

**Attorney Timothy P. Crawford, CPA, CELA\*, CAP\*\***  
wanted to share this information with you.

## **The Dangers of a Financial Power of Attorney**

**GREATER MILWAUKEE AREA OFFICES IN BROOKFIELD, GLENDALE, MILWAUKEE, OAK CREEK & RACINE**

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Although this article will concerns itself with the dangers of having a Financial Power of Attorney, it is important that everyone have a Financial Power of Attorney. By having a Financial Power of Attorney you select the person that you want to make financial decision for your, particularly, when you are unable to make those decision for yourself. If you do not have a Financial Power of Attorney, then when you become incompetent the Probate court judge will appoint someone of his choosing to be the person to conduct your financial affairs. Generally, it is better for you to select someone that you know and trust to be the person that runs your financial matters.

To be the person that you handpick to conduct your financial affairs it is important that this person be trustworthy. Generally, but not always, the person you select will be a relative. Many times it is a child. Although you may love all of your children, it is important that you select a person whom you can trust to follow your instructions both while you are competent as well as when you are incompetent. The person you select should have a good financial head on his shoulders. This person must be able to make good financial decisions. It is important that this person seek competent legal, accounting, and financial advice as needed. It is important that this person know who your trusted advisors are and continue to use them if you are incompetent.

If you are selecting someone other than a child to be the person who is going to run your financial affairs, then you need to be especially careful of the selection process. It is important that you know this person well, have known this person for a long time, that you verify with your bank or his bank his trustworthiness. Many times, it is best just not to select this person. Simply, you just don't know him well enough.

Not all Financial Power of Attorneys are created the same. It is important to permit your loved one to gift assets away when you are incompetent. However, make sure that if the loved one you have selected to run your financial affairs is

not your spouse, then it is important to put restrictions on this gifting authority. When it is a child, it is important to put limitation on the gifting. These are not dollar limits, but instead a limitation that would say before your child can make a gift, the child must first have to get the consent of another relative.

Many of my clients want two of their children to be serving at the same time. This creates many problems. The first problem is both agents will be required to sign all actions. This is an extreme inconvenience and many times will delay actions that need to be done quickly. If you allow them to operate independently, then you have lost the check and balance that you were looking for by having them both serve. By allowing both of them to serve at the same time but operate independently of each other, you run the risk that they disagree on what action should to be taken. Thus, one takes an action and the other cancels it out. This can be frustrating and expensive and the only solution, if you are incompetent, is to go to court and have both of them fired.

It is important when preparing a Financial Power of Attorney that you meet with a board certified elder law attorney who understands the issues of putting together a properly structured Financial Power of Attorney. Not all Financial Power of Attorneys are the same. An attorney with the qualification of being a board certified expert can help you determine what is appropriate language to include in your Financial Power of Attorney. He can assist you with the decisions you need to make when you are authorizing someone to make financial decisions for you. It is particularly important that you get this expert advise when preparing a Financial Power of Attorney, because it will generally be used when you are incompetent. At that time it will be too late for you to change your document as only a competent person can change a Financial Power of Attorney document.

Although it is possible for you to pick up a form document either at an office supply store or off the internet, this is a very dangerous thing to do. The document that you prepare may not even be acceptable for use in the State of Wisconsin. When you are incompetent it is too late for you to prepare a new one thus forcing you into Guardianship Court. Taking the steps we discussed above will reduce the problems that can be created by your Financial Power of Attorney document.

**“Those Who Plan Ahead Win.  
Those Who Don’t Plan Ahead Lose.”**

This article is for informational purpose only and is not intended as legal advice. It is recommended that you call Timothy P. Crawford for a free conference to discuss your situation in more detail. Attorney Crawford can be reached at 1-262-634-6659. Please refer to this article when you call.

\*Attorney Timothy P. Crawford is a Nationally Board Certified Elder Law Attorney (**CELA**). He has been Board Certified by the National Elder Law Foundation which has been approved as the Sole Certifying Organization for Elder Law Attorneys by the American Bar Association.

\*\*Timothy P. Crawford was invited to join the Council of Advanced Practitioners (**CAP**) of the National Academy of Elder Law Attorneys (**NAELA**) in August of 2005. **CAP** is a small group of premier elder law attorneys, all of

whom have been members of NAELA for at least 10 years, are certified as elder law attorneys by the National Elder Law Foundation, and are AV rated by Martindale Hubbell, a service that provides an independent rating of the quality of attorneys, as one of the top attorneys in the nation.

Attorney Timothy P. Crawford has been selected as a **Fellow** of NAELA. **Fellow** is the highest honor bestowed by the Academy. Selection as a **Fellow** signifies that his peers recognize the lawyer as a model for others and as an exceptional lawyer and leader.

Attorney Timothy P. Crawford has a superb rating of 10 out of 10 with A V V O.

A V V O has awarded to Attorney Timothy P. Crawford the A V V O Client's Choice Award.

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