



When the dead pay cash

At Andersons, we enjoy a good bizarre story as much as the next person. Unfortunately, working in Wills and Estates as much as we do sometimes leads to a dark sense of humour. But even we were taken aback when we saw the article earlier this year where a lady in Brazil copied Weekend at Bernie's by taking her recently deceased uncle into a bank and trying to convince the staff there that he was wanting to withdraw money from his account but he was tired and hard of hearing. [You can read the article here.](#)

The story caused us to reflect on times where executors or attorneys had attempted to withdraw funds from accounts on behalf of someone dead or incapacitated, in circumstances which were anything less than proper.

As you may know, in Australia an "Attorney" is not a lawyer but rather someone who is authorised to look after someone else's money under a document called a "Power of Attorney". What Attorneys sometimes don't realise (or want to realise, as the case may be) that power immediately ends upon the death of the person who granted the power in the first place. It can also be revoked during that person's lifetime, if they wish. Once the person granting the Power of Attorney is dead, the executor of the Will becomes responsible for managing the estate, and the Power of Attorney ceases to have effect.

Given that, unfortunately, Attorneys sometimes do the wrong thing, the beneficiaries and executors of

the estate in appropriate circumstances can ask the Court to check on the deceased's assets and what happened to them in the period whilst an Attorney was managing them. Equally, executors are accountable to the beneficiaries of a deceased estate to find and call in all the assets of the deceased, and then distribute them according to the Will. Had the Brazilian Weekend at Bernie's plot worked out, it would have been the deceased Uncle's executor who would have to bring a claim against the niece.

If you are the beneficiary of an estate and you have a suspicion that either the executor (or an attorney before the deceased died) might have done the wrong thing, then here at Andersons we can help you to assess your options and what steps to take next to recover those assets. You can contact us on 8238 6666 or email enquiry@andersons.com.au