



Think twice about ownership and beneficiary designations

The importance of periodic review of ownership and beneficiary designations of clients' life insurance policies cannot be overstated. An Alabama bankruptcy court recently ruled that the death benefit received by a husband due to the untimely death of his wife was available to his creditors.

Background

In 2009, Sidney and Lesa White filed a joint petition for bankruptcy (Chapter 13 petition). Prior to filing the bankruptcy petition, they purchased a \$50,000 life insurance policy through Sidney's employer. Lesa was the insured and policy owner while Sidney was the beneficiary.

Lesa died in 2010 and Sidney subsequently received the \$50,000 life insurance proceeds while the bankruptcy petition was still pending. In early 2014, Sidney filed an amendment to the bankruptcy petition and disclosed the inheritance he received from his wife. He also claimed the life insurance proceeds as an exempt asset according to laws of the state of Alabama. The bankruptcy trustee objected to Sidney's claim that the proceeds were exempt.

Result

In general, the Bankruptcy Code allows a debtor to exempt certain property from the bankruptcy estate. This is intended to ensure that a debtor is not left destitute. States may however opt out of the exemptions provided by the Bankruptcy Code and provide their own list of exempt assets. Alabama has opted out and provide its own list of exemptions.

Under the laws of the state of Alabama, "a beneficiary may exempt life insurance proceeds as to the creditors of not only the insured, but also against creditors of the beneficiary spouse."¹ This exemption, however, "only applies if the beneficiary-spouse was the person who "effected the insurance policy." That is, Sidney, not Lesa, needed to be the owner of the policy.

Key Takeaways

- ◆ Ownership and beneficiary designations should be reviewed on a regular basis
- ◆ A spendthrift trust as owner/beneficiary should always be considered
- ◆ Do not rely exclusively on state law for creditor protection

Take a look at our [Beneficiary Review Kit](#) for tools to help you conduct effective reviews. For more information, please refer to [Advanced Markets Portal](#) or contact Advanced Markets directly (866-323-6923 or AdvancedMarkets@aig.com) or contact your American General representative.

¹ *In re White*, No. 09-83098-JAC-13 (U.S. Bankruptcy Ct. N Dist. AL, May 16, 2014)