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Using a General Durable Power of Attorney

In 2010 the Commonwealth of Virginia adopted the Uniform Power of Attorney Act [§§ 64.2-1600 *et. seq.*] In this month's newsletter we will talk about how to use a General Durable Power of Attorney (POA).

The powers of attorney that I draft for clients are in effect as soon as the Principal signs the document. I do not use "Springing" Powers of Attorney because they usually require one or more doctor certifications before the Agent can use them. This often proves difficult to obtain on short notice. [The Agent is the person the Principal appoints to act for him or her.]

If you are asked to be the Agent for a friend or relative, here are some steps to take to make the task easier.

Step One

Decide if you have the time, skills and interest to serve as the Agent for someone under their power of attorney.

Skills that will be helpful to you if you decide to accept an appointment to serve as an Agent include but are not limited to:

- Ability and willingness to balance the Principal's operating checking account.
- Ability to read a brokerage statement.
- Some knowledge of real estate.
- Willingness to prepare the Principal's annual income tax return or collect the necessary paper work for a tax return preparer to prepare the return.

Step Two

If you agree to serve as the Agent for another person, read the power of attorney. Check to see that you are in fact named as the Agent under the power, and that the power is properly signed

and notarized. There is no requirement that a power of attorney be witnessed in Virginia, but other states do require it. We have powers of attorney witnessed and notarized.

As you read the power of attorney, pay attention to the nature and scope of the powers granted in the document.

Step Three

If you know that you will soon be asked to serve as the Agent for the Principal, take the power of attorney to the banks, credit unions and brokerage houses for their review and acceptance.

Step Four

When you are acting as the Agent for the Principal, keep track of all actions you undertake on behalf of the Principal so that you can produce an accounting should one be required.

Frequently Asked Questions

How does an Agent sign for the Principal?

Name of the Principal [Suzy Que]
by her Agent, print or type your name

Do Powers of Attorney Expire? No, not unless the document says it expires on a specific date. However, all powers of attorney expire upon the death of the principal.

Am I personally responsible for the Principal's bills? No, not as long as you do not personally sign agreeing to be responsible for the Principal's bills.

What actions are prohibited? As an Agent, you cannot do the following:

Perform contractual duties that require the exercise of the Principal's personal services.

Make an affidavit as to the Principal's personal knowledge.

Vote for the Principal in a public election.