PLANNING NEWS
INDUSTRIAL ALLIANCE INSURANCE AND FINANCIAL SERVICES INC.
INDUSTRIAL ALLIANCE PACIFIC INSURANCE AND FINANCIAL SERVICES
Estate Planning, Life Insurance and Financial Services Information

February 2006 Edition

Learning from Leonard Cohen's mistakes

Poet says he trusted his advisers to properly manage his financial affairs

JAMES DAW

At age 70, expatriate Canadian writer and performer Leonard Cohen is suing to recover $5 million (U.S.) that he expected would bankroll his retirement and, ultimately, go to his two children.

The money came from the $8 million that Sony Music International paid for all rights to future artist royalties on 127 songs he had written up to 2001, including "Suzanne," "Bird on a Wire," and "Hallelujah."

Most of us will have trouble relating to such a large sum of money, and how Cohen says it fell from his hands. Yet his predicament can teach us about some mistakes and perils to avoid in our own lives.

We should realize it's risky to rely on verbal agreements and to give others--even dear friends or family--unsupervised control of our bank accounts, property or important financial decisions.

We should be wary of elaborate transactions we do not understand, and advice from professionals whose interests or loyalties may be in conflict with our own. Finally, lawsuits are costly and uncertain.

Last month, Cohen's lawyers filed a civil complaint in Los Angeles where he is a permanent resident. In the legal action, Cohen blames his loss on a former business manager, a Kentucky lawyer introduced to him by his former manager, and up to 50 others not yet named.

The 33-page statement reveals that Cohen had placed his complete trust in his manager, a woman whom he acknowledged had been a sexual partner and who helped raise his children.

Cohen had been paying her a 15 per cent management commission under a verbal agreement, and she thus earned $1.2 million when she proposed and helped negotiate the sale to Sony. He had given her full authority to sign and speak for him while he devoted his time to his art, travel and meditation.

Cohen accuses the Kentucky lawyer of professional negligence in the design of a tax deferral scheme that involved putting the money into a company that was to pay Cohen a retirement annuity starting in 2011.

He claims the lawyer never told him the business manager would own and control the new company instead of his adult children, or that the children would receive nothing if he died. (Cohen did, however, get some of the money to help his children buy homes.)

"Had Cohen been fully and accurately informed by his professional licensed advisers…Cohen would not have agreed to the transaction as it was implemented," according to his statement of complaint.

Cohen also blames a Colorado money manager for suggesting the Kentucky lawyer and for not trying harder to bypass the business manager in order to warn him that she was taking shareholder loans that could jeopardize his annuity and trigger tax obligations.

None of Cohen's allegations has been proven in court,

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and only the Colorado money manager has responded formally. He filed a pre-emptive civil action in his state in June, accusing Cohen of threatening to hurt his reputation in order to win an insurance settlement to cover his losses. Cohen is seeking arbitration of their dispute, and a change of venue to California.

It could take years for courts to judge whether Cohen deserves compensation for his loss.

Sandra Foster, a certified financial planner, author and financial consultant at Headspring Consulting Inc. in Toronto, advises people to be wary of complicated transactions they do not understand.

"When I see investors with companies and trusts with complicated paperwork, I ask: "Do you understand all of the paperwork you have signed?" Frequently, the answer is no, "Foster said. "They don't understand the structure, or the rights that they may have signed away.

"It is difficult for clients to understand how much of the powers are given up in the structure, or how much of those powers just make it easier for the trustee or manager to carry out their role from day to day."

When there are holes in a structure, a person may be at risk if someone assigned to carry out their wishes lacks competence or ethics, or has personal financial problems that could rebound on them.

Seniors who have assets accumulated over a lifetime are particularly vulnerable.

They need to consider carefully before they choose an investment adviser, or decide to make potential heirs the co-owners of property before their death, or name someone their personal attorney in the event they become disabled.

Younger persons could also suffer losses simply by deciding too soon in a relationship to pool their savings in a joint bank account.

"I warn clients they need to be sure they have independent legal and accounting advice when they set up a structure (to hold their assets)," Foster said. "Very often, when a structure is set up on behalf of one party, it may not represent the best interests of the other party."

Consult your own lawyer before signing an employment severance agreement, or a divorce or pre-nuptial agreement drawn up by a lawyer other than your own. Consult a financial planner who knows your complete circumstances before taking financial advice from someone who stands to gain from a financial transaction.

"Have someone look at it with your eyes and your interests at heart," Foster said.

She urges clients to look beyond historic returns when considering an investment. Look into the underlying investments form which those returns have come, and consider the risks involved.

"If you don't understand, get a second opinion. Don't assume it's a problem with you. You may not be being snowed, but either get someone to explain it to you in better English, or ask them what would happen if you wanted the money back tomorrow. How much would you get?"

Problems can arise when you trust a friend for investment management advice, she said.

Your friendship may make it harder to ask tough questions about the friend's competence, why he or she is proposing a certain strategy, and if losses occur, why they came about.

Remember, it is not just stars of the entertainment world such as Cohen who have come to regret not keeping a closer watch on their financial affairs.

James Daw can be reached by email at jdaw@thestar.ca.

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