

# **BERWITZ & DiTATA LLP**

Attorneys and Counselors at Law

310 Old Country Road Suite 101  
Garden City, New York 11530  
Telephone (516) 747-3200 • Facsimile (516) 747-3727

Lawrence N. Berwitz

Maureen R. DiTata

## **MISTAKES AND MISCONCEPTIONS:**

### **THE POWER OF A POWER OF ATTORNEY**

*Estate planning, whether simple or complex, requires careful attention to details which, if overlooked or misunderstood, can undermine the plan's effectiveness. We will devote space in each issue to highlight common estate planning mistakes and misconceptions.*

How powerful is a power of attorney, and for how long? Most people know that a power of attorney is invaluable if they become ill or incapacitated and are unable to handle their own affairs. Through the power of attorney they can legally authorize an "agent" of their choosing to manage their property and make financial and business decisions. But a power of attorney is not of infinite duration. It is valid only as long as the creator, or "principal," is alive. For this reason, a power of attorney does not permit an agent to close an account after the principal's death. The agent cannot cash or deposit checks made payable to the principal, empty or even open the principal's safe deposit box, sell the principal's real property, or cash-in life insurance policies after the principal's death.