

Feuding heirs

“I sincerely ask that all beneficiaries are sensible and do not argue.”

This wish, expressed by Australian coal-mining billionaire Ken Talbot in his will, has gone unfulfilled. Talbot’s will was drafted in 2002, when his fortune was estimated at \$130 million. At his death in an airplane accident in the Congo in 2010, his wealth was believed to be just over a billion dollars.

Talbot apparently was concerned about the effect that his wealth could have on his four children. Accordingly, they can access 10% of their inheritances at age 30, the balance at age 36. But before they do so, they must “obtain written confirmation from three independent doctors that they are not alcoholics or drug users.”

The Talbot Family Foundation was slated to receive 30% of Talbot’s estate. The balance of the estate was to be divided 48% to the children of Talbot’s first marriage, 52% to his surviving spouse and the two children that he had with her.

This might seem like a sensible and fair division. However, when the math is worked out, the two children from the first marriage will have a 24% share, the surviving spouse an 18% portion, and the two youngest children will receive 17%. That would come to an estimated \$119 million for each of them, falling well short of the \$168 million that the older children will inherit. Perhaps Talbot assumed or directed that the younger children eventually will inherit their mother’s share. We can’t know for certain, because a two-page memorandum that Talbot provided to the family explaining the philosophy behind his estate plan has not been made public.

Despite Talbot’s pleas, a will contest has erupted. The surviving spouse’s father, grandfather to the younger two children, has challenged the apparently unequal treatment of all the children. His affidavit states: “I seek an order from this court that adequate provision be made for Alex and Claudia out of the estate of the deceased.”

Avoiding family squabbles is perhaps the thorniest aspect of estate planning. To reduce the chances of misunderstanding, some planners recommend sharing the outlines of the estate plan with heirs well in advance, to avoid surprises and hurt feelings.