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WILLS DO NOT AVOID PROBATE

We are frequently asked whether having a will avoids probate. Actually, the opposite is true. If a will is the foundation of your estate plan, a probate proceeding is guaranteed to retitle the assets you own in your name. For purposes of illustration, consider a home. Would you pay a stranger hundreds of thousands of dollars for a home that belonged to someone who had passed away without some proof that they were authorized to sell the house? Of course not. The document that establishes the authority to sell the property is called Letters Testamentary and is issued by the Surrogate's Court during the probate proceeding. If there is no will, the document issued by the Surrogate's Court to evidence the authority to sell the property is called Letters of Administration and this document is issued during what is referred to as an administration proceeding.

Apart from the cost and delay associated with a probate or administration proceeding, the public nature of the proceeding is often quite distressing. Everything in the Court's file, including the names and address of your closest family members and beneficiaries, and a list of your assets and their values. This information is accessible to the general public and can be used to contact your family members, for solicitations regarding estate property and sometimes for other reasons.

We can not overemphasize that the decision as to whether a will, a trust or another method of disposing of assets after a death is the best alternative can only be determined after an evaluation by an experienced and qualified attorney. All too often we have seen estate plans created by well-meaning but unqualified attorneys, or even in a do-it-yourself fashion by the decedent without the benefit of professional guidance. We frequently redo out-

of-date estate plans that will otherwise cost the beneficiaries tens of thousands of dollars, or more, in taxes and other unnecessary fees and expenses. After one has spent a lifetime accumulating assets, it is discouraging and unfortunate for large sums to be lost because a qualified professional was not consulted. Do not let this happen to you!! We offer a complementary review of our clients' estate plans every three years. For our friends with whom we have not yet consulted, we are available to review your strategies to make sure they correctly reflect your current wishes at a nominal fee.