

**Estate Planning Review  
for  
Joan & Joan Smith**

The purpose of this Estate Planning Analysis is to review your current estate plan and identify potential areas of need. It is important that you bequeath your assets in the manner in which you see fit. For your estate plan to be complete, you should have each of the documents listed below in place and updated periodically. Please note that you should also always consult with a qualified attorney regarding any estate planning issues or techniques. Financial Life Advisors (FLA) and its Advisors are not licensed to practice law nor are they licensed attorneys and do not hold themselves out to do so.

- Will
- Testamentary Trust (*optional*)
- Living Trust (*optional*)
- Power of Attorney for property
- Power of Attorney for healthcare
- HIPAA Authorization
- Directive to Physicians

## **Estate Plan Documents**

### **Last Will & Testament**

The purpose of the will is to inform your living heirs how your estate will be disbursed. It is submitted to the probate court by your Executor/Executrix. This is your personal property “title” or “deed”, so to speak. It is what moves ownership from you to your heirs. You should not execute more than one original, and the original should be safeguarded. The location of your Will should be known by the Executor/Executrix.

*The personal representative (Executor substitute) is appointed by the probate court and is generally next of kin who petitions the court.*

***Heirs are the following persons based on intestate succession:***

**John or Joan with a spouse and children who are also the children of your spouse**

- Spouse inherits all of your community property, plus 1/3 of your separate personal property and the right to use your real estate for life
- children inherit everything else

## **Living Trust**

Living trusts are created and are typically funded while the grantor is still alive. A living trust may be revocable or irrevocable. These types of trusts are used to transfer ownership from the grantor to the trust to avoid the timely and public probate process. A living trust is most appropriate for individuals who have complex financial or personal circumstances, such as substantial assets, a blended family, closely held business interests, and/or property in other states.

***Currently No Living Trust***

## **Will Recommendations:**

**From the information gathered, you have a fairly straight forward situation. We recommend that you visit with an estate planning attorney and talk to him/her about drafting “sweetheart” wills for each of you. “Sweetheart” wills leave any separate property to the surviving spouse. This option appoints clear executors to carry out the will provisions and provides independent administration to simplify the process.**

**Since you have minor grandchildren, you should contemplate contingent trusts which govern for minor beneficiaries in the unlikely event of one of your children not inheriting directly.**

**If a vacation property is purchased out of state, a living trust should be considered to avoid probate in that State.**

**It is important to note that your taxable accounts are separate and do not have a transfer on death “TOD” designations. Please review our beneficiary designation recommendation below when speaking to your attorney.**

## Statutory Durable Power of Attorney (POA)

The purpose of a statutory durable power of attorney is to grant another person (the agent) the right and authority to handle the financial and other affairs of the principal. The statutory durable power of attorney survives through the period of incompetency of the principal. Be cautious of adding a spring power provision to this document. The “springing power” provision makes the document valid only in the event of someone’s incapacity. While this may sound ideal, it adds an extra level of complexity by having a physician determine incapacity in a time of need.

*Agents with Durable Power of Attorney are the following persons:*

### Antonio

- Primary: Not Named
- Contingent: Not Named

### Victoria

- Primary: Not Named
- Contingent: Not Named

## Statutory Medical Power of Attorney (MPOA)

A medical power of attorney is a document that allows you to designate a trusted family member or friend to make medical decisions for you in the event you become unconscious or mentally incapable of making those decisions for yourself. When having this document drafted, it is important that the estate planning attorney include HIPAA language in the document. A HIPAA release is often now needed with the power of attorney documents to allow an incapacitated person’s medical records to be released to the power of attorney.

*Agents with Medical Power of Attorney are the following persons:*

### Antonio

- Primary: Not Named
- Contingent: Not Named

### Victoria

- Primary: Not Named
- Contingent: Not Named

## Directive to Physicians

A Directive to Physicians or Living Will outlines your wishes if you have an irreversible and terminal situation. Do you want all measures taken to prolong life, or do you want medical intervention withheld except to make you comfortable? This can take the burden of the decision off of a loved one in a very painful time.

Currently a directive to physicians is NOT in place for either of you.

### **Power of Attorney Recommendations:**

We recommend having your powers of attorney drafted at the same time you have your wills drafted. Having these documents in place is an important part of estate planning more so if one of you is incapacitated. We also recommend having at least one contingent named agent in case both of you cannot act as each other's attorney in fact.

### **Beneficiary Designation Recommendations:**

Be sure to keep your named beneficiaries to your retirement accounts & life insurance policies up to date. Add contingent beneficiaries in case your primary beneficiary predeceases you or any other heirs. To avoid probate on any bank accounts and brokerage accounts, be sure to have a "Transfer on Death" form in place for each account. These need to be consistent with your overall estate plan. Retirement accounts require special consideration when using a trust structure to administer them.