

# KEEPING CURRENT

December 3, 2021

## Treatment of Digital Assets on Death

By Parish Bhumgara

### Background

“Water is a useful metaphor for digital assets; they are just as fluid, ever-changing, and dynamic, which presents both challenges and opportunities for executors and those who provide services to them. And, like water, digital assets can simply slip through one’s fingers without care”

- Daniel Nelson, “The Challenge of Digital Estate Administration for Executors”<sup>1</sup>

In storing personal information or creating content on the Internet, individuals are storing or producing digital assets.<sup>2</sup> These digital assets are important personally to personal identities, and financially, as online loyalty programs, virtual currencies, and content stored on sites such as Amazon and iTunes are becoming as valuable as online bank and investment accounts.<sup>3</sup>

<sup>1</sup> Daniel A. Nelson, “The Challenge of Digital Estate Administration for Executors” (December 1, 2012) Ontario Bar Association.

<sup>2</sup> Keith Masterman & Asha Sivarajah, “Estate Planning for a Client’s Digital Assets” (July 26, 2017).

<sup>3</sup> Luann Lasalle, “What to do about online accounts

Bitcoin market cap reached US \$1 trillion in February 2021. A report by a 2021 study estimates that 1.2 million Canadians (3.2%) hold Bitcoin.<sup>4</sup> Yet, BMO Wealth Institute finds over 57% of Canadians have failed to plan for their digital assets in their estate plans.<sup>5</sup>

Wealthsimple now offers 34 different cryptocurrencies on its investing platform. Some popular ones include<sup>6</sup>:

### Etherium

Etherium is a blockchain network like Bitcoin. It can also be used as an alternative currency, but fewer vendors accept Etherium. Etherium is better known for its smart contracts - computer code that automatically executes the contract when the terms of the

and assets after death” (March 26, 2017) The Globe and Mail.

<sup>4</sup> <https://www.nationalmagazine.ca/en-ca/articles/the-practice/new-law/2021/not-your-traditional-asset>  
<sup>5</sup> Ibid.

<sup>6</sup> The descriptions of the coins below are excerpts from <https://www.willful.co/blog/what-happens-to-your-bitcoin-when-you-die> and <https://www.investopedia.com/tech/most-important-cryptocurrencies-other-than-bitcoin/>

Founded in the 1920s, Gardiner Roberts LLP has grown to become a strategically placed mid-sized business law firm with a diverse client base which includes several of Canada’s largest banks, public companies including mining, high tech and software companies, real estate enterprises, lenders and investors.

**Lindsay Histrop**  
Partner  
416.865.6683  
lhistrop@grllp.com

**Parish Bhumgara**  
Articling Student  
416.865.6708  
pbhumgara@grllp.com

agreement have been met without the need for human intervention. Ether is the currency used to pay to run programs on the Ethereum network.

### **Litecoin**

Litecoin is another decentralized cryptocurrency that adopts many of Bitcoin's features, in fact its founder announced that Litecoin would be the "lite version of Bitcoin" and the "silver to Bitcoin's gold". Litecoin has faster transaction speeds and because of this its platform handles more transactions.

### **Ripple**

Ripple is also a blockchain driven platform but its focus is on facilitating cross-border transactions in just a few seconds, which is much faster than the hours or days it might take a bank. Ripple's XRP coins are intended to be a linking currency between the two international currencies involved in the transaction.

### **Cardano**

Cardano is an "Ouroboros proof-of-stake" cryptocurrency that was created with a research-based approach by engineers, mathematicians, and cryptography experts. The project was co-founded by Charles Hoskinson, one of the five initial founding members of Ethereum. After having some disagreements with the direction Ethereum was taking, he left and later helped to create Cardano.

The team behind Cardano created its blockchain through extensive experimentation and peer-reviewed research. The researchers behind the project have written over 90 papers on blockchain technology across a range of topics. This research is the backbone of Cardano.

### **Dogecoin**

Dogecoin is seen by some as the original

"memecoin" caused a stir in 2021 as the price of the coin skyrocketed. The coin, which uses an image of the shiba inu as its avatar, is accepted as a form of payment by some major companies including the Dallas Mavericks, Kronos, and, perhaps most notably, SpaceX, an American aerospace manufacturer owned by Elon Musk.

Dogecoin was created by two software engineers, Billy Markus and Jackson Palmer, in 2013.

Markus and Palmer reportedly created the coin as a joke, commenting on the wild speculation of the cryptocurrency market.

The price of DOGE hit an all-time high of \$0.71 during the week Elon Musk was scheduled to appear on Saturday Night Live. As of November 2021, Dogecoin's market capitalization is \$29.2 billion and one DOGE is valued at around \$0.22, making it the tenth-largest cryptocurrency.<sup>7</sup>

### **Non-Fungible Tokens (NFT)**

Additionally, Non-Fungible Tokens (NFT) have expanded into other asset classes. A Non-Fungible Token is a token stored on a blockchain. Blockchain itself is a secure distributed database with redundancy, immutability, and clarity into tracking data or ownership. A token proves ownership of an asset. For just like a deed to your house is a sign of ownership to that plot of land and building, in the case of the first digital token, Bitcoin, a single Bitcoin is the title of ownership to the underlying value of the Bitcoin.

As mentioned in a Thomson Reuters article<sup>8</sup>, Mike Winkelmann, known as @Beeple, is a renowned artist who has worked with Nike and Apple Winkelmann. Winkelmann sold a

<sup>7</sup> Ibid.  
<sup>8</sup> see: <https://www.thomsonreuters.com/en-us/posts/legal/non-fungible-tokens-legal/>



collection of many of his works combined into a masterpiece, titled EVERYDAYS: THE FIRST 5000 DAYS at Christie's for \$69 million. These transactions occurred on Ethereum, a blockchain.

Winkelmann's art itself was simply digital images, however people buy NFTs because it is feasible to collect royalties and resell the NFT in the future for profit.<sup>9</sup>

As digital assets become increasingly more mainstream serving as a form of alternative investment for many people, the need to protect those assets and have a strong succession plan in place is increasingly important.

It has been observed,<sup>10</sup> that disputes over digital assets are likely occurring but because mediation in Ontario is mandatory and confidential in estate litigation, the resolutions are not publicly reported. Having a digital estate plan is crucial to ensure that a testator's wishes are adhered to.

### **Defining and Categorizing: Assets vs. Accounts**

The categories of digital property are fluid, since digital applications, social media sites, and currencies spring up and are popularized every day. Further complicating classification is the issue of determining whether individuals have a license to use a digital asset or if they possess a full property ownership interest. The first step is to differentiate between digital "assets" and digital "accounts".

While an asset typically refers to a singular file itself, accounts generally refer to the mechanisms used to control and access certain assets.<sup>11</sup>

<sup>9</sup> Ibid.

<sup>10</sup> Edward Olkovich, "Why Executors Worry about Digital Assets" (June 5 2014) Edward Olkovich Law; Katie Keir, "Protect clients' digital estates" (November 5, 2013) Advisor's Edge.

<sup>11</sup> Ian Hull, "Digital Assets and Planning for Incapacity" (March 27, 2018), OsgoodePD Blog.

A 2013 Law Society of Upper Canada article helps distinguish between the two:<sup>12</sup>

#### *Digital Assets*

The definition is endless, but digital assets may include photographs, videos, blog posts, iTunes music collections, emails, Microsoft Office documents, music collections or playlists, and tweets. Besides holding sentimental and nostalgic value for loved ones, these assets often also contain information that could be important for business owners, like customer emails or invoices, or contain health, medical or tax records.

#### *Digital Accounts*

Digital accounts are used to access files, including email accounts, social network accounts, file sharing accounts, and software licenses. Digital accounts are not the files themselves, but are how a person accesses those files.

Digital accounts can be separated into three categories:<sup>13</sup>

1. "Virtual Currency Accounts": Accounts that contain virtual currency that could be transferred to heirs, including Paypal, loyalty program accounts like credit card accounts and cash back, and Bitcoin;
2. "Virtual Property Accounts": Accounts containing virtual property like iTunes accounts – in this situation, the person does not actually own the files but only has a licence to use them;
3. "Social Media Accounts": Accounts containing information likely of personal or commercial

<sup>12</sup> Kimberly A. Whaley & Erin C. Cowling, "Digital life after death: The next level of estate planning and estate litigation" (April 24, 2015) at page 6.

<sup>13</sup> Ibid. at p. 6-7.

interest like a personal email account, or a Facebook, Twitter, or LinkedIn account.

### **Virtual Currency Accounts**

Digital accounts may hold actual currency that a testator may want to transfer to heirs or beneficiaries. These accounts hold any currency that may be converted into common fiat money. Examples include the contents of eBay, Amazon, PayPal, and crypto-currency wallets like Bitcoin.

Bitcoin, a form of digital currency, is transferable upon the death of the user. In unsophisticated terms, bitcoins are stored in a digital “wallet”. A Bitcoin wallet is password protected. There are no mechanisms to retrieve a lost password to a Bitcoin wallet. Without the password, the value is forever lost. If the Bitcoin account owner does not leave behind the key to their digital wallet, it is treated as though the account does not exist at all.<sup>14</sup>

### **Virtual Property Accounts**

This category includes any account containing virtual property, like an iTunes collection, or a Kindle library.

Accounts containing virtual property hold digital content that individuals assume they own. However, in reality, customers only own a licence to use the digital files, with no ownership interest held by the individual. These accounts may not be transferable, as the assets are not actually owned (contrary to their physical counterparts, like a CD or a paperback novel).<sup>15</sup>

### **Social Media Accounts**

Social media accounts include websites, applications and other means for individuals to share, create and exchange information, ideas, pictures and videos online. Facebook, Pinterest,

<sup>14</sup> Marg Bruineman, “Factor Digital Assets into Estate Planning” (October 22, 2018) Law Times.

<sup>15</sup>Supra note 8 at p. 7

Instagram, Twitter, LinkedIn and Tumblr are popular social media sites in Canada. Each social media site has its own terms of use and privacy agreements.<sup>16</sup>

### **The Law in Canada**

To date, there is no law in Ontario or Canada that specifically addresses ownership and control of digital assets after someone dies.

#### *Canadian Uniform Law Commission Model Act*

In 2016, the *Uniform Access to Digital Assets by Fiduciaries Act (2016)*<sup>17</sup> was proposed. The UADAFAs draws heavily from the American *Revised Uniform Access to Digital Assets Act*.<sup>18</sup> If adopted, it would authorized fiduciaries (i.e. lawyers, guardians, and estate executors) default access to digital assets where the terms of a will, grant of probate, a court order or an express statement in a user agreement, provides for such authority. The UADAFAs would void any service agreement to the extent that a provision limits the fiduciary’s access to a digital asset, unless the account holder accepts its terms and consents to its terms in a separate document.<sup>19</sup>

However, this document has yet to be adopted in Canada.<sup>20</sup>

#### *Canadian Privacy Laws*

Privacy rights continue after death, and therefore privacy legislation might impose limitations on custodians (i.e. online service providers). Custodians are governed by the federal

<sup>16</sup> Ibid.

<sup>17</sup> Uniform Law Commission, *Uniform Access to Digital Assets by Fiduciaries Act (2016)*, (Uniform Law Conference of Canada, 2016) online [UADAFAs].

<sup>18</sup> National Conference of Commissioners on Uniform State Laws, *Revised Uniform Fiduciary Access to Digital Assets Act (2015)*, Annual Conference, 2015 [RUFADAA].

<sup>19</sup> UADAFAs, supra note 19, s.3(3)B.

<sup>20</sup> “Digital Assets: Modern Realities Versus Lagging Realities” (July 26, 2018) O’Sullivan Estates Lawyers LLP.

*Personal Information Protection and Electronic Documents Act* (PIPEDA). PIPEDA provides for specific situations where an organization can disclose personal information without the individual's consent.

PIPEDA provides for the release of information about an individual if they have been deceased for 20 years or more.<sup>21</sup> Where an individual has been deceased for less than 20 years, a custodian's disclosure of personal information without consent is permitted pursuant to an order of "the court, person, or body with jurisdiction to compel the production of information" and where required "by law".<sup>22</sup> Therefore, PIPEDA does not compel online service providers to permit disclosure of personal information in estate administration.

#### *US Case Law*

Though there has been no prominent Canadian case law on the issue of a personal representative's right to access and gather a deceased's digital assets, there have been cases in the United States which may be illustrative. In *Ajemian v Yahoo! Inc.*,<sup>23</sup> Mr. Ajemian passed away without a will, leaving behind a Yahoo! email account, with no instructions regarding its treatment. His siblings were appointed as personal representatives of their brother's estate and sought access in this capacity to the contents of the email account. Yahoo! declined to provide access to the account, as prohibited by the *Stored Communications Act* ("SCA"). The Supreme Judicial Court of Massachusetts stated that the SCA does not prohibit this disclosure, as the personal representatives are capable of

<sup>21</sup> *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, s.7(3)(h)(ii).

<sup>22</sup> *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, s.7(3)(c).

<sup>23</sup> 84 N.E.3d 766 (Mass. 2017), cert. denied, No. 17-1005, 2018 WL 489291 (26 March 2018).

lawfully consenting to the disclosure on the deceased's behalf.

In a 2019 US case, *In Re Scandalios*,<sup>24</sup> Ric Swezey died unexpectedly and his will did not explicitly authorize his husband to have access to his digital assets, including family photos in his Apple account. After Apple refused access, the New York County Surrogate's Court ordered Apple to give the deceased's husband and the executor of his estate access to his Apple account. The Court relied on Article 13-A, Administration of Digital Assets, of the New York Consolidated Laws, Estates, Powers and Trusts Law.<sup>25</sup> The Court found that, while disclosure of electronic communications required 'proof of a user's consent or a court order', the deceased's photographs did not count as 'communications'. Therefore, Apple should provide the executor with the opportunity to reset the password to the deceased's iCloud.

In *Matter of White*,<sup>26</sup> the estate administrator argued that he needed access to the contents of the deceased's email communications in order to obtain information about his business that was necessary to administer the estate. Noting that the decedent did not address disclosure of his digital assets in his will, the court limited disclosure to the decedent's contact information, finding that other information was too personal and sensitive to disclose. In applying the New York digital assets statute, the court took a cautious approach and limited disclosure to what it believed was "reasonably necessary" to administer the estate.<sup>27</sup>

<sup>24</sup> 2017-2976/A N.Y. Surr. Ct. 2019.

<sup>25</sup> This law was passed in September 2016. The Act provides fiduciaries (i.e. executors, administrators, trustees) with the legal authority to access and manage the digital assets of deceased or incapacitated individuals.

<sup>26</sup> 10/3/2017 NYLJ p. 25, col. 1

<sup>27</sup> Joshua H. Epstein & Michael M. Schimel, "United States: Recent Cases Highlight 'Digital Assets' As a New Frontier in

There is no equivalent Canadian legislation to the SCA as in *Ajemian v Yahoo! Inc*, or to New York's digital asset laws in *In Re Scandalios* and *Matter of White*. However, the relevant and overarching principle is that these judgments seem to favour fiduciary access to a deceased's digital assets over total privacy. They also indicate the importance of planning for the handling of digital assets in a will by clearly delineating the authority of the estate fiduciary.<sup>28</sup>

### *Implications*

Since there is a lack of legislation for digital assets, the estate trustee could be constrained by service terms outlined by digital account providers.<sup>29</sup> This presents challenges to executors who battle electronic service providers to gain access to accounts after a client dies. Different account providers set different rules. Many of these service providers do not have testamentary policies, but most have terms of use provisions that restrict access to the account by anyone other than the client.

### **Barriers to Access: Terms of Service and User Agreements**

#### *There is No Automatic Right of Survivorship*

There is no automatic right of survivorship for digital accounts and consequently no immediate right to access the online accounts of a deceased. Therefore, where clients have not considered digital assets in their estate plans, holes in the law coupled with privacy-oriented service agreements governing the account may create problems for managing a deceased's digital assets. This may result in digital accounts being inaccessible to personal representatives, or may

---

Estate Planning and Litigation" (May 3, 2018) Mondaq.

<sup>28</sup> Ibid.

<sup>29</sup> Supra note 2.

require them to obtain a court order to do so, which is a time-consuming and costly process.<sup>30</sup>

When an individual opens a digital account, a contract is formed between the individual and the company behind the service (also known as the custodian), often called a Terms of Service or User Agreement. While some of these custodians do not have a specific testamentary policy in place, many have provisions that restrict access to the account by anyone other than the account holder.<sup>31</sup> Many of these contracts also prohibit the transferring of accounts to different account holders and may contain provisions that deactivate an account after a period of inactivity.<sup>32</sup>

They often provide that the individual is the only person authorized to access the website account, and most of the agreements do not contain provisions regarding ownership and control of the account after the individual passes.<sup>33</sup>

User agreements may prohibit access to estate trustees and deny them the ability to deal with content.<sup>34</sup>

#### *Example: Court Order for Apple Password*

For example, CBC reported on an elderly widow in Victoria, British Columbia, named Peggy, who did not know she would need her deceased husband's Apple ID password to play her favourite game on the couple's shared iPad. After he passed away, Peggy updated the game and had to sign back

---

<sup>30</sup> Nick Esterbauer, "How can access to digital assets and accounts be facilitated?" (March 4, 2016), Hull and Hull (blog) online.

<sup>31</sup> Victoria Hockley et al, "Digital assets: disposal, rights and succession in Canada", online: (March 1, 2015): Thomson Reuters Practical Law.

<sup>32</sup> Faye L. Woodman, "Fiduciary access to digital assets: A review of the Uniform Law Conference of Canada's Proposed Uniform Act and Comparable American Model Legislation", online: (2017) Canadian Journal of Law and Technology at page 15.

<sup>33</sup> Matthias Duensing, "Understanding the legal framework surrounding digital assets" (January 28, 2016) Advocate Daily.

<sup>34</sup> Supra note 6.

in to access it, but was locked out. Her daughter contacted Apple to retrieve the password and Apple refused. Peggy's only option was to create a new Apple ID account and repurchase all of her applications and games. Even though she provided Apple with serial numbers for her Apple hardware, the deceased's will (where he left everything to Peggy), and a notarized death certificate, Apple still refused and suggested that Peggy obtain a court order to obtain access. Apple later apologized after the CBC covered the story, and offered to solve the problem without a court order.<sup>35</sup>

Each service provider provides different terms that impact what happens upon the account holder's death.<sup>36</sup>

However, Apple's stance has now slightly changed. While Apple still requires next of kin to request a Court Order to obtain access to a deceased family member's account, Apple no longer opposes these orders. Primarily they want the public to go through the process so Apple can maintain that it never violated anyone's privacy willingly.

### **Terms and Conditions Governing Disposal of Assets on Death**

Given that there is no law governing digital asset succession, the account providers' guidelines must be complied with. Here are a few pertinent examples:<sup>37</sup>

#### *Virtual Currency / E-Commerce Accounts:*

- Amazon: Amazon will close down an

<sup>35</sup> Rosa Marchitelli, "Apple demands widow get court order to access dead husband's password" (January 18, 2016) *Canadian Broadcasting Corporation*.

<sup>36</sup> Suzana Popovic-Montag, "Embrace the virtual you – plan your estate with electronic assets in mind" (September 6, 2017) Hull and Hull (blog).

<sup>37</sup> *Supra* note 8 & note 27.

account on being provided with evidence of the member's death. However, its license to the user is limited, non-exclusive, non-transferable and non-sublicensable and therefore cannot be used by someone else upon death.

- Bitcoin: this is a form of digital currency which can be transferred on the death of the user. However, to do so, the password to the user's digital "wallet" must be available to the deceased user's personal representative. If the password to the user's wallet is lost, the bitcoins are lost forever, as there is no mechanism to retrieve a lost password.
- Ebay: the policy on death is that eBay will close down the deceased's account and any eBay store, if informed of the account holder's death and on being provided a death certificate.
- PayPal: to close a PayPal account, the personal representative needs to fax to PayPal a cover letter for the request, a copy of the death certificate, a copy of the deceased user's legal documentation proving that the person making the request is authorized to act on behalf of the deceased and a copy of photo identification of the personal representative. The documentation will be reviewed and, if approved, PayPal will close the account and issue a cheque in the account holder's name if any funds have been left in the account.
- Pokerstars.com: Pokerstars' terms of service provide that the money held in the user's account is held in trust by Pokerstars on behalf of the user. The terms of service allow for money to be withdrawn and transferred between accounts. It is likely that personal

representatives are able to withdraw the funds held in trust by Pokerstars.

### *Virtual Property Accounts*

- Apple (including iTunes): Apple's terms and conditions do not specifically address what happens to the account on the death of the account holder. However, they do prohibit the account holder from renting, leasing, lending, selling, transferring, or distributing the licensed application.
- iCloud: The account is non-transferable and any rights to iCloud contents terminate upon death.
- Kindle: The terms of use for Kindle state "Kindle Content is licensed, not sold, to you by the Content Provider". The terms of use go on to state that the user "may not sell, rent, lease, distribute, broadcast, sublicense, or otherwise assign any rights to the Kindle Content".

### *Points*

- Aeroplan Miles: Aeroplan membership terminates on death or personal bankruptcy. Points are personal and cannot be assigned, traded, willed or otherwise transferred without the consent of Aeroplan.
- Air Miles: Air Miles' terms and conditions allow a deceased's account to be merged with the account of a family member or a member of the deceased's household. The merging of accounts is subject to Air Miles' consent and requires proof of the deceased's death, such as a death certificate.

- Shoppers Optimum Points: on death of a Shoppers Optimum Member, the Member's account will be closed and any Shoppers Optimum Points in the account will be forfeited.
- TD Travel Rewards: TD Points cannot be transferred upon death of the Primary Cardholder, except to an Authorized User who applies, qualifies and becomes a Primary Cardholder.

### *Social Media Accounts*

- Google (includes Gmail): Google introduced an estate-planning tool called Inactive Account Manager in 2013, which allows clients to direct how emails, videos and other property should be dealt with if their accounts become inactive for a set period of time.
- Microsoft Hotmail: the Microsoft Next of Kin process allows for the release of Hotmail contents, including all emails and attachments, address books and contact lists, if a user is deceased or incapacitated. Executors can also close accounts.
- Facebook: profiles cannot be transferred to a fiduciary, but an account can be memorialized with the written request from the deceased's next of kin along with proof of death. The accounts can also be removed by the next of kin and permanently deleted from Facebook if they wish.
- Twitter: the site delivers a user's tweets to a beneficiary and closes the account upon death. Executors must fax or mail the client's account user name, a copy of the death certificate, the executor's government-issued ID, and a notarized

statement requesting deactivation.

- LinkedIn: the executor must fill out a death verification form to close an account. Site administrators can locate the account using names and personal information if necessary,
- Instagram: Instagram asks that you contact them in the event of a user's death. A personal representative must complete a form request to report a deceased person's account on Instagram, and provide proof of death such as a death certificate or obituary. Instagram does not provide the deceased's account information to personal representatives.

### Estate Planning Considerations

Custodians are unlikely to assume that the deceased had any intention of sharing digital assets or accounts if the will is silent to that end. Even though a typical will clause gives the executor "all assets wheresoever situate" to administer, if a deceased's will does not specifically address his or her digital assets, the personal representative's authority to deal with the digital assets will be much more vulnerable to the service agreements of custodians. Furthermore, without an accessible record of the deceased's digital assets, it is possible that certain assets may remain undiscovered and un-administered for many years after death, to the detriment of the estate beneficiaries.<sup>38</sup> Therefore, recording the type of digital assets owned and including the disposition of those assets in the estate plan is vital in properly carrying out testamentary wishes.

Certain digital estate considerations will be important

<sup>38</sup> Suzana Popovic-Montag & Nick Esterbauer, "Planning Considerations for Digital Assets" (September 2018) 24:3 *The Probater*, Hull and Hull.

when receiving instructions from a client.<sup>39</sup>

- Notification to be made via social media accounts of death;
- Particular digital accounts to be closed or memorialized;
- Digital devices to be cleared of content;
- Digital assets located on the client's digital devices ought to be specifically identified, and
- Physical location of passwords where the assets and or devices are password protected (which will be in most cases).

It is also suggested that practitioners may wish to implement certain digital asset steps in the estate planning process, including:<sup>40</sup>

- Defining "digital estate", "digital assets", "digital devices", and "digital accounts" in the estate-planning documents;
- Drafting a clause in the will authorizing the executor to access, use, delete, control, transfer, distribute or dispose of any part of the digital estate;
- Drafting a memorandum of wishes for the executor, with instructions for how the digital assets should be transferred, distributed, archived, sold, maintained, or deleted; and
- Having the client complete an inventory of their digital estate, with username and password information and obtaining details of where the updated version of this information will be kept.

<sup>39</sup> Kimberley Martin & Peter Worrall, "Digital life after death" *Issue Focus Technology*, December 2014, online: *STEP*.

<sup>40</sup> *Supra* note 6, note 27, note 34 & note 35.



Perhaps most critical, the testator should ensure that the inventory of all digital assets, usernames and passwords are stored somewhere that is password protected, separate from the will. This could be by way of an online service for storing passwords, or a handwritten list that is kept in a safe or safety deposit box.

### **Contact us**

If you have a Tax and Estate planning matter and are in need of legal advice, please contact Lindsay Histrop, at 416.865.6628 or [lhistrop@grllp.com](mailto:lhistrop@grllp.com).

*(This newsletter is provided for educational purposes only, and does not necessarily reflect the views of Gardiner Roberts LLP.)*