

The Dark Side of the Heir-Tracing Industry Exposed

The Dark Side of the Heir-Tracing Industry — Exposed: Exorbitant Fees and Illegal Business Practices of Percentage-Based Heir Hunters

By: Heirsearch.com <http://heirsearch.com/the-heir-tracing-industry-explained>

Big Story Ap. (2016, January 27). Justice Dept. targeting collusion in heir-tracing industry. Retrieved from <http://bigstory.ap.org/article/e310f5167ea44d0ea7a67926afe5e905/federal-price-fixing-probe-rattles-heir-tracing-industry>

Whenever probate attorneys and trust officers file public record intestate estate notices you can be sure the information immediately galvanizes professional heir locator firms, otherwise known as “heir hunters.” Due to the opportunity to reap windfall profits, heir hunters contract with “bird dog” individuals who scour court records daily for notices of high value intestate estates. Each time a new lead is provided, the heir hunters are off and running.

The success of heir hunters in this multi-million-dollar business is governed by three aggressive imperatives.

1. They strive to be the first to find one or more of the estate’s missing heirs, and once found, convince them to sign a finder’s fee contract for a percentage of their inheritance. This is without first disclosing estate particulars or the amount of the heir’s share. The heir hunter generally explains to the located heir that their involvement will expedite the receipt of inheritance funds in a timely and unimpeded manner – in return for a commission.
2. The next step of the heir hunter is to send the inheritor to a law firm with which the heir locator firm has a working relationship. The law firm immediately sends a letter to the probate attorney, or trust officer, stating that they now represent the estate heirs, and that proof of their client’s relationship to the decedent will be immediately forthcoming. This letter effectively “shuts out” any remaining heir hunter competition.
3. Due to the fact that the letter comes from another law firm, the probate attorney, or trust officer, would not be aware that a prior agreement for a large portion of the inheritance resides with an heir hunter.

Until the Department of Justice announced its investigation and initial charges in late 2015 sadly, all business practices of the percentage based firms appeared to be entirely legal despite the misleading verbal tactics heir hunters employ to secure those precious commission signatures. Heir hunter finder fees generally range between 20 – 50%, typically averaging 33%. In the case of a \$1 million estate, that equates to an exorbitant \$330,000.

The involvement of heir hunters and their outlandish commissions is not without additional controversy. Many legal professionals agree that heirs are placed at a distinct disadvantage when heir hunters withhold inheritance information until after a contract is signed. They maintain that this does not represent a fair contract between equals.

Legal sources also point out that an heir hunter’s referral of a located heir to a specific attorney can only be viewed as serving the heir hunter’s interests and not those of the heir. Apart from the potential of conflict of interest, it is also an ethical issue, and the general consensus is that heir hunter contracts can only be seen as champertous.

Non-Percentage Firms Find Heirs A Better Way

Heir locator firms that charge set fees to find missing heirs represent the superior alternative to heir hunters. These non-percentage heir search firms bill clients on a schedule and based upon the nature of the search required — never on the size of the trust or estate. Typically, fees are charged on an hourly basis, with an initial modest number of hours being authorized to assess the complexity of the search requirements. When deemed appropriate by an estate administrator, a non-percentage firm may be engaged for a flat fee.

When an estate administrator receives a written fee proposal from a non-percentage fee based search firm, it is then usual practice to obtain a court order authorizing that firm as the official heir search firm hired by the estate. This court order further protects the heirs from potentially having a percentage-based search firm (or multiple firms) later claim to act on the heir's behalf. It is not unheard of for a court to modify, or to entirely set aside, an heir hunter's contract when a prior court order had authorized the hiring of a non-percentage based heir search firm.

When the search has been completed, qualified non-percentage based heir search firms will fully document the relationship of the decedent to each heir located. Final reports include all relevant documentation and a genealogical chart, as required for court presentation. Expert witness testimony should also be available upon request.

What Approach is Most Effective for Finding Heirs?

The percentage-based heir hunter, or the non-percentage based genealogical heir search firm, will both locate the heirs. However, the fundamental difference is the cost of the service, which in the case of an heir hunter, is significant by comparison.

As an example, a search to find the sole heir to a \$100,000 estate might take 20 hours of professional research to complete. The heir hunter would typically negotiate a 33% fee, or \$33,000. The genealogical heir search firm would apply an hourly fee of between approximately \$100 and \$200, resulting in a fee of between \$2,000 and \$4,000.

The disparity would be even greater if the estate was worth \$1 million. Whereas the heir hunter's typical fee of 33% would equal \$330,000, the fee of the genealogical heir search firm would remain the same, between \$2,000 to \$4,000.

Furthermore, heir hunter firms may not ensure all heirs are accounted for as the location of heirs is predicated on the size of the commissions.

Who Should Pay for the Search: The Heir or The Estate?

Every search and every situation is different. At times it may be decided that search fees should be taken from the heir's share, while other times, it may be more appropriate for the search fees to be a general estate expense. Whichever approach is chosen, the fees should be reasonable, which is why using a non-percentage based heir locator firm is highly recommended.

Missing Trust Beneficiaries

Some beneficiaries inherit from trust funds. For expert insight in this area, Charles E. Rounds, Jr., a Professor of Law at Suffolk University, Boston comments:

“In the case of a Trust, a critical duty of a trustee is to ascertain, in doubtful cases, the trust's lawful beneficiaries. This could be either a question of law or of fact, or both. When it is a question of fact, the services of a genealogical search firm may be required. The bad news is that a trustee is generally personally liable for mistakenly delivering the trust property. The good news is that the fees of the search firm are generally chargeable against the trust property, not against the trustee personally, provided the firm's fees are reasonable.”

In Conclusion

When considering a third-party vendor to locate missing or unknown heirs, you, and the heirs you represent in a fiduciary capacity, will be better served by fully understanding the available choices and the respective fee methodologies of the two types of search firms.

About HeirSearch.com

Since 1967, HeirSearch.com has provided forensic genealogy services A Better Way through its five-pillar approach that ensures reasonable, non-percentage based fees, authorized search services, a 97% success rate, documented court-ready reports and worldwide service.