



President's Message

Richard M. Schwartz

When I came to Philadelphia in 2004, I immediately joined the Philadelphia Estate Planning Council (PEPC) at the urging of my colleagues at Pepper Hamilton LLP, many of whom were past presidents. I thank them greatly for that suggestion as my involvement in PEPC, and now my following in their footsteps as president of this prestigious organization, has been extremely beneficial to my growth as an attorney in the estate planning field.

I already considered it an honor to be serving as president for this year. What a special privilege it is for me to be able to announce that the PEPC has been awarded the highest honor available to an estate planning council affiliated with the National Association of Estate Planners & Councils, the Leonard H. Neiman and Walter Lee Davis, Jr. Council of Excellence Award. This award was created to recognize councils that are successful in their efforts to provide a strong multi-disciplinary environment for estate planning professionals within their community and is intended to honor those councils that truly work to grow their programs and services and to provide an exceptional member experience.

A major factor in our selection as the recipient of this award is our dedication to providing education in the area of estate planning and a forum for networking among professionals in

the estate planning community. Any group can provide the basics of estate planning education, PEPC takes great pride in providing engaging speakers of great quality and national prominence. As an attorney focusing in the area of sophisticated estate and business succession planning, the education is important to me and I wanted to ensure that this year is no exception.

We will have six luncheon seminars in Lincoln Hall at the Union League. The presenters this year are all nationally recognized speakers that will discuss topics that are timely and relevant to your practices. Our annual meeting event on May 3, 2018, will be held at One North Broad (the Masonic Temple) and will have well-known financial blogger, Michael Kitces, presenting. The speakers and topics for our luncheons and the annual meeting are determined by our Programs Committee.

While not as elaborate as a sit-down lunch at the Union League, our Roundtable Committee organizes just as informative smaller brown-bag lunch events. These events are free to members and local speakers generally present on a variety of topics. An additional benefit that will be provided this year, is free group access to the NAEPC webinars presented by nationally recognized speakers. PEPC is able to provide these free webinars as a result of our receiving the Council

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Helping High Net Worth Clients Circumvent Cyber Crime

Anna Brusco, CIC, CPRM

With high net worth individuals and their families relying on technology at an ever-increasing pace to simplify their lives and stay connected, it's important for advisors to understand the multitude of safety, security, privacy, and liability exposures presented by technology as well as emerging cyber risks.

The increase in smart devices in the home (referred to as the "Internet of Things" or "IoT") exposes individuals to an entirely new threat level. IoT devices feature unique identifiers and seamlessly aggregate and share data. Walk into any home today and you'll

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UPCOMING EVENTS

LUNCHEON PROGRAMS

The Union League of Philadelphia
140 South Broad Street
Philadelphia, PA 19102
www.unionleague.org
11:45 a.m. – 12 p.m. Registration
12:00 – 12:30 p.m. Luncheon
12:30 – 1:45 p.m. Program

Dates:

Tuesday, September 19, 2017
Tuesday, October 17, 2017
Tuesday, November 14, 2017
Tuesday, January 9, 2018
Tuesday, February 13, 2018
Tuesday, March 20, 2018

MEMBERS-ONLY
ROUNDTABLE PROGRAM

Tuesday, October 3, 2017

12 – 1:30 p.m.
Janney Montgomery Scott LLP
1717 Arch Street, 20th Floor
Philadelphia, PA 19103

ANNUAL MEETING, SEMINAR &
RECEPTION

Thursday, May 3, 2018

3 – 3:30 p.m. Registration
3:30 – 6 p.m. Council Remarks & Program
6 – 8 p.m. Reception & Venue Access
One North Broad (otherwise known as the
Masonic Temple)
One North Broad Street
Philadelphia, PA 19107

ANNUAL GOLF & TENNIS OUTING

Monday, June 25, 2018

12:30 p.m. Golf Tee Time
2:30 p.m. Tennis Round Robin
The Union League Golf Club at Torresdale
3801 Grant Avenue
Philadelphia, PA 19114

Please register at www.philaepc.org.

President's Message *continued*

of Excellence Award. The Roundtable Committee will provide notice of the location of the broadcast of these free webinars.

After successfully updating the "Ethics Matrix" which was recently published in *Trusts and Estates Magazine*, the Ethics Committee will host a seminar this year dealing with ethical issues surrounding the estate planning profession. This is a great opportunity to receive your continuing education ethics credits.

The Outreach Committee was started three years ago to promote estate planning to the general public. The committee previously organized a successful all-day "Estate Planning Day" seminar for the general public and is looking at additional opportunities to educate the public on the valuable things our members can do. The committee looks to our members to donate their time and present at these events.

The Technology Committee is in charge of providing and maintaining fresh content on our website at www.philaepc.org and is also tasked with handling our social media, specifically our LinkedIn group page. This excellent and free newsletter you are reading is put together three times a year by the Newsletter Committee. You can also find past issues of the newsletter on our website.

The Social Committee organizes many of our great networking events, such as our Welcome Back Party, our Holiday Party, and the always popular Golf and Tennis Outing. The Social Committee also organizes other events, such as our Drop-Ins, which are held at Philadelphia-area bars/restaurants, and there are plans in place to work with the Women's Initiative Committee in organizing an additional networking event.

We could not put on any of these events

without our sponsors, to whom we owe a great deal. If you or your organization are interested in sponsoring an event, please do not hesitate to contact me or the chairs of our Sponsorship Committee.

While our Membership Committee does a great job of coming up with ideas to bring in new members, the easiest way for our membership to remain strong is for each of us as current members to invite a new member to join. Perhaps you have a colleague or an advisor you work with that you feel would benefit from being a member of PEPC. Do not hesitate to suggest they join. A strong vibrant membership is beneficial to us all.

If you are interested in becoming involved with the direction of PEPC, please start by joining one of our numerous committees. The council website contains a list of all of the committees and the contact information for the chairs.

I look forward to a great year.

Cyber Crime *continued*

likely find smart devices in every room: televisions and entertainment systems; home management devices to remotely control lighting, temperature and more; refrigerators and other appliances; and beyond the home, smart wearable devices such as Fitbit. These devices are growing in popularity at such a quick pace that AIG data experts believe that by 2020, we could see 40 to 50 billion devices on earth, or roughly 4-5 devices per person.

With new smart devices flooding the marketplace every day, it should come as no surprise that innovation of new smart home technologies has far surpassed their security protocols. Many companies that produce connected devices don't

have either the capital or the experience needed to ensure that devices are fortified against possible breaches from cyber criminals. And because the general population isn't fully informed about how easily infiltrated these devices are, manufacturers can get away without implementing expensive security safeguards.

There currently are no widely accepted national or global security standards for IoT devices. However, after an assault last November on smart cameras and DVRs that resulted in a massive attack—known as a Distributed Denial of Service (DDoS) attack—against an Internet traffic management company, the security concern of IoT devices garnered the attention of Congress. A DDoS attack is an attempt to make an online service unavailable by overwhelming it with traffic from multiple sources. The hackers in this attack were able to easily infiltrate into insecure DVRs and security cameras to manipulate a good portion of the Internet, resulting in several well-known sites, such as Amazon and Etsy, being down for a few hours. The hackers were able to wreak havoc (and financial loss to the companies impacted) just by hacking into 100,000 devices globally. A House Subcommittee meeting took place shortly after this attack where several national cyber security experts called for IoT and some federal oversight to be developed. If this could happen with just 100,000 devices, cyber experts escalated the concerns of the implications of a much larger attack.

Couple the lack of security standards in IoT devices with the cyber-related naivety of the general population, and it's plain to see how these devices can be easily hacked. How many individuals are resetting factory default passwords or researching the manufacturer of these devices to ensure they've included

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Cyber Crime *continued*

cyber security technology to protect the consumer against an attack? How likely are individuals to purchase devices from larger, well-known manufacturers, which tend to patch security holes quicker?

Compromised IoT devices can be used to launch dangerous attacks, and cyber criminals often commit attacks for bragging rights in addition to financial gain. What if a compromised IoT device enables a hacker to take control of the thermostat in a client's unoccupied secondary home in the wintertime, thus disabling heat and causing a massive pipe burst that goes unnoticed?

Another concern of IoT devices is the widespread collection of data (with or without an individual's knowledge) and how that information is used. Many companies are not readily transparent about their information-sharing practices, and cyber thieves know there is a premium on the market for stolen data. It used to just be stolen credit card information. Now, with the advent of IoT devices, cyber thieves can steal substantially more data from unsuspecting victims—everything from financial info to perceived "normal" habits, including what we watch and eat—making identity theft much easier to commit.

Ransomware attacks are also on the rise, and they present a quickly evolving risk due to how easy it is to commit an attack. Even would-be cyber-criminals with little technological prowess can lease "do-it-yourself" ransomware kits on an anonymous basis on the dark web. Ransomware is a type of malware that is downloaded unsuspectingly onto a computer. Once triggered, it threatens to block access to one's computer and/or destroy data unless a ransom is paid, many times in cryptocurrencies

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Identifying Risk Wherever It Resides: Common Red Flags

Anna Brusco, CIC, CPRM

You play an important role in ensuring that your clients' success is protected today and will benefit future generations tomorrow. Even if you do not regularly focus on property and liability insurance, the following circumstances and behaviors can put wealth at risk if left unchecked.

• *Disconnected insurance relationships and transactions*

Successful individuals acquire assets over time, so it's not uncommon to insure them in different ways. A summer residence, for example, may be with a different agent and carrier than the home in the suburbs. Fine art may be insured independently from cars. Whatever the combination, the end result is fragmented, making insurance more difficult and expensive to manage. A high net worth insurance provider is more likely to address the special circumstances that can come with success, or simply offer coverages that traditionally have been ignored in the mainstream marketplace.

• *Not having regular insurance portfolio reviews*

Similarly, there is need for concern if an in-depth personal insurance review has not been conducted within the last three years. Assets are acquired continuously and risk appetites change. By not conducting annual reviews, gaps in coverage may not be revealed until a claim is denied.

• *Insufficient personal excess liability insurance*

Do your clients have a net worth that exceeds their liability coverage limits? If a lawsuit puts assets at risk, the last thing anyone wants to worry about is running out of insurance. Most mainstream

insurers offer "umbrella" policies that max out at \$5 million, but more fitting solutions are available via specialty insurers to adequately address large-scale claims of property damage and personal injury—including lawsuits filed by private staff, auto accidents with uninsured drivers, lawsuits tied to not-for-profit board membership and more.

• *Outdated homeowners insurance*

If your clients had to rebuild their homes in today's market, would they have enough homeowners insurance to sufficiently cover the expense? Many properties are insured based on values that are vastly underestimated—especially those built with imported or rare materials, and those which have undergone extensive home improvements and renovations.

• *Misalignment with estate plans*

Many wealthy people structure their property ownership using LLCs, LLPs and trusts. Not all insurance providers enable policies to reflect these alternate structures, which can result in diminished protection or complications at claim time.

• *Unprotected passion investments*

Whether it's collecting cars, buying art or building a wine collection, many people incorrectly assume that a homeowners policy will respond sufficiently in the event of damage or loss to valuables of this magnitude. Distinct coverage is available to more precisely protect private collections, but most collectors are not aware of its availability.

• *Unaddressed household risk*

Family members and others in the household may increase exposure to

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Cyber Crime *continued*

such as Bitcoin. A recent ransomware attack known as WannaCry made major headlines in May because of its particularly large and global scale: 150 countries were impacted, with an estimated economic impact of several billion dollars.

Ransomware is getting more and more sophisticated, harder to detect, and has been found not only on personal computers but also in smart phones, tablets and unsecured IoT devices. Think about the high net worth family who, unbeknownst to them, is being watched in their home through a web camera or nanny cam by a cyber-criminal who plans to extort the family for money by threatening to make compromising photos public.

Another concern of cyber-attacks and cyber extortion is the potential reputational harm inflicted against the high net worth individual from the release of potentially damaging, confidential data and photos, coupled with the various access points for an attack. This is another reason why successful individuals are attractive as targets of cyber thieves; they are likely more well-known, have more to lose, and therefore might be more willing to “pay up” or command more of a premium for stolen credentials on the dark web. The threat also extends to household staff members who may have access to sensitive, private information and thus present another possible access point.

From a liability perspective, high net worth families and those who represent them online need to have a thorough understanding of the repercussions of what they post online under the guise of hiding behind assumed digital anonymity. The reality is that everything on social media is discoverable and traceable. High net worth families can expose themselves

to a litany of personal injury-type lawsuits, including invasion of privacy (for posting pictures without permission), slander, and defamation of character. It could be a business that, unhappy with an unfavorable review from the insured on a public website, sues the high net worth individual for making false defamatory claims resulting in a slowdown or shutdown of business. Even if the suit is groundless or baseless, the client is on the hook for the defense, and his reputation may be compromised.

High net worth individuals and families should exercise a series of best practices when it comes to how and when they utilize technology in the home, on the road, and whenever they travel. They should be encouraged to practice good cyber hygiene, such as instituting hard-to-crack passwords and changing them often, keeping operating systems and software patches updated, and enabling automatic updates, installing antivirus and anti-spyware software, encrypting data, and only downloading software from trustworthy sources.

They also should be made aware of the various liability risks posed by the utilization of social media, and how just one misstep could have far-reaching financial and legal implications for the family down the line. The best way to manage risk proactively is to consult an independent insurance agent who focuses exclusively on serving affluent families. These professionals can help your clients access specialized personal cyber coverages and mitigation services now in the marketplace.

Anna Brusco is a vice president with AIG Private Client Group, a division of the member companies of American International Group, Inc., based in New York, NY. She leads new product development including the recent launch of Family CyberEdge, a multi-prong personal cyber coverage solution.

Identifying Risk *continued*

unidentified risks. For example, a teenage driver may increase the need for higher liability limits. Or, young children in the family may encourage your clients to consider kidnap and ransom coverage. Your clients also may need an emergency preparedness plan for members of the family who are elderly or have special needs. In addition, our litigious society makes it more common for nannies, housekeepers, private assistants, gardeners and others to take their employers to court with allegations of sexual harassment, wrongful termination, discrimination and more.

• *Frequent travel*

Freedom to travel is one of the luxuries that comes with success. While your clients may purchase some degree of insurance for canceled flights or lost luggage, most don't consider the quality and breadth of support available in the event of a medical or security-related emergency, particularly in remote parts of the world.

Forging a relationship with a knowledgeable independent insurance advisor—and recognizing the triggers to bring personal risk management into the conversation—can amplify the value you provide to your clients for years to come.

Top 10 Planning Considerations When Moving Between the UK and USA

Jason Walker

Moving to a new country can be exciting and at the same time overwhelming. There are many new undertakings, including finding a new home, schools for the children and forming new friendships. It is all too easy to leave some of the financial, legal and tax implications for another day, but the cost of delay can be high. With the Brexit vote, you are more likely to see an uptick in movement between US and UK residents. Here are the top ten planning areas to address when moving to either side of the pond.

1. Review your Investments - Do not assume your investments retain the same beneficial tax status in each country. The most common UK investments, including Individual Savings Accounts (ISAs), are treated as Passive Foreign Investment Companies (PFICs) by the IRS. PFICs are tax inefficient investments, and typically income and gains are taxed at the highest rate of US income tax. On top of this, annual US reporting requirements can be tricky as most UK investment firms do not provide the required information that is necessary for US tax reporting. If you wish to retain assets in the UK, there are non-PFIC investments available that provide an annual 1099 for US tax reporting.

The same is true for US mutual funds held by UK residents. Unless these funds have UK Reporting Status, all gains and income are taxed in the UK at the individual's highest rate of income tax. Also, like PFICs, you cannot offset or carry forward any capital losses.

2. International Estate Planning - If you hold assets in the UK and USA, you should have a will and power of attorney (POA) for each country. Many people assume a will and POA in one country will be recognized in the other. The UK and USA, however, have a different legal system and process for power of attorney. Work with an estate attorney who possesses an understanding of cross border law as your wills in each country need to acknowledge each other so as not to supersede each other. Country-specific wills are especially important to ensure your families are not left in a vulnerable position and your wishes are followed.

3. Review any Trusts - If you are a trustee or named beneficiary of a trust in one country and move to the other, be careful of the tax treatment of the trust assets and ongoing reporting requirements. A simple living trust in the USA can become a UK resident trust when you come to be a UK resident. Similarly, a UK trust can be brought into the US tax system if a trustee or beneficiary becomes a US taxpayer. In both examples you could face unexpected and additional tax charges and reporting requirements. Ideally you should seek legal and tax advice before moving to either country, which may simply be a question of resigning as a trustee before you move. If not, you should structure the trust and underlying holdings appropriately before you move to another country.

4. Protect your Estate - Estate taxes and inheritance taxes are different in both countries and, in the USA, you have the additional complication of different state rules. At the federal level in the USA, the individual 2017 estate allowance is \$5,490,000. A married couple (both US citizens and long-term residents) can shield \$10,980,000 from federal estate taxes. The unlimited marital deduction also enables any amount to be passed to a spouse, free of federal estate tax.

Non-US citizens, however, have a limited marital deduction of just under \$200,000, so proper planning is needed to offset what can be a significant tax burden.

In the UK, the estate allowance is far lower than the USA and the individual allowance in 2017 is £325,000. Married couples benefit from the inter-spousal exemption, essentially doubling the family allowance to £650,000. While UK domicile individuals are taxed on worldwide assets, non-domicile individuals are taxed on UK assets alone. The rules around UK domicile are complicated, so do not assume you are non-UK domicile because you do not live in the UK as it can be very difficult for someone to lose their UK domicile status.

One bit of good news is that double taxation is generally avoided through the UK/US Estate Tax Treaty.

5. Maintaining Foreign Property - If you are maintaining a property in the country of origin, make sure you are filing and paying the appropriate taxes. For example, British expatriates with UK property are required to pay UK taxes on rental income. This income also needs to be declared on the annual US tax return and the double taxation treaty allows you to use foreign tax credits to mitigate the risk of paying tax twice. Recently, the UK government introduced capital gains tax on UK property for non-residents, which came into effect on April 6, 2016. Any non-UK residents holding UK property should arrange for property valuations from this date in order to have an appropriate record of cost basis for any future sale. Penalties for failure to pay taxes can be significant. You are also liable for penalties for failure to report even when no taxes are due.

6. Review Mortgage and Insurance - Remember to inform your mortgage provider and home insurance company that you are moving abroad; otherwise

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Top 10 continued

you can invalidate your policy. This also applies to life insurance so ask your insurer if your life policy remains valid while you live abroad. The exact terms will vary among providers, but many policies will attach residency conditions that may require taking out a new life policy in your country of residence.

7. Report Foreign Assets - Having bank accounts in both countries is extremely useful for those who travel between the two. Keep things simple; consider consolidating accounts into one in the country of origin and inform the bank you are living in another country. American taxpayers, be aware you have an annual reporting requirement for all foreign bank accounts if the aggregate values of your bank accounts exceed \$10,000 at any point in the year. Each account is reported via the Foreign Bank Account Report, (FBAR) and there are significant penalties for failing to file.

There is an additional US annual reporting requirement for all foreign financial assets where the total value of these assets exceeds \$50,000 at the end of the year, or \$75,000 at any time during the year, for individuals, and double these thresholds for married couples. If you exceed these, all foreign financial assets need to be reported via Form 8938 and there are significant penalties for failing to file.

8. Review Retirement Plans - It is easy to forget about retirement accounts in your country of origin as they are often paid-up and sitting in some form of managed fund. Do not discount these savings, however, as they will often form an important part of any future retirement plan. Investment risk, charges and flexibility should be reviewed on an ongoing basis. As a globally mobile individual, you will likely have different currency requirements for income at retirement than most other individuals. As

such, you should consider what currency the underlying investments are held in.

9. Be Smart on Currency - Do not assume your bank will provide a competitive exchange rate for transferring currency. In fact, your retail bank is likely to be the most expensive route. The FX market is evolving and fintech is challenging the norm in much the same way as Uber changed the taxi service industry. Specialist currency brokers and fintech firms are bringing more transparency to the market and can provide significant savings, which is magnified when moving large lump sums between currencies. Transparency, price and trust are important variables when evaluating which currency broker to use.

10. Advice is Key - When moving between countries there are many considerations over and above finding a new home, a good school for the children and adapting to a new environment. Use professionals who have experience working with cross border families. Your financial advisor, accountant and attorney should work as a team to ensure you reach your goals, plan effectively and maintain compliance. Cross border advice does not need to be more expensive than the norm, but professional experience is essential.

Jason Walker is a Financial Advisor at Raymond James & Associates in Philadelphia.



Stranger-Owned Life Insurance (STOLI): A Recent Case Provides a Grim Reminder

Victor S. Levy & David R. Gottlieb

The headline from the United States Attorney's Office for the District of Connecticut read – "Attorney Admits Role in Life Insurance Scheme." Three years in prison and three years of supervised release was the sentence handed down in May 2017 to a Fairfield, Connecticut lawyer, David Quatrella, who was found guilty of insurance fraud. Over more than seven years, he made approximately \$300,000 from his fraudulent efforts to scam insurers exposing insurers to potential losses of approximately \$15 million by facilitating the implementation of life insurance policies on the lives of "strangers."

Stranger-owned life insurance ("STOLI") is generally defined as "the purchase and creation of new life insurance with the intention of assigning or shifting ownership and death benefits to investors with no insurable interest in the life of the insured."¹ The placement of the policy and "use" of the life to be insured is driven at the time of policy purchase by the intention to have the policy eventually owned by third-party investors who ultimately wish to make a profit.

Mr. Quatrella's case played out like a typical Stranger-Originated Life Insurance transaction. To entice elderly clients to obtain new policies, he offered "free insurance" that was financed by a third-party investor who would later sell the insurance policy to other investors for a profit. Quatrella and his co-conspirators

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STOLI *continued*

offered the insureds the promise of free life insurance for two years, which notably is the time of a policy’s “incontestability period,” a period which in its simplest form states that a policy is incontestable after two years from date of issue, except for non-payment of premium. The purpose of the clause is to “restrict the insurer to a definite time within which to discover any fraud or misrepresentation made by the insured in the application for insurance and to take appropriate action to cancel the policy.”²

After the two-year period had passed, Quatrella together with his co-conspirators would attempt to sell the policies and provide a share of the proceeds to the insured. The insured was not obligated to pay anything and was commonly told that the premiums

were being borrowed from a third-party source. As part of the scheme, Quatrella and others recruited investors to finance the payment of premiums on the life insurance policies, with the understanding that the investors would earn a profit upon the eventual sale of the policy.³ In an effort to perpetuate the scheme and without the knowledge of the insureds, the court determined that he had reported misleading financial information to the insurance companies which failed to disclose the third-party premium funding arrangements for the policies.

Over the last few years, in an effort to crack down on STOLI type transactions carriers have been building into their application packages questions asked to insureds that are designed to reveal the presence of STOLI type transactions. Two typical questions from a random mutual company’s application are:

1. “Has the Proposed Insured(s) and/or the Proposed Policy Owner(s) been offered any economic incentive such as “free” life insurance or money to purchase this policy or entered into any arrangement that entitles a lender or investor to any portion of the death benefit beyond a loan repayment?”
2. Does the Proposed Insured(s) and/or the Proposed Policy Owner(s) have a current agreement or commitment to sell, transfer, assign, or release this policy – or any beneficial interest of this policy or its ownership structure – to a life settlement company, viatical company, bank, investor or secondary market provider?”⁴

In the Quatrella case, the court record revealed that Mr. Quatrella who was serving as an attorney for clients who eventually became insureds, misused

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STOLI *continued*

his position by signing fraudulent applications, writing fraudulent letters on his firm's stationary and using his lawyer's account to conceal that investors were paying the premiums. Mr. Quatrella and his co-conspirators received large commissions from the providers as a result of the issuance of insurance policies on the lives of the insureds, and Mr. Quatrella personally profited approximately \$272,000 over seven years as a result of the scheme. Eventually, there were attempts made to sell the life insurance policies to life settlement investment funds or brokers but, in certain cases, they could not find a buyer and the policies lapsed.⁵

In the end, Mr. Quatrella pled guilty to one count of conspiracy to commit wire fraud. In the sentencing hearing, Mr. Quatrella argued that he did not deserve jail time. However, a few days later, the government issued its sentencing memorandum and argued that Mr. Quatrella deserved time in jail for this fraudulent scheme. "He is now seeking a non-incarcerative sentence. But, such a sentence is wholly inadequate to reflect the seriousness of the offense, the multi-year nature of Mr. Quatrella's involvement, his flagrant misuse of his position as an attorney to facilitate the crime, and his personal gain of \$272,000 from the offense," the memo said.⁶ This led to a sentence of three years in prison followed by three years of supervised release.

In the typical STOLI scheme, "it is made to appear that the insured (or the insured's trust or LLC) is the initial owner of the policy, [though] that appearance is a deliberately planned illusion."⁷ Behind the appearance is a complete effort to subvert the rules of insurable interest which are the bedrock of the initiation and sale of life insurance contracts in the United States.

Reflections on the Quatrella Case

At its core, life insurance provides financial resources to others at a time when it is needed the most, when a loved one passes away. It is the life insurance sales agent who is the catalyst to make sure that resources are in place for the family or business when a key person dies. A sales manager that I once knew used to say that no one ever buys life insurance, it is a product that has to be sold, but embodied within the selling process must be integrity. With integrity in selling life insurance comes a certain sanctity in the preparedness. A peace of mind that comes in knowing that others are ready for the unexpected.

When death comes, and money is delivered to a family in mourning, the process reaches a quasi-spiritual level. Just ask any sales agent who has sold a policy and delivered a claim check to a family. The experience of bringing financial resources to grieving people in need cannot easily be put into words.

To read about the case of David Quatrella saddens me. It makes me think of greed and how someone like Quatrella, who is so unfamiliar with what this amazing product accomplishes and so disconnected to the use of it, can take something good and desecrate it. Just the idea of starting with investors and then finding random lives to insure through a hollow promise of giving them "free insurance," and possibly some kind of return down the road, all in an effort for some other disconnected third party to receive the death benefit as an investment is a somber way for one to make a profit. This is not good for anyone, least of all a society that relies upon this important product for helping people to be protected.

Perhaps the saddest part of the recent STOLI case is how the attorney, Quatrella, tried to avoid prison by having friends and former employees comment

positively about his character. For example, one former employee took the stand in Mr. Quatrella's defense stating that he "gave me the opportunity to stay out on maternity leave longer when he found out my mother was dying so that I could be there for her and my dad."⁸ Also, an immigrant teenager came forward and expressed how Quatrella had bestowed kindness and patience upon him helping him to find his way settling in the US. In the end, the judge felt that Mr. Quatrella's fraud scheme was worthy of prison time.

The case is a reminder of what can come from the excesses of greed and what follows when people are motivated by money. A reminder of where things eventually lead, when you take something good and turn it into an instrument for personal gain.

Victor S. Levy is a financial advisor for Levy & Associates, a wealth management and employee benefits firm in Philadelphia and author of The Kitchen Table Financial Plan.

David R. Gottlieb is a sophomore at the University of Wisconsin in Madison and completed a summer internship at Levy & Associates.

Footnotes:

- 1 *Stranger-Owned Life Insurance (STOLI): What Professionals Need To Know*, Stephan R. Leimberg, ALI-ABA Estate Planning Course Materials Journal, August, 2009
- 2 "Incontestable Clause In Life Insurance Policies," Newark Law Review, <http://njlegallib.rutgers.edu>
- 3 US Attorney's Office, District of Connecticut, Press Release, January 4, 2017
- 4 Mass Mutual Application for Life & Individual Disability Insurance (Part 1), Form A2000NY-US
- 5 US Attorney's Office, District of Connecticut, Press Release, January 4, 2017
- 6 Connecticut Law Tribune, May 26, 2017
- 7 *Stranger-Owned Life Insurance (STOLI): What Professionals Need To Know*, Stephan R. Leimberg, ALI-ABA Estate Planning Course Materials Journal, August, 2009
- 8 *Attorney Gets Prison For Insurance Fraud*, ThinkAdvisor, May 30, 2017

Current Events

Brian Gilboy

Philadelphians are down the shore, the House is in recess, and as I type this (but maybe not as you read it) the Senate has not been able to pass legislation to repeal and replace the Affordable Care Act and *may* be moving on to attempting tax cuts/reform. This column serves to provide an update of some recent updates that may affect and inform Philadelphia Estate Planning Council members.

On July 27, 2017, House Speaker Paul Ryan (R-WI), Senate Majority Leader Mitch McConnell (R-KY), Treasury Secretary Steven Mnuchin, National Economic Council Director Gary Cohn, Senate Finance Committee Chairman Orrin Hatch (R-UT), and House Ways and Means Committee Chairman Kevin Brady (R-TX) issued a joint statement on tax cuts/reform.

Overall, the statement was more notable for omissions than inclusions, but there were some notable takeaways:

- Prior to the joint statement, it remained somewhat unclear whether the "Border Adjustment Tax" would be included in the tax cuts/reform plan. The question can now be put to bed: "While we have debated the pro-growth benefits of border adjustability, we appreciate that there are many unknowns associated with it and have decided to set this policy aside in order to advance tax reform." This should remove one of the strongest points of contention between GOP factions, however, it also removes a trillion plus dollar revenue vehicle. The plan for tax cuts/reform ostensibly remains at revenue "neutrality" (subject to gimmicks and dynamic scoring) and so removing one of the main revenue offsets will not necessarily make things easier.

- Speaking of which, the joint statement is silent on revenue or deficit neutrality. The House recently proposed a budget resolution with reconciliation instructions that contemplated budget neutrality. The joint statement does state that the group "places a priority on permanence." Under reconciliation, items that increase the deficit outside of the budget window are disallowed under the Byrd rule and therefore, tax cuts that increase the deficit (again subject to gimmicks and dynamic scoring) must be sunsetted or offset by revenue offsets like... the Border Adjustment Tax.

- The joint statement appears to continue forward with support for pass through entity income to be treated the same or at least closer to corporate income (maybe): "We also believe there should be a lower tax rate for small businesses so they can compete with larger ones." The general idea appears to be taxing shareholders in pass through entities at a rate lower than ordinary income so that the tax burden is similar between entities with a corporate structure and a pass through structure. On one hand, if the corporate tax rate really is reduced to say 25%, it would seem an unfair advantage relative to LLP owners paying 39.6% on a portion of their income for similar output, but taxing pass through income at less than the ordinary income rate may allow for significant abuses and could be complicated.

- The joint statement does not mention the estate, gift or GST tax at all.

Mr. Gilboy is a partner at the boutique estate and trust planning and administration firm of Gilboy & Gilboy LLP located in Philadelphia, Pennsylvania. He is a current co-chair of the tax committee of the Philadelphia Bar Association Probate and Trust Law Section and a member of the Executive Committee. He has been named a "Pennsylvania Rising Star" by Super Lawyers from 2013 through 2017.

The Most Common Mistake in Estate Planning: Overlooking the Living Trust

Randy Juzwiak

There are no secrets to living trusts. They have been must-haves in the estates of the American affluent, and should probably appear in your plan too. You're not alone if you haven't taken full advantage of living or revocable ("rev") trusts, though. They're perhaps the most underemphasized tools in estate planning. Rev trusts avoid probate expense while allowing you to keep control of your assets.

Avoiding Probate

Setting up a revocable trust and using it properly will avoid long and costly probate following your death. Probate is a court and executor-led process of interpreting your will and determining how your assets will be distributed. With the use of rev trusts, however, your assets are retitled during your lifetime which could completely eliminate probate or legal fees.

Maintaining Control

Shoveling assets into a trust may sound like you're writing away your wealth and losing control of your estate. That isn't the case - It is common to name yourself as trustee of the trust, keeping the assets inside of your estate, allowing your complete control of investment activity and the ability to change beneficiaries or dissolve the trust at any time, without court-approval.

Retitling Assets

It's not enough to simply create one

continued on page 11

Mistake continued

of these trusts. It is very common in our financial planning reviews to find a situation where a revocable trust is created, but no action has been taken to retitle the assets, rendering the trust useless. In order to safeguard your assets, you will need to formally retitle them. This will require you to contact the necessary parties to transfer real estate and account ownership, on paper, to the trustee of the rev trust. Most often, you will be transferring the title over to yourself, as trustee. Failing to file this simple paperwork will essentially negate the entire process.

Exceptions to the Rule

It might make sense to copy this process for all of your assets. There are two exceptions. First, the asset is already in an irrevocable trust. Irrevocable trusts are, by design, vehicles that house assets outside of the purview of your estate and do not go through the probate process. Second, the asset has a named beneficiary and will already pass down without court involvement, as is the case with IRA accounts and life insurance. In all other cases, rev trusts should be used. But remember, this process is only executed properly by formally retitling the ownership to the trustee of the trust, usually yourself.

Living trusts are very important and useful tools in estate planning, but easily missed or misused. Contact your estate attorney and make sure they are being used properly in your plan.

Randy Juzwiak is an associate at Valley Forge Financial Group, specializing in business succession, estate planning, and life insurance consulting.

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The logo for Andersen Tax features a red swoosh above the word "ANDERSEN" in black serif font, with "TAX" in red serif font below it.

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PEPC Wins 2017 Council of Excellence Award

The Philadelphia Estate Planning Council has been awarded the highest honor available to an estate planning council affiliated with the National Association of Estate Planners & Councils, the Leonard H. Neiman and Walter Lee Davis, Jr. Council of Excellence Award. This award was created to recognize councils that are successful in their efforts to provide a strong multi-disciplinary environment for estate planning professionals within their community and is intended to honor those councils that truly work to grow their programs and services and to provide an exceptional member experience.

“We are looking forward to the award ceremony scheduled on Wednesday, November 15, 2017, during the 54th Annual NAEPC Advanced Estate Planning

Strategies Conference in New Orleans, Louisiana. The estate planning councils being recognized provide exceptional member service and are contributing to the success of not only their members, but to the estate planning community as a whole,” NAEPC President Paul S. Viren, CLU®, ChFC®, AEP® said.

The Council of Excellence Award is named for two individuals who truly sought to strengthen the bond between NAEPC and its affiliated councils during their terms on the board. Walter Lee Davis, Jr. served as president of the association in 2008 and was instrumental in forming the Council Relations Committee, a group of volunteer members who are charged with being a liaison between affiliates and the national association. Leonard H. Neiman served the association as a board member



for over 15 years and worked tirelessly to gather information about estate planning councils from around the country.

The PEPC is a member of the National Association of Estate Planners & Councils, the leading professional organization for estate planners, which provides its 2,000 Accredited Estate Planner® designees, and over 270 affiliated local estate planning councils and their 30,000 members with ongoing education and a forum for professional networking.

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2017 Golf & Tennis Outing

Philadelphia Estate Planning Council held its 21st Annual Golf and Tennis Outing on Monday, May 8, 2017. The golf outing was held at Whitemarsh Valley Country Club and the tennis outing was at the Philadelphia Cricket Club.



The golfers head out onto the course.



Donald DiCarlo, Marguerite Weese, Cristina Barsony and David Bloom



Frank Branca, Sr., Vincent Mitchell, Frank Branca, Jr. and Frank Rock



Doug Simon, Richard Schwartz, John Boxer and J.R. Burke



Richard Schwartz tees off.



The ladies are getting ready to tee off at the golf outing.

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2017 Tennis Outing participants



Michael Schiff at the tennis outing.

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NAEPC® Notes

Eileen Dougherty CTFA, CFP®, AEP®, ChFC®

As a reminder, because you are a member of The Philadelphia Estate Planning Council, you are also a member of The National Association of Estate Planners & Councils (NAEPC®). To learn more about the many benefits available to you as a member of NAEPC® please visit www.NAEP.C.org or speak with your author. I write this column to bring you up to date on ideas of interest to our membership.

In the last newsletter, I mentioned The Journal of Estate and Tax Planning as one of the many features available to you on the NAEPC website. Please be aware that articles of original content continue to be sourced for future issues. If interested, contact: editor@naepcjournal.org. To have the Journal delivered directly to your inbox, go to the NAEPC homepage at naepc.org and use the Publications & Events tab. The Journal is the third item on the drop-down menu. You can also browse back issues.

The 54th Annual NAEPC Advanced Estate Planning Strategies Conference will be held in New Orleans, LA, from November 15, 2017 thru November 17, 2017, at The Roosevelt New Orleans, a Waldorf Astoria Hotel. I hope you'll join me there for this great educational and networking opportunity. This event is open to ALL members! Early bird pricing discounts expire on 9/30/17. Up to 15 hours of continuing education credits are available. Visit the NAEPC website for a full list of speakers and topics and all the information you'll need to attend the conference.

The next sessions of The Robert G. Alexander Webinar Series will be held as follows:

September 13, 2017 at 3:00pm, ET,
Speaker: Richard A Oshins, JD, LL.M, MBA, AEP® (Distinguished)

TOPIC: "The Perfect Modern Trust Including Income Tax Sheltering Opportunities"

October 11, 2017 at 3:00pm, ET,
A Special Complimentary Sponsored Webinar

Speaker: Douglas S. Lodmell, JD, LL.M

October 31, 2017 at 2:00pm, ET,
Note the time, please.

Joint Webinar with Trusts & Estates

Speakers; Philip Cubeta, CLU®, ChFC®, MSFS, CAP®, AEP® of The American College of Financial Services; Thomas C. Rogerson of Wilmington Trust; Martin M. Shenkman, CPA, PFS, MBA, JD, AEP® (Distinguished) of Martin M. Shenkman, P.C.

December 13, 2017 at 3:00pm, ET,
Estate Planning after the 2704 Treasury Regulations: Planning with the New Rules
Steven J. Oshins, JD, AEP® (Distinguished)

Please check the NAEPC website to sign up for these sessions and to review additional dates and topics, past and future.

NOTE: If you cannot attend on the day of the webinar, you can listen at a later date, and will be sent the appropriate link.

As a member of the board of NAEPC, I have the ability to "gift" a webinar each time one is held. If you are interested in this session or future sessions, please contact me at eileen.dougherty@hawthorn.pnc.com and indicate "I want a free NAEPC webinar" in the subject line. First come, first served!

In the next Newsletter column I'll address the AEP and EPLS designations available from NAEPC.

Sign Up for a PEPC Committee

The Philadelphia Estate Planning Council offers many opportunities for member involvement. One of the most rewarding ways to get involved is through our many committees.

The committees encompass all activities of the council including planning our social events, publishing our highly informative newsletter, enhancing our website and developing our education programs.

All members are encouraged to actively participate on a committee. Committee participation provides the opportunity to expand your professional relationships and increase your leadership skills.

To sign up, please contact the PEPC Office at staff@philaepc.org.

2017 Annual Meeting, Seminar & Reception

The 2017 Annual Meeting, Seminar and Reception was held on Thursday, May 18, 2017, at Philly's newest museum - The Museum of the American Revolution. The program featured Jonathan Blattmachr and Jeff Glickman speaking on "The Critical Importance of Tax Free Compounded Returns in Estate and Financial Planning—and How to Obtain Them." Following the program, attendees enjoyed a cocktail reception and access to the museum.



President Huldah A. Robertson passes the gavel to Vice President Richard Schwartz.

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2017 Annual Meeting, Seminar & Reception *continued*



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A full house for the Annual Meeting Seminar



Matthew Domenick, Richard Schwartz and Warren Vogel

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2017 Annual Meeting, Seminar & Reception *continued*



2017 Annual Meeting Sponsors



Eric Abel, Doug Simon and Gary Waxman



Kevin Manning, Christopher Borden and Eric Hildenbrand



Enjoying the cocktail reception at the Museum of the American Revolution



Kenneth Iselhart, Serena Covino and Anton Hammock



Enjoying the cocktail reception at the Museum of the American Revolution

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Mark Your Calendar

Tuesday, September 19, 2017

Topic: "Love, Sex, Money, Marriage and Death: Estate Planning Aspects of Divorce"

Speaker: Jeremiah W. Doyle, IV, BNY Mellon Wealth Management

Tuesday, October 17, 2017

Topic: "Putting It On & Taking it Off: Tax Basis Management in the New Paradigm"

Speaker: Paul S. Lee, Northern Trust

Tuesday, November 14, 2017

Topic: "Planning in Uncertain Times"

Speaker: Robert W. Finnegan, JD, CLU, Highland Capital Brokerage

Tuesday, January 9, 2018

Topic: "Business Succession Planning"

Speaker: Turney P. Berry, Wyatt, Tarrant & Combs, LLP

Tuesday, February 13, 2018

Topic: "Delaware Trusts"

Speaker: Michael M. Gordon, Gordon, Fournaris & Mammarella, P.A.

Tuesday, March 20, 2018

Topic: "Practical Planning for Art Collectors and Their Advisors"

Speaker: Ramsey H. Slugg, U.S. Trust, Bank of American Private Wealth Management



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The Philadelphia Estate Planning Council Welcomes New Members

June and August 2017

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Christina Gwynn	Wells Fargo
John Heacock	Atlas Advisory Group, LLC
Bode Hennegan	Life Managers & Associates
William Kaehr	Persimmon Capital Management
Julie Karavan	Big Brothers Big Sisters Independence Region
Rachel Kieser	Drucker & Scaccetti, P.C.
Howard Litz	Howard S. Litz, CPA
Walt Lotspeich	ITM TwentyFirst
Tim Markward	Savran Benson LLP
Michele Mathes	Center for Advocacy for the Rights and Interests of the Elderly
Gregory Menio	Citrin Cooperman
Gregory Miraglia	PNC Wealth Management
Sara Nelb	The Haverford Trust Company
Pascal Nigen	Alpha Bronze
Justin OMalley	JP Morgan
Paul Pistilli	Highland Capital Brokerage
Seth Raivetz	Ballard Spahr
Elaine Serbulov	Key Private Bank
Amber Slattery	Hawthorn PNC Family Wealth
Gregory Spadea	Law Office of Spadea & Associates, LLC
Brian Travers	Chubb Personal Risk Services
Christopher Turso	Chubb
Jeff Webb	Bessemer Trust
Joseph Weidenburner	Apex Financial Advisors Inc.

SAVE THE DATE

ANNUAL HOLIDAY CELEBRATION

Wednesday, December 6, 2017
5:30 - 7:30 p.m.

Union Trust
717 Chestnut Street
Philadelphia

