East Bay Council News

January 2008

President's Message

It will be a brand new year before your Council gathers again. To begin the year, we're deviating from recent years by not joining with our sister council to the west for a combined meeting in January. Instead, we'll demonstrate our independence by going it alone, saving a joint meeting until later in the year.

To begin our calendar year, Kelly Johnston has arranged for us to address a technical topic with legal and accounting underpinnings. We hope this will entice you number crunchers and legal eagles to attend.

The Board of Directors continues to appreciate the work of our treasurer, Doug Dexter, and secretary, Rod Hughes, who keep reporting that our financial condition is sound and that we did properly consider matters which become reported in our minutes. One such topic continues to be the evolution of participant categories within the estate planning discipline. The most recent inquiry I received had to do with whether an enrolled agent ought to be categorized as an accountant. That's not too far from the inquiry about whether a Financial Planning Specialist ought to be categorized as a Certified Financial Planner (CFP) or Chartered Financial Consultant (ChFC). The consequence of the creation of these sub-specialties is that either they populate the principal category thereby perhaps denying licensed professionals membership or they fall within the already bursting at the seams Member-at-large category while we solicit members in the professional categories.

Who said estate planning isn't dynamic? If, as today's press reports, women can evolve a new back bone to enable them to carry birth weight, there must be hope for our council's evolution as we labor through these issues. Bear with us.

- Tim Smallsreed

"Which Way Do We Go? Managing Divergent Interests Among Trust Beneficiaries"

Have you ever struggled to maintain balance between conflicting interests? If you work in the trust and estates arena, it's a given. Where there are current and remainder beneficiaries, there is inherent conflict. Ah, but never fear, it is the fiduciary that has the duty of impartiality. Unless of course *you* are the fiduciary, in which case a little fear is probably healthy.

There is no shortage of litigation around breach of fiduciary duties, particularly with regard to discretionary distributions and investment decisions favoring one beneficiary class over the other. With a growing number of private professional fiduciaries, CPAs, and attorneys acting as trustee and with the many professionals who advise individual trustees, this is a balancing act that more and more of our EBEPC members will be asked to perform.

Trustees facing beneficiary dissatisfaction with investment decisions and discretionary distributions may benefit from a review of practical and legal tools to manage divergent interests among trust beneficiaries. **Lisa Carvalho** and **Stacie Nelson** of Reed Smith LLP will explore a variety of tools and techniques, including the power to adjust, unitrust conversions, and beneficiary education and communication. Lisa and Stacie also will address particular challenges involving multiple beneficiary generations, blended families, and "squeaky wheel" beneficiaries.(You know the ones)

Monday, January 14, 2008

Scott's Seafood Restaurant
Jack London Square
Oakland

6:00 PM Wine Reception
6:30 PM Dinner Meeting

$35.00 paid in advance
$40.00 at the door

Please make your check payable to "EBEPC" and mail to Bonni in the enclosed return envelope before Thursday, January 10th or call 925.686.4819

Meeting Sponsored By:

Sara DuBois
East Bay Community Foundation
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