



November 2008

Armor Trust Attorneys

Thank you for permitting us to send you this Newsletter. If you decide that you would prefer not to receive it in the future, please simply respond to it with the word “unsubscribe.”

Our motivation for sending you this results from the unusual events of the past few months among the largest banks and insurance companies in the country. These could have important consequences for your estate planning and wealth preservation. Investment banks, commercial banks, and insurance companies have been the subject of massive government expenditures designed to save a system that apparently was on the brink of failing. And, of course, some of the institutions did fail or were forced into takeovers as an alternative to closing: Lehman Brothers, AIG, Merrill Lynch, Wachovia, and others. The problems at these once-venerable institutions boggle the mind.

Review Your Trustee and Successor Trustee Selections

Many people make decisions about trustees and successor trustees when they have estate planning documents prepared and then do not think about them again for a number of years. This is especially true in the case of trusts created in Wills and other trusts that have not yet been funded. We recommend that you re-consider your decisions periodically, and the present certainly is an appropriate time to do so. Remember that trustees often serve for many decades, even generations.

The immediate issue regarding corporate trustees is whether the corporation named in your estate planning documents has been sold or involved in the government bailout program. These events are likely to change the service package that they provide in the future. Local servicing may be in doubt. Fee structures might be changing. And an even more significant concern is whether the corporation will be willing to serve as your trustee at all in the future.

Another concern is the security of trust assets. Since trust assets are not subject to the claims of the trustee’s creditors, bankruptcy should not place trust assets at risk. On the other hand, financial pressures of the trustee, including stringent oversight by the government after bailout, might have a detrimental effect on the level of service that the trustee is able to provide.

One other thing to look for when reviewing your documents is whether or not family members who are beneficiaries of your trust will have any ability to adjust to future changes affecting the trustee. We believe trusts should include governance procedures that provide for this.

Conclusion: As attorneys, we can help you select a trustee or successor trustee, and we can be sure to provide appropriate trust governance provisions so that future beneficiaries continue to have a role in reviewing Trustees and replacing them when necessary.

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