

How Does One Become an Executor of The Property of Yorshim?

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Question: If someone passes away suddenly and leaves behind a considerable estate, who is in charge of that estate according to Halacha?

Answer: If there are adult children, they take over the estate. If the children are minors, an *apotropus* can be appointed to serve as the executive of the estate.

There are four ways to appoint an *apotropus*:

The best way would be if the father appointed the executor before his passing. This *apotropus* can make decisions in regard to the estate even once the children get older and whatever he does on their behalf is binding. Whether and how they can depose him if they so choose is a separate discussion.

If the father did not appoint anyone for this position, Bais din can step in and appoint an *apotropus* as long as the children are *ketanim*. One difference between the father and a bais din is that the father can appoint anyone he chooses, even a non-Jew, to be the executor, whereas bais din can only appoint a person who meets very specific criteria. Additionally, only a bais din that is appointed by the city or one that is comprised of *Gedolei Hador* can appoint an *apotropus*, so it would be tricky to do that nowadays.

A third possibility is called "*yesomim shesamchu*". If someone steps forward and begins looking after the estate, and the orphans rely on him, he gets the status of *apotropus*. This could be their mother or uncle or really anyone they rely on to act as the de facto executor.

A fourth option is a court-appointed executor, which is recognized by halacha because of the rules of *dina d'malchusa dina* and *minhag*. A legal executor will have the halachic status of an *apotropus* and will be recognized in Bais din. This is usually not an issue *arka'os* because the problem of *arka'os* is when a dispute between two Jews is taken to be settled in a secular court. In this instance, it is a legal matter that we need to find someone whom the banks and the like will recognize as an authority; therefore, we work with the system and whomever they appoint as executor becomes the *apotropus* and has the right to buy and sell on the orphans' behalf.