

THE LAW OFFICE OF
MICHAEL J. HOWELL, P.A.

112 Executive Center
1 Corpus Christi Place, #112
Hilton Head Island, SC 29928

HiltonHeadEstatePlanning.com

Michael J. Howell
Licensed in Florida and South Carolina
Certified by the South Carolina
Supreme Court as a Specialist
In Estate Planning and Probate Law

Margaret Rhea Howell
Licensed
In
Florida and
South Carolina

**Memorandum to Returning Clients
(Married United States Citizens)**

To: Returning Clients
From: Michael J. Howell, Esquire
Re: Estate Planning

Thank you for requesting an appointment with me to discuss your estate planning needs. I understand that you would like to receive our estate planning information. Your appointment has been set for _____ at _____.m. If you have not already done so, please confirm the date and time with our office.

Enclosed, is some information that will be helpful in completing any needed estate planning work. We have also enclosed a fee schedule, a corresponding fee worksheet and an engagement letter.

The fee schedule will help you estimate the cost of our services depending upon the type of work that you need. If I do any estate planning work for you, I will also enclose a fee worksheet with the first drafts of any documents that I prepare.

Please look over and also complete the *Client Information Sheet, Asset Summary Sheet* and the *Married Clients Being Represented Jointly* memo. Please then sign and date each, where appropriate, and return a copy to us. Keep the originals for your file.

Also, please provide me with copies of any current Wills, Trusts, Powers of Attorney or other related estate planning documents that I do not already have. If there are any doubts, please give me what you have. If you need for us to make copies, please let us know and we will be happy to do so. *Please do not leave original estate planning documents with us.* You should keep your original documents in a safe and secure place at all times.

If possible, **please return the requested information to my office PRIOR to the date of your conference.** This will give me the opportunity to review the information before our meeting. I have found that this can significantly reduce the time that it takes to complete any needed work and the resulting cost. If you have a fax machine or scanner, please feel free to fax or email the information to our office. The information package can be easily pulled apart for faxing or emailing.

We will return all information to you, including anything which you sign. We scan all copies for our file. The enclosed package of information is for you to keep.

You will notice that I have included an engagement letter. This provides good information on how I do my work and what our respective obligations are. If you have any questions about any of the information, please let me know.

I look forward to being of assistance in your estate planning. If you have any questions, please do not hesitate to contact me.

Enclosures: Client Information Sheet
Asset Summary Sheet
Simple Will Data Sheet
Trust Data Sheet
Conflict of Interest Memorandum for Married Clients Being Represented Jointly
Estimated Fee Schedule for estate planning services
Estate Planning Engagement Letter
Biographical Information: Michael J. Howell and Margaret R. Howell
What Our Clients Receive with Their Estate Planning Services

The Law Office of Michael J. Howell, P.A.

Married Client Package

INSTRUCTIONS

Information to be Completed and Returned

Client Information Sheet. Please complete the information, sign, and return a copy to us. Keep the original for your file.

Asset Summary Sheet. Please complete the information, sign, and return a copy to us. Keep the original for your file.

Simple Will Data Sheet. Please complete the information, sign, and return a copy to us. Keep the original for your file. However, if you are a previous estate planning client of ours, you do not need to sign or return this form to us, unless something has changed.

Trust Data Sheet. Please complete the information, sign, and return a copy to us. Keep the original for your file. However, if you are a previous estate planning client of ours, you do not need to sign or return this form to us, unless something has changed.

Married Clients Being Represented Jointly. This is sometimes referred to as Dual or Representation Letter. Please complete the information, sign, and return a copy to us. Keep the original for your file.

Information for your File

Estimated Fee Schedule for estate planning services

Engagement Letter

Biographical Information: Michael J. Howell and Margaret R. Howell

What Our Clients Receive with Their Estate Planning Services

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CLIENT INFORMATION SHEET
(Married United States Citizens)

FULL NAMES: _____ and _____
STREET ADDRESS OR POST OFFICE: _____
CITY, STATE, ZIP CODE: _____
HOME TELEPHONE NUMBER: _____
OFFICE/CELL TELEPHONE NUMBER: _____
EMAIL ADDRESS: _____
CITIZENSHIP (if not United States): _____

Names and Dates of Birth of Children:

Please list other names, if any, that you, your children and/or any of your beneficiaries have been known by:

NATURE OF THE WORK NEEDED - PLEASE CHECK ONE OR MORE OF THE FOLLOWING:

_____ Estate Planning	_____ Trust Funding
_____ Will	_____ Trust and/or Estate Dispute
_____ Trust	_____ Asset Protection Planning
_____ Living Will	_____ Pre-Marital Agreement
_____ Durable General Power of Attorney	_____ Special Needs Trust for Disabled Beneficiaries Who
_____ Health Care Power of Attorney	_____ Receive or May Receive Government Assistance
_____ Estate and/or Gift Tax Issues	_____ Medicaid Planning for Nursing Home Care
_____ Probate and/or Trust Settlement	_____ Other: _____

How did you find out about us? _____

How did you find our telephone number? _____ Internet _____ Phone Book _____ Other

Fees for services are \$295 per hour for Michael J. Howell's time, \$185 per hour for our associate attorney's time, and \$125 per hour for non-attorney staff time. If you are requesting estate planning services, then an estimated fee schedule for estate planning services is enclosed. Fees are subject to change in the future. Also enclosed is an engagement letter that all work is subject to. Please sign this Client Information Sheet and provide us with a copy. Keep the original for your file.

SIGNATURE

_____, 20_____
DATE

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ASSET SUMMARY SHEET
 (Married United States Citizens)

 Husband's Name

 Wife's Name

DESCRIPTION OF ASSETS	VALUE OF ASSETS OWNED BY HUSBAND	VALUE OF ASSETS OWNED BY WIFE	VALUE OF ASSETS OWNED AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP
Real Estate	_____	_____	_____
Stocks & Bonds	_____	_____	_____
Checking Accounts	_____	_____	_____
Savings & CDs	_____	_____	_____
Notes & Receivable	_____	_____	_____
Life Insurance	_____	_____	_____
Pensions/IRAs	_____	_____	_____
Annuities	_____	_____	_____
Other Property	_____	_____	_____
Less Debts	(_____)	(_____)	(_____)
TOTALS	_____	_____	_____

If the property is owned by husband and wife as Joint Tenants with Right of Survivorship, or as Tenants by the Entirety, the entire amount should be shown as owned as Joint Tenants with Right of Survivorship, and not in either the husband or the wife column. If an asset is owned as Tenants in Common by husband and wife, then one-half (1/2) of the asset should appear in the husband's column, and one-half (1/2) of the asset should appear in the wife's column. For property in a Revocable Trust, please place a "RT" beside the amount. If property is in an Irrevocable Trust, please place an "IT" beside the amount. If you own assets in TOD or POD accounts, please so note them.

This information will be used in planning your estate. If the information is not correct, the advice which you are given may not be correct and may create unexpected and adverse estate planning and tax consequences. Please sign below as your acknowledgment that the information is substantially correct and that we may rely upon its validity in advising you.

_____, 20____.
 SIGNATURE DATE

_____, 20____.
 SIGNATURE DATE

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SIMPLE WILL DATA SHEET

(Married United States Citizen)

(To Be Filled Out by *New or Prospective Clients Only*)

--We do not have total assets (joint and/or separate) over \$5,000,000, including stocks, bonds, notes, mortgages, cash, life insurance, expected inheritances, real estate, partnerships, business interests, retirement benefits and plans, annuities, tangible personal property and/or other assets. **Note: the \$5,000,000 may change in 2013, and should be re-reviewed at that time. [Please submit a list of assets, using the enclosed Asset Summary Sheet, showing values and ownership as between husband, wife and joint with right of survivorship.]**

--We want to leave all assets (joint and/or separate) to each other and then to our children equally and if a child predeceases, then that child's share will go to his and/or her surviving children equally. No beneficiary is a minor or mentally impaired.

--We want the surviving spouse and/or a corporate fiduciary, to be the primary executor with the substitute or successor being one of our children and/or a corporate fiduciary. **[Please list who will serve as executor(s) and substitute or successor executor(s), at the bottom of this page.]**

--There are no children other than from the current marriage and if there were any previous marriage(s), there is no alimony or other obligations as a result of the previous marriage(s).

NOTE: If any of the above pre-printed statements are not true, a simple Will may not be appropriate. If you answered no to any questions, please let us know so we can determine if we need to send you another type of data sheet.

SIGNATURE

_____, 20____.
DATE

SIGNATURE

_____, 20____.
DATE

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TRUST DATA SHEET
(Married United States Citizen)
(To Be Filled Out by *New or Prospective Clients Only*)

TO ANSWER QUESTIONS 1-3, THE FAIR MARKET VALUE OF ALL YOUR ASSETS SHOULD BE OVER \$5,000,000, including stocks, bonds, notes, mortgages, cash, life insurance, expected inheritances, real estate, partnerships, business interests, retirement benefits and plans, annuities, tangible personal property and/or other assets. [Please submit list of assets, using the enclosed Asset Summary Sheet, showing values and ownership as between husband, wife and joint with right of survivorship.]

1. If your estate is over \$5,000,000 would you like to save significant estate taxes upon the death of the surviving spouse? (amounts over \$5,00,000 x 35% tax rate) (NOTE: Savings can be higher or lower depending upon assets and date of death.) _____
2. If it will save significant estate taxes, are you willing to place your assets (possibly the amounts over \$5,000,000, but can be more or less, depending upon facts and circumstances) into a trust for the surviving spouse after the death of the first spouse, whereby the survivor receives all income from the assets for life, can withdraw the greater of \$5,000 or 5% of the trust assets each year, and the Trustee can also invade principal for the survivor, if there is a real need over and above the funds the spouse is already entitled to?

Please define "significant" as a minimum dollar amount. _____

All other assets can be paid outright to the surviving spouse or in a very liberal trust with the spouse having complete control.

3. If you answered **NO** or **NOT APPLICABLE** to the previous question; would you be willing to leave the assets to the surviving spouse, but give the surviving spouse the ability to fund a very liberal trust for his or her benefit to save taxes by disclaiming assets into a trust within nine (9) months after the death of the first spouse, if it were to become necessary due to changes in asset values or changes in estate tax laws?

4. Would you like to have a trust that could be used to manage your assets in the event of your disability? _____
5. Would you like to have a trust to avoid probate when you die, if (i) it requires placing substantially all of your assets into the trust before you die, (ii) you have the power to alter, amend or revoke the trust (iii) you still receive all the income and other benefits while you are alive and (iv) you can be your own Trustee? _____
6. If you have answered **YES** to any of the questions, are you willing to use a corporate fiduciary as the Trustee or Co-Trustee, if they charge an annual fee equal to approximately 1%-1½ % of the value of the trust assets per year? _____

If yes, what corporate fiduciary would you prefer? _____

7. If you answered **NO** to the previous question but still would like to have a trust, please list the individual Trustees below, that you prefer to have serve (including yourself, while you are alive and competent):

Initial Trustee(s)? _____

Alternate Trustee(s)? _____

8. Assuming a trust may be an alternative, you will still need a pour-over Will. Do you want the surviving spouse to serve as primary executor? _____

If no, then who will serve? _____

Who will serve as alternate(s)? _____

9. Were there previous marriages or are there disabled beneficiaries? If yes, this will need to be discussed in more detail. _____

10. If you or your spouse, or both, are not United States Citizens, please list your country or countries of citizenship: _____

NOTE: If you answered "Maybe" to a question, then treat this as a "Yes" answer for purposes of subsequent questions based on previous "Yes" answers.

SIGNATURE

_____, 20____.
DATE

SIGNATURE

_____, 20____.
DATE

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**Conflict of Interest Memorandum for
Married Clients Being Represented Jointly**

When representing two clients, even if married, our Rules of Professional Conduct require that we inform you of certain matters. There are three basic alternatives for representation in your estate planning. First, one of you can use our firm and the other can use an attorney from another firm. Second, we could counsel you both together as joint clients. Third, we could counsel you separately as separate clients. Let me explain further.

In negotiating any contract between two parties, each of the parties should, except in certain limited circumstances, be represented by an attorney from a different firm. This is because a contract, once entered into, binds both parties and therefore cannot be changed unilaterally by either. These are also arrived at by negotiations between the parties and the parties often have interests that conflict. In the estate planning field, for example, a marriage or premarital contract is an example of such a contract requiring separate firm representation. Also, irrevocable trusts may be an example.

By contrast, the establishment of gifts, outright or in trust, and preparation of Wills are examples of non-contractual, individual actions that leave each person free to make unilateral changes to his or her future plans without the knowledge or acquiescence of any other person. The same could also occur even with a Revocable Trust Agreement. Please keep in mind that after estate planning has been done, jointly, it does not necessarily foreclose one or both of you from changing your planning without the knowledge of the other. However, if we represent both of you, jointly, we could not make such changes without the consent of the other spouse.

Spouses can also have different and sometimes conflicting interests in 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 will recommend that holdings be restructured in order to take advantage of available tax benefits that may involve gifts from one spouse to the other or to third parties. Some of these actions can affect the division of property in the event of a divorce and at death. In some cases, such gifts may potentially affect the lifestyle of one or both of the spouses. These are just a few general examples of where conflicts of interest may arise. Each couple's situation is unique.

Also, each of you is free to make any desired changes to your plan, unilaterally, regardless of what lawyer each of you uses. The choice of whether to have us represent both of you jointly on the one hand, or separately on the other hand, is available to each of you and this memorandum will explain the basic differences.

On the one hand, if we were to represent both of you, jointly, we would have to immediately tell the other anything which one of you tells us in confidence that related to his or her estate planning. This is because not to reveal such information to the other might be considered a violation of the attorney-client joint relationship. However, since the person giving us the information could insist that we not disclose the information, we must reserve the option of withdrawing in such a case without telling the other spouse the reason. Keep in mind that this may also inhibit one or both of you from telling us something in confidence that you thought we needed to know. This is because the one telling us the information would realize that we would be forced to disclose it to the other spouse or resign and give notice of our resignation to the other spouse.

On the other hand, if we were to represent each of you, separately, we would have to keep in confidence and conceal from the other, anything later told to us in confidence by one of you even though it might prejudice the other. This is because it may be something that the other had relied upon in making his or own estate plan, including such differences on how each of you would like to transfer your property by gift or at death, as to how each of you would like to have your income, gift and estate taxes allocated and paid, and as to how each of you would like your interest in property managed and controlled.

However, with joint representation, there still might be or might arise disputes between the two of you which cannot be reconciled and we would not in any event be able to represent either of you in resolving such disputes by litigation or other adversarial methods of dispute resolution. If such an irreconcilable dispute were to arise, we would tell each of you to go to a different law firm.

Notwithstanding the above, and although there are different forms of representation, we will only accept married clients if we either represent them jointly or we represent only one of them. We do not currently accept the separate representation of both a husband and a wife.

Of course, each of you is free to consult or switch to a lawyer from one or more other law firms at any time despite your signing and returning this letter to me. Also keep in mind that you are not a client until such time as I agree to do the legal work. Notwithstanding this, the information which you provide is confidential as provided in the South Carolina Rules of Professional Conduct for Attorneys.

Our joint representation of both of you means that if, at any time in the future while you are married to each other, either one of you asks us to represent you, separately, we will be unable to do so without the consent of the other. In some circumstances, the same may apply if you are not married to each other.

This written explanation is designed to make certain that each of you fully understands the consequences of joint representation. In order that our file can reflect this and also the choice which you are making, we would appreciate your signing a copy of this memorandum and returning it to us for our file.

JOINT REPRESENTATION. We hereby agree that we want you to represent us jointly. While as to others, you are to keep in strict confidence everything that either one of us reveals to you, we hereby authorize and direct you to tell us anything which one of us reveals to you about our estate plan while we are married. This also includes information which one of us reveals to you outside of the other's presence. Optionally, rather than revealing such information to the other, you may choose not to represent either one of us. In such a case, we ask that you give notice in writing of your withdrawing, but you are not required to give the reason.

Notwithstanding the above, you may disclose information to others which is reasonably necessary in order to represent us. You are specifically authorized to talk to and divulge reasonably necessary information to our other advisors, including our accountants, stock brokers, bankers, trust officers, insurance agents, financial planners and any of our other attorneys. The only exceptions are as follows:_____.

In addition, if you are ever contacted by a beneficiary, you may discuss our estate planning with them to the extent you deem reasonably necessary to represent our interests. The only exceptions are as follows:_____.

_____ Date: _____, 20____.
Husband's signature

_____ Date: _____, 20____.
Wife's signature

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Hourly Rate for Michael J. Howell	\$295
Hourly Rate for Associate Attorney	\$185
Hourly Rate for Non-Attorney Staff	\$125

**Estimated Fee for Standard Estate Planning Services
(Married United States Citizens)**

Standard Estate Planning Services

Health Care Powers of Attorney, in conjunction with other planning	\$125
Durable General Powers of Attorney, in conjunction with other planning	\$475
Revocable Living Trust(s) (Including Single, Joint, Marital Deduction, Credit Shelter and/or Disclaimer Trusts) <i>Including</i> Companion Pour-Over Wills for husband and wife, HIPAA Releases and Basic Tangible Personal Property Memorandum and Basic Mini-Trusts for Minors, as needed	\$2,500
Trust Amendment and/or Complete Restatement of Trust(s) that were drafted by our office, including Companion Pour-Over Wills	\$1,900
Retitling Assets or Change of Beneficiary to Conform to Planning Objectives, <i>Per Asset or Policy</i> (Other Than Real Estate or IRAs): (Includes Standard Life Insurance Beneficiary Designation)	\$525
Bills of Sale for Tangible Personal Property, with other planning	\$275
Certificates of Trust, with other planning	\$275
Tangible Personal Property Memorandum, with other planning	\$275
Non-Complex Wills or Codicils	\$775
General Estate Planning Review, without New or Restated Trusts or Wills	\$750
General Trust Funding Review, without New or Restated Trusts or Wills	\$750
General Disability Planning (Basic), without New or Restated Trusts or Wills	\$750

The Above Amounts for Married Couples are for Both or Joint Sets of Documents

Additional Range of Estimated Fees for Basic Premium Estate Planning Services

Specific Bequest, per item, after two (2), including Tangible Personal Property	\$275-\$350
Disinheritance Provisions	\$675-\$975
Non-Standard or Complex Trust Provisions for Minors (Non-GST)	\$675-\$1,275
QTIP Marital Planning Provisions (Second Marriages-Basic)	\$975-\$1,275
Basic Generation Skipping Transfer Trust Provisions and Planning	\$975-\$1,275
Other Non-Standard or Complex Dispositive Provisions	\$375-\$975
Basic Planning for Clients with Large IRAs or Other Large Retirement Accounts	\$1,500-\$3,500
Basic Irrevocable Trust or Basic Charitable Planning, Per Person	\$2,500-\$4,500
Basic Closely Held Business Planning or Discussions	\$2,500-\$4,500
Basic Planning for Professional and/or Business Owner	\$500-\$1,000
Multiple Fiduciaries Serving Together	\$275-\$575
Coordination & Communication with Third Parties (Per Third Party)	\$375-\$975
Per Conference, Other than the Initial & Signing Conferences	\$295-\$590

Name change only amendments to documents, which our office drafted, are estimated to be \$175-\$275, *per document, with normally a minimum charge of \$375-475.*

More than two conferences, emergency procedures, house calls and dealing with third parties including your other advisors, who are not our client(s) can not be accurately estimated and are more than the estimates given above.

Codicils and Amendments to documents, which *we* drafted, are estimated above. It is generally less risky and more cost effective to completely restate a document than amend it. This brings it up to date in terms of subtle changes, which occur in the law and documents over the years. Also, we do not normally amend a document prepared by someone who is not a South Carolina certified specialist in estate planning and probate law. Also keep in mind that the longer it has been since you had your estate planning reviewed, the more likely it is that a restatement will be necessary. We normally recommend that clients have their estate planning reviewed no less often than every 2-3 years.

In addition to the above, the estimated fees are for married couples with United States citizenship, having assets of up to approximately \$5,000,000 utilizing standard estate planning documents. *The estimated fees for basic estate planning services for a married couple are for both spouses.*

Estimated fees for estate planning services listed on the next page, include a review of your asset values and composition to determine the impact of all estate taxation as well as drafting the necessary documents. Consideration is also given to means of saving probate costs with and without trusts and managing disabilities.

Notwithstanding the above, the actual cost depends upon how much time the work takes to complete. Please note that you are not being charged for documents. It is our time. In most cases, the actual fee for basic estate planning services is normally within 10%-15% more or less of the amount shown. Unless otherwise noted, the fees are for our standard or basic planning and drafting techniques. Please keep in mind that “standard” and “basic” do not mean “simple.” There can also be additional charges if there are certain types of special needs trusts, complex family situations, no natural objects of your bounty, disproportionate distributions, disinheritances, large individual retirement plans, closely held businesses, complex assets, out of state documents or other unusual circumstances. Please keep in mind that this fee schedule is subject to change without prior notice.

From the conference, after you make the decision as to what type of plan you want, it generally takes us 10-14 days to provide you with documents. It normally takes about 30-60 days to complete all work; although in emergency situations, we can complete the work much sooner. We bill on an interim basis. You normally receive 2-3 statements before all work is completed depending upon when you come in during the month. Bills

are payable upon receipt and those unpaid for more than 30 days are subject to an interest charge of 1.5% per month.

Please keep in mind that we provide you with *independent legal advice*. Many other advisors do not give independent advice because they sell other products or non-legal services. We do not sell products or non-legal services. We only represent you or possibly you and your spouse, if you are married and we have a written agreement to do so. Often other advisors make recommendations for products and/or services that affect your estate planning. In such cases, we listen and analyze but our job is to represent you and to give you *independent legal advice*. We do not normally rely upon the recommendations of other advisors due to the conflict of interest issues involved with their advice, if products and/or non-legal services are suggested by them.

We have non-attorney staff members who assist an attorney in providing legal services. Such non-attorney staff members may have special training in areas relating to estate planning, tax planning, financial planning, insurance planning, retirement planning, probate, and/or related areas of taxation, accounting and/or mathematics. They and their work are under the direction and supervision of an attorney. They are allowed to gather information, relay information and, prepare documents under attorney supervision. Under no circumstances, are they allowed to answer questions that are or may be construed as legal advice nor can they give legal advice. Only an attorney can practice law or give legal advice.

Standard (Non-Basic) Estate Planning Normally Includes the Following:

Two Health Care Powers of Attorney	\$125
Two Durable General Powers of Attorney	\$475
Two Revocable Living Trust Agreements Including: Companion Pour-Over Wills for husband and wife, HIPAA Releases and Basic Tangible Personal Property Memorandum and Basic Mini-Trusts for Minors as needed.	\$2,500
Four Bills of Sale	\$275
Two Certificates of Trust	\$275
<i>Estimated Total</i>	\$3,650

Basic Estate Planning Normally Includes the Following:

Two Health Care Powers of Attorney	\$125
Two Durable General Powers of Attorney	\$475
Two Non-Complex Wills	\$775
<i>Estimated Total</i>	\$1,375

“A lawyer’s time and advice are his stock in trade.” --- Abraham Lincoln.

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Estate Planning Engagement Letter from Michael J. Howell

I am pleased that you have selected us to assist you in your estate planning. The purpose of this letter is to confirm the terms of our representation. Like so many firms now, we have a policy to express in a letter, usually referred to as an engagement letter, the basic terms of our engagement and professional relationship with our clients. With many of our existing clients, our relationship has become so well established and so well understood that we have excused the lack of an engagement letter at least until there is a specific new engagement.

In this letter I will describe why we are ideally qualified to advise you in relation to your estate planning, how we do our work, how we allocate our work and how we charge for the work that we do. I will also explain some of our obligations under the South Carolina Rules of Professional Conduct for Lawyers and the client-lawyer relationship. If, after you read this letter, you have any questions please let me know and I will be happy to discuss them with you.

QUALIFICATIONS. Michael J. Howell is certified by the South Carolina Supreme Court as a specialist in estate planning and probate law. This means that the Court, through its Commission on Continuing Legal Education and Specialization and its Estate Planning Advisory Board, believes that he has special competence and expertise in the areas of estate planning and probate law. Before becoming certified, Mr. Howell had to demonstrate experience and expertise in these areas of the law. Mr. Howell also had to submit to an oral examination and peer review by a Board of Certified Specialists in Estate Planning and Probate Law. Additionally, Mr. Howell had to pass a written examination on estate planning and probate law and related areas of fiduciary income taxation, estate taxation, and gift taxation. As a certified specialist, Mr. Howell is also required to have specialized continuing legal education courses in the areas of estate planning and probate law, as well as related areas of income, estate, gift, and generation skipping taxation. These are not the same types of courses that most attorneys will take. These are specialized courses that require approval from the Commission on Continuing Legal Education and Specialization. He is also required to take ethics courses each year, as are all lawyers in South Carolina. Every 5 years, Mr. Howell must also be recertified. In addition, he is required to submit special reports each year to the Commission on Continuing Legal Education and Specialization, which are not required by those attorneys who are not certified specialists. Also, under our Rules of Professional Conduct, only a certified specialist can hold himself or herself out in advertisements as certified, a specialist, an authority, or an expert in their areas of the law. These rules are for the protection of the public.

Also our full time staff members, although not attorneys and not required by any regulatory entity, are required to take the same types of courses, which Mr. Howell takes. We also offer virtually unlimited continuing education opportunities for full time staff in the areas of taxation, probate law, and also estate and financial planning.

COMMUNICATIONS. It is our policy to communicate with our clients on an ongoing basis while doing their estate planning. We try to return calls as promptly as possible and, to the extent we are not out of the office, no later than by the end of the next business day. If your call is not returned within this time frame, you should not hesitate to call us back.

If we call and request information from you, we ask that you also call us back as promptly as possible to expedite the completion of your work. You may also communicate with us by a letter, email or fax. To the extent that you have a fax machine or email, unless you tell us not to, we can also communicate with you, at our option, using these methods in addition to telephone calls and letters. *With respect to email, we use it to send and receive information. However, it should never be used if a prompt response is needed. In any case, where a prompt response is needed, you should call our office rather than use email.*

Another way that we communicate is through our billing process. We give detailed descriptions in our bills of any relevant information that needs to be documented or disclosed to you. This may include telephone or office conferences with you or others. It may also include summaries of advice given, letters and faxes received and sent as well as summaries of any research. You should always read the statements with this in mind.

We will also explain a matter to the extent reasonably necessary to permit you to make an informed decision about our representation and the work, which we do for you. This is to allow you to have sufficient information to participate intelligently in decisions concerning the objective of our representation and the means by which they are completed. Please keep in mind that this does not, necessarily, mean that you will be able to understand all the technicalities of the work which we do and the documents that we draft. You have hired us to understand these matters. I normally provide you with an estate planning summary with any documents that I draft. I will also discuss with you during our conference or conferences, why I believe that any particular work or documents should be used in your estate planning.

SCOPE. The scope of the work, which we perform, will be to assist and advise you in your estate planning, to help you to formulate your goals and objectives and the means to accomplish them. Most of the time, the means are embodied in the list of the types of work, which are shown on the fee schedule. In addition, we will give you a written estimate of the cost with the first draft of any documents that we prepare. It will be in substantially the same form as the estimated fee schedule, which is attached to this letter. Often the scope of the work may be a simple will or other document. In many other cases, it can be much more complex.

FILE RETENTION AND ORIGINAL DOCUMENT POLICY. We do not retain any paper copies or original documents. We provide these to our clients as the work is completed. This means that you, as the client, are responsible for keeping a permanent file. We retain electronic or digital copies of the files, which can be reproduced. Although there is no requirement to do so, since we will provide a complete copy of the file to you, it is our current policy to retain our electronic or digital copy for up to 6 years after our representation terminates. The representation terminates, when we complete the work, which you requested. Normally, but not always, this is when you have signed your documents and receive a closing letter from us.

The paper file is your property. The electronic or digital file is our firm's property, subject to the confidentiality provisions of the Rules of Professional Conduct for attorneys. If there is ever a conflict between the Rules and our Policies, the Rules apply. We do not share any information with third parties, except as reasonably necessary to carry out our representation, or as directed by you.

At all times during the representation period, you are provided with substantially all copies of any relevant information that we receive for our file, and under the Rules of Professional conduct, you are entitled to request a copy. If, during the representation period, you do not believe that a copy of any particular paper or document was given to you or was not received by you, we should be notified before the representation terminates. We will send you a copy during our period of representation. We do not charge, per copy, a such. However, since gathering and distributing information is part of our job, we do charge our normal hourly rates for all copies made. If after the representation terminates, you need additional copies, we will make them for you, but may charge our normal hourly rates. At our option, we may also provide you with electronic copies, if you need copies for up to 6 years after our representation terminates. Often, this is much less expensive and easier to research. We have done this on a number of occasions and it works well. At the end of 6 years after we close our file, it is destroyed.

We are often asked if we hold original documents. Many years ago, attorneys routinely kept original documents and it is still causing confusion. We stopped keeping original documents in 1989 after Hurricane Hugo. Before that time, we would hold them on a limited basis. *However, we will no longer hold any original documents.* **If you ever believe that we are holding an original document that belongs to you, please contact us immediately so that we can check our records.**

COMPLETION OF WORK. When we finish any work requested, or if for any reason we can not do the work, we will mail you a letter telling you that our work has been completed or that we can not do the work. We call this a closing letter. As part of the letter, it will state that we have no property, papers or documents in our file that belong to you. If you do not believe that this is correct, you should notify us, immediately, in writing, so that we can give you anything in our possession that belongs to you. All such information is and remains confidential as outlined in the next section. If there is ever a time during our representation that 30 days goes by and you do not hear from us, you should let us know immediately because this long of a period of time should never go by without us contacting you. It can also mean that we sent you a closing letter, but you did not receive it.

CONFIDENTIALITY. Under our Rules of Professional Conduct a lawyer can not reveal information relating to the representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized to carry out the representation. This includes communications with staff members, whom I have an obligation to supervise and take reasonable measures to make sure their conduct is compatible with my obligations under the Rules of Professional Conduct.

However, under our Rules of Professional Responsibility, a lawyer may reveal such information to the extent the lawyer reasonably believes necessary to prevent the client from committing a criminal act; or to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client.

BILLING. We charge hourly for all work, unless it is fixed or flat fee work. In addition, we may reveal information to third parties when it is necessary or implied necessary, to carry out our representation in this matter.

The hourly rate for Michael J. Howell is \$295, our associate attorney's hourly rate is \$185, and the hourly rate for non-attorney staff members is \$125 per hour. We charge extra for all out of pocket costs such as courier services, filing fees and travel costs, if any. We do not charge for regular postage unless the weight is more than four ounces; however, we do charge for certified or registered mail. We do not charge for long distance telephone charges. We do not charge for photocopies for fixed or flat fee work. If we are charging hourly, we bill for all time associated with your file, including photocopying time, at our normal or standard hourly rates. We also charge hourly for telephone calls and emails. In addition to our other work in drafting, researching, and conferences. We normally send out detailed billing statements about once a calendar month for your work, but may bill sooner when the work is completed. Also, amounts are due when the statement is received by you. If not paid within 15 days of mailing, unless we agree otherwise, in writing, to a flat fee or other arrangement, we charge 1½ % per month on the unpaid balance, until it is paid. Our hourly rates and other charges can change without notice; however, we try to give clients whose file we are working on at the time, at least 30 days notice in advance of the changes.

RETAINERS. I do not anticipate that a retainer for your work will be necessary however; we reserve the right to charge one. If a retainer is charged, it will be credited to your bill and any excess will be returned when our work is completed and the final statement of services rendered is prepared.

STAFFING. In order to keep the costs as reasonable as possible, although, I am the attorney responsible for your case, I use and supervise staff members to the extent reasonably possible. When dealing with non-attorney staff members, please keep in mind that although they are well trained and qualified to perform the work assigned to them, they are not attorneys and can not practice law or give any legal advice. They can provide and receive

information, do research, work on estate planning documents, accountings and work on tax returns. They can also analyze data and financial information. All such work is supervised by an attorney.

Non-attorney staff members can also relay information. When discussing matters with them please remember that they can not give any advice that is or may be construed as legal advice. For this reason, if you think you are being given any advice from a staff member that you believe can be construed as legal advice or legal opinion, you should not take the advice and you should immediately follow up with me for clarification.

TERMINATION. You have the right to terminate our services at any time. We also have the right to withdraw, assuming there is no substantial prejudice to your case and, that we otherwise comply with the Rules of Professional Conduct. If we terminate the representation or withdraw we will, to the extent reasonably possible, give you adequate notice so that you will be able to hire another attorney, if it is necessary. In such a case, we are also more than willing to recommend another attorney. In rare cases, such as in probate matters, we can not withdraw or be terminated without court approval. In the event of the termination of services, we will be given a reasonable period of time to wrap up anything we are working on. We charge for any work up until that time, based upon our standard and hourly rates. If we are terminated without good cause, then, we also have the right to hold onto any papers or documents (i.e., a retaining lien) until we are paid, unless it will cause substantial harm or prejudice to your case.

FORMER CLIENTS. Once your work is completed you are technically considered a former client but still entitled to certain protections under the Rules of Professional Conduct, including those relating to confidentiality. Among other things, being a former client means that it is your responsibility, not ours, to come back periodically to make sure your estate planning documents are up to date with current law and with your objectives.

CONFLICTS OF INTEREST. Under our Rules of Professional Conduct, a lawyer can not represent a client if the representation of that client will be directly adverse to another client; unless, the lawyer believes the representation will not adversely affect the relationship with the other client; and each client consents after consultation. Also under our Rules, a lawyer can not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interest, unless the lawyer believes that the representation will not be adversely affected; and the client consents after consultation. It is our policy not to accept a case if we know of any such conflicts of interest. If you know of any conflicts of interest, please notify us immediately.

Notwithstanding the above, the Rules of Professional Conduct do not prevent a lawyer from representing another client in a matter adverse to a *former* client so long as the matter is not the same or substantially related to the previous representation and there is no use of confidential information from the previous representation. This usually occurs in an adversarial setting, which this firm does not routinely engage in. It is our policy not to represent a current client against a former client; however, we reserve the right to do so, within the parameters of the Rules of Professional Conduct.

DUAL REPRESENTATION. When representing multiple clients in a single matter, the lawyer must consult with the clients about conflicts of interest and the consultation must include an explanation of the common representation and the advantages and risks involved. This is because the representation of one client may materially limit the lawyer's responsibility to the other client and the interests of the clients may conflict. If this is a dual representation, there is a separate dual representation letter attached for you to review, sign and return.

OTHERS ATTENDING MEETING. If others are to attend any of our meetings, please let me know in advance. There are certain conflict of interest and privilege issues, which I will need to discuss with you before someone else joins our meeting. We also have a special letter that will need to be signed by you and the person attending the meeting.

ENTIRE UNDERSTANDING. This letter constitutes the entire understanding between you and this firm and supersedes all prior understandings, written or oral, relating to its subject matter. Any change must be made or confirmed in writing.

WHEN YOU BECOME A CLIENT. Please keep in mind that until we both agree, you are not a current client, entitled to the protection afforded current clients of this firm. You are, however, a prospective client which entitles you to certain protections such as confidentiality of information discussed above. To the extent of any previous work, you are a former client and similar confidentiality protections apply.

We are sincerely delighted that you have chosen us to represent you in your estate planning, and look forward to being of service to you.

THE LAW OFFICE OF
MICHAEL J. HOWELL, P.A.

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Hilton Head Island, SC 29928

HiltonHeadEstatePlanning.com

Michael J. Howell
Licensed in Florida and South Carolina
Certified by the South Carolina
Supreme Court as a Specialist
In Estate Planning and Probate Law

Margaret Rhea Howell
Licensed
In
Florida and
South Carolina

Michael J. Howell

Michael J. Howell has been a resident of Hilton Head Island, South Carolina, since 1978. He is a frequent speaker on topics relating to Estate Planning and Probate Law.

Michael was born in Columbia, South Carolina in 1951 and is a 1974 graduate of the University of South Carolina with a BS Degree in Business Administration majoring in accounting. He is also a 1977 graduate of the University of South Carolina School of Law.

Michael is a member and past chairman of the Professional Responsibility Committee of the South Carolina Bar Association. He has also chaired subcommittees on studying alternatives to multidisciplinary practices and changes to rules on what to do with a legal practice when an attorney dies, becomes incompetent, is suspended or disbarred. One of his subcommittees has also written a manual for South Carolina attorneys who are appointed by the South Carolina Supreme Court to take over such practices. Michael was also on a 2002 Subcommittee studying and recommending changes to the Model Rules of Professional Conduct for Lawyers. He was also a member of the Bar's committee that worked with the South Carolina Supreme Court and its own Commission on the new Rules of Professional Conduct for Lawyers, which became effective on October 1, 2005.

Most recently, Michael served as Chairman of The File Subcommittee of the Professional Responsibility Committee, which has drafted and proposed new Rule 1.19 titled "The Client File," in order to try to define what clients are entitled to from their file and what can and can not be altered by agreement. The Rule was passed by the House of Delegates of the South Carolina Bar in January of 2011 and is pending consideration by the South Carolina Supreme Court.

Michael served on the Board of Governors of the South Carolina Bar Association from 2006-2009.

He has been a member of the South Carolina Bar since 1977 and is certified by the South Carolina Supreme Court as a Specialist in Estate Planning and Probate Law in South Carolina. He is also a member of the Florida Bar.

For the years 1993-1996, he was a member of the South Carolina Estate Planning and Probate Law Specialization Advisory Board and was Chairman of the Advisory Board in 1995. The Advisory Board interviews and tests attorneys wanting to become Certified Specialists in Estate Planning and Probate Law.

From 1998-2004, he was a member of the South Carolina Supreme Court's Commission on Continuing Legal Education and Specialization. This Commission oversees required continuing legal education requirements for South Carolina attorneys. The Commission also oversees the specialization programs for attorneys in South Carolina in Estate Planning and Probate Law, Taxation Law, Labor Law and Bankruptcy Law. From 2002-2004, Michael was also the Secretary of the Commission.

He is a past member of the Unauthorized Practice of Law Committee of the South Carolina Bar Association. Michael has also been a member of the complaints subcommittee.

Michael has also authored several articles including *Disclaimer Trusts: a wait and see approach to estate planning in light of EGTRRA* published in the November 2002 issue of South Carolina Lawyer magazine and *What's New and What's Left in Sophisticated Estate Planning* published by National Business Institute, June of 2003 for it's manual Advanced Estate Planning Techniques in South Carolina, and also *Ethical Considerations for Estate Planning Lawyers in South Carolina – A Study of Selected Provisions of the Rules of Professional Responsibility*

and a substantial update to *What's New and What's Left in Sophisticated Estate Planning,- A Primer on Selected Estate Planning Techniques for South Carolina Attorneys* both published by National Business Institute for its April 2004 manual on How to Protect Assets During Life and Avoid Estate Tax at Death in South Carolina.

Michael is also a Life Fellow of the South Carolina Bar Foundation. The Foundation supports programs around South Carolina designed to provide legal services to those who can not afford them. The Foundation also supports efforts to educate the public about the law. He is also a Legacy for Justice member of the Florida Bar Foundation, which is a foundation similar to the South Carolina Bar Foundation.

He is also a charter member of the Hilton Head Council of Estate and Financial Advisors and was its President during its 2001-2002 fiscal year. In 2006 he was named a Member Emeritus, which is a lifetime position.

In 2001, 2002 and 2003, Michael was also a representative of the South Carolina Supreme Court's Commission on Continuing Legal Education and Specialization, at a National Roundtable on lawyer specialization, sponsored by the American Bar Association.

Michael has also been a member of St. Andrew By-the-Sea United Methodist Church since 1978. He has taught Sunday School for nearly 30 years. Past duties include being chairman of the Pastor-Parish Committee, chairman of the annual stewardship drive, chairman of the Fall Festival, member of the administrative board and member of the Long Range Planning Committee. Michael was also on the Endowment Committee and co-authored the Endowment Fund Agreement.

Michael was also a volunteer attorney for people with limited means, through a program sponsored by the South Carolina Bar. He also provides pro bono, reduced fee, or free, legal services to local individuals and groups who either can not afford an attorney, or can not afford to pay the full cost of an attorney. He is also a volunteer attorney for probate matters with Jacksonville Area Legal Aide (JALA) in Jacksonville, Florida.

Margaret Rhea Howell

Margaret Rhea Howell is now practicing with The Law Office of Michael J. Howell, P.A. She is currently a member of the South Carolina Bar, admitted to practice in South Carolina.

She was born in Beaufort County, South Carolina in 1982. She is a graduate of Hilton Head Prep.

She attended Southern Methodist University in Dallas, Texas and is also a graduate of the University of South Carolina with a degree in Journalism, where she was on the President's List and the Dean's list.

She graduated from Florida Coastal School of Law in 2008 and passed both the Florida and South Carolina Bar Exams, the first time.

She is also a former member of the Hilton Head Dance Theatre, where she studied classical ballet under the former Principal Ballerina for the America Ballet Theatre, Karena Brock-Carlyle, and John Carlyle.

Margaret worked with the Young Lawyers Division of the South Carolina Bar on their *Wills for First Responders Program*. The program provides Wills and certain other basic estate planning documents to firefighters, EMTs, police officers, and deputy sheriffs, at no charge.

Margaret is also a member of the Hilton Head Island Bar Association. In addition to being licensed in South Carolina, she is also licensed to practice in Florida.

Margaret concentrates her practice in estate planning and probate matters with an emphasis in Elder Law.

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What Our Clients Receive with Their Estate Planning Services

Phase I Pre-Conference Introductory Material

- Complete package of information explaining our services, our estimated fees, and forms for use in providing us with information needed to complete your estate planning.
- Our website at HiltonHeadEstatePlanning.com with comprehensive educational information on estate planning and probate matters.

Phase II Estate Planning Conference

- Estate planning conference with Michael J. Howell, usually lasting up to two (2) hours, but it can last longer, to discuss your testamentary and estate planning wishes as far as who is to receive your property and how it is to be distributed.
- We will also help you formulate your plan, the documents, and the scope of our services that are needed to complete your work.
- It also includes a discussion of possible means of reducing estate taxes, depending upon your goals and objectives.
- It will also include ideas on how to avoid probate with and without the use of trusts and the tax advantages and disadvantages.
- During this conference, you will also discuss who will be your Personal Representative, Trustee, Health Care Agent, and Agent under your financial power of attorney.
- To the extent needed, we will also discuss any special needs that you or your beneficiaries may have; if for instance, there are minors or beneficiaries with disabilities.

Phase III
Designing and Drafting Your Planning Documents

After the initial conference, we will design and draft and send to you, a complete set of estate planning documents. Depending upon your goals and objectives, this may include the following:

- Wills
- Trusts
- Tangible Personal Property Memorandums
- Bills of Sale to Place Untitled Tangible Personal Property (household and personal effects) into Trust
- Certificates of Trust Suitable for Filing with the Register of Deeds Office by Your Real Estate Attorney
- Durable General Powers of Attorney
- HIPAA Releases
- Health Care Powers of Attorney
- Estate plan summary, which explains, in summary form, each of the estate planning documents.
- Separate memorandum concerning your Durable General Power of Attorney, explaining special issues associated with its use.

Phase IV
Discussion and Signing Conference

- During this conference, we will discuss any questions that you may have with your estate planning.
- After you are comfortable that you understand the planning, you sign the documents and we will witness and notarize them, as needed.
- If for any reason there are changes or you need more time, a further conference or conferences will be scheduled.
- This conference can also last up to two (2) hours and can be longer.

Phase V
Post Signing

- After the original documents are signed, they will be fastened and manuscript covers added, as needed.
- You will receive your original documents in a separate package.
- You will receive a special heavy duty binder with a copy of your documents.
- The binder will also have a table of contents and can be used to keep all of your estate planning documents and information, including information on each of your assets, their values, and how they are owned.
- You will also receive a CD in PDF format with copies of your documents, which you can review on your computer and print or email, as needed.
- Letter to your local real estate attorney with an explanation of how to title your personal residence, if it is placed in your trust, along with supplemental information on how mortgages are treated and what you need to do to make sure to preserve your Homestead Exemption and 4% assessment ratio. We also provide your real estate attorney with the original Certificate(s) of Trust for filing with any deeds.
- Basic outline on how to fund your trust, if you want to do it yourself, and most of it can and should be done by you.
- Set of wallet cards giving technical legal name for titling trust assets in case anyone asks.
- If you need further help, we also provide a list of our trust funding services and the information that we will need.
- Closing letter explaining what we have done, what you need to do, and enclosing additional information for your use.
- Our website at HiltonHeadEstatePlanning.com with information on estate planning and probate. Our website is designed for our clients and is updated with newsletters written by us with the specific needs of our clients in mind.