

But for the Plan

(Estates: Only the Estate is Obligated to Pay for the Debts of the Deceased)

Mrs. C (not her real name) was the Executor (Estate Trustee) of the estate of her late husband. Mr. C's estate did not have a lot of assets. In fact, it was essentially insolvent after payment of the funeral bill. Mrs. C did, however, receive life insurance proceeds, payable to her personally, as the named beneficiary under the policy.

Mr. C died with debts totaling \$84,000.00 owing to various creditors, and after his death Mrs. C began to receive demand letters and phone calls from them. Mrs. C thought that she was legally obligated to pay all of her husband's debts, so she did, using almost all of the life insurance proceeds that she had received personally.

Approximately two months after her husband's death, and after she had already paid off all of his debts with her own money, Mrs. C contacted our office in Oshawa for assistance regarding the administration of Mr. C's estate.

She met with Sharon Lees, our Estates Law Clerk, who was concerned that Mrs. C had used her own money to pay her late husband's debts. Once we advised Mrs. C that she, personally, was under no legal obligation to pay her late husband's debts (i.e., only the estate had the obligation), she instructed us to write letters to all of the creditors, requesting that they refund the payments that were made by mistake.

The creditors were initially reluctant to repay the money, and one had to be sued by Archie Palinka, a Staff Lawyer in our office. The rest, except for two, eventually refunded our client's money in full.

But for the Plan, Mrs. C might still be out of pocket. In the end, we recovered \$80,000.00 of the \$84,000.00 that our client had paid to the creditors by mistake.