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NOTICE TO CLIENTS

GETTING FINANCIAL INSTITUTIONS TO RECOGNIZE YOUR POWERS OF ATTORNEY FOR FINANCIAL MANAGEMENT

Recent "rumors" have been circulating around the legal community that banks are not accepting Powers of Attorney for Financial Management. Apparently this is just a rumor, but it stemmed from factual occurrences regarding when and how a bank will accept power of attorney documents. To all of you who already have a Power of Attorney for Financial Management or to those of you that are planning on setting up a Power of Attorney for Financial Management, this notice will provide some helpful information and tips for you and your agent(s) to use and follow to ensure that your Power of Attorney for Financial Management will be accepted by a bank when introduced upon your incapacity.

BACKGROUND

As you may know, a Durable Power of Attorney for Financial Management does not take effect until you become incapacitated. Once you become incapacitated and two physicians confirm your incapacity, your agent becomes empowered to handle your financial affairs as dictated in your power of attorney. A large part of those powers given to your agent involve banking activities. Therefore, your agent will most likely be looking to establish his or her agency with your banking institution as soon as possible after you are declared incapacitated. Because many times the first person your agent encounters at a banking institution is a bank teller, who is generally not as familiar with the intricacies of a power of attorney document as are bank managers or bank legal departments, your agent may encounter some resistance from a teller when trying to perform banking activities on your behalf. In defense of the bank teller, he or she may only be resisting the power of attorney form for your own protection because he or she would like to be certain that this stranger (agent) has the power to access your account and more importantly your money!

TIPS ON MEETING WITH THE BANK

In order to prevent resistance by the bank, you should try to present the power of attorney document to the bank before there is a need for the agent to access your account. In the event that the bank teller is uncertain about accepting the power of attorney form, ask to speak with a bank manager or the bank's legal department. Because a power of attorney form is a legal document, do not be surprised if the bank's legal department asks to review the document before it is accepted for use by the bank. By establishing your agent's authority with the bank *before* you become incapacitated, the bank can become familiar with your power of attorney form and with your agent before an emergency arises. A bank is less likely to honor

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a power of attorney form immediately upon your incapacity and without legal review, if your agent shows up with an unfamiliar document and is requesting to withdraw or move large amounts of money, which may be a valid request, but can rightfully appear suspicious to a bank.

POSSIBLE NEW STATUTE

Many of these issues arise because Powers of Attorney for Financial Management are not currently regulated by Michigan statute, as opposed to the Durable Power of Attorney for Health Care and Patient Advocate forms which are statutorily regulated. However, there was a Bill introduced by the House in early 2006 proposing an act to be known as the "Uniform Power of Attorney Act". The law's purpose would be to make the laws uniform regarding designation of agents under powers of attorney, provide uniform powers for designated agents, and to provide a sample optional form to use as a power of attorney. We will keep you updated as to the progress of this Bill as it moves through the Michigan legislature.

If you have questions about this Notice, please feel free to contact Colombo & Colombo. Also, if you have any questions about your existing Durable Power of Attorney or if you would like to establish a Durable Power of Attorney for Financial Management, please contact Colombo & Colombo for assistance.

Very truly yours,

COLOMBO & COLOMBO

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