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WILLS? TRUSTS? PROBATE?

**Answers You Need
For Your Life
After Their Death.**

FREE eBook!

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Simple Answers

Putting *You* in Control of *Your* Life
after *Their* death.



By
Dan Powell

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Introduction



Oh good! You stopped!

You should stop for a second and make sure you don't act rashly or in a state of grief. Starting with this eBook is a great start. You've done a great thing for yourself and your family by downloading this eBook. I am going to show you the Answers you are looking for in an easy to find format. Look for Tips below.

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Chapter One

What Do I Do First? Do I need Probate?

A loved one has passed, that is a lot to take in and a lot to deal with on its own. That's for sure. I have experienced this, you are not alone, and I offer my thoughts and prayers to you in this difficult time.

What to do is never easy. I am here to help and this eBook helps walk you through some of the confusing legal steps needed to get some balance back in your life. Please feel free to call me at any time if you need help.

Most people don't want to attempt to navigate the confusion of the law, bank rules, investment changes that must happen or worse, court processes that come with a death of a loved one. It can be a time consuming and difficult process, but no matter whether you attempt to do-it-yourself or you need help, I feel this eBook will help you understand the process more fully, and perhaps relieve some stress and anxiety.

In any event, thank you for reading, all the best, and God bless you and your family moving forward; Because, sometimes the best we can do is simply move forward.

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Many *uncertainties* come with First Steps. Your First Step *here usually depends on whether a person had a Will or a Trust*. Let's make this really simple...

You are either going through Probate, or you are not!

WHAT IS PROBATE?

Probate is a Court proceeding. It takes a lot of time and costs a lot of money. You are tied down in Court, following all kinds of rules and a Judge monitors *many, many, many* steps. All of this, just to get money and property that a person owned to people that the decedent **may not even have intended** to get it! Probate can eat up a year or more of your time and attention, while a judge decides what happens to everything that the decedent owned. Not fun.

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Oh, and during that year, bills still need to be paid: the mortgage, property taxes, and more. In some cases, without court permission, you aren't even allowed to sell any assets! During this whole ordeal, you must be careful about who you give money or property to, because if you miss something and distribute before creditors get their share, guess who is on the hook for **that** money? Yep. Its going to be you.

Tip One

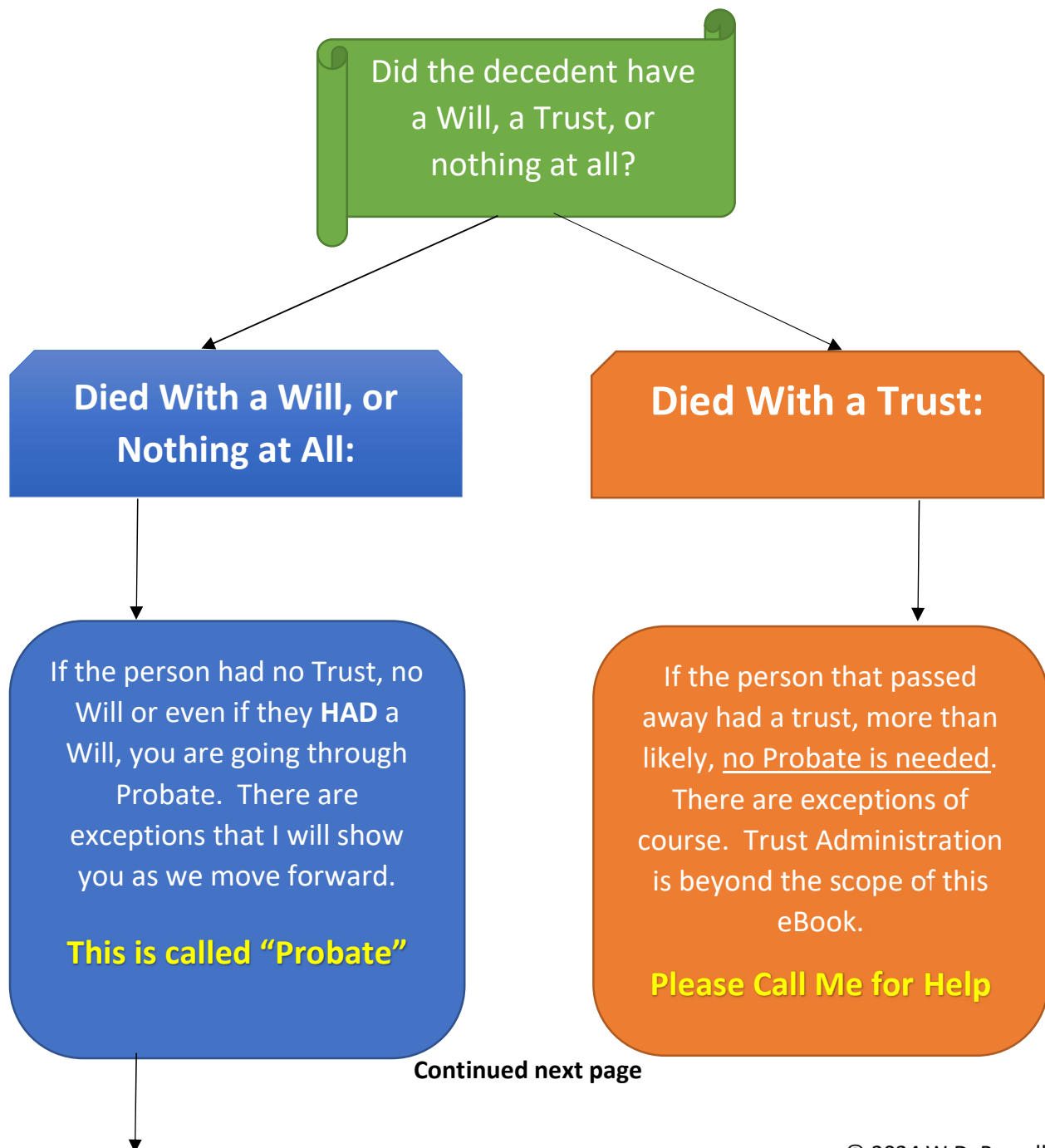
Don't distribute property too early and end up personally liable to a decedent's creditor!

**Don't Let This Happen
to You!**

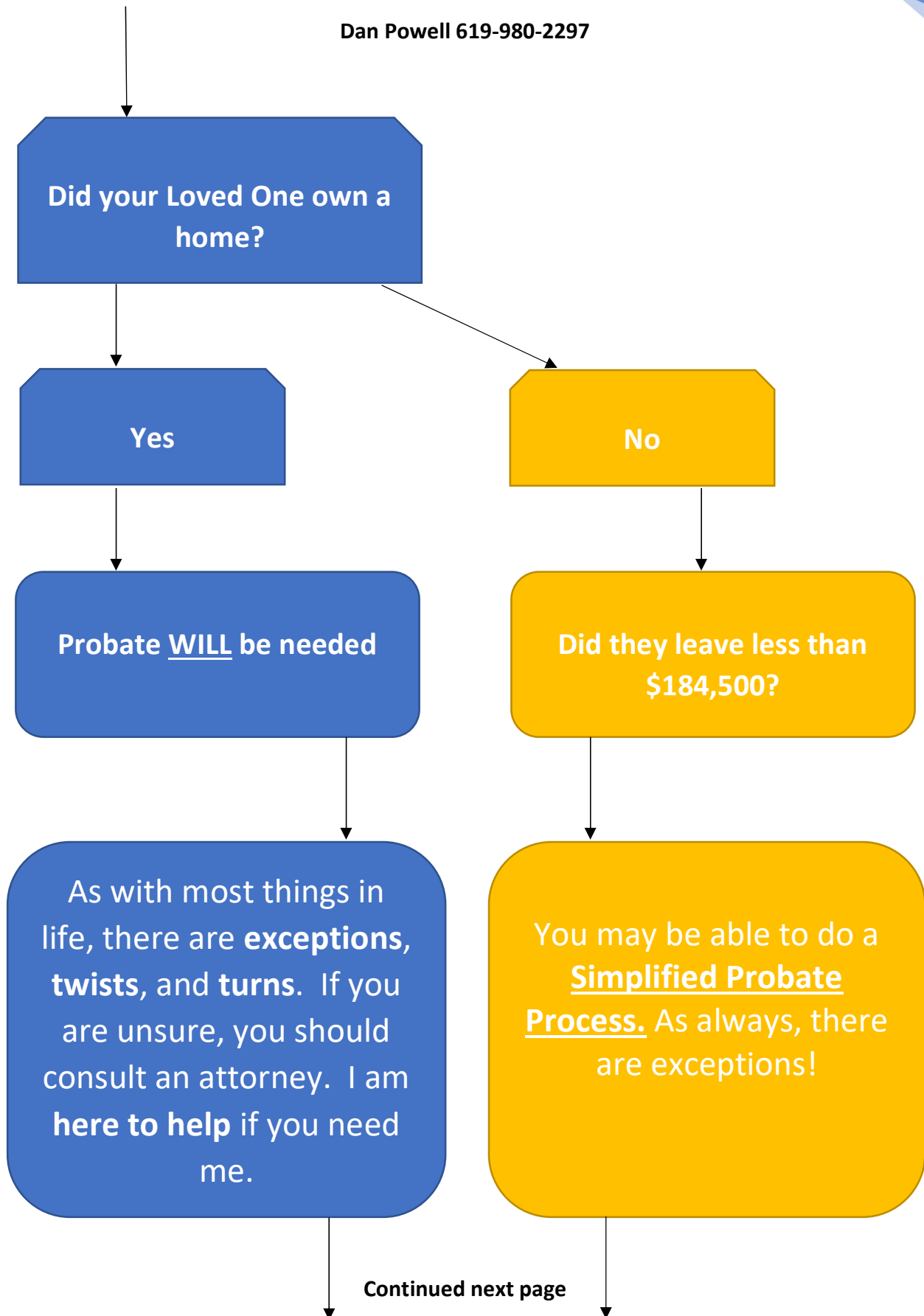


Tip Two

WHEN IS PROBATE REQUIRED?



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Keep reading
for more on
Probate.

Tip Three

See: Simplified
Procedures to Transfer
an Estate

<https://www.courts.ca.gov/10440.htm>

Please Call Me if you need
Help

Learn more about PROBATE next page

Chapter Two

HOW Do I Do Probate?

- Find who will be the Estate Representative
- Get information on all assets, the facts of the situation
- Secure property
- Gather paperwork
- Fulfill your legal duties
- Determine all heirs and beneficiaries
- Give proper notifications
- Inventory all property
- Distribute assets properly
 - Be careful here. If you distribute assets too early, and there are unpaid creditors... **YOU COULD BE LIABLE!**

The list above gives **only a summary** of all the tasks that may be necessary. To list all of the possibilities would take a much longer eBook! **More complex estates require more complex handling.**

Tip Four

THE NAME GAME

WHO ARE THE ACTORS IN PROBATE?

- **Executor (male or female) or Executrix (female):** The Executor is the person named in a deceased person's **Will** as overseeing the Probate process. This is the person who is to take care of finding the decedent's assets, paying bills,

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dealing with the distributions and the other matters that arise throughout the course of the Probate.

- **Administrator** – An Administrator has the same responsibilities as an Executor, but the term Administrator is used when a person dies with ***no Will***.
- **Probate Referee** – This is a person the Court appoints to value the deceased person's real estate, stocks, bonds, and other assets - excluding bank accounts.
- **Probate Examiners** – These people help judges ensure that all paperwork is prepared and filed correctly. Examiners will let you know if you haven't notified enough people about the probate, if there are errors in forms, or if there are contradictions or unexplained ambiguities.

I have heard of many Probate Hearings where people attempted to “go it alone”. It turns out... *poorly*. **Understandably, most people simply don't understand legal terminology, really don't know the rules, and – worst of all – fail to take the proper legal actions, which delays the entire process.** These delays mean it takes longer for beneficiaries receiving their inheritance.

This is why I do what I do!

You can rely on me to guide you through this complex process.

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Summary

- **No Will** → **Probate** (*there are exceptions*)
- **Will** → **Probate** (*there are exceptions*)
- **Trust** → **No Probate** (*there are exceptions*)

- **Probate Time:** 8 months (minimum)
- **Probate Costs:** Based on total value of all property; no reductions for debt
- **Probate Rules:** Laws and Courts impose many rules, creating many obstacles, confusions and delays

- **Probate Responsibilities:**
 - Paying Bills;
 - Sorting through personal belongings
 - Cleaning house
 - Giving away the personal items
 - Communicating with banks, investment companies
 - and ungrateful beneficiaries
 - SO MUCH MORE!



It Can Make You Want to Pull Your Hair Out!

I can help!

Helping you with all of the paperwork, connecting you with people and service providers, guiding you through the entire process... I can help you handle this messy situation **the right way** - and save you precious time!

Chapter Three

Misconceptions

I have a Will – Why do I need Probate?

This is a very common area of confusion. Check out the diagram earlier in the eBook...you'll see that **having a Will does *not* mean you get to skip Probate**. Yes, a Will *does* allow you to specify “who gets what”, but when you own real estate in California or your investments exceed a certain amount, the law requires you to go through Probate.

I can Just do a Deed, right?

Why can't I just transfer my real estate without Probate? **Because the person who has died has to sign the deed**. That could be a tough trick to pull off! The representative for the deceased person can't sign the Deed because the County Recorder needs proof that the representative *has the authority* to sign the Deed. Without a Trust or a Court Order, the Deed will be rejected. **So, you can't transfer real estate in California unless you have a proper representative**: a Trustee for a Trust, or Court-appointed Executor or Administrator.

Doesn't Probate mean the State gets Everything?

Nope! Sure, there are circumstances when the State gets property from the decedent. For example, the State may receive property when no living heirs can be found. In this case, we'd say that the property “escheats” to the State. But in general, Probate does not mean that the State receives property.

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Chapter Four

Alternatives to Probate?

Probate **can** be avoided in some situations:

Small Case Affidavit: When a person dies with assets under a certain value, then Probate is not required. The client can do a “Small Case Affidavit”, which allows banks or institutions to distribute property without Probate. This case is included in the diagram earlier in the eBook.



I have used this approach with previous clients. I prepared the affidavit, and the client went to the bank and received their money. **No hassles, no Court, no problem!**

Heggstad Petition: This is an option when a client has done **one thing right** (establishing a Trust) **but another thing wrong** (failing to transfer property to the Trust). Many people in California have Trusts. *But real estate assets and bank accounts must be officially transferred to the Trust.*

Sometimes, property hasn't been properly transferred to a Trust. This unfortunate situation can occur due to changing banks, refinancing, simple forgetfulness, or other circumstances. When this happens, **I can ask the Judge to treat the property as if it had been in the Trust to begin with.** This petition process is relatively fast and simple—and it costs far less than going through Probate.

TAKE ACTION NOW!

Call Dan at 619-980-2297

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Chapter Five

A Checklist for Survivors

It is difficult to lose a loved one. Again, you have my condolences, and I wish you the best in moving forward. **There are some basic things you *should* do.** For your convenience, I have included those things in the following list:

- ☐ Obtain (for the average situation) 10 copies of the death certificate
- ☐ Notify friends and family
- ☐ Make funeral arrangements
- ☐ Notify the Social Security Administration
- ☐ Secure the home and property—*don't* start giving things away!
- ☐ Look for a Will or a Trust—which means you should probably contact an estate planning attorney
- ☐ Identify all assets (bank accounts, life insurance, etc.)
- ☐ Identify all liabilities (credit cards, other debt)
- ☐ If the decedent was a spouse, update or create *your own* estate plan
- ☐ Contact a CPA and a financial planner (I can provide some excellent referrals)
- ☐ If the decedent was in the military, contact the VA
- ☐ Did the deceased person have pets? You'll need to care for them too!
- ☐ Digital assets? Passwords? These can be difficult if they didn't leave you any instructions...
- ☐ Cancel any services that are no longer needed—not just utilities, but also things like Netflix, other digital services

This list is not exhaustive, but I hope it helps. You may feel you have too much on your plate... feel free to call me. I can help.

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Call Dan at 619-980-2297

Chapter Six

Meet the Attorney, Dan Powell

Dan Powell was a Rockstar. Yes. A real guitar playing rockstar traveling through the States in a heavy metal band. After 20 years of playing in front of audiences, and having his music used in film and TV that has been played all over the world, he has learned about people, cultures and the energy of life.

Seeing the changing landscape in the music world and a need for a different path, he made the decision to go into law school where he felt that he could help make people's lives better, and not just in a musical way!

In law school he was the top of his class, graduated as valedictorian, and passed every exam, including the Bar Exam, on his first try. Over the last 11 years he has experienced the joy of working with families on creating plans to avoid unintended consequences, plans that will make life simpler for their children, brothers, sisters, and other people when they leave this world.

He deals with the challenges when people die without proper plans in place and is one of the core areas of Dan's practice.

Dan has been married and has a wonderful daughter. He enjoys having balance in life where he creates artwork both with a traditional brush and canvas, but also with an airbrush, pinstripe brush, and old-school metal flake for hot rods!

But enough about me, this is about you and helping with your situation.

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Thank-you for reading.

I wish you the best... and I hope to help when you need it !

Dan Powell

PLEASE NOTE:

Nothing in this eBook is to be considered legal advice. Nothing in the eBook shall create an attorney/client relationship, nor does it create a confidential relationship. If you need legal advice, feel free to contact Dan Powell, or an attorney licensed to practice in your area.