Genealogy Can Be Dangerou$

John M. Hoenig examines the financial implications of estate research

GENEALOGY IS A GENTLE and positive hobby that promotes family values and an appreciation for history, right? Yes, but genealogy can also have important legal and financial implications. The experience of some of my distant cousins sheds light on this.

The Case of Samuel Weiss

Samuel Weiss came to New York in 1899; his wife Deborah followed a year later with their children Leo (age eight) and Hanna (age three). In 1904, poor Deborah died during a difficult pregnancy. Samuel married again two months later but his wife died of tuberculosis four years later. In 1910, Samuel married again and his union with Rachel produced three children: Abraham, Jack and Herman.

In 1995, Herman died intestate in New York. One of his nephews, Eli, was appointed executor of the estate. Eli had to establish who all the potential heirs of Herman were. In this task, he was assisted by his cousin Joan who compiled a family tree. This was a tremendous boon for me. I was looking for Weiss relatives and when I went to the county courthouse I was able to look at Weiss probate files. Imagine finding Herman Weiss' file which contained a copy of his death certificate and Joan's family tree complete with names, relationships, addresses and even phone numbers. However, Joan only listed descendants of Samuel's marriage to Rachel, not Deborah.

Later, I found a descendant, David, of Samuel and his first wife Deborah. He told me the following incredible story. A few years ago, David became interested in genealogy and decided to spend an afternoon at the National Archives Branch in New York City. Being unfamiliar with genealogical research, he was floundering around and becoming increasingly frustrated with census microfilms. A professional genealogist who happened to be doing research in the archives gave him some assistance and, at some point during their conversation, she gave David her business card.

Then, a couple of years later, David got a phone call from his mother. She said a lawyer had called her and informed her a distant cousin had died without a will and that she was entitled to a share. The lawyer said if she agreed to give him one third of what she received, he would tell her how to claim her inheritance. David immediately thought this was a scam. Then he remembered the professional genealogist he had spoken to years before and he found her business card in his desk. When he called her she said "Wait a minute, I think I did the research on that one." It turns out that the lawyer makes a business of looking for people that die intestate with a sizable estate . He then has the genealogist do research to look for relatives of the deceased and offers to help them claim their share of the estate. In this case, David's mother was entitled to a little over $30,000 and, after giving the lawyer his share, wound up with around $20,000.

When a person dies intestate, the executor of the estate has an obligation to exercise "due diligence" in locating all potential heirs. Evidence of having exercised such diligence can include having a professional do a search for relatives. If due diligence is not established, the executor can be held financially liable by excluded heirs.

There is one thing about this case study that puzzles me. The probate file contains no mention of David's mother. It is possible that the lawyer arranged for a settlement outside of the framework of the probate proceedings. However, asking pointed questions about financial matters with newly discovered relatives is not good genealogical practice. So this is probably as far as I will go with this part of the family history.

The lesson from all this is that genealogy can have legal and financial implications. Relatives may be right to be suspicious of new-found "cousins". And, due diligence searches can be tricky and are probably best left to the professionals.

In the above account I have changed some minor details and the names of my relatives to afford them some privacy. FC