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Court strikes down Dearborn's parade permit law

BY ADRIENNE SCHWISOW
Associated Press Writer

DETROIT (AP) — A federal appeals court last Friday struck down a suburban city ordinance requiring protesters or paraders to get a permit 30 days in advance, ruling that the regulation was a burden on free speech rights.

A three-judge panel of the 6th U.S. Circuit Court of Appeals in Cincinnati said it understood the city of Dearborn's need to require permits for protests and group gatherings. But it said the 30-day requirement, wide-ranging definition of a "group," and criminalization of participation in permitless marches were excessive and violated the First Amendment.

"Parades and processions are a unique and cherished form of political expression, serving as a symbol of our democratic tradition. ... And by placing an unnecessary obstacle before the marchers' access to the public streets and sidewalks, the ordinance chills a substantial amount of speech related to current events," the judges wrote.

The decision reversed a lower court ruling that had upheld the ordinance.

Dearborn lawyer Laurie Sabon said the city hasn't decided whether to appeal or simply tweak the ordinance.

The case stems from an April 2002 march in Dearborn protesting the movement of Israeli soldiers into the Jenin Palestinian refugee camp.

About 200 people participated in the march, for which organizers had not obtained a permit. Three men were ticketed for participating in it.

One, Imad Chammout, sued the city in January 2003, with help from the American-Arab Anti-Discrimination Committee, to force a change in the law.

The Detroit suburb of Dearborn is the center of southeastern Michigan's Arab-American community of about 300,000.

Michael J. Steinberg, legal director for the American Civil Liberties Union of Michigan, praised the decision.

"It's a vindication of the rights of the people of this country to engage in peaceful protests," Steinberg said. "Thirty days is too long, it's unreasonable."

Dearborn officials have said the 1989 ordinance was intended to give police enough time to adequately staff events without having to use overtime or pull patrols from other parts of the city.

But testimony from city police officials indicated protests and marches could be planned in just a matter of days or weeks and that the only reason it took longer was to get approval from the city council, which meets twice a month.

The judges concluded: "it is difficult to characterize the thirty-day notice provision as a necessity."

In addition, although the city has granted waivers to the 30-day rule, it has no provision spelling out the conditions for granting a waiver, making the whole process "opaque," the court said.

Sabon said she was encouraged that the decision acknowledged the city's right to maintain some kind of permit process, but noted that parts of the ruling were frustrating.

"We believe we need the 30 days because we're quite frequently asked to make 2,000 marchers safe when they want to march down the street in the middle of rush hour," Sabon said.

Barristers plan eighth annual Race for Kids

The Barristers' Section of the Detroit Metropolitan Bar Association (DMBA) will host their Eighth Annual Race for Kids 5k Run/ 1 Mile Fun Walk on Saturday, September 10, at Belle Isle, from 8:15 to 11 a.m.

Over the past seven years the Barristers have raised over $22,187.47 to benefit the Salvation Army Denby Center for Abused and Neglected Children. This year the Barristers have set their sight on the $10,000 mark to further help the children.

The Denby Center provides short and long term care for abused and neglected children, as well as maternity care for expectant teens. The center is the only shelter in Wayne County authorized to care for sibling groups at the same location.

In years past, the race's proceeds have been used to send the children to summer camp — something they might not have experienced without the donations generated by the race. The programs are currently in financial crisis and the funds raised from this year's race will keep the programs up and running.

The registration fee is $25 per entry. Reservations must be made by Friday, August 26.

Register online at www.detroitlawyer.org or mail check (payable to Detroit Metropolitan Bar Association Foundation) to Detroit Metropolitan Bar Association Foundation, c/o Race for Kids, 645 Griswold, Ste. 1356, Detroit, 48226.

If interested in becoming a sponsor or volunteering for the event, e-mail Race for Kids Chair Jeffrey Kopp at jkopp@foley.com.

Detroit Green Heroes project gets federal funds

DETROIT (AP) — A program that seeks to improve the ecosystem has received a $10,000 environmental education grant from the U.S. Environmental Protection Agency.

The Greening of Detroit was awarded the funding for its Green Heroes project, the EPA said last Thursday. Through the program, community groups and young people will create maps of areas in their neighborhoods that need to be cleaned up and planted with vegetation.

The Detroit group is among 16 organizations in the EPA's six-state Region 5 that received a total of $194,900 in environmental education grant money this year. More than 130 proposals were received.

Teen pleads no contest in shooting death

ANN ARBOR (AP) — A 17-year-old from Washtenaw County pleaded no contest last Friday to second-degree murder in the shooting death of a fellow high school student.

According to an agreement with prosecutors, Ryan Bower of Pittsfield Township will get 10-15 years in prison when he is sentenced Sept. 6 for the murder, said Bower's lawyer, David Zacks. Prosecutors also will drop another murder count, two counts of larceny and one of using a gun in a felony.

A no-contest plea is not an admission of guilt, but is treated as one for sentencing purposes.

Pittsfield Township police Detective Lt. Steve Heller testified at Bower's arraignment in December that Bower and 16-year-old Jordan Coleman went to Coleman's home in Pittsfield Township the morning of Dec. 8. Zacks said they were friends and had been skipping school together.

Bower told police he remembered seeing a shotgun on the wall of a room at Coleman's house, but then blacked out; when he woke up, his ears were ringing and he was holding the shotgun. Bower said he ran home and did not call 911 because he "freaked out," Heller said.

Police later found the shotgun concealed in woods behind the Coleman house.

Zacks said Bower has been "trying to come to grips with this tragedy." But the lawyer would not elaborate on why Bower says the death happened.

Panel clears former CEO of wrongdoing in civil lawsuit

TROY (AP) — Former Kmart Chairman and CEO Charles Conaway has been cleared of civil accusations that he squandered millions as the discount retailer slid into bankruptcy, according to published reports.

An arbitration panel has unanimously denied damages to the Kmart Creditor Trust, an organization formed to recover billions the retailer owed its creditors when it filed for bankruptcy protection in January 2002.

The Detroit News recently reported that it has obtained a copy of the panel's 23-page opinion, signed on July 25 and scheduled to be made public soon.

"This is not a case of fraud, deliberate mismanagement or corporate looting," the panel wrote. "The evidence shows that Conaway acted at all times in good faith and in what he believed to be the best interests of Kmart. He made a determined, albeit unsuccessful, attempt to accomplish what he was hired to do — stop Kmart's long decline ... turn the company around ... and restore it to its former position as one of the nation's preeminent retailers."

Conaway, who headed Kmart for 20 months beginning in May 2000, is entitled to recover legal fees.

The trust sued Conaway and former Kmart executives Mark Schwartz, David Rots, David Montoya, John McDonald and Anthony D'Onofrio in Oakland County Circuit Court in fall 2003.

The suit has been split into six separate arbitration cases. The other cases remain pending.

The trust seeks to recover millions in retention loans given to the executives weeks before the company filed for bankruptcy. In all, loans totaling $28.8 million were extended to 25 top former executives.

In the Conaway ruling, the arbitration panel said such loans were not improper.

The 116-page lawsuit accused executives of charging the company for nannies, home improvements, expensive vehicles and chauffeurs. It said Conaway billed Kmart for improvements to his private home and for two company-issued Jaguars and a Lincoln Navigator and driver to take his children to school.

It sought damages of about $400 million.

The panel's ruling said Conaway "was handsomely compensated, but the rewards were not out of line with those of top executives in other major corporations."

SEC filings show Conaway received nearly $23 million in compensation from his hiring in May 2000 until his firing on March 11, 2002.

The defendants have not been charged with any crimes. An unrelated federal lawsuit is pending against Conaway and several other former executives from Kmart employees who lost retirement savings in the bankruptcy.

Kmart's bankruptcy led to the closing of about 600 stores, termination of 57,000 Kmart employees and cancellation of company stock.

The Troy-based Kmart acquired Sears, Roebuck & Co. in March. The new company is called Sears Holdings Corp. and is based in Hoffman Estates, Ill.

Criminal trials discussed at seminar

THE NATIONAL BUSINESS INSTITUTE INC. offered "The Criminal Trial From Start to Finish in Michigan: The Defense" on Friday, July 15, at the Holiday Inn Southfield. Leading the seminar were (left to right) Harold Gurewitz of Gurewitz & Raben P.L.C. in Detroit and Tom Cranmer of Miller, Canfield, Paddock, & Stone P.L.C. in Troy.
Photo by John Meiu

New leads pursued in Oakland child killer case

OAK PARK, Mich. (AP) — DNA samples from three potential suspects in the 1970s killings of four Oakland County children have been sent to the FBI, local investigators said.

Detective Sgt. Garry Gray of the Michigan State Police said two other samples could be sent to the FBI's crime lab in Quantico, Va., in the coming weeks.

The DNA samples will be tested against a single hair that was found on one of the children. Investigators believe the hair could have been left by the killer, Gray said.

"We're working feverishly on this," Gray told The Oakland Press of Pontiac for a recent story. "And we're making headway."

Police announced in February that they would begin reanalyzing evidence and leads in the unsolved murders. Investigators are using more advanced computer databases and forensic techniques than had been available at the time of the crimes.

Eleven-year-old Timothy King, 12-year-old Mark Stebbins, 12-year-old Jill Robinson and 10-year-old Kristine Mihelich were suffocated between February 1976 and March 1977. Their bodies were found after each went missing for periods ranging from three to 19 days. Two had been raped and one also was shot in the face with a shotgun.

Investigators moved the five file cabinets and 15 boxes containing the case files to Oak Park from state police 2nd District Headquarters in Northville so detectives and forensics experts can go back and review evidence.

What has become known as the "Oakland County Child Killer" case horrified the area, where parents feared to let their children out of their sight. All the children were abducted from suburban business areas.

"It's tough to commit the perfect crime," Oakland County Prosecutor David Gorcyca said. "We'd all love to stamp 'closed' on this case file. Everyone wants to see justice done. This is one of the greatest whodunits in Oakland County."

Right now, Gray said, there are a handful of names on a board in the Michigan State Police Metro North Post in Oak Park.

Gray is spending his days tracking those names, seeing whether any could turn out to be the killer.

Gray will travel to an Indiana prison soon to interview a convicted child killer about the case. He's also hoping to get a DNA sample from the man.

Through the years, there has been a series of strong leads.

Investigators' last big lead fell apart in November 2000, when DNA from the exhumed body of a suspect failed to match the genetic material in a hair found on one of the children.

Investigators have said the exhumed man, David Norberg of Recluse, Wyo., was not ruled out as a suspect. He had a necklace inscribed with the first name of one of the children, and his wife, who provided his alibis, later recanted.

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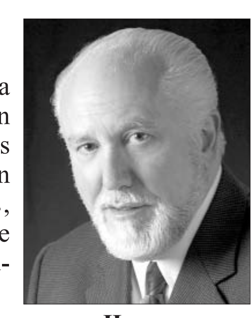
A look at structured settlements, avoiding pitfalls

BY JOSEPH HADUS



HADUS

This is the first of a series of articles on structured settlements with a concentration on new developments, opportunities for the practitioner and avoiding pitfalls.

Attorney Fees

Initially after the enactment of new Section 409A of the Internal Revenue Code (part of the America Jobs Creation Act of 2004) questions were raised about the impact of the new law on structured attorney fee arrangements. Fortunately, guidance was provided in IRS Notice 2005-1 wherein the exclusion for service providers would apply to attorneys.

Therefore, structured attorney fees continue to be treated as deferred compensation with income taxed as received. Additionally, the appellate court decision — *Childs v. Commissioner*, 103 T.C. 634 (1994) — remains in full force and this dealt with the deferral of compensation in the form of structured attorney fees within the framework of general income deferral tax rules.

Special Needs Trust

The basic premise of a special needs trust is to permit the plaintiff to receive the tax-free benefits of a structured settlement while maintaining Medicaid eligibility. Pursuant to rules from the social security administration, the structured settlement payments must be irrevocably assigned to the trust during the plaintiff's lifetime and that upon death, any remaining guaranteed payments or anything left in the trust reverts to State Medicaid to the extent of their contribution.

After this, anything left would revert to the plaintiff's estate. It is advised that all closing documents including the settlement agreement, assignment agreement, trust, and court orders reflect this. Otherwise, the plaintiff will likely be disqualified from Medicaid.

It is important to note that such a development would most likely cause the plaintiff attorney personal liability exposure. It is highly recommended that the trust document be drafted by an attorney specializing in estate planning/taxation, who should also review the other closing documentation.

Internal Revenue Code Section 468-B (Qualified Settlement Funds)

This legislation was initially enacted with litigation involving mass torts, such as asbestos, breast implants, and toxic chemical spills in mind. From a practical standpoint,

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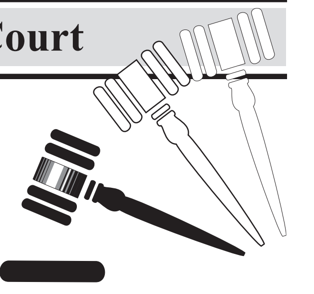

Collins & Aikman subpoenaed for financial information

DETROIT (AP) — Bankrupt auto supplier Collins & Aikman Corp. must turn over financial documents to a federal court that is investigating whether executives lied about the company's health, the company said last Friday.

The company received a grand jury subpoena from the U.S. attorney for the Southern District of New York seeking information related to financial statements from 2000-2005 as well as information about accounts receivable and supplier rebates.

Troy-based Collins & Aikman said it will comply with the request. The company has provided similar information to the U.S. Securities and Exchange Commission and is conducting an internal investigation, spokesman David Youngman said. Youngman said he didn't know when the internal investigation would be completed.

A class-action lawsuit has been filed in the Southern District of New York on behalf of people who say they bought stock in Collins & Aikman at artificially inflated prices between May 2004 and March 2005. The company filed for bankruptcy in May 2005.

The lawsuit, which names former Collins & Aikman chairman and CEO David Stockman and other executives, claims company officials violated federal law by making false and misleading statements about Collins & Aikman's financial health. Stockman served as budget director in the Reagan Administration.

Collins & Aikman is one of the largest U.S. auto suppliers, with nearly $4 billion in sales last year.

SETTLEMENTS: A look at structured settlements, avoiding pitfalls

(Continued from page 1)

with the issuance of Revenue Procedure 93-94 which treats the designated settlement fund as a party to the suit, a tax-free structured settlement can be accomplished without the defendant/insurers participation.

When the defendant won't enter into a structured settlement and execute an assignment agreement, this may be the solution. The defendant writes a check for the full settlement amount into the designated settlement fund trust and gets a full and complete release. The plaintiff and their attorney would control the allocation of the settlement money and ensure that the plaintiff's financial needs are met.

Usually two or more claimants are required in these arrangements, although there are annuity companies who will accept single claimant cases. Treasury has yet to issue guidance in this regard. Qualified Settlement Funds involve complex legal and tax issues and it is highly recommended that a specialist in this area be retained to draft the documents.

The Selling of Structured Settlement Payments

Horror stories abound of financially unsophisticated plaintiffs with hardships being taken advantage of by companies buying their payments at deep discounts. Even with the enactment of Michigan's Structured Settlements Protection Act, plaintiffs continue to get far less than fair market value for their annuities. As a result of new IRC Sect. 5891 (part of the Victims of Terrorism Tax Relief Act of 2001), one of the premier annuity companies in the structured settlement field (Allstate Life, rated A+ superior) can provide a new product which allows a plaintiff, or an attorney in the case of a fee structure, to obtain an immediate lump sum payment in exchange for the rights to the future structured settlement payments.

This is referred to as an Advance Funding Exchange and the significant difference here is that Allstate calculates the commuted value based upon current rates and will assist in obtaining court approval. It must be a court-approved hardship such as a medical emergency, education or even taxes.

Generally, the courts will approve a commutation for taxes owed and this should be especially attractive to attorneys. This can be done on some or all of the remaining guaranteed payments and should be of significant advantage in overcoming one of the main obstacles to structured settlements, liquidity. With this arrangement, plaintiffs and their attorneys have the best of both worlds. They can enter into a structured settlement and if hardships develop in the future, Allstate essentially will buy the policy back.

Assuming court approval is obtained to comply with federal and state law, there are no adverse tax consequences to any of the parties. The lump sum payment continues to be tax-free to the plaintiff.

In future articles we will continue to discuss new developments in the structured settlement area, and if there are questions you wish addressed, I can be reached at jhadus@aol.com.

Joseph Hadus has more than 30 years of experience in the casualy insurance/structured settlement are and is the president and founder of J. Hadus & Associates, Inc. which has its corporate office in Bingham Farms. He can be reached at jhadus@aol.com.

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SMALL BUSINESS FOCUS

By JACK FARIS

The day the Death Tax died

September 6. If you're an American small-business owner, draw a red circle around this date on your calendar. It could be one of the most important dates of your life, the lives of your family and the future existence of your business.

In less than 30 days, on September 6, the United States Senate will reconvene in legislative session and is scheduled to take action on the Death Tax. Which means that between now and then, those elected lawmakers who can determine the survival of small businesses are not in Washington, D.C., but are back home in their states.

Small-business owners need to take this unique opportunity to meet with their senators face-to-face to tell them to vote to repeal one of the most dangerous tax measures ever to see the light of day — the Death Tax.

Known by some as the estate tax, the Death Tax can literally mean the death of a family business. These enterprises are particularly vulnerable to the unfair tax because those who create small firms typically have the entire value of their business in their estate. If the owner dies, the heirs, who in a majority of cases have also contributed much of their time, energy and other resources to the building of the family business, are forced to stand back while the federal government rakes off between 45 percent and 55 percent of the estate. Even as the family mourns the death of a loved one, the pain grows greater as they watch helplessly as the survivability of the business he or she built is threatened.

The Death Tax does benefit some — mainly the accountants, lawyers or financial planners that small-business owners have to hire for help in translating confusing and complex tax regulations, instead of using those funds to expand and strengthen their business and hire more employees.

Congress almost killed the Death Tax once, but didn't quite put small-business owners out of their misery. It expires in 2010. But unless permanently repealed, this monstrous measure is scheduled to revive itself and come back in 2011 to haunt those who drive the nation's economy and worse, hang around to hover like the Grim Reaper over future generations of owners, their heirs and employees.

The House of Representatives, in April, voted to end the tax forever. President Bush has said he supports permanent repeal. Now it's up to the Senate, where S. 420, officially titled the Death Tax Repeal Permanency Act of 2005, is awaiting action. It already has 21 co-sponsors, so the task for small-business owners before September 6 is to talk to senators who have not yet committed to repeal and tell them why it is vital that they vote to kill the Death Tax.

Chasing after a senator might mean postponing a summer vacation, but by making repeal of this small-business-destroying tax a priority, American entrepreneurs will give their families something much more important and lasting. And when their hard work pays off, they can look forward to celebrating a true small-business holiday in September, the Day the Death Tax Died.

Jack Faris is president of NFIB, the nation's largest small-business advocacy group. A non-profit, non-partisan organization founded in 1943, NFIB represents the consensus views of its 600,000 members in Washington, D.C., and all 50 state capitals. More information is available online at www.NFIB.org.

Avoid a midsummer tax scramble to meet deadline

By JOYCE M. ROSENBERG
AP Business Writer

NEW YORK (AP) — Small business owners around the country were scrambling in the early days of this month, trying to meet an Aug. 15 deadline to file their 2004 returns. They are the taxpayers who didn't make the original April 15 due date and filed for extensions but somehow didn't get their returns together — again.

Many of these owners should probably look at how they're running their businesses and find a way to get their taxes done in a calm, timely manner.

There are company owners who purposely, even strategically, wait for the last minute. Some owners who still need to make contributions to their Simplified Employee Pension (SEP) retirement plan for the previous year file for extensions as a matter of course as part of their cash-flow planning.

But those who habitually spend late July or early August sorting receipts and invoices and filling out Schedule C probably need to find a better way to get their taxes done.

"There is something wrong, whether it's your filing system, document retention policy or simple procrastination," said Paul Gada, a senior tax analyst with CCH Business Owners Toolkit, a service based in Riverwoods, Ill.

If it's your filing system or poor record-keeping, that raises the question of whether you have a good handle on your business itself. In that case, your tax troubles are a symptom of a much bigger problem in your company, because you probably don't have an accurate picture of your cash flow and whether you're turning a profit or running at a loss.

If the problem is that you get sidetracked or tend to dawdle, you also need to think about how you're running your operation.

In either situation, the best solution is likely to be getting some help. Hire a bookkeeper, even someone who works part-time, or contract with a bookkeeping service to help you be better prepared long before April 15.

And since it's clear you're having trouble getting your return filled out, that's a task best delegated to a professional such as accountant or tax attorney. (By the way, if you do have an accountant, and he or she hasn't been working with you to get your return in, you might want to consider hiring someone who's willing to keep after you and help you stay well ahead of your deadlines.)

A change in attitude is also in order if you think there's nothing bad about leaving your taxes until the last minute — there's a good chance it's costing your company money.

If you owe taxes, you'll find yourself paying an additional half a percent each month in late payment penalties to the IRS, and your state government may penalize you as well. And there are interest charges.

Mark Toolan, a certified public accountant with Toolan & Co. in Exton, Pa., said there are other drawbacks to business owners' putting off filing their returns.

"They've missed most of the (tax) planning advantages that could have been done," he said.

Most professionals look at taxes as something to be considered year-round, not only when it's time to file a return. They see tax planning as inseparable from a company's overall strategic and financial planning.

Taking all this into account, there are going to be times when a business owner just can't get it together. And if Aug. 15 is nearing and your return still isn't in shape to be filed, the IRS is willing to give you two more months if you have what the government considers special circumstances or hardships. But beware: As the IRS says on its Web site, www.irs.gov, "this extension request is not automatic" — the agency must approve an extension, unlike the automatic extension available for the April 15 filing deadline.

To request the additional extension, you need IRS Form 2688, Application for Additional Extension of Time to File. It can be filed electronically or by regular mail — if you do mail it, your request must be postmarked by midnight on Aug. 15. This year, the extension will run through Oct. 17, two days later than the usual deadline of Oct. 15; in 2005, Oct. 15 falls on a Saturday.

How many advisors does it take to develop an estate plan?

By DANA LOCNISKAR

While the title of this article sounds like another lawyer joke, there is no punch line.

That's because a variety of advisors are required to help clients build their financial wealth and significance for years to come. Just as building a house from the ground up involves a variety of tradesmen, the approach to building wealth involves an advisory team that typically includes a skilled lawyer, a knowledgeable CPA and an accomplished financial advisor, as well as other advisors depending on a client's special needs.

Most advisors would agree that a client's estate is often the pinnacle of where the client's team needs to come together. The first part of this article will discuss the benefits of using a team approach when counseling your clients on estate planning issues. The second part will offer insight into two sophisticated estate planning issues that require a team approach, trusts and philanthropy.

The Case for the Team

Estate planning is a staged process that involves many moving parts – requiring the assistance of a lawyer, a CPA and a financial advisor. A financial advisor typically works with clients for many years – helping them gain and maintain the wealth they desire. It's his or her job to discuss with clients their financial goals and dreams … and it is also the financial advisor's responsibility to help them build the estate they desire. The financial advisor can help the client see beyond a written will, in which they bequeath their wealth to future generations. Rather, financial advisors are there to help their clients plan for the kind of wealth and legacy they hope to leave behind.

In foreseeing a client's needs, financial advisors will often partner with lawyers and CPAs to form a network of expert referrals. As a lawyer, partnering with a trusted advisor can lead to the referral of ultra-high-net-worth clients. That's because, according to "The New Retirement Survey" from Merrill Lynch, individuals that work with a financial advisor are more than twice as likely to have a plan and to save regularly for the future. That means these clients are serious about accumulating and maintaining financial wealth – making for an ideal client.

Typically, when an ultra-high-net-worth client, one whose net worth exceeds $10 million, requires advice on estate issues, especially when it comes to more sophisticated issues such as trusts and philanthropy, a financial advisor will seek out the assistance of the client's lawyer and CPA – who each bring a special expertise and knowledge to the table. Such an approach will help the mutual client to meet his estate planning needs and desires.

When Estate Planning Becomes a Trusting Issue

One opportunity for partnership comes up when a client desires to protect their wealth from taxation, which might lead his or her financial advisor to recommend a trust.

Placing a client's assets in certain trusts enables the client's heirs to receive regular payouts from the trust, minimize capital gains taxes, or pass on assets free of estate taxes.

Proper trust planning can add significant value to an estate plan. A team of advisors working together to set up and implement a trust for a client is crucial. Working with a financial advisor who has an affiliated trust company will also simplify the partnering matters considerably. Here is a brief summary of some of the trust options a financial advisor typically suggests to a client – each option requiring the collaboration of a team of advisors:

- Grantor Retained Annuity Trust – A grantor retained annuity trust enables a client to transfer assets with the potential to appreciate significantly—such as securities, real estate or interests in a business—to beneficiaries at a discounted value for gift-tax purposes.

These trusts enable a client to gift assets now while retaining a payment stream for a specified period of time. If the client survives the specified period of time, the assets, plus appreciation, will pass to the client's beneficiaries free from additional federal gift and estate taxes.

- Dynasty Trust – A dynasty trust can provide income to unlimited generations of a client's family. Income and appreciation will be free from future federal estate, gift, and, depending on the funding values, generation-skipping transfer tax.
- Qualified Personal Residence Trust – This trust can reduce the overall tax impact of transferring a home to beneficiaries while allowing the client to continue using it. A client would make a gift of his residence or second home (at reduced gift tax values) to the trust for a period of years, during which time the client would retain the right to use the home. If the client survives the period, the home passes to the client's named beneficiaries free from additional federal gift and estate tax.
- Incentive and Generation-Skipping Trusts – Some clients establish incentive trusts, which reward heirs for reaching milestones set by the client. Additionally, a generation skipping trust can enable the client to "skip" one or more generations when passing assets to heirs, resulting in the assets being assessed estate or gift taxes only once. Conversely, if the client passes the assets through the estate, the adult child's estate and then on to a grandchild, estate taxes could be paid multiple times.
- Qualified Terminable Interest Property Trust – This is a common trust when an estate plan needs to account for children from a previous marriage. A qualified terminable interest property trust provides all of the income to the client's spouse. At the client's death, the remaining assets can be transferred to those children.

The Special Needs of a Philanthropic Client

Another opportunity for partnership comes when a client focuses on philanthropic planning to combine traditional financial- and estate-planning strategies with one or more charitable giving strategies to help achieve his or her overall financial goals.

A financial advisor helps the client develop and implement a coordinated program of charitable giving, while a client's CPA and attorney help the client develop tax minimization strategies.

Charitable giving for those with larger estates is an integral component of an overall tax, asset and wealth management plan. When incorporating philanthropy into a client's estate plan, a financial advisor will typically recommend one or more of the following options, depending on the client's individual needs:

- Charitable Remainder Trust – This type of irrevocable trust can reduce estate, capital gains and income taxes, providing a regular payment stream to the grantor or named beneficiaries. It also distributes the remaining assets to a charity at the end of the trust term. Because assets sold within a charitable remainder trust are not subject to capital gains taxation at the time of sale, this strategy can provide your client with a more substantial payment stream than if the client had sold the appreciated assets and paid taxes.
- Charitable Lead Trust – A charitable lead trust, another type of irrevocable trust, can provide some of the benefits (except deferral of capital gains) of the charitable remainder trust but reverses the beneficial interests. In this case, the charity receives the payment stream from the trust. Upon the client's death or at a predetermined date, the heirs receive the remaining assets, together with any growth in asset value.
- Private Family Foundation – This trust is a permanent or term endowment that can help families maximize the power of their gifts and enable the client to transfer values and create a legacy of community involvement.

With a private foundation, the income tax deduction is limited to 30 percent of adjusted gross income for cash gifts and 20 percent for appreciated capital gains property. There is a five year carry forward of unused amounts. All contributions to a foundation are exempt from estate taxes.

In general, a foundation's management is required to distribute five percent of the foundation's investment assets to charity annually.

- Donor Advised Funds – Through a donor-advised fund, clients are able to make tax-deductible, irrevocable contributions to the charity managing the program. The clients retain the right to advise the charity to invest the assets according to their charitable goals. In turn, they rely on the knowledge, skill and grant-making expertise of the charity to assist them in making philanthropic decisions.

Reaping the Benefits of a Partnership

Because of the various complexities involved with estate planning for the ultra-high-net-worth client, it's important that you work closely with the client's team of advisors. Doing so will enable you to garner insight into the client's total financial picture, in turn, ensuring that the best interests of your client are met.

Dana Locniskar is a private wealth advisor with the Private Banking and Investment Group at Merrill Lynch in Detroit with more than 35 years of experience. He can be reached at (800) 825-3262 or via email at dana_locniskar@ml.com.

NEW LEADS: Child killer still pursued

(Continued from page 1)

Earlier this year, investigators collected blood samples from Todd Warzecha, 53, who committed suicide in Texas.

Warzecha, a known child molester, was a suspect in the 1972 slayings of two teenage boys in Bay City. He also was a suspect in the Oakland County case and was interviewed by detectives.

Warzecha's DNA, along with DNA from a man who died in prison, is being tested. Gray said DNA from another man, who is still alive, also was sent for tests last week.

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NOTICE OF THIRD CIRCUIT COURT

CELL PHONES BANNED FROM COURT BUILDINGS

Effective September 1, 2005, the general public cannot bring cell phones into the following Wayne County Third Judicial Court locations: Coleman A. Young Municipal Center; Frank Murphy Hall of Justice; Lincoln Hall of Justice; and Penobscot Building.

Chief Judge Mary Beth Kelly
Third Judicial Circuit Court

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