

# THE STRAITS TIMES

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## Charity in court to get funds owing to special needs trust

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It alleges executor of will failed to provide complete account of estate and gift to trustee

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In a novel move, a charity dealing in trusts is taking the executor of a dead woman's will to court to recover monies set aside to look after her daughter, who has Down syndrome.

The charity, known as the Special Needs Trust Company (SNTC), provides low-cost trust management services for persons with special needs, among other things.

Madam Toh Ai Lan had created a trust in 2010 under SNTC's Trusteeship Scheme for the benefit of her 33-year-old daughter. She had named SNTC trustee and had left assets of at least \$400,000 to the charity to manage for her daughter's benefit. Her assets included insurance policies, shares and bank accounts.

As trustee, SNTC disburses regular payouts to cover the basic expenses of people with special needs after their caregivers die.

Madam Toh, a clerical officer, died of cancer at age 59 in February 2012. Since her death, her daughter has lived at the Metta Home for the Disabled.

But the dead woman's brother, Mr Toh Hong Kee, 50, appointed as executor of the will, had allegedly failed to provide a complete account of the estate and the gift to SNTC. While he had transferred \$288,987 from the estate's account to SNTC in December 2013, a sum of \$111,117 that was due to the charity, based on the will, was still outstanding as of May last year, according to court documents filed.

Mr Toh sent some documents and receipts to SNTC between August and September last year but these did not provide a full account. In November, he replied to SNTC saying he had produced every receipt he could produce and that the rest were unavailable.

Court documents claim that various sums were deposited and withdrawn from the estate's account between 2012 and 2014, which Mr Toh had not accounted for. He had also allegedly failed to show if shares in the estate were sold and if its proceeds were accounted for.

More than three years after Mr Toh obtained the probate grant to administer Madam Toh's will, he has yet to provide a complete account of the gift to SNTC.

SNTC is seeking court action to recover the \$111,117 and to obtain damages for alleged losses, and a declaration that Mr Toh had breached his duties as executor of the will.

A High Court pre-trial conference was held yesterday. SNTC is represented by Allen & Gledhill lawyer Tay Yong Seng on a pro bono basis.

Mr Toh, who turned up in court unrepresented, said he will "negotiate with SNTC", when asked what would be his next step.

According to the SNTC website, the principal value of the trust funds is guaranteed by the Government and fees are subsidised at least 90 per cent by the Ministry of Social and Family Development.

SNTC is staffed by case managers trained in social work and backed by volunteers from the legal, medical and financial professions.

Yesterday, SNTC general manager Esther Tan said: "The company now has close to 400 trust accounts set up by parents, siblings or spouses for their dependants with special needs. As of December 2015, we have \$13.2 million in our trust fund and the monies are invested and managed by the Public Trustee."

She said that after the trust is set up, the settlor can inject monies at any time into the trust account via wills, insurance and Central Provident Fund savings.

"We advise them to name SNTC trust to receive monies on behalf of the persons with special needs so that we have legal right to claim the monies on behalf of their loved ones with special needs."