

Attorney Timothy P. Crawford, CPA, CELA\*, CAP\*\*  
wanted to share this information with you.

## Who Has Access to Your Digital Assets When You Die?

GREATER MILWAUKEE AREA OFFICES IN BROOKFIELD, GLENDALE, MILWAUKEE, OAK CREEK & RACINE

### *Your Asset Protection Law Firm*

840 Lake Avenue, Suite 200  
Racine, WI 53403  
(262) 634-6659

E-mail: [tpc@execpc.com](mailto:tpc@execpc.com)  
Website: [www.TpcLaw.com](http://www.TpcLaw.com)

It used to be that people kept important things in filing cabinets, banks, and photo albums. Now everything from communications, to photos, to music, to sensitive financial information is increasingly kept online. In fact, 51 percent of U.S. adults bank online, according to the Pew Research Center; and 63 percent of all American adults, and 27 percent of all Americans ages 65 and older, use social networking sites.

While the Internet has made things easier in many ways, it can cause a lot of complications when someone dies or loses the ability to manage their own affairs. That is why the Uniform Law Commission, a group of state appointed attorneys, created the Uniform Fiduciary Access to Digital Assets Act (UFADAA) as a way to clear up some of the complications.

### **Right Now, Accessing a Loved Ones Account Could Be a Criminal Act**

What becomes of a persons digital life, such as their Facebook accounts, Flickr photos, and online banking information, when they die or become incapacitated?

Currently, there is no good answer. Very few states have laws that deal with these issues. Even if someone's Will contains instructions, there is no guarantee their wishes will be carried out.

Often, only the account holder can legally access their online account. The terms of agreement on many sites prohibit sharing passwords and third-party access.

Worse, it may be an actual criminal act to violate those terms of the service agreement. Even a fiduciary, the person that's designated to act in your best interest, could be breaking a federal privacy law or the Computer Fraud and Abuse Act when accessing your account.

## **The Current Limits on Access Makes the Problem of Identity Theft Worse**

Glenn Williamson discovered what all too often happens when his mother passed away. The identity thieves get busy. The year after somebody passes is one of the most vulnerable times for identity theft. It's a heinous crime, but it is what the bad guys do, because death is public record. They'll go out there and they'll comb through recently deceased and they will create a fake identity, because the deceased don't check email and they don't get the mail said Williamson in a July 2014 interview with PBS.

The inability to access a loved ones digital assets makes problems like Williamson's much harder to stop.

## **UFADAA Is an Important Update for the Internet Age**

The UFADAA gives people the power to plan for the management and disposition of their digital assets the same way they can make plans for their tangible property: by providing instructions in a Will, Trust, or Power of Attorney. If a person fails to plan, the law contains provisions for distributing those assets.

Also, the Act would put limits on access to digital assets and extends a fiduciary's existing authority and duties when overseeing a person's tangible assets to include the person's digital assets.

The Uniform Law Commission will introduce UFADAA in 2015. It will be up to state legislatures to pass it. So far, 26 states plus the District of Columbia have expressed interest in a UFADAA bill for 2015. Obstacles still exist as some Internet companies oppose the UFADAA because of the administrative costs associated with complying.

Find out more about the UFADAA and what you can do by visiting the Uniform Law Commission website.

### **“Those Who Plan Ahead Win. Those Who Don't Plan Ahead Lose.”**

This article is for informational purpose only and is not intended as legal advice. It is recommended that you call Timothy P. Crawford for a free conference to discuss your situation in more detail. Attorney Crawford can be reached at 1-262-634-6659. Please refer to this article when you call.

\*Attorney Timothy P. Crawford is a Nationally Board Certified Elder Law Attorney (**CELA**). He has been Board Certified by the National Elder Law Foundation which has been approved as the Sole Certifying Organization for Elder Law Attorneys by the American Bar Association.

\*\*Timothy P. Crawford was invited to join the Council of Advanced Practitioners (**CAP**) of the National Academy of Elder Law Attorneys (**NAELA**) in August of 2005. **CAP** is a small group of premier elder law attorneys, all of whom have been members of NAELA for at least 10 years, are certified as elder law attorneys by the National Elder Law Foundation, and are AV rated by Martindale Hubbell, a service that provides an independent rating of the quality of attorneys, as one of the top attorneys in the nation.

Attorney Timothy P. Crawford has been selected as a **Fellow** of NAELA. **Fellow** is the highest honor bestowed by the Academy. Selection as a **Fellow** signifies that his peers recognize the lawyer as a model for others and as an exceptional lawyer and leader.

Attorney Timothy P. Crawford has a superb rating of 10 out of 10 with A V V O.

A V V O has awarded to Attorney Timothy P. Crawford the A V V O Client's Choice Award.

**YOUR ASSET PROTECTION LAW FIRM WITH GREATER MILWAUKEE AREA OFFICES  
IN BROOKFIELD, GLENDALE, MILWAUKEE, OAK CREEK & RACINE**

**"Helping Families in Wisconsin for Over 40 Years  
to Protect Their Assets from Nursing Home Care Costs"**

“A majority of text has come from an article prepared by Catherine Seal, CELA, friend of Attorney Timothy P. Crawford, and is used here with permission.”

lmv/ARTICLES/WHO HAS ACCESS TO YOUR DIGITAL ASSETS/021615