

APRIL 2014 NEWSLETTER

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THE RED FLAGS THAT SIGNALS YOUR ESTATE PLAN IS OUT OF DATE

FIRM ANNOUNCEMENTS:

A. Pozzuolo Rodden, P.C. are pleased to announce that Bernard D. Beitch, Esquire has joined our firm in an “Of Counsel” position. Bernie is a dual graduate of the University of Pennsylvania and the University of Pennsylvania Law School. For the past 53 years Bernie has specialized in: (i) representing privately held businesses and professionals; (ii)

estate planning, estate administration and estate litigation for high net worth individuals; and, (iii) has heard over 1,000 AAA federal and state court arbitrations and mediations. Bernie is a Member of the Bars of States of Pennsylvania, New Jersey and Florida.

SEMINARS:

B. Joseph R. Pozzuolo, Esquire and Jeffrey S. Pozzuolo, Esquire will be presenting a CPE/CLE at *Penn State Doylestown Campus* on **Thursday May 22, 2014** from **12:30pm-4:30pm**. The Topic will be “*Retirement Planning for Middle Income Families*”.

C. Judith P. Rodden, Esquire and Lesley M. Ibanez, Esquire will be presenting a CPE/CLE at *Penn State Doylestown Campus* on **Thursday June 19, 2014** from **12:30pm-4:30pm**.

The Topic will be “*Commercial and Residential Real Estate Practice Today: From Agreement of Sale to Closing, with Ethics*”.

Please contact Theresa M. Bloom, Education Program Manager to sign up.

Call 215-881-7402 or email: tmb17@psu.edu

D. Joseph R. Pozzuolo, Esquire will be a speaker at a CPE seminar sponsored by the Montgomery County Society of CPA’s on Wednesday May 14, 2014 @ 9:00 AM at the Cedarbrook Country Club, 180 Penllyn Blue Bell Pike, Blue Bell, PA 19422. Contact Diane McLeer at DMcLeer@Janney.com

E. Joseph R. Pozzuolo, Esquire gave a seminar to the graduating medical professionals at Thomas Jefferson University Medical School on February 25, 2014 on the topic “*Practical and Legal Considerations of Planning Your Professional Future*”.

QUESTION OF THE MONTH:

IS THERE A BILL CURRENTLY BEFORE THE NEW JERSEY LEGISLATURE WHICH WOULD INVALIDATE RESTRICTIVE COVENANTS AND NON-DISCLOSURE AGREEMENTS FOR UNEMPLOYED INDIVIDUALS WHO ARE ELIGIBLE TO RECEIVE UNEMPLOYMENT BENEFITS?

Answer-See Page 5 of this Newsletter

The Red Flags that Signals Your Estate Plan is Out of Date

Many individuals draft their Last Will in their 30's or 40's and think they are set for life. At this age, their children are all minors, their only assets are a small or fledgling business, their net estate is the down payment on their home and term life insurance, they are still with their first spouse, and they are still in good health. However, over time, there are new people in their lives, some friends and relatives slip away, children become adults, their business outgrow their expectations, and simply their preferences change. If one of the following ten red flags apply to you, it is likely your situation has changed, and your estate plan should be reviewed:

1. New Child or Only Grandchild – If you have a new child or grandchild you may want to re-evaluate your estate plan. Your prior Will may not mention children, may specifically name only one or two of your children, or may not address the special needs of a new child.
2. Your Kids are Adults Now – Little Johnny is not the same innocent wide eyed kid the last time you drafted your Will. Johnny may be a successful business tycoon and not need a large inheritance, Johnny could have a lower paying societally respected job as a police officer, fireman, teacher, . . . and you would like to reward him, Johnny may be married with kids, or now that Johnny is an adult, you feel like he should fend for himself to build character. In addition, Johnny may be your new option as your Executor, Trustee, or Health Care Agent (“Fiduciary”) solely or jointly with your close friend, spouse or trust company.
3. You Disapprove of Your Kid's Lifestyle/Decisions – As your child grew up, he may have grown a drug dependency, has a criminal history, or simply have a belief/lifestyle you do not agree with. Your child could have moved half way around the world and you rarely, if ever, see/talk with him. You may want to limit your bequests to such child or provide such bequests in trust to provide him/her with the basic necessities, and not enable him to continue his bad habits.
4. A Member of Your Family Passes Away, is Estranged or Becomes Ill/Incapacitated – A major beneficiary of your Will may have died or become ill and cannot enjoy his bequest. A named Executor may have moved away, died, or become so incapacitated that he cannot administer your estate or you had a serious disagreement with him/her and/or cannot trust him/her again.
5. You are Divorced or (Re)married – If you have become divorced or remarried, your estate plan should be re-evaluated to ensure you remove your ex or add your new spouse. If your new spouse has children from a first marriage, you may want to ensure and be certain your children from your first marriage are provided after the death of your second spouse. Divorce and marriage are major events that change your lifestyle, livings situation and subsequently, your preferences for your estate plan.

6. Your Health Has Changed – As a child you thought you would live to 100 in perfect health. If you suddenly have a life altering health issue, you may want to scale back your bequests to cover increased medical expenses and health care. If you have a sudden illness giving you a year to live, you may decide to splurge on certain extravagant vacations to enjoy your last year. If your health has changed, your estate plan likely will too.
7. You or a Beneficiary Received a Large Inheritance – You receive a large inheritance and while you may approve to give a child half of your two million dollar estate, you may not want to bequeath your child half of two hundred million dollars. In the alternative, if your beneficiary receives a large inheritance from another person, your estate may help another child/grandchild, beneficiary or charity more and/or the beneficiary may be trying to reduce his own estate for death tax purposes.
8. Your Business Has Grown Leaps and Bounds – When you drafted your last Will, you owned a fledgling business where your average annual income was a minimal despite all the hours spent growing your business. Now you own a multi-million dollar business with executives and large customers. You may need to review which child you could pass the torch to or should you just sell the business and provide your children with a trust fund. You need to address how federal estate taxes will be paid if your wealth is mainly in the business. Last, you may review advanced estate methods to transfer the business with the lowest federal estate tax footprint.
9. You Moved to a New Home or Have a Second Home – When you move to a new home, this usually signifies a lifestyle change, a job change, or a change in liquid wealth. All of these will change your estate plan preferences. In addition, a new state may have different laws. You may have to determine your domicile, certain will provisions may be invalid in your new state, or you may even have to re-execute your Will to comply with that state's Will execution procedures.
10. You Retire – After retirement you lose your income source and may question what you want to do with the rest of your life and what is important to you. You may decide to buy a home in Florida or go on a world tour instead of leaving a lump sum to your financially successful daughter. You may realize your daughter and grandchildren that visit you should receive more than your wealthy son on the other side of the world. As with any other major life event, it is important to re-evaluate your situation.
11. Your Will is More than a Decade Old – If your will has not been changed since year 2000 or prior, the paper of your Will is turning brown from age, your Will is on an antiquated stationary, or your documents are becoming hard to read, it is time to re-evaluate your estate plan. If it has been that long, likely more than one of the other red flags apply.

Your estate plan is not something you set and forget about until your death. Different stages in life and situations require varying planning techniques. An estate plan is something that grows with you and your beneficiaries and should be evaluated periodically to ensure your final

decisions provide for your beneficiaries as you did in life.

QUESTION OF THE MONTH:

IS THERE A BILL CURRENTLY BEFORE THE NEW JERSEY LEGISLATURE WHICH WOULD INVALIDATE RESTRICTIVE COVENANTS AND NON-DISCLOSURE AGREEMENTS FOR UNEMPLOYED INDIVIDUALS WHO ARE ELIGIBLE TO RECEIVE UNEMPLOYMENT BENEFITS?

Yes, the New Jersey Assembly is considering legislation, Bill No. A-3970, which would cripple New Jersey employers' abilities to enforce "reasonable" noncompetition, non-solicitation agreements and non-disclosure agreements with unemployed former employees who are eligible for unemployment benefits. In other words, if the former employee is found to be eligible for unemployment compensation benefits, the proposed bill if enacted in its current form, would nullify any non-compete, non-disclosure or non-solicitation agreements the unemployed individual has with his most recent employer.

If you have any opposition to this proposed legislation, this office strongly urges you to send an email to as many New Jersey state legislators as possible. The following is a direct link to the entire New Jersey Senate and Assembly to contact your representatives directly:

<http://www.njleg.state.nj.us/members/abcroster.asp>

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- If there are any legal questions you would like this office to answer in the future, please email the question to us at info@pozzuolo.com. Each month, the question with the most relevance to our privately held business clients, advisors, and friends will be answered in our monthly newsletter. The questions can relate to any of the areas practiced by this office including business planning and transactions, corporate law, commercial litigation, employment law and litigation, commercial real estate and development, construction law and litigation, estate planning, estate administration, tax and pension law, family law litigation.
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PUBLICATIONS

All of the following professional publications and past newsletters written by attorneys of this office are available by clicking here: http://pozzuolo.com/Pubs_Articles.shtml

- **Corporate/Tax Articles**
- Bankruptcy - How To Prevent It And How To Cope With It Should It Happen To Your Business
- Deferred Compensation Rewards And Retains Key Employees
- Design Buy-Sell Agreements For Maximum Utility

- How An S Corporation Avoids The Double Taxation Incurred When Excessive Compensation Is Treated As A Dividend
- How Mortgage Lenders Should Draft Broker Agreements To Avoid RESPA Violations
- How To Look, Act And Sound Like A Professional Corporation
- How to Structure a Suitable Buy-Sell Agreement
- How To Use Non-Qualified Deferred Compensation Arrangements As A Business, Retirement And Tax Planning Tool
- Money Purchase Pension Plan Falls Out Of Favor
- Protecting A Client's Business From Unfair Competition Using Restrictive Covenants
- Structuring Loans From Qualified Plans - How To Handle The Strict Tax Rules
- What Type of Qualified Corporate Retirement Plan Best Serves Your Business, Tax And Retirement Needs
- Why An Employment Contract Is Mandatory
- **Estate Planning Articles**
- Adapt Estate Planning Strategies to Fit the Needs of Same-Sex Couples
- College Funding Tool Offers Estate Planning Advantage
- Diversify Strategies For An Effective Estate Plan
- Divorce and Estate Planning
- Divorce Raises The Need For Performing An Estate Planning Review
- Drafting The Durable Power Of Attorney For Wealth Protection Purposes
- Estate Planning For Pet Owners
- Remarriage Situations Can Raise Special Estate Planning Considerations
- Six Proven Estate Planning Techniques
- Special Needs Trust - An Estate Planning Tool For The Disabled
- The Limited Liability Company -A Sophisticated Tool For Estate Planning
- Using Trusts To Maximize Family Protection And Minimize Estate Tax
- Why Living Wills- Advance Directives Are An Essential Part Of Estate Planning

Actual resolution of legal issues depends upon many factors, including variations of facts and state laws. This newsletter is not intended to provide legal advice on specific subjects. It is to provide insight into legal developments and issues. You should always consult with legal counsel before taking any action on matters covered in our updates.

This newsletter is courtesy of Pozzuolo Rodden, P.C.

To subscribe, unsubscribe, or for any questions, please contact us at INFO@POZZUOLO.COM.

