THE UNIVERSITY OF TEXAS SCHOOL OF LAW

THE WEALTH MANAGEMENT AND TRUST DIVISION
OF THE TEXAS BANKERS ASSOCIATION

2011

CHANGES AND TRENDS AFFECTING
SPECIAL NEEDS TRUSTS

A Guide for Attorneys, Financial Advisors and Trust Officers

January 27–28, 2011

Omni Austin Hotel at Southpark ▪ Austin, Texas

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THURSDAY MORNING, JAN. 27, 2011

Presiding Officer:
Wesley E. Wright, Wright Abshire, Attorneys, Bellaire, TX

10:00 a.m. Registration Opens
Includes light refreshments.

10:50 a.m. Welcoming Remarks

11:00 a.m. .50 hr including .25 hr ethics

Special Needs Trusts Overview
A look at the purposes and uses of SNTs, including how to spot opportunities to use SNTs, analyze the options available, and understand potential ethical issues.

Randy Drewett, Attorney at Law, Beaumont, TX

11:30 a.m. 1.00 hr including .25 hr ethics

Protecting and Maximizing Public Benefits
Planning options—and related ethical issues—to ensure a trust's beneficiary qualifies for the most important disability benefits: Supplemental Security Income, Medicaid, Social Security Disability Insurance and Medicare; and how to manage trust distributions to avoid losing benefits while enhancing the beneficiary's quality of life. Includes new POMS requirement of payback to Medicaid upon early termination of SNT.

H. Clyde Farrell, Farrell & Pak, PLLC, Austin, TX
Christina Lesher, Attorney at Law, Houston, TX

THURSDAY AFTERNOON

Presiding Officer:
Wesley E. Wright, Wright Abshire, Attorneys, Bellaire, TX

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12:30 p.m. Pick up Box Lunch

LUNCHEON PRESENTATION

12:45 p.m. .75 hr

Case Law Update
A look at recent regional and national cases involving special needs trusts, as well as other cases of note.

Mary Alice Jackson, Boyer & Jackson, P.A., Sarasota, FL and Austin, TX

1:30 p.m. Break

1:45 p.m. .75 hr

The Top Ten Things to Know About Drafting and Administering SNTs
This joint presentation by an attorney and a trustee highlights drafting tips—"what to leave in and what to leave out" of your trust document—and provides insights on what can sink the ship and tips on how to avoid some unwanted outcomes for trust beneficiaries.

Deborah A. Green, Attorney at Law, Austin, TX
Shari M. Scholten, Wells Fargo-The Private Bank, Austin, TX

Medicare Set-Aside Accounts (MSAs)

2:30 p.m. .50 hr

Medicare Set-Asides: The View from CMS
An overview of the current position of the Centers for Medicare & Medicaid Services (CMS).

Sally Stalcup, Centers for Medicare & Medicaid Services, Dallas, TX

3:00 p.m. .75 hr

Medicare Set-Aside Provisions in SNTs
Protecting eligibility for government benefits is a critical goal of most SNTs. An SNT can be a device to not only protect SSI and Medicaid eligibility but also to protect Medicare eligibility by including a Medicare Set-Aside allocation when funds arise from a personal injury recovery. The presentation defines an MSA, explains why protecting Medicare's secondary payer status must be considered and how a Trustee might administer an MSA including the assistance available from the private sector administrators.

Moderator:
Wesley E. Wright, Wright Abshire, Attorneys, Bellaire, TX

Panelists:
Douglas L. Shaw, Medivest Benefit Advisors, Inc., Oviedo, FL
Patricia F. Sitchler, Schoenbaum, Curphy & Scanlan, PC, San Antonio, TX
Sally Stalcup, Centers for Medicare & Medicaid Services, Dallas, TX

3:45 p.m. Break

4:00 p.m. .50 hr

From Setup to Administration: A Trustee's Guide to MSAs in SNTs
This presentation covers the basics, from a trustee's perspective, of how to set up and administer a general liability Medicare Set-Aside (MSA) account that is associated with a Special Needs Trust. The discussion also includes setting up the MSA as a sub-account, employing professionals to assist with reviewing medical bills, avoiding fee issues, and making appropriate reports to CMS.

Aimee K. Karr, Wells Fargo Wealth Management, Austin, TX
Scott Stebler, Wells Fargo Wealth Management, Austin, TX

4:30 p.m. .75 hr

The HHSC Agency Perspective
Representatives from the Health and Human Services Commission (HHSC) discuss current issues regarding long-term care Medicaid eligibility.

Moderator:
Patricia F. Sitchler, Schoenbaum, Curphy & Scanlan, PC, San Antonio, TX

Panelists:
Beverly Joan Luna, Texas Health and Human Services Commission, Austin, TX
John Stockton, Texas Health and Human Services Commission, Austin, TX

5:15 p.m. Adjourn to Sponsored Reception

THANK YOU TO OUR RECEPTION SPONSOR

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FRIDAY MORNING, JAN. 28, 2011

Presiding Officer:
Renée C. Lovelace, The Lovelace Law Firm, P.C., Dripping Springs and Austin, TX

8:00 a.m. Conference Room Opens
Includes continental breakfast.

8:30 a.m. .50 hr

Turn Conflict into Collaboration

In most cases distribution requests between beneficiaries and professionals are resolved in a satisfactory manner. However, sometimes impasses develop. This presentation looks at professionals as partners with the beneficiary, rather than as experts, to better understand and resolve some of the disputes.

Leah Cohen, arrangeCARE, Austin, TX
Nancy Sosa, Encore Trust, Austin, TX

9:00 a.m. .75 hr ethics

Representing Beneficiaries of SNTs

This session discusses the factors and ethical considerations when deciding whether or not to represent a beneficiary. It also considers how to make the representation effective and shares information about clarifying the role of the attorney, representative payee and authorized representative of an SSI claimant.

Patricia Tobin, Law Office of Patricia Tobin, San Rafael, CA

Commentator:
Glenn M. Karisch, The Karisch Law Firm, PLLC, Austin, TX

9:45 a.m. .75 hr including .25 hr ethics

Starting (and Staying) on the Right Path: Advising and Monitoring Trustees Effectively

Whether the trustee is an unsure or cautious corporate trustee, a clueless family member or a well-meaning but overreaching professional, problems with trust administration regularly arise. What can you tell the trustee about his or her duties and responsibilities? How involved should you be in advising the trustee, monitoring expenditures and investment decisions or providing training and periodic reviews? The presenter provides unique insight—both as an attorney and as a trustee—into what trustees must do and how you can help them.

Robert B. Fleming, Fleming & Curti, PLC, Tucson, AZ

10:30 a.m. Break

10:45 a.m. .75 hr

Building Trust Advisory Committees that Work

Incorporating advisory committees in special needs trusts has been a common practice for decades, but in fact most advisory committees don't function well. This session explores how to structure an advisory committee where the functions of each party are made clear, a chain of command is clear, and timelines are well defined.

Stephen W. Dale, The Dale Law Firm, PC, Walnut Creek, CA

11:30 a.m. 1.00 hr including .25 hr ethics

The Burn Rate: Estimating SNT Depletion Schedules and Preparing for Key Transitions

Few SNTs will have funding that is so substantial that the SNT is able to avoid depletion during a beneficiary's lifetime. Grantors and trustees may be able to estimate some of the beneficiary's future needs in order to promote successful high-quality living scenarios, as well as to protect the beneficiary's options in crises, transitions and other changes in circumstances. The presentation addresses whether more costs, risks and opportunities may be identified with intensive special needs planning and/or life care planning and whether planning in advance may slow the depletion rate in some cases.

Renée C. Lovelace, The Lovelace Law Firm, P.C., Dripping Springs and Austin, TX

Commentators:
Stephen W. Dale, The Dale Law Firm, PC, Walnut Creek, CA
Robert B. Fleming, Fleming & Curti, PLC, Tucson, AZ
Patricia Tobin, Law Office of Patricia Tobin, San Rafael, CA

FRIDAY AFTERNOON

Presiding Officer:
Patricia F. Sitchler, Schoenbaum, Curphy & Scanlan, PC, San Antonio, TX

12:30 p.m. Pick up Box Lunch

LUNCHEON PRESENTATION

12:45 p.m. .75 hr ethics

Anticipating the Expected and Unexpected: Ethical Issues in Special Needs Trust Practice

This session examines the common ethical issues that occur in an SNT practice and how the ethical rules would apply to such situations.

Rebecca C. Morgan, Stetson University College of Law, Gulfport, FL

1:30 p.m. Break

1:45 p.m. .50 hr

Social Security Administration: Questions, Answers and Recent Changes

A representative from the Social Security Administration addresses emerging issues arising in the Supplemental Security Income program.

Reba Collins, Social Security Administration, Dallas, TX

2:15 p.m. .75 hr

Judicial Modification of Special Needs Trusts

This presentation sets forth a step-by-step explanation of the process involved in court amendments of irrevocable SNTs. A discussion of current issues involving judicial modification of trusts is included along with useful sample forms.

Ronald R. Cresswell, Locke Lord Bissell & Liddell LLP, Dallas, TX
David J. Reber, Locke Lord Bissell & Liddell LLP, Dallas, TX

3:00 p.m. .75 hr

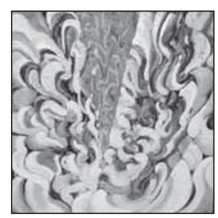
The Ultimate Settlement Secret: The Advantages of 468B Qualified Settlement Funds for SNTs and MSAs

As post-settlement issues become more and more complicated, a Qualified Settlement Fund can provide assistance to both plaintiffs and defendants. These funds provide time to resolve liens, allocation issues, MSAs and SNTs, while preserving the ability to purchase a tax-qualified structure.

Pi-Yi Mayo, Attorney at Law, Baytown, TX

3:45 p.m. Adjourn

ABOUT THE COVER



Plunge, 36" x 36", oil on canvas, is by Sydney Yeager and on display at d berman gallery in Austin. For more information on this piece, visit **www.dbermangallery.com**. Image acquisition by Sandra Gregor, art consultant, 512-477-2827.

"Great content and speakers!

I thought that this conference was amazing.

A very enjoyable, informative conference.

Excellent materials are great as a reference tool.

I liked the quality of the speakers and the selection of topics."

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*planning committee member

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Invoices, confirmations and receipts are emailed to these addresses.

REGISTRATION

Includes Course Binder and Thursday and Friday Luncheon Presentations

❑ Early Registration Fee due by Wednesday, January 19, 2011 .... $435

❑ Registration Fee after Wednesday, January 19, 2011 .... $485

CONFERENCE PUBLICATIONS AND MEDIA

Allow 3–5 weeks from the conference date for delivery.

❑ Course Binder WITHOUT Conference Registration $225
Note: Conference registration includes Course Binder.

❑ Audio MP3 Speeches on CD $130

❑ Audio CD Set $210

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AUSTIN

January 27–28, 2011

CONFERENCE LOCATION

Omni Austin Hotel at Southpark
4140 Governor's Row
Austin, TX 78744
512-448-2222

Special Room Rate: $109
good through January 5, 2011
(subject to availability)

Parking: Complimentary self-parking

KEY DATES

January 19, 2011, 5 p.m.
last day for early registration
add $50 for registrations received after this time

January 21, 2011, 5 p.m.
last day for full refund

January 24, 2011, 5 p.m.
last day for partial refund
$50 processing fee applied

January 27, 2011, 11 a.m.
conference begins

MCLE

This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 12.00 hours, of which 2.50 credit hours will apply to legal ethics/professional responsibility credit. The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944).

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