



## **ESTATE PLANNING**

Holding property in your name only gives you maximum control and protection during your lifetime. If you do not like the way your property will be distributed should you die without a Will, then you can control who inherits your property by preparing a Will. But there is still the question of what it will cost to transfer your estate to your beneficiaries. In all probabilities, a Probate Procedure will be necessary.

The Probate Procedure may take anywhere from several months to more than a year depending on the size and complexity of the Probated Estate and may cost several thousand dollars depending on the size of the estate. Further, depending on the state that you live in and the size of the estate inherited, your beneficiaries may end up paying somewhere between \$22,000-\$29,000 for the probate costs and attorneys fees to inherit \$100,000 and end up waiting between 4-26 months.

Some of the costs involved in probate procedures besides attorney fees and representatives charges are the courts fees, the cost of a bond that the Court may order, the cost of notifying the estate creditors including publishing notice, or mailing notice, the cost of estate appraisal, accounting fees to prepare the inventory, cost of transferring the properties to the beneficiaries, recording fees and broker fees to sell securities or real estate.

Many people think that only wealthy people need to make plans to avoid probate. However, each year, heirs of relatively small estates, spend thousands of dollars to settle the estate that was left to them. A relatively easy estate planning could have eliminated most of the cost and hassles suffered by these families.

One solution to the above problems is to establish a Revocable Living Trust also known as an Inter Vivos Trust.

A revocable Trust is designed to care for your property during your lifetime and then to distribute your property once you die without the need for Probate. Even people with small estates are encouraged to add a trust to their basic Estate Planning.

### **Durable Power of Attorney**

Of all property management instruments, the durable power of attorney is the most important and most powerful one. Every adult should have a durable power of attorney readily available for when circumstances make it necessary that someone else take care of their property and finances.

A **durable power of attorney** is a relatively complicated, yet very effective legal document. In this document you give a person you trust the authority to act on your

behalf regarding all matters related to your assets and capital. This is especially helpful in case you become unable to communicate effectively due to an accident or medical condition. This is why it is called a durable power of attorney, because it is still valid even if you can't speak. And that is precisely its purpose, to speak out for you about your finances when you can't.

The person you designate in your durable power of attorney is known as your attorney-in-fact. This person will be responsible for paying your bills and your family expenses, pay your taxes, manage your trusts, retirement accounts, insurance policies and investments, apply and collect government benefits such as Social Security, Medicare and Medicaid, and manage your properties and use your resources to do so. In other words, your attorney-in-fact must be able to keep all your business matters running smoothly in times when you can't take care of them.

But, who should you trust all your business and financial matters should you become incapacitated or too ill to manage them? It should be someone you trust, but also someone skilled enough to make sound decisions, someone capable of promoting your best financial interests.

When choosing who you are going to name as your **attorney-in-fact**, you might want to look at the people around you first. You might be able to find someone suitable for this critical task among your family relatives or friends. You might want to consider the following order of preference: your spouse first, then your parents, then your adult children, then your siblings and/or your best friend. You want to designate someone that is of legal age and knowledgeable in financial matters, someone you have known for a number of years. Your attorney-in-fact should be someone that knows how you think and feel about certain values. This should be the person that would most likely think like you when pondering a financial or business decision.

If after going down the previous list you haven't been able to find someone with these requirements, you will have to hire a professional business manager or a financial planner. These professionals work under a service fee that is well worth paying, considering all the money they can save you from losing, should your businesses come into a halt because of your medical condition.

Should you have to hire a professional to act as your attorney-in-fact, you should first review that person's professional qualifications, credentials and business references. Make sure you get a written contract highlighting his or her responsibilities in detail and their service fees.

In any case, you should hold a private meeting with the person you decide to appoint as your attorney-in-fact. In this meeting you should hand this person a copy of your durable power of attorney, of the document itself. You should make sure that this person is available and willing to take this appointment seriously. You may want to go over a list of your financial affairs with this person and provide the names and addresses of the institutions and the number of your accounts to facilitate their task. You will also want to give this person some guidelines into what your preferences are regarding certain aspects

of your finances and the way you believe your most critical issues should be handled when necessary. Most importantly, review and update your durable power of attorney with regularity, you don't want to lose track of your attorney-in-fact's location or circumstances. If you lose track of this person, you must revoke this document and write a new durable power of attorney designating someone else.

Something else, you must tell your spouse or your closest relative where you keep your durable power of attorney so that they can locate it and make contact with your attorney-in-fact when the time comes for that person to take over your financial matters.

A durable power of attorney will secure yours and your family's quality of life in difficult times. It is a little price to pay for a matter of such great importance.

## **Advanced Health Care Directives**

### **Advance Health Care Directives: A Great Relief in Difficult Times**

Having a health care durable power of attorney drafted before you become ill or incapacitated is the most effective and least expensive way available to legally assure that your medical preferences will be respected. Having this document will help you in the case you become unable to communicate due to a tragic accident or because of some kind of medical condition or disease. Do you want your life to be prolonged by artificial means? Do you want to be resuscitated if you are clinically dead? Do you want your respiration to be supported when your lungs fail? These and many other questions rise before your eyes and the eyes of those that you love in the case of a fatal disease or traumatic condition.

An **Advanced Health Care Directive** is a legal document in which you authorize a person you trust to make critical medical decisions on your behalf, should you be unable to express yourself due to unforeseen events. The person you designate is called your attorney-in-fact or your agent. That person will be your voice every time a doctor, a nurse, or any other medical staff needs you to make a decision regarding your treatment. Your agent will refer to the document and express your will.

You might have some religious beliefs, and in some way these beliefs can affect the way you would like doctors to treat you for any type of medical condition. Some people do not believe that their blood should be mixed with the blood of others. In such special cases, you must definitely have a healthcare power of attorney designating the person that will ensure this for you. However, the best practice is for every person over 18 years old to have a health care durable power of attorney regardless of race, national origin, financial condition, or religious belief.

It is highly recommended that you have your **Advanced Health Care Directive** drafted while you are healthy and completely conscious, so that no one can later on contest your power of attorney. The only defense in case a power of attorney is contested is that you made the decisions contained therein voluntarily, well aware, and informed of its significance and consequences.

