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May 5, 2014

Confidential Personal Information Checklist

CHECKLIST FOR A COUPLE

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- (i) Please print neatly.
- (ii) The more information you provide, the better our meeting will be.
- (iii) It is unnecessary to use all the blank lines. If you need more space, mark "see over" and continue on the back.
- (iv) Bring prior estate planning documents and income tax returns with you (better: PDF and e-mail them in advance).

What are your goals in creating or upgrading your estate plan? (check all that apply):

- | | |
|---|--|
| <input type="checkbox"/> Avoid Probate | <input type="checkbox"/> Protect Me From Future Creditors |
| <input type="checkbox"/> Avoid Estate Taxes | <input type="checkbox"/> Protect Heirs From Future Creditors |
| <input type="checkbox"/> Maximize Loved Ones' Inheritance | <input type="checkbox"/> Pass My Values To My Heirs |
| <input type="checkbox"/> Make Sure Heirs Get Good Education | <input type="checkbox"/> Peace of Mind |
| <input type="checkbox"/> Other: _____ | |

1. **BEGINNING PROCEDURAL DETAILS.**

- 1.1. Date you are completing this: _____.
- 1.2. Our attorney in the meeting: _____.
- 1.3. Others present: _____.
- 1.4. H's Name: _____.
- 1.5. W's Name: _____.
- 1.6. Referred to us by? _____.
- 1.7. Or found us on Internet (how, e.g., AVVO)? _____.
- 1.8. **Do you already have a family trust?** _____.
- 1.9. **Other Existing Planning Documents, e.g., Family Limited Partnership; Children's Trust; Insurance Trust; Personal Residence Trust?**
_____.

Best if we first review copies of any prior Wills, durable powers of attorney, Living Trusts, Insurance Trusts, Children's Trust, partnership agreement, corporate buy-sell agreements, premarital and post-marital agreements, etc.

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2. **PERSONAL.**

2.1. **H:**

2.1.1. Birthdate: _____

2.1.2. City, State, Country of birth: _____

2.1.3. U.S. Citizen? _____

2.1.4. Social Security Number: _____

2.1.5. Health: _____

If *physical health* is not good, that may mean that preparation and funding times are at a minimum. If *mental health* is potentially questionable, that may require a physician present to confirm the client understands the terms of the estate plan.

2.1.6. Prior marriages: _____

2.1.7. Kids of prior marriages: _____

2.1.8. Best friends: _____

2.2. **W:**

2.2.1. Birthdate: _____

2.2.2. City, State, Country of birth: _____

2.2.3. U.S. Citizen? _____

2.2.4. Social Security Number: _____

2.2.5. Health (see 2.1.5 above): _____

2.2.6. Prior marriages: _____

2.2.7. Kids of prior marriages: _____

2.1.8. Best friends: _____

3. **ADVISORS** (indicate if you are planning to change).

3.1. Personal CPA: _____

3.2. Business CPA (if different from above): _____

3.3. Life Insurance Agent: _____

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3.4. **Business lawyer:** _____

3.5. **Should any advisors receive copies of our notes and documents we prepare?** _____

If so, make sure we have contact information, including e-mail addresses.

4. **PRINCIPAL RESIDENCE.**

4.1. **Address:** _____

4.2. **Phone:** _____

4.3. **Car/portable phone/pager/answering service:** _____

4.4. **H:** _____

4.5. **W:** _____

4.6. **FAX:** _____

4.7. **Fair Market Value:** _____

4.8. **Mortgage (balance, not payment):** _____

4.9. **Purchase Price:** _____

4.10. **Year Purchased:** _____

5. **H'S BUSINESS.**

5.1. **Name of H's bus.:** _____

5.2. **Type of entity ("S" or "C" corporation, LLC, etc.):** _____

5.3. **H's position:** _____

5.4. **Administrative Assistant or secretary:** _____

Is he or she privy to H's personal information? _____

5.5. **Income (+ value of benefits):** _____

5.6. **Bus. address:** _____

5.7. **Bus. phone:** _____

List if extension needed for voicemail: _____

5.8. **Bus. FAX:** _____

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5.8.1. Is it OK to FAX material to office? _____

5.8.2. Or must we call first to be sure H is there? _____

5.9. E-mail address: _____

6. **W'S BUSINESS.**

6.1. Name of W's bus.: _____

6.2. Type of entity ("S" or "C" corporation, LLC, etc.): _____

6.3. W's position: _____

6.4. Administrative Assistant or secretary: _____

Is he or she privy to W's personal information? _____

6.5. Income (+ value of benefits): _____

6.6. Bus. address: _____

6.7. Bus. phone: _____

List if extension needed for voicemail: _____

6.8. Bus. FAX: _____

6.8.1. Is it OK to FAX material to the office? _____

6.8.2. Or must we call first to be sure W is there? _____

6.9. E-mail address: _____

7. **MARRIAGE.**

7.1. Date of this marriage: _____

7.2. City & state where marriage occurred: _____

7.3. Either start the marriage with significant assets? _____

7.4. Either receive value gifts or inheritances since marriage? _____

7.5. Prenuptial (or post-marital) agreement? _____

If so, must secure a copy. Who will provide? _____

7.6. Are both California residents? _____

If not, must have documents reviewed by counsel in state of residence before the

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documents can be signed. Does client have competent counsel in that state?
_____ If so, please provide name, name of firm, and phone and/or FAX:

7.7. Predeceased Spouse.

Do either of you have a predeceased spouse who died after 12/31/10? ____
If the answer is "yes," we must see a copy of the IRS Form 706 (Federal Estate Tax Return) for that spouse to see if "portability" was elected. If no 706 was filed, we need to discuss whether a late 706 can still be filed to save the deceased spouse's unused exclusion amount.

8. CHILDREN.

8.1. If none, are you contemplating having some? _____

8.2. Of this marriage: name; date of birth; physical and mental health; location; good terms with you and with each other? financially self-sufficient? married? kids? financially responsible (concerned with the child's ability to manage money)? Address and e-mail address? Phone number?

8.3. Same information for children *not* of this marriage.

8.4. Grandchildren: Names, ages, health (parents): _____

8.5. Adoption. All states treat adopted children equal to naturally born children for purposes of inheritance. Do you want adoption to take place before the child reaches a certain age to qualify as a beneficiary? _____ Is the marital status of the parents at the time of the child's birth an important consideration? _____

9. H'S FAMILY.

9.1. Parents.

9.1.1. Names: _____

9.1.2. Ages: _____

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9.1.3. **City of residence** (might be 2 different cities if no longer married & living together: _____

9.1.4. **Health:** _____

9.1.5. **Financially self-sufficient?** _____

9.1.6. **On good, decent or bad terms with parents?** _____

9.2. **Siblings.**

9.2.1. **Names:** _____

9.2.2. **Ages:** _____

9.2.3. **Cities of residence:** _____

9.2.4. **On good, decent or bad terms?** _____

9.2.5. **Marital and family status:** _____

10. **W'S FAMILY.**

10.1. **Parents.**

10.1.1. **Names:** _____

10.1.2. **Ages:** _____

10.1.3. **City of residence** (might be 2 different cities if no longer married & living together: _____

10.1.4. **Health:** _____

10.1.5. **Financially self-sufficient?** _____

10.1.6. **On good, decent or bad terms with parents?** _____

10.2. **Siblings.**

10.2.1. **Names:** _____

10.2.2. **Ages:** _____

10.2.3. **Cities of residence:** _____

10.2.4. **On good, decent or bad terms?** _____

10.2.5. **Marital and family status:** _____

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11. CP VS. SP.

11.1. Does H have separate property (gifts and/or bequests from relatives; personal injury settlements; pre-marital property that has been kept separate)? _____

Is SP likely in the future (i.e., wealthy relatives' death): _____

If so, describe and give approximate value: _____

11.2. Does W have SP? _____

Is SP likely in the future (i.e., wealthy relatives' death): _____

If so, describe and give approximate value: _____

11.3. Should living trust have schedule A-1 for CP, schedule A-2 for H's SP, and schedule A-3 for W's SP? _____

11.4. Upstream Multigenerational Planning.

Expected inheritance from your parents? _____.

12. FINANCIAL STATEMENT.

12.1. Clients' estimate of net worth: _____

12.2. Financial statement provided? _____

12.3. Vacation residence: FMV, mortgage, title, adjusted basis: _____

12.4. Other real estate in your name: _____

12.5. Partnerships: name; GP or LP? value of investment? current FMV? type of property: _____

12.6. Liquid assets: stocks, bonds, CDs: _____

12.7. Do your children owe you money?: _____

12.8. FMV of business interest: _____

13. INCOME & EXPENSES.

13.1. Current annual income from all sources: _____

13.2. Current annual income from investment assets: _____

13.3. Amount going into savings each year: _____

The answer to this question is one indication of the clients' ability to engage in sophisticated estate tax planning, e.g., a house GRIT; an FLP; and/or a GRAT.

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13.4. Likely future changes in income (might be caused by (i) retirement; (ii) beginning to take pension distributions; (iii) payoff of mortgage on investment property): _____

14. BUY-SELL.

14.1. Percentage client owns of each business: _____

14.2. Signed buy-sell agreement? _____

14.3. Insured buyout at death? _____

14.4. Insured disability buyout? _____

15. INSURANCE.

15.1. General Information.

For each policy indicate:

15.1.1. whether it is term or some type of insurance that builds cash value, e.g., whole life; universal life; variable life;

15.1.2. purpose (provide income for surviving spouse; provide liquid assets for kids to pay estate taxes; or build up cash to supplement clients' retirement income);

15.1.3. face amount;

15.1.4. annual premium;

15.1.5. insurance company;

15.1.6. agent; and

15.1.7. whether client is happy with the agent.

15.2. Life:

15.2.1. Insured Life.

15.2.1.1. On H? _____

15.2.1.2. On W? _____

15.2.1.3. On survivor? _____

15.2.2. Owner.

15.2.2.1. Free-standing irrevocable insurance trust? _____

15.2.2.2. Pension subtrust? _____

15.2.2.3. Split-dollar? _____

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15.2.2.4. Business (e.g., if it is (i) a so-called "key-man" (non-sexist would be "key-person") policy; or (ii) part of an insured redemption (buy-sell) agreement): _____

15.2.2.5. Other business owner (e.g., part of an insured cross-purchase (buy-sell) agreement): _____

15.3. Disability.

15.3.1. Monthly Amount: _____

15.3.2. Elimination Period: _____

15.3.3. Payor: _____

15.4. **Umbrella:** We Recommend \$5 Million **Minimum!!** _____

16. RETIREMENT FUNDS.

16.1. Interest in pensions, Keoghs, IRAs? _____

16.2. Name of pension consultant? _____

16.3. Pension, etc., beneficiary designation? _____

16.4. If to kids of 1st marriage, has spouse #2 waived after marriage? _____

17. MISCELLANEOUS.

17.1. Husband's hobbies, e.g., golf, tennis, photography, etc.: _____

17.2. Wife's hobbies, e.g., golf, tennis, photography, etc.: _____

17.3. Groups in which you are active, e.g., religious or other charities, political, fraternal: _____

17.4. Friends, relatives who may benefit from our services: _____

17.5. Specific questions you wish answered: _____

17.6. Do you wish to establish a **Pet Trust**? _____ Funding: _____

Names and Ages of Pets: _____

1st and 2nd choice Caregivers. _____

Testamentary or Living (problem with testamentary – caregiver must wait until your estate is partly or wholly administered for funding): _____

Beneficiary of residue: animal charity or your heirs? _____

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18. DIGITAL ASSETS.

There are two main classes of digital assets. List all that you have in both categories:

18.1. Any online account that requires a username and password, e.g., one that has personal photos or family history that you would want to pass on; that has important financial information;. _____

The "Terms Of Service" ("TOS") agreements of most online companies rarely allow for the immediate or automatic transfer of the account to the personal representative.

Without access to your e-mail, blog or website, your trustee may not even be aware of certain ongoing obligations, especially with more transactions occurring online only.

18.2. Any file stored in places, including computer, mobile phone, server, local DVD or CD-ROM or at online storage sites. _____

Files on your computer are difficult enough to find, depending on your level of organization or disorganization. Your personal representative's job can become exponentially more difficult if the important data is stored offsite. Also, there are two main types of digit files:

18.2.1. Files you create, including scanned financial files, address books and digital photos, but can also include valuable business documents and intellectual property.

18.2.2. Files you buy, including music, videos and e-books. The typical TOS only gives the buyer a non-transferrable license to use the work "for life."

18.3. Step 1: Make a list of all of your digital assets.¹ Step 2: List your wishes for each asset.² Step 3: Choose the person who will receive each asset. Step 4: Provide access and control to the recipient. Step 5: Give a copy of your list to us so that it will be protected by the attorney-client privilege, and part of your permanent estate planning records.

¹ Online accounts and data files, including e-mail accounts, websites, hard-drives, important Word and Excel documents, online storage accounts and social media accounts.

² For local hardware containing data files this might mean leaving the asset directly to a specified heir. For online accounts this can include: (a) shutting down the account; (b) doing nothing; (c) archiving contents on CD or DVD; (d) creating an auto-response on the account; and/or € forwarding all messages to another place.

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19. SPECIAL PERSONAL EFFECTS.

19.1. Weapons.

Often “disappear.” Gun laws focus on possession and use; estate plans focus on ownership. California’s Dangerous Weapon Control Laws are in the Penal Code at §12000. Certain people cannot possess guns, e.g. mentally challenged. Risks for fiduciaries: law uses language “if knows or has reasons to know.” How can a fiduciary know? Mere possession of certain guns is potentially a crime with severe punishments and \$250,000 fine. Fairly easy to possess guns in your home but taking it out may require license or permit. Transferring a gun across state lines: have gun dealer in your state ship to dealer in beneficiary’s state and have beneficiary pick it up there.

19.2. Alcohol.

There are strict regulations controlling who may distribute alcohol. Executor or trustee distributing a wine collection may have an issue. The laws are quite broad. Wine collection may be impossible to sell even if legal issues can be addressed. How can buyer know how well the wine was stored?

19.3. Ivory.

Severely regulated and subject to issues as to what you can own. Highly technical to ascertain what type of ivory, where from, etc.

19.4. Illegal Drugs.

These are still taxable!

19.5. Pet Trusts.

California law specifically allows them.

19.6. Art.

Catalogue (videotape, appraise and insure) during your lifetime.

Weird case: Art collector owned a Rauschenberg which included a stuffed eagle. It is illegal to sell an American eagle. Her executor said it was worth zero since unsalable. IRS said it was worth \$65 million based on the international black market. Agreed to zero value if family would (i) give to public art museum and (ii) not claim a charitable deduction. The MET and MOMA bid over it. MOMA agreed to carve her name on the wall as a museum founder.

20. ARTIFICIAL REPRODUCTIVE TECHNOLOGY.

20.1. Do you intend to donate or “bank” reproductive material? _____

20.2. If you’ve already donated, who owns it? _____

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- 20.3. Did you consent to using your genetic material to conceive a child after you become disabled or die?** _____ If so, would you consider that child an heir? _____³
- 20.4. If donated genetic material isn't used before you die, do you want it destroyed?** _____ If not, who should control it? _____ If you are in a relationship, who gets it after the dissolution of your marriage, the relationship, or your death? _____ What may they do with it? _____
- 20.5. Is there a contract between a donor and a recipient that allows the donor to control the donor's reproductive matter?** _____ Does that contract allow the reproductive material to be given away by Will or Trust? _____ Does state law allow for or prohibit that kind of transfer? _____
- 20.6. Who is paying to store material?** _____ What if they stop paying?

- 20.7. If a couple was given genetic material from a donor, did the donor retain any rights to be a parent?** _____ If parental rights were given up, is that waiver in writing? _____⁴
- 20.8. If you leave money for descendants, do you want to distinguish between those already born at your death and those conceived using frozen genetic material after your death?** _____
- 20.9. For how long after your death may an heir be conceived using frozen genetic material and still be considered your heir for purposes of inheriting under your Will or Trust?** _____

What other issues do you have? (check all that apply):

- | | |
|---|--|
| <input type="checkbox"/> Nursing home/long term care? | <input type="checkbox"/> Reduce your income taxes? |
| <input type="checkbox"/> Receiving an inheritance from family? | <input type="checkbox"/> More spendable income? |
| <input type="checkbox"/> Plan to sell appreciated asset? | <input type="checkbox"/> Diversify investment portfolio? |
| <input type="checkbox"/> Do you know how the beneficiary designations read on your life insurance and retirement plans? | |

³ Genetic children conceived after a parent's death are not necessarily eligible for survivor benefits, e.g., Social Security, unless they are also legally considered children.

⁴ Even a waiver isn't necessarily enforceable. For example, in Kansas, cab driver William Marotta who responded to a Craigslist ad for sperm donors was ordered to pay child support.