Report #9

A complete listing of the proceedings and speakers is available on **the Institute's Web site**

As we have done in January for the last ten years, and again with the permission of the University of Miami School of Law Center for Continuing Legal Education, we will be posting daily Reports to this list containing highlights of the proceedings of the 41th Annual Philip E. Heckerling Institute on Estate Planning that is being held January 8-12, 2007 at the Orlando World Center Marriott Resort and Convention Center in Orlando, Florida, a new venue for the Institute this year. A complete listing of the proceedings and speakers will be published here later and is also available on the Institute's Web site at http://www.law.miami.edu/heckerling.

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Errata: The Report for The Perfect Storm Ethics Rules session on Thursday morning in Report No.7 was actually for the Special Session 3-E on the subject that was held Thursday afternoon. Thus, we will start below with the Report from the main morning session. We apologize for the mixup and any confusion.

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This Report contains coverage of the Thursday afternoon Special Sessions on Post-Mortem Planning for Retirement Benefits, Directed Trustees and Ethics Rules of Circular 230

Fundamentals Program #3 - Making Friends with Subchapter K Thursday afternoon, January 11, 2007 Presenter: Richard Robinson

The Report for this Program will be published later

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Special Session 3-A - Simplified Trail Resolution from an Estate Planner's Point of View. Thursday afternoon, January 11, 2007 Presenters: Robert Goldman, John Rogers, Bridget Logstrom and Bruce Stone

The substance of this Special Session is covered by the similar Session that was presented on Tuesday morning.

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Special Session 3-D - Coordinating Business and Succession Plans Thursday afternoon, January 11, 2007 Presenter: Jonathan Lurie

The Report for this Special Session will be published later

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Special Session 3-F - Planning with Derivatives and Structured Products Thursday afternoon, January 11, 2007 Presenters: Stacy Eastland and George Albright

The substance of this Special Session is covered by the Session by the same title that was presented on Tuesday morning.

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The Perfect Storm: How the Confluence of Tax Planning and Ethics Rules Can Sink the estate Planner, the Fiduciary and the Estate Plan Thursday morning, January 11, 2007

(Note: the report for Special Session 3-E for this topic was mistakenly included as part of Report 7 as if it was the report for the main session, so we are including the text of the main session report here. The reporter for both sessions is the same) Presenter: Mary Ann Mancini

Reporter: Paul Hood Esq. of L. Paul Hood Jr. (APLC) in Mandeville, Louisiana

Mary Ann Mancini presented the topic “The Perfect Storm: How the Confluence of Tax Planning and the Ethics Rules Can Sink the Estate Planner, the Fiduciary and the Estate Plan.”

Mancini highlighted the various ethics rules that apply to estate planners, and she noted that estate planners owe a duty to the system, which has increased substantially over the past few years due in large part to the so-called “tax gap.”

She pointed out a tension between the conflicting positions of the ABA and the ABA Section on Taxation relative to whether the position between the IRS and a taxpayer is adversarial.

She reviewed Circular 230. In particular, in reviewing Section 10.21, Mancini noted that practitioners must inform a client of a material omission or other noncompliance with the tax laws, even though the client has no duty to file an amended return. She also reviewed in detail Section 10.34, which applies to both written and oral advice. Mancini alerted all to the realistic possibility of success (one in three).

Mancini gave four central tenets for tax planning: the planner must represent the client diligently, you must keep client confidences, you can only accept information from the client if you have a reasonable belief that the information is correct and you can not mislead the IRS or allow the client to use you to mislead the IRS.

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Special Session 3-B It All Starts When the Participant Dies: The Executor's Guide to Post-Mortem Compliance and Planning for Retirement Benefits Thursday afternoon, January 11, 2007 Presenter: Natalie Choate

Reporter: Merry Balson Esq.of Wade, Ash, Woods, Hill & Farley in Denver, Colorado

This special session covered retirement benefit issues after the plan owner dies, the executor’s and trustee's duties, advising beneficiaries who have inherited a retirement plan. The materials are in Volume Two of the Special Session Materials, outline number III-B [available only to registrants - not sold after Institute].

There are at least three difficult issues that arise for the executor/trustee when the estate/trust consists substantially of retirement benefits.

1. Whether to recharacterize a Roth IRA conversion. A Roth IRA can be recharacterized and essentially returned to a traditional IRA during a certain period of time after conversion from a traditional IRA to a Roth IRA. The regulations permit the executor to essentially undo the initial conversion. The executor would have a duty to undo the conversion to avoid penalties to the estate. The problem arises where the Roth IRA beneficiary and the estate beneficiary are different persons for the following reasons. Upon conversion, income tax is generated and would be a debt owed by the estate if the tax is unpaid at the time of death. The executor would seemingly have a duty to undo the conversion to maximize the estate and avoid the tax. However, the Roth IRA beneficiary would receive the Roth IRA income tax free if it passes to him as a Roth IRA, and would have to pay income tax on the IRA if it is converted back to a traditional IRA. There is no guidance on how to handle this issue from the IRS or the courts.

2. Whether to complete a rollover of a distribution where the decedent took the distribution during life intending to rollover the distribution into another plan, but died before completing the rollover. As of 2001, the normal 60 day time frame to rollover assets could be extended by the IRS in cases of hardship, where not to extend it would violate equity or good conscience. The legislative history and regulations provide examples of hardship, which include institutional error, illness, famine, flood, and death. After years of resistance, the IRS has finally started to allow extensions for death based on hardship. Now the executor must put this on the checklist of things to do in an estate. The executor must not only look for distributions within 60 days of death, but because a hardship exception might be granted, older distributions might also qualify and the executor's responsibilities here are now unclear. Ms. Choate raised the additional problematic question of how the executor determines what IRA to contribute the funds to, or who to designate as beneficiary if a new IRA is created for this purpose. There is no clear guidance on this point.

3. Decedent's failure to take the minimum required distributions ("MRDs"). There is a penalty on the failure to take MRDs of 50% of the amount of the missed distribution. The executor is personally liable for the decedent's personal taxes, including the penalty. Note that when the executor requests a liability for income and other taxes be sure to include this on the list. If the executor notices that a decedent over age 70 1/2 reported no MRDs on prior income tax returns, the executor should file an amended income tax return for the year of the missed distribution attaching a Form 5329 (describing the amount of the missed distribution and calculating the penalty), and request a waiver of the penalty. The reporting is to be made on the return for year the distribution was missed. Filing the return is required not to report the income from the missed distribution, but to report that the decedent missed the distribution and therefore a penalty applies. The IRS will waive the penalty if the taxpayer shows good cause for missing the distribution, and that an effort was made to remedy the shortfall. The remedy is difficult when the decedent/owner has died because the beneficiaries, not the executor, have no control over the IRA. If the beneficiaries of the IRA and the estate beneficiaries are different persons, the IRA beneficiaries will not want to make a distribution from the IRA to satisfy the missed MRDs. Ms. Choate noted that the good news is that it now appears that the requirement to pay the penalty when the waiver is requested has been dropped from the instructions to Form 5329, and publication 590 (it never appeared in the Code or

regulations). A related question is whether the statute of limitation period for missed distributions starts to run at the filing of the decedent's Form 1040 or upon the filing of the Form 5329. The cautious approach (and the one recommended by Ms. Choate) is to recommend that everyone over 70 1/2, and everyone with an inherited IRA, file a Form 5329 with an explanation of how you calculated the distribution every year with every return showing there is no penalty owed just to get the statute of limitations started.

Next, Ms. Choate addressed issues relating to how retirement benefits are treated on the estate tax return.

1. Retirement benefits are reported as annuities on the estate tax return. The value of the assets in the IRA is the reported value, however, the application of the alternate valuation date rules on IRAs are unclear. If poorly performing stock in the IRA is sold shortly after death and is reinvested in a stock that appreciates while the other estate assets are depreciating, the executor may want to make the alternate valuation date election. The unresolved question is, for alternate valuation date purposes, is the IRA is the asset that is valued (in which case the higher value on the date that is 6 months after date of death is used), or do you look inside the IRA and determine value on a stock by stock basis (in which case the lower value on the date of sale is used). The IRS has not issued any guidance on this issue, and as long as you are consistent on the return, you can probably value it either way.

2. Several cases have now held that a valuation discount on the estate tax return is not available on an ira for the income tax liability built in to the account.

Ms. Choate reviewed cleanup strategies when things go wrong in an estate with retirement benefits.

1. Payment of estate expenses, taxes, etc. The IRS has hinted that if an IRA is payable to a trust that contains what is often boilerplate provisions authorizing the trustee to use assets of the trust as necessary to pay the estate's debts, expenses and taxes, that this may result in a nonindividual beneficiary (the estate) and the see-through rules will not apply. Despite this hint, the IRS has never disqualified a trust for containing that clause in any published ruling, regulation or other authority. Approximately 50 rulings have allowed see through treatment, and these rulings are outlined at page 26 of the materials.

2. Strategies where the decedent's estate is the beneficiary. The primary advantage of an IRA is tax deferral, which can be achieved only by leaving the benefits to an individual human beneficiary or a qualifying see through trust. The qualified beneficiary can stretch out distributions over the beneficiary's life expectancy deferring the tax. If the plan is payable to an estate, the life expectancy payout is not available, and the payout period is generally much shorter resulting in less deferral. If the owner dies before age 70 1/2, payout is 5 years for an estate; if death is after age 70 1/2, the payout is whatever was left of the decedent's life expectancy, which is better than 5 years usually, but not as good as the beneficiary's life expectancy. In cleanup mode, there are several ways to deal with an IRA payable to an estate.

a. Do not assume the default beneficiary is the estate just because there is no named beneficiary. In many cases this is true, but you must read the plan document to be sure. Qualified plans are required by law to be payable to the surviving spouse unless the spouse consents to another designation. Some IRAs default beneficiary is the spouse or issue.

b. If the decedent intentionally named the estate as the beneficiary, look for way to invalidate that designation through failed requirement (such as spousal consent or missing notarization).

c. Consider reforming the beneficiary designation through a court proceeding if some evidence exists that the reformation would carry out decedent's intent. A recent PLR approved reformation of a beneficiary designation.

d. Use the spousal rollover through the estate or a trust by using the elective share. This is particularly useful where the spouse can select the assets to fund the elective share. The spouse could select the IRA as her elective share asset and then roll it over into her own IRA. The IRS seems to have no trouble approving a rollover of this nature where the spouse has the right to take the IRA out of estate or trust and she's the only one with the right to pay to herself.

e. Use the spousal rollover in a will contest, where a legitimate and reasonable settlement provides that the spouse can take the IRA as her share outright. The rollover will only work if litigation is bona fide.

f. Pages 38-40 of the materials set out a series of rulings going back into the 1980s where the IRS has allowed a rollover through an estate or trust where the spouse has the right to take the money out of the estate. Ms. Choate noted that one of her biggest gripes with the IRS is that despite the consistent PLRs on this issue, they refuse to issue a regulation or Revenue Ruling. As a result, IRA providers often require a letter ruling to allow this kind of rollover because the beneficiary designation is payable to the estate.

If the decedent dies before taking his MRD, the beneficiary must take it.

An estate or trust can distribute an IRA out to the beneficiary in tact and the fiduciary need not terminate the IRA to make the distribution. The trustee simply distributes the IRA to the beneficiary, who will take over as the successor beneficiary of the IRA and will receive distributions personally. The fiduciary should use the sample letter provided in the materials at page 47 to instruct the IRA provider to change title of the account to be payable to the individual as beneficiary. The plan administrator may say they cannot do that, and if they refuse, the fiduciary can transfer the IRA in the name of the estate or trust to an IRA provider that is more enlightened. Ms. Choate provides a lists of those providers who will allow this kind of transfer at her website: www.ataxplan.com.

Ms. Choate took a series of questions and answers as follows:

Q: Taxpayer is over 70 1/2, owns an IRA and realizes he hasn't taken the MRDs for several years. To calculate the MRDs, do you reduce the account balance by the MRDs that should have been taken? A: There is no authority for doing that and you should use the actual account balance, or get a ruling approving the reduction.

Q: Where the IRA names the estate as beneficiary, and a power of attorney gives the agent powers in estate and trust matters and the power to make gifts, can the agent change the beneficiary designation? A: The answer depends on the document and will be based on state law.

Q: A trust is the beneficiary of an IRA and is taking distributions over the life of the oldest beneficiary. The trust will be terminating and has multiple beneficiaries. Can separate accounts be set up for each beneficiary, using the oldest life expectancy for MRD purposes, so that each beneficiary is responsible for his or her own MRD?   A: The law here is nonexistent. The IRS has allowed similar account set ups in PLRs, but the concepts are not easy to reconcile because technically they have a single account for MRD purposes.

Q: IRA beneficiary is a conduit trust with multiple beneficiaries and discretion to spray income and principal, where the oldest beneficiary's life expectancy is being used for MRDs. Must the trustee make distributions pro rata? A: There is no requirement that the MRD is distributed pro rata if the trust gives the trustee the power to spray distributions among a group. So long as the trustee takes the required distribution and pays it out to someone in the group, the MRD is satisfied, and there is no requirement that the payments be made equally.

Q: Can you designate subtrusts within a revocable trust (e.g., trust a, trust b, and trust c) and use the life expectancy of the oldest beneficiary of each trust for MRD purposes? A: Yes, if the beneficiary designation specifies x% to trust a, x% to trust b, etc., the division is created in the beneficiary designation, and the MRD for each subtrust will be the oldest beneficiary of that trust. However, if the beneficiary designation names the funding trust, then you must use the oldest beneficiary of all trusts. See Chapter 6 of Ms. Choate's book for more on this.

Q: 401(k) owner dies prior to the PPA naming a nonspouse beneficiary and the beneficiary is still within the 5 year deferral period with no distributions having been made since death. Can the beneficiary use the new provision under the PPA to turn this into an inherited IRA?   A: It is unclear. Under PPA, a 401(k) beneficiary can now transfer the fund to an inherited IRA. The plan here required a lump sum distribution to be taken within 5 years, and the beneficiary chose to defer payment as long as possible. PPA creates a completely new right so we are in limbo where the existing regulations appear to say that the beneficiary must make an irrevocable election between the 5 year rule and the life expect payout no later than end of the year of the year of death. However, at the time of death there was no election to make, so the IRS will have to fill in this gap. A ruling may be needed here. Ms. Choate was hopeful the IRS would allow this conversion so long as you took a catchup distribution for the missed years.

Q: Does the new law apply to distributions from profit sharing plans? A: Yes, the ability to convert to an inherited IRA applies to any plan, including 403(b)s, defined benefit, pension, and profit sharing plans, not just 401(k)s.

Q: Does Ms. Choate still believe that if a trust that is not a conduit trust is payable outright to a beneficiary at some time that there is no need to look to the contingent beneficiaries for purposes of determining the oldest beneficiary? A: No, the regulations now say that this does not work, and you must consider the contingent beneficiary.

Q: Is there a solution for an IRA left to 1 of 5 children who was to divide it up among the siblings? A: Consider reformation or disclaimer.

Q: If the IRA funds are transferred to nonspouse beneficiaries, and the spouse later files for the elective share asking to satisfy the share with the IRA, is that eligible for a spousal rollover?   A: If the funds are held in the IRA (not distributed to the nonspouse beneficiaries) and the spouse is successful, she can get the IRA as part of the election and may be able to make a late rollover, but if the other beneficiaries already received the IRA assets and paid the tax, this will not work and there are other problems.

Ms. Choate mentioned that disclaimers are often the Cadillac of post mortem planning. The chapter on disclaimers from her book is reproduced at page 51 of the outline. Keep in mind that when the default beneficiary is children, and the owner designated the estate as beneficiary, the IRS has said that the estate cannot disclaim because of the acceptance of benefits issues. Ms. Choate also noted that in Revenue Ruling 2005-36, the IRS held that when a surviving spouse takes a year of death MRD from the decedent's IRA, that would not constitute an acceptance of benefits for disclaimer purposes, and the spouse could later disclaim all or part of the plan benefits. Additionally, the IRS said that a year of death distribution does not have to be taken proportionately if there are multiple beneficiaries, as long as some beneficiary receives the money. If the spouse took out the MRD and an extra amount, she may still be able to disclaim, but she would note fall within the safe harbor of the revenue ruling so she would have the burden of proof to show she accepted the distribution but not the rest of the plan. Ms. Choate recommended that the spouse file something saying she is taking a portion of the plan now, but not deciding whether to accept the rest of the plan, so that she might have partial disclaimer. Note however that if the spouse directs the sale and reinvestment of IRA assets she cannot later disclaim because she exercised control over the assets.

Page 69 of the materials includes a chart outlining the differences between an inherited IRA and a person's own IRA. These differences need to be explained to the beneficiary of the inherited IRA, and include: the beneficiary owns the inherited IRA tax purposes, but it is the original owner's IRA, not his IRA for all other purposes; the beneficiary can take money out of the inherited IRA whenever he wants even if he is under age 59 1/2; the beneficiary cannot contribute to the inherited IRA, only to his own; the beneficiary does not have to take distributions from his own IRA until age 70 1/2 using the uniform lifetime table, but distributions from the inherited IRA must be taken out right away over the beneficiary's life expectancy based on the single life table; the beneficiary can convert his own IRA to a Roth IRA, but cannot convert an inherited IRA; and the IRAs cannot be commingled.

Plan administrators sometimes refuse to cooperate with an executor's request for information about the retirement plan and say they will only deal with the beneficiaries of the plan. In planning mode, the best solution to this problem is to include in the beneficiary designation form that the plan administrator must provide information to the executor. In cleanup mode, use the letter on page 49 of the outline which essentially notifies the plan administrator that because they have refused to provide the executor the necessary information, under §6018(b) the obligation to file the estate tax return for the retirement plan has shifted to the plan administrator as the person in possession of the asset.

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Special Session 3-C Directed Trustees, Co-Trustees, and Successor Trustees - Fiduciary and Regulatory Issues Thursday afternoon, January 11, 2007 Presenters: Dennis Belcher, David Pankey and Ann Hart Wernz

Reporter: Joanne Hindel Esq. of Fifth Third Bank in Cleveland, Ohio.

Dennis Belcher started off by reviewing the trustee's duties when delegating investment responsibility.

Assuming delegation is authorized by the governing instrument and applicable law, a trustee has these duties in delegating investment responsibility:

- determining whether the trustee should delegate all or a portion of the investment responsibility

- exercising reasonable care in the selection of the investment manager

- determining the scope and terms of the delegation, and

- reviewing and monitoring the delegation.

A trustee must be process oriented and should document the process followed in each of the steps mentioned. The first step should be the development of a written investment policy and should have a written agreement with the party to whom the delegation is made. If possible, the beneficiaries should also acknowledge the delegation.

He then discussed the duty of a directed trustee to supervise actions of a trust advisor.

In reviewing the trust instrument, the trustee should pay particular attention to the role of the trust advisor under the document; the terms of the grant of authority to the trust advisor; the duty of the trustee to supervise and monitor the directions given the trustee by the trust advisor; the procedure, if any, for the directed trustee to question the directions given the trustee by the trust advisor and whether there is any limitation on the liability of the directed trustee for following the trust advisor's directions.

The panel then discussed five discussion problems contained in the materials.

In the first problem, a small community bank trust department, with little investment expertise, assumes trusteeship of a trust established by an individual who was a member of the Bank's board. The trustee proposes to invest 50% in equities and 50% in bonds and the panel is asked whether the trustee should consider delegating the investment management to a third party and if so, what steps the trustee should take in this regard.

The panelists agree that the trustee should consider the delegation of investment management to a third party and then discuss what type of record of the delegation will be required and whether the trust beneficiaries should be consulted in the delegation.

In discussing the involvement of the beneficiaries, a distinction is made whether the beneficiaries want the trustee to use a particular third party investment manager, in which case the trustee should attempt to obtain some type of acknowledgement and perhaps exculpation for the use of that third party. If, however, the trustee chooses the outside money manager, then the input of the beneficiaries is not required.

The panelists discuss the terms of the delegation to the third party.

The trustee and the investment managers should agree on the investment objectives, the asset allocation, the appropriate measuring benchmarks and the trust's cash needs.

The agreement should also address fees and the trustee should consider the total cost of the services and their tax deductibility.

If the investment manager to whom the trustee will be delegating the investment authority is an affiliate of the trustee, it will be necessary to add additional language covering the self-dealing aspects of using an affiliate.

A trustee who delegates the investment management function to a third party should consider whether the trustee can have the benefit of an exculpation clause for the acts of a third party investment manager. In some states, exculpation clauses are not enforceable. Even in those states that recognize exculpation clauses, the clauses are not generally enforceable in all instances.

The panelists discuss the appropriateness of providing the third party money manager with a complete copy of the underlying trust agreement. Dennis indicates that this should be done so that the money manager knows the trust terms and does not have to rely upon paraphrasing by the trustee, whereas Ann suggests that the entire document should not be given to the money manager and the terms of the delegation should be spelled out in the Investment Policy Statement (IPS) thereby protecting the confidential nature of the trust.

David addresses the question of ongoing monitoring by the trustee of the actions of the money manager and suggests that it should be done at least once a year or preferably more frequently. In conjunction with questions from the audience, the panel agrees that the monitoring should be a combination of review of the IPS and assurance that the money manager continues to follow the IPS terms and an investment performance review against stated benchmarks.

The panelists also suggest that if a lawyer is counseling an individual trustee, that the counsel include the retention of a consultant to help in picking an outside money manager.

David also suggests that the IPS include that the assignment to the money manager is not further delegable or assignable and should include an arbitration or dispute resolution provision.

In Problem #2, the corporate trustee is larger and is considering delegating investment management to an affiliated investment adviser.

Ann suggests that most states have laws that allow delegation to an affiliate but a trustee can obtain authorization to so delegate if no state law exists if the agreement provides for the delegation; the conflict for the trustee is waived by all the beneficiaries or a court orders the delegation to an affiliate.

She also indicates that in delegating to an affiliate with proprietary mutual funds fees and performance are factors that should be considered by the trustee.

She also points out that if the bank charges its full fee at the account level and then pays the money manager its fee out of the bank’s fee then no conflict exists.

In Problem #3 a small bank with little investment expertise is trustee of a grantor trust over which the grantor has retained all investment authority. When he dies, the stock plummets in value and the beneficiaries ask to meet with the trustee.

The questions posed to the panel are whether the trustee has any liability exposure and if so, on what basis?

Ann outlines the general state of the law in this area.

The UTC , in a significant departure from the Restatement (Second) and the common law, sets out two standards for a directed trustee, one applicable to direction of a settler of a revocable trust and the second to persons other than a settler of a revocable trust.

Section 808 provides that while a trust is revocable, the trustee may follow a direction of the settler that is contrary to the terms of the trust. With respect to a third party's power to direct, the UTC sets a significantly different standard than the common law in requiring the trustee to act in accordance with the direction unless it is manifestly contrary to the terms of the trust or the trustee knows the attempted exercise would constitute a serious breach of trust.

She suggests that the trustee should look for additional language in the document beyond the settlor's ability to direct the trustee and that is specific language giving the trustee the ability to retain the directed stock. She also suggests that the trustee meet regularly with the settler and his family, if he allows, and document the ongoing recommendation to diversify along with the family/settlor's decision not to do so.

In Problem #4, the bank serves as co-trustee with the son of the settler, who is also the president of the settlor's company. The trust assets consist primarily of company stock. The trust beneficiaries are the son and the daughter who also hold veto approval over the co-trustees in their ability to change any of the assets of the trust, including sale of the company stock. When the daughter asks the bank to sell the stock, the son, co-trustee objects.

The panel is asked what liability exposure the bank has and what it can do to protect it from liability.

All panelists agreed that this scenario is ripe for litigation since the daughter and son do not agree and the son has a self-interest in retaining the company stock. They all suggest that the trustee should soon seek court instruction on how to handle the situation.

Dennis further points out that the same lawyer should not represent both co-trustees however Ann suggests that both co-trustees can use the same expert witness to advocate diversification of the stock.

In Problem #5, a bank is asked to assume successor trusteeship of a trust that has purportedly been mismanaged by the prior trustee. The questions for the panel are what should the bank do before assuming trusteeship (what due diligence) and does the successor trustee have an obligation to review the actions of the predecessor and then bring an action against him if necessary.

The panelists agree that the bank should discuss the situation with the beneficiaries in advance of assuming the trusteeship and then, if warranted, pursue a claim against the prior trustee.

Dennis points out, however, that anyone should consider walking away from a bad piece of business and this one might be just that kind of situation.

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Our on-site local reporters who are present in Orlando this year are Gene Zuspann Esq. of Zuspann & Zuspann in Denver, Colorado, Herb Braverman Esq. of Walter & Haverfield, LLP in Cleveland, Ohio, Merry Balson Esq.of Wade, Ash, Woods, Hill & Farley in Denver, Colorado, Paul Hood Esq. of L. Paul Hood Jr. (APLC) in Mandeville, Louisiana, Joanne Hindel Esq. of Fifth Third Bank in Cleveland, Ohio. Jason Havens Esq. of Havens & Miller PLLC in Destin, Florida, Alan Rothschild Esq. of Hatcher, Stubbs, Land, Hollis and Rothschild, LLP in Columbus, Georgia, and Kimon Karas Esq. of McCarthy, Lebit, Crystal and Liffman Co., LPA in Cleveland, Ohio. The editor again this year will be Joseph G. Hodges Jr. Esq, a solo practitioner in Denver, Colorado, who also is the Chief Moderator of the ABA-PTL List.

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