

**Legal Assistance Office
Naval Legal Service Office Pacific
Detachment Pearl Harbor
850 Willamette Street
Pearl Harbor, Hawaii 96860-5109**

Date: _____

Dear Mr. And Mrs. _____

SUBJECT: YOUR ESTATE PLAN (Potential for Conflict of Interest)

This letter advises you of potential conflicts of interest that may arise if I represent both of you simultaneously in the preparation of your respective estates. Matters to which my representation will extend include the following:

- a. Analysis of your existing wills, codicils, trust agreements, and property agreements, if any;
- b. Analysis of the assets owned by each of you at the time of your marriage, including consideration of the fair market value of such property and the nature in which title was then held;
- c. Analysis of all property now owned by each of you, including consideration of its fair market value, the manner in which title to such property is now held, and a categorization of such property as separate, community, or quasi-community property;
- d. Discussion about the manner in which you wish to dispose of any property over which you may have any power of disposition at the time of your death;
- e. Analysis of the tax impact of such disposition and recommendation for alternative dispositions; and
- f. Preparation of the documents necessary to accomplish the desired disposition, including the drafting of wills, trust, and other documents as may be required.

One of the most common issues creating a conflict of interest between spouses is if one of you had a child or children from a previous relationship and want to ensure that they will eventually share in the estate. You must understand that a will may be changed at any time, and that even if one of you agrees to leave property to the children of the other spouse, there is no guarantee that one of you will not later change the will or the ownership form of the property so that those children will not in fact eventually share in your inheritance.

I have advised each of you that, during the course of your estate planning, conflicts may arise between you with respect to the ownership of your property and its desired disposition during your lifetimes and at your deaths. Differences of opinion

concerning the property do not, under the ethical rules for attorneys, prevent me from continuing to represent both of you. Although I doubt this will happen, conflicts may arise which will make it impossible for me to perform my obligations to either of you. Accordingly, I will withdraw from all further representation of both of you at that time and advise one or both of you to obtain independent counsel.

Ordinarily, as previously indicated, one attorney cannot represent both of you. It may be better for each of you to have separate independent counsel to avoid the possibility that my advice to one of you is influenced by my representation of the other. Nevertheless, you have requested that I represent both of you in all of the above matters, with full understanding of your rights and of the advantages of being represented by independent counsel.

You have each agreed that there will be complete disclosure and exchange of all information that I receive from either of you in the course of my representation. All information received from one spouse will be available to the other spouse. I will not treat information received from one spouse as privileged from disclosure to the other spouse. Information may be disclosed to the other spouse irrespective of whether I obtain such information in private conference with only one of you, including any conferences that may have taken place before the date of this letter.

By your signatures below, you indicate acceptance of the terms of this dual representation, and jointly request that I represent both of you for estate planning services.

Husband's Signature

Date

Husband's Printed Name

Wife's Signature

Date

Wife's Printed Name

Legal Assistance Attorney's Signature

Date

Legal Assistance Attorney's Printed Name