

BUSINESS EXECUTIVE NETWORK

LESSONS LEARNED WHILE ADMINISTERING CLIENTS' ESTATES

**Barry P. Siegal
Stahl Cowen Crowley LLC
April 13, 2004**

1. Nothing creates more family disharmony than uncertainty over the distribution of personal property.

- a) Family tends to place higher value on property than “market value.”
- b) Testator can prepare memorandum regarding allocation of property that can be changed during lifetime.
- c) Consider auction or other objective plan if no memorandum.

2. Provision should be made to insure that there is liquidity to pay bills and provide for cash flow.

- a) Problem may occur with: (i) transitioning family owned business; (ii) in setting up trust, or (iii) if IRAs or profit-sharing plans can't be accessed.
- b) Consider having one account in joint tenancy with spouse or in spouse's name alone.
- c) Life insurance can solve many problems.

NOTE: Life Insurance should be owned by separate irrevocable insurance trust.

- d) Consider using salary continuation plan with family business.

3. Avoiding probate can eliminate unnecessary expense and hassle in an otherwise difficult situation.

- a) Probate causes additional delays in providing liquidity to family.
- b) Utilizing living trusts is almost always the answer to avoid probate.
- c) Remember: Assets must be owned by living trust to avoid probate.

4. A well-thought-out business succession plan is essential to carrying out the client's objectives.

- a) Ownership of business and control are not necessarily the same.
- b) Consider committee of advisors to help run the business.
- c) Consider providing for children who are not in the business by using life insurance.

5. Continuing trusts for spouse and children are important to consider for reasons other than saving estate taxes.

- a) Protection against creditors of beneficiaries.
- b) Insuring prudent investment of assets.
- c) Protection against potential divorce.

6. Special needs trust for disabled beneficiaries can prevent wasting a major portion of the estate.

- a) Trust must be carefully worded to insure that it won't be considered an asset of the beneficiary.
- b) Trust can be used to supplement income from government sources.