

President's Message

Last month's presentation by Michael Jones and DeAnn Thompson about family businesses was interesting, with their stories and tips providing much food for thought. It reinforced how multi-disciplinary and multi-dimensional our field of estate planning is, resulting in nothing less than a continuous challenge for practitioners. Our council should continue to play a meaningful role in educating us broadly so we can better help our clients with their varied and ever-changing circumstances and needs.

As is customary, April is a month in which many of us are occupied with, and thinking about, taxes. Of course, we wish our best to our CPA members, who are incredibly busy helping people with their taxes - now and through that magical date of April 15th (after which our CPA friends go through a period of "detax").

Another seasonal custom is for us to welcome **East Bay Estate Planning Council and Tri-Valley Estate Planning Council** to our April meeting. We look forward to seeing you at our joint, 3-council meeting, at which we'll be educated about the fascinating and complex area of "stale trusts".

Finally, it's that time of year to nominate new Board Directors and Officers. In accordance with our Bylaws, I have appointed a nominating committee, which will soon submit a list of nominees. In addition, if any of our Active members wish to make nominations, please be advised that the Bylaws allow any five (5) Active members to nominate Board Directors and/or Officers by written notice to our Secretary (Carol O'Neill) before May 1st.

Spring has finally sprung - enjoy!

- Robert J. Silverman, Esq.

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“STALE TRUSTS: How Can We Freshen Them Up?”

A stale trust results from a trustee's disregard of the trustee's fiduciary duties during the term of the trust. A stale trust can originate following the death of the first spouse by the trustee's failure to fund the Bypass Trust and the Marital Deduction Trust, or a simple failure to file a required estate tax return. A stale trust also can result during the term of the survivor's lifetime by the trustee's failure to administer the subtrusts properly. Whatever the cause, the stale trust is usually not discovered until its existence has been a fact for several years. Curing the problem therefore requires a review of many years of transactions that were incorrectly recorded, or not recorded at all. This problem is often compounded because the person with direct knowledge of those transactions, i.e., the survivor, may have died or become incapacitated. This lack of first-hand knowledge, together with a history of inadequate record-keeping, usually creates a complex task for the practitioner, which can translate into a significant expense for the client.

This month we are joined by **Albert Handelman, Esq.** and our very own **John Hartog, Esq.**, to speak about these problems and to offer some practical suggestions on curing the problems raised by the stale trust.

Wednesday, April 21, 2010

*Lafayette Park Hotel
3287 Mt. Diablo Blvd.
Lafayette*

*6:00 PM. Wine and Registration
6:30 PM Dinner and Speaker*

**Cost: \$40.00 dinner (preregister)
\$45.00 (at the door)**

*Reservations and cancellations
must be received by Monday,
April 19th at 1:30 p.m. to be
assured of a reservation.
Please send your check today!*

or

Pay with a credit card online

<http://www.123signup.com/calendar?Org=epcdv>

or call Bonni at:

925.686.4819

Albert Handelman earned his B.S. in Economics, cum laude, from the Wharton School of the University of Pennsylvania, and his J.D. from the University of Southern California Law Center. He was admitted to the California bar in 1978 and practices trusts and estates law in Santa Rosa with Spaulding McCullough & Tansil LLP.

John Hartog was admitted to the Bar in 1979. He earned an L.L.M. in Taxation from Golden Gate University in 1984, and his J.D. from Hasting College in 1978.

Both of our speakers are Fellows of the American College of Trust and Estates Counsel; both are former editors of *California Trusts & Estates Quarterly*. Both are recognized as leaders in their field of expertise and we are lucky to have them present the topic for us.

Join us on April 21st!