the age of maturity or is judicially declared emancipated.

D. A person interested in the probate of the will who has not otherwise been before the court and who was incapacitated at the time of the order pursuant to

§ 64.2-444 or 64.2-446 may file a complaint to impeach or establish the will within one year after such person is restored to capacity.

E. Upon the filing of a complaint to impeach or establish the will pursuant to this section, the court shall order a trial by jury to ascertain whether what was offered for probate is the will of the testator. The court may require all testamentary papers of the testator be produced and direct the jury to ascertain whether any paper produced is the will of the testator. The court shall decide whether to admit the will to probate.

F. The venue for filing a complaint to impeach or establish the will shall be as specified in subdivision 7 of § 8.01-261.

G. Subject to the provisions of § 8.01-428, a final order determining whether to admit a will to probate bars any subsequent complaint to impeach or establish a will.

## § 64.2-404.1. Reformation of will to correct mistakes or achieve decedent's tax objectives.

A. The court may reform the terms of a decedent's will, or any codicil thereto, even if unambiguous, to conform the terms to the decedent's intention if it is proved by clear and convincing evidence that both the decedent's intent and the terms of the will were affected by a mistake of fact or law, whether in expression or inducement.

B. If shown by clear and convincing evidence, the court may modify the terms of a decedent's will to achieve the decedent's tax objectives in a manner that is not contrary to the decedent's probable intention.

C. Notice must be given and a person may represent and bind another person in proceedings under this section to the same extent that a person may represent and bind another person in proceedings brought under § 64.2-733 or 64.2-734 relating to trusts.

D. The remedies granted by this section are available only in proceedings brought in a circuit court under the appropriate provisions of this title, filed within one year from the decedent's date of death and in which all interested persons are made parties.

E. This section applies to all wills and codicils regardless of the date of their execution and all judicial proceedings regardless of when commenced, except that this section shall not apply to any judicial proceeding commenced before July 1, 2018, if the court finds that its application would substantially interfere with the effective conduct of the judicial proceeding or prejudice the rights of the parties.

- **Lost Wills**

  * *Absent court order, only an original will may be offered for probate.*

  * *One of two presumptions will apply: if the will was in the testator's possession, it is presumed to be revoked. If it was not, it is presumed lost.*

## Category C: Theft After Death

* *Executors and administrators are generally free to do as they will, subject only to the duty to account at the end.*

* *There is theft in almost every estate, and it is largely unprovable.*

* *Beneficiaries have very little right to oversee the process.*

# The Other Side of the Equation:

* *Sometimes nice, honorable folks agree to serve as agents under powers of attorney. If you do, you can expect:*

  - *family members to accuse you of stealing;*

  - *demands for accounting, documents, bank statements, receipts, access to accounts and access to your principal.*

* *Your actions will be scrutinized and you will face all of the shifting burdens of proof described above.*

* *This is particularly true if you are a beneficiary under your principal's will.*