Understanding the QDRO/IRA Process

This information is intended to introduce you to and help you understand the Qualified Domestic Relations Orders process and the various steps involved. The QDRO process can be a time consuming ordeal requiring numerous drafts of the DRO to be acceptable to the Plan Administrator.

What is a QDRO?

A Qualified Domestic Relations Order, or **QDRO**, is a court order that is used to divide retirement Plan assets in a divorce with minimal tax consequences to the parties involved.

The QDRO Process

After completing your property settlement via either Agreement or Order, a QDRO or other domestic relations order or IRA order will be drafted according to the provisions stated in your property settlement agreement or Court Order.

In order to properly draft the QDRO or other domestic relations order, information needs to be provided to the drafting attorney. The information required includes, but is not necessarily limited to, the latest account statement and any “model QDRO language” provided by the Plan.

Every Plan is different and each Plan requires specific language that meets the specifications of that particular **Plan Administrator**. This is where the “model QDRO language” can be very helpful. Different Plan Administrators can interpret identical DRO provisions in different ways. For example, a DRO that may be acceptable to Merrill Lynch may *not* be acceptable to Fidelity.

We sometimes send domestic relations orders to the Plan Administrator for **Pre-Approval** prior to having you sign the DRO. In the pre-approval process, the Plan Administrator reviews the proposed DRO to determine whether it will be acceptable as a valid QDRO or whether the Plan will require revisions before qualifying the Order. The pre-approval process can take the reviewer anywhere from a couple of weeks to several months to complete. Please note that it is not unusual for the Plan Administrator to reject the first and occasionally second drafts submitted to them. Not all Plan Administrators will pre-approve; there are other reasons to not seek pre-approval as well.

After receiving pre-approval of the DRO, the Order is ready to be executed. Upon the signatures of all the parties and the presiding Judge and entry by the Court, a certified copy is sent to the Plan Administrator.

Upon submission of the certified copy of the DRO to the Plan Administrator, the Plan Administrator has up to 180 days under federal law to determine whether the order should be “qualified”. Generally this time period is shortened when the Order is submitted with the pre-approval letter.

Once the Order is qualified as a QDRO, the Plan Administrator will segregate the amount designated in the QDRO into a separate account for the Alternate Payee (person receiving the funds). In

Order to avoid taxation on the awarded money, the alternate payee must transfer the funds into an appropriate IRA account in a custodian to custodian transfer. The alternate payee will be responsible for any taxes, including early withdrawal penalties, when the funds are withdrawn from the account. There are special rules in 401(k) Plans for taking a withdrawal without penalties which you can discuss with your attorney if you are interested.