

DUAL REPRESENTATION LETTER (QUARLES & BRADY)

Re: Your Estate Planning

Dear _____ and _____ :

You have asked us to perform certain services for you relating to your estate planning. We are pleased to do so. However, it is in your interest, and our own ethical obligation to each of you requires, that you fully understand the considerations involved in such “dual representation.” Spouses can have differing, and sometimes conflicting, interests and objectives regarding their estate planning. For example, they may have different views on how property should pass after the death of one or both of them. In some situations, we may recommend that holdings be restructured to take advantage of available tax benefits, which may involve gifts from one spouse to the other. Also, planning can involve advice as to classification of property under the Marital Property Act. A marital property agreement may be desirable, but will have an effect on control over and rights in present and future property. Some of these actions can affect the division of property in the event of divorce. These are just a few general examples. Each couple’s situation is unique.

If you each had a separate lawyer, you would each have an “advocate” for your position and would receive totally independent advice. Information given to your own lawyer is confidential and cannot be obtained by your spouse without your consent.

That is not the case when one firm advises both of you. We cannot be an advocate for one of you against the other. Information that either of you gives us relating to your planning cannot be kept from the other. If you ask us to continue to serve you jointly, our effort will be to assist in developing a coordinated overall plan and to encourage the resolution of differing interests in an equitable manner and in the best interests of your marriage.

After considering these factors, each of you must decide whether you wish us to continue to represent you jointly in connection with your estate planning and related matters. If you do, please review the statement that follows, sign it as indicated, and return this letter to us. An extra copy is enclosed for your records.

If at any time either of you wishes to have the advice of separate counsel, you are completely free to do so.

Please contact me if you have any questions concerning this letter.

Sincerely,

We have each reviewed the foregoing letter. Each of us realizes that there are areas where our interests and objectives may differ and areas of potential or actual conflict of interest between us in connection with our estate planning and related matters. We understand that either of us may retain separate, independent counsel in connection with these matters at any time. After careful consideration, each of us requests that Quarles & Brady represent us jointly in connection with our estate planning and related matters and each of us consents to that dual representation. Each of us also understands and agrees that communications and information Quarles & Brady receives from either of us relating to these matters may be shared with the other.

15 Probate Notes 124 (1989).

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