
PREFACE

Since publication of our original volumes of *Asset Protection Strategies* in 2002 and 2005, a number of interesting developments have taken place, important to the field of asset protection. For one, the number of states that have adopted statutes permitting self-settled asset protection trusts (DAPT) has more than tripled, to 17 states. While it is extremely unlikely the number will ever get to 50, the more states that adopt the self-settled trust concept, the greater the awareness and popularity of such trusts, the more competition there will be among those states vying for the trust and investment management business that goes along with the establishment of an asset protection trust, and perhaps most importantly, we may get to see the answer to the most important underlying question regarding the domestic asset protection trust—that is, whether the “full faith and credit” clause of the United States Constitution will force the DAPT state to enforce a judgment from another state against the trust or the settlor of the trust.

In the meantime, although cases are beginning to surface that test the strength of these trusts, in general, each of the few cases we have seen has involved a trust established by a desperate and aggressive debtor that had little chance of success, instead of one whose trust was a part of a legitimate estate plan established before any claims arose. An example of the former is the “Huber” case (*In re Donald Huber*, 493 B.R. 798 (Wash. 2013)). In that case, Donald Huber, a Washington resident, got himself deeply in debt, and just before he filed for bankruptcy protection, he established an Alaska asset protection trust to which he transferred virtually all of his assets, except that virtually all those assets consisted of real estate situated in Washington, so they were “transferred” to the trust by means of an interest in a limited liability company. The transfer was clearly a fraudulent transfer, and the trust was clearly a sham. For this and several other reasons, the court disregarded the Alaskan trust altogether and held the assets to be part of Huber’s estate in bankruptcy.

Another development that is bound to affect asset protection planning is the promulgation of the Uniform Voidable Transfer Act. This was billed by the Uniform Committee as mainly an update to the Uniform

Fraudulent Transfers Act, but as you read the relevant chapter by George Karibjanian, you will see there are different opinions on the truth of this, and there may be serious traps to keep in mind. Then an almost opposite opinion on the same topic is offered by Jay Adkisson. Other important chapters that can have an impact on your practice include Barry Engel's and Jackie Fox's chapter on contempt of court and two informative chapters on charging orders. In fact, perhaps every chapter should be listed here, as each is critical to the practice of asset protection planning and each offers the advice and opinion of experts practicing in the field. Although a number of the chapters cover topics similar to those in the earlier volumes, all of the chapters have been reviewed and updated by the authors from the standpoint of offering what each author feels is the best information from a practice standpoint. In that regard, we sincerely hope you find our special compilation of subjects helpful in advising clients on domestic and offshore asset protection matters.

Alexander A. Bove, Jr.