

Peter Bell: On 882 6PR this is Peter Bell. 22 past 1 we're talking enduring powers of attorney with Neville Freedman from Freedman, Lurie Singh and D'Angelo. So if you've got a question for Neville, 92211 882. Before we get back to that topic, we were talking about One Direction. And we have been contacted by one of the One Direction entourage. This is what they've told us. "I can assure you that I was with the One Direction entourage last night and none [00:00:30] of the One Direction vehicles ran red lights, nor was high speed a factor. Fan vehicles chasing us did on occasions run red lights." Now this person wants to remain anonymous but we do have their phone number, but that's what they say. So I imagine it has to be Great Eastern Highway, there might have been some red light cameras there, so it will be interesting to see what happens there. But that it what the One Direction entourage are saying, that it was only the fans chasing them that ran the red lights, not the One Direction entourage itself. [00:01:00] To Sally in Quinns Rock. Hi Sally.

Sally: Hi, good afternoon Peter, good afternoon Neville.

Neville : Hello Sally,

Sally: I just wish everybody had an enduring power of attorney. Having had a stroke, we hadn't got one of them, naturally, never thinking about such things, and from then one it was an absolute nightmare. Because he'd had a stroke, but unfortunately he couldn't speak and he couldn't write. So after 35 years of being married, we had to have separate accounts, I had to submit monthly statements, [00:01:30] there's what I've paid out for him had to balance with his pension book exactly, to the cent. And I was a nurse, I was not an accountant. And it was a real big headache. And every few months I have to take him up to Guardianship Board to prove that he's alive.

I mean, it only takes a head injury that you can't get in and manage your own affairs. You know, you can rescind at any time if [00:02:00] you're in doubt, you know, if you think the person's not doing the right thing. And also, if it's found that the person who you've nominated isn't doing the right thing by you, then of course ... It was the Guardianship Board, I think they've changed the name now, they will take over and they will take over and they will investigate.

Peter Bell: Thank you very much Sally, appreciate your call, Sally of Quinns Rock. Just on that, Neville, if there is a problem with an enduring power of attorney, or power of attorney, who is the body responsible for adjudicating on disputes or issues?

Neville : [00:02:30] Peter, that's a bit more difficult to answer. The obligation of the donee is a [inaudible 00:02:38] one, and they have an obligation to use the power given to them under the enduring power of attorney solely for the purposes or benefits of the donor. It's very interesting, because very often we have family members wanting to do things with parents' property and this and suchlike, and when I get these calls I say, "But you

can't do that." Because there is no benefit at all [00:03:00] to the person who's given the enduring power of attorney-

Peter Bell: To the donor.

Neville : The donor, absolutely. None at all. Why are you wanting to do this? "Oh well, when they pass away, then this and this and this'll happen." No, you can't do that because-

Peter Bell: That's not how it works.

Neville : No, it doesn't work like that. So Sally's quite correct, and, or was it Cathy?

Peter Bell: It was Sally.

Neville : We're dealing with Sally in Quinns. And she's quite correct, you can revoke it. But of course, there are civil claims which may be able to be brought against anybody who [00:03:30] does the wrong thing under a power of attorney.

Peter Bell: OK, let's go to Cathy of Maddington. Hi Cathy.

Cathy: Hi Neville and Peter. Bit nervous about all this but-

Peter Bell: Don't be nervous.

Cathy: My daughter has motor neurone. So when she actually first got it I took out a power of attorney. She's in a nursing home at the moment. But you just can't go into a bank and use the power of attorney, that's what I've found. I've had to go through documentation attached to be authorized. It's the same [00:04:00] as claiming on HBF, I've had to go and get all that authorized before I can actually make a claim.

Neville : Sally, that's ... sorry, Cathy, that's most unusual. I had this experience with my parents just recently and I have been able to address every single commercial activity that you can possibly think of simply by producing the enduring power of attorney. That document, it is a legally statutory, [00:04:30] legally recognized instruction by the donor to the world at large that the donee is, by the terms of that document, appointed to act on your behalf. Generally what they want is to see the original, to take a certified copy of it, which is quite normal. Although most often they will simply operate on the certified copy of the original document. I have never had a problem with a bank or Medicare, HBF, accountants, [00:05:00] Centrelink, any of those organizations immediately recognize the effect of a power of attorney in my experience, and so they should. You really shouldn't have a problem with them, that is the very purpose of that document.

Cathy: I mean I haven't had a problem with them-

Neville : You won't.

Cathy: It's just that I've had to do documentation. I've had to get documents signed, and authorized and all that before I can do anything.

Neville : Signed by who? When you say you've had to have documents signed, who'd had to sign them?

Cathy: I've had to sign them-

Neville : [00:05:30] Yes you do-

Cathy: That I'm taking over control of that.

Neville : Well, all you need to do is to produce the enduring power of attorney, they should make a record at the institution that you're dealing with, they they have sighted the original, if that's what they want, keep a copy if they wish, and after that all they need to do is ... you need to do is to activate the account and deal with it. You should need no more than that.

Cathy: It's the same as, she has superannuation.

Neville : Yes, the superannuation trustee will respond positively to the enduring power [00:06:00] of attorney.

Cathy: Yeah, well the thing is she's never going to be able to work and I'm going to look into actually being able to close those accounts for her and getting the money out.

Neville : That's another discussion for another day. Superannuation, absolutely fascinating.

Peter Bell: We might talk about that one next month.

Neville : We will.

Peter Bell: Cathy, we've got to keep moving along, hopefully you can sort that out. It should be a little bit easier than what it sounds for you, I hope you can sort it out. To Anne in Bayswater, wants to change tact a little bit. Neville, I hope you don't mind-

Neville : Not a problem.

Peter Bell: Anne wants to talk about wills.

Neville : Not a problem.

Peter Bell: Hi Anne.

Anne: Hello.

Peter Bell: Yes, fire away.

Anne: [00:06:30] I'm just inquiring about the price of wills and we've just got a house, four bedrooms, and just a little bit of money in the bank. I was just wondering, it's very expensive to get a will done.

Neville : Anne, there are a number of ways which wills can be done.

Anne: I'll just hand up and listen.

Peter Bell: No worries Anne.

Neville : Good idea. Is that OK?

Peter Bell: That's good, fire away, Neville.

Neville : All right. Anne, look, there are a number of things you can do. You can pop off down to your local store and go and buy a wills kit, and you can complete [00:07:00] it and sign it and it'll cos you five dollars. And it may work for you, and it may not. You can engage somebody to prepare a will for you, and preferably a practitioner who knows what they're doing with wills. And it's gonna cost you something between 200 dollars and something more. Why something more, nobody knows what you need or what you want.

Some people think that they have a very very uncomplicated situation when they start a discussion, and I can assure you that almost invariably, [00:07:30] when I've said to people, "Look, budget for 500 dollars." It's come out at 1200 dollars. Not because I've done anything but because when they come in and have a chat, the whole instruction changes. They've got kids that they hadn't told me about, they're in a ... they've [inaudible 00:07:45] a relationship when they didn't tell me about that, they said that they only needed a will, it turns out that they need a will for each person. It's a very very difficult question. And it's exactly the same as asking somebody, "Can you build me a house and how much is it going to cost?"

Peter Bell: Fair enough to Neville. [00:08:00] Now what about enduring powers of attorney, how do you work out the cost structure for those?

Neville : OK. Again, this is a document you can look on the internet, you can print it off, you can complete the document, get it properly signed, get it witnessed and off you go. Costs you nothing. Problem is, if you get it wrong, it's not going to work. Do you care whether

you get it wrong or not? If you do, it's a silly question obviously, but if you do, then what you should do is to get somebody to check to make sure that the [00:08:30] document is compliant. Because you only get one shot at it, once you've lost your marbles you've lost your marbles. And by the way, what about earlier callers, very important point. You don't have to lose your marbles. You can be physically incapacitated. And also, people who go overseas, and have transactions running here, may have enduring powers of attorney so that these transactions can continue and not be prejudiced.

Peter Bell: Fantastic. We've got to keep moving along there, Neville, appreciate you coming in, very interesting and we thank you for your time. Good day.

Neville : Pleasure, have a good day.

Peter Bell: Yes, [00:09:00] you too. Neville Freedman from Freedman, Lurie Singh and D'Angelo lawyers.

How did we do?



If you rate this transcript 3 or below, this agent will not work on your future orders