

From: [Merrie Behar](#)

To: joanmhubr@aol.com

Cc: rld4@mindspring.com

Sent: Saturday, September 20, 2003 12:13 PM

Subject: Re: Clause to be added to POA to bind agreement. Forget the other email

Dear Joan:

I had a long talk with my mother. She is rather nervous about a POA writing checks even while she is still competent. Knowing Janice and Andy, I can understand that. Robin I feels the same way.

My mother wants her children to benefit from her money, not her grandchildren. She feels that with my father's expenses for home care, Andy and Janice should not be asking her for money.

I do see your point, though. But if the irrevocable trust is in force, at least one parent will be gifting everyone but Janice, Robin and I will inherit the investments from those gifts, tax fee. (I am aware that taxes must be paid within the trust). Hopefully, it will be invested in a combination of undervalued and growth stocks to minimize any internal expenses and taxes..

Andy had the gall to ask me on the phone, Wednesday, to add the names of his children to that line that read "All funds may only be disbursed for either Mom, Janice, Robin and Merrie. He wanted me to include Ari, David and Noah as well. Ed felt that Andy was out of line to think that he could manipulate my mother's POA and money by sneaking his children in as equals to me, Janice and Robin. Janice is the kind who will ask for an inch but then take a foot. That is what adding her children's names to the POA would do.

If one child fails to sign the agreement, than the whole purpose of protecting my mothers estate from misuse, as well as Janice squandering the estate for her children's college education as well as further professional school subsidies would be nil. This will lead to a lot of catfighting and probably a concervator if my mother is deemed incompetent.

The whole idea of all three of us signing the agreement is to keep all of us honest. Let's face it. Right now, what is there in the POA that will compel Janice to sign the agreement. Her hungry husband will probably tell her to ignore it.

My mother is dead-set on signing that POA. She wants all three of us involved. She was very angry at Andy and Janice for automatically expecting her to pay 20K for the children. Her main reasons are my father, her own insecurity, which is common amongst seniors like her who are suddenly faced with traumatic events, and her concerns about Robin as she is still single and has had hard times due to the economy and the shortage of available work in her field. By the way, she live in ----- CALIFORNIA!!!!!!!!!!

I was hoping that my mother could set up a joint account for 200K with Robin as the Joint Tenant so that Robin could draw from it should she need it. Then, after my Mom does pass on, then Robin can inherit the rest by virtue of survivorship without it going through probate and estate taxes (I think). I strongly believe that my mother will live at least 5 more years but most likely, more than that. Perhaps the account should be in Robin's social security number to make it more official and reduce my mother's taxes Robin can use the money in the account to pay the taxes..

Are there any impediments to that? I have not gotten that far in my CFP courses so I do not know the answer as to whether the above is legal and feasible. I know that with spouses it is but is it with parents and adult children?

To revert back to the "clause", I am going to be coming in on Oct. 15, 2003. Hopefully, the timing will be perfect so that I can be there to encourage my mother to sign it. She does trust me. Robin may be there too should she get a job interview in NYC.

If that clause is not put in, then there is no guarantee that Janice will conform to the conditions that I had set forth and that both Robin, my mother and I agree with. Robin and I are willing to sign it. But what is there in the POA document that will compel Janice to sign the agreement after Robin and I have signed it if that clause is not added to the POA document?

My mother is not going to put up with Janice anymore. She is fed up and wants to get this POA done with. Either Janice signs the agreement or she loses her right to exercise the functions of POA. Period!

When Robin explained that clause to my mother, by virtue of email, my mother went along with that and is willing to leave such a message on Diane's tape, if her verbal request on tape or phone is required.

Remember, my mother is the authority here. She knows that. Janice does not have any power over my mother. My mother can easily revoke the POA that Janice already has and leave me as POA. I am sure that Diane knows how to do that without any repercussions from Janice as long as my mother authorizes it.

Robin would like that but Janice would not. What recourse does Janice have if that clause is put into the POA, my mother signs it and Robin and I sign the agreement?

I feel that Diane should be emailed the clause to get her feedback. That won't hurt. Please let me know what you think of what I have said in this email.

Thanks!

Regards,
Merrie

Joanmhubr@aol.com wrote:
Dear Merrie,

I think inclusion of the statement you sent will put the POA back in the state where no one will accept it, but I will send it along to Diane.

The root of this problem is that your Mother thinks she is "poor". It's kind of like anorexics; no matter how thin they are they think they are "fat".

Rather than not have your folks give Janice's kids money for college, they should probably be giving each of you \$20,000 or \$22,000 a year. They seem to have enough for their needs and it would reduce their

estate. The POA being signed would permit this, but only with the agreement of all three.

I would leave the POA as it is now and just hope your Mother doesn't change her mind again. If there is no POA in place then if she becomes incompetent and your Father does as well, then you are most likely headed for court and you won't be able to do any of this estate planning.

I WILL FORWARD THIS TO DIANE, BUT I WILL HOLD IT FOR A DAY UNTIL YOU RESPOND THAT YOU STILL WANT ME TO SEND IT TO HER.

We are going to an air show tomorrow and that should be fun.

Take care, Joan