



## 2009 – Monthly Webinars

**January 22, 2009**

*Reciprocal Trusts and Spousal Lifetime Access Trusts*

Level: Advanced

Dad creates a discretionary trust for the benefit of Mom and children. Mom creates a discretionary trust for the benefit of Dad and children. What's wrong with this picture, other than a couple being able to plan out of the estate tax and still get back the gifted property if needed? Until the last 10 or so years, inter vivos spousal access trusts were not too common. However, now there is a new surge in creating these trusts. What are the estate tax drafting issues that must be avoided with these trusts?

**February 19, 2009**

*The Asset Protection Behind Domestic Asset Protection Trusts (Self-Settled Trusts)*

Level: Advanced

While there are over eleven domestic asset protection trust states, four states have emerged as leaders in this field. How have these states come to distinguish themselves through the types of trusts that they protect, state fraudulent conveyance laws, and forcing the legal battle to the DAPT state? Does the 2005 Bankruptcy Act hurt, help, or is it relatively neutral to DAPTs? Will a California judge apply the domestic asset protection trust's state laws to a California claim? What are the concerns with the Full Faith and Credit Clause and the Supremacy Clause as far as how much protection a DAPT provides for a non-resident? Please note that this seminar does **not** discuss the estate tax inclusion issues of these trusts.

**March 26, 2009**

*Asset Protection Behind a Charging Order*

Level: Intermediate

What are the limits of charging order protection? How a judge's judicial foreclosure sale order many times greatly reduces the effectiveness of charging order protection. There are over sixteen states that have simple sole remedy asset protection stating the charging order is the "sole" or "exclusive" remedy regarding the members interest. Learn why these states most likely have problems with equitable remedies such as reverse veil piercing, constructive trust, resulting trust, sole purpose, and alter ego theories. If a client has a present creditor and transfers \$1 million of cash for \$1 million of partnership interests is this a fair market value exchange that would be exempt from a fraudulent conveyance claim? Discover what seven states have emerged as the leaders in the sole remedy charging order protection. Does a single member LLC receive any charging order protection? Finally, does a bankruptcy trustee stand in the shoes of the bankrupt partner and receive voting rights, thereby many times defeating the benefits of charging order protection?

**April 30, 2009**

*Offshore Asset Protection Trusts and Combining Offshore Asset Protection Trusts With Domestic Asset Protection Trusts*

Level: Intermediate

Throughout the years, the offshore asset protection trust remains as one of the most effective tools. Domestic asset protection trusts rely on conflict of laws principles, and hope that the out-of-state court or the U.S. Supreme Court will apply the governing law of the DAPT state. An offshore asset protection trust has this level of asset protection plus the added protection of the inability of the debtor to enforce the order abroad. Regarding this inability to enforce the order abroad, a few authors have had concerns regarding possible contempt issues with an offshore asset protection trust. Conversely, if contempt is an issue with an offshore asset protection trust, it is also an issue with a domestic asset protection trust, out-of-state FLP or LLC, as well as a Nevada corporation. Further, recent case law demonstrates that it is very unusual for a court to order a contempt order when the settlor/beneficiary attempts to comply with any orders.

**May 28, 2009**

*Drafting Discretionary Dynasty Trusts - I*

Level: Intermediate

Many articles have appeared in many publications such as the Wall Street Journal, Bloomberg's, Investor's News, and the Horse's Mouth regarding the great trend where parents are leaving and children are requesting that their inheritance be put into discretionary dynasty trusts. A common law discretionary dynasty trust provides incredibly strong asset protection for a beneficiary's interest from creditor claims and the claims of estranged spouses in divorce. Where years ago, this tool was primarily used for wealthy clients, it is now used with many clients whose net worth is slightly greater than \$1 million. Discover the nine key elements to how to draft with

this tool. Learn why discretionary trust language that worked ten years ago, may no longer accomplish your client's objectives today.

**June 18, 2009**

*Drafting Discretionary Dynasty Trusts - II*

Level: Intermediate

The newest attacks on the asset protection behind a beneficial interest in trust are marital claims, the possible imputation of income for alimony and child support, and dominion and control arguments. With a dominion and control argument, any creditor, not just an exception creditor may pierce the trust and reach the underlying assets. Learn to understand the differences between the three primary methods that discretionary dynasty trusts are drafted and the affect of dominion and control arguments based on the method that is used.