Dennis I. Belcher, ACTEC President 2009-2010, originally presented these slides during the Joseph Trachtman Lecture at the annual meeting of The American College of Trust and Estate Counsel in Las Vegas, Nevada, on March 19, 2016.
DO WE NEED A CANARY OR DID THE CANARY STOP SINGING AND WE MISSED IT?
Background

• Significant changes to transfer tax system
  – 2001
  – 2010

• Task Force on Estate Planning in the 21st Century
  – Jeff Pennell, Bruce Stone, Susan Snyder and Dennis Belcher

• 2012 transfer tax changes
Presentation Outline

• Changes in the financial services industry
• How we can respond to changes
• How ACTEC can help us respond to changes
POLITICIANS ARE LIKE DIAPERS. THEY NEED TO BE CHANGED OFTEN AND FOR THE SAME REASON.

Courtesy of Change-Despair.com
Financial Services

- Estate planning
- Investment management
- Tax planning
- Business planning
- Insurance planning
- Charitable planning
Financial Service Providers

- Lawyers
- Accountants
- Financial institutions
- Investment managers
- Insurance professionals
- Charities
Times Are Changing

• Transfer taxes affect fewer clients
• Marketable securities wealth is increasing
• Significant intergenerational transfer of wealth
• Client demographics are changing
Wealth Is Increasing/Decreasing

• Wealth in marketable securities (Dow Jones)
  – April 2006 11,113
  – April 2011 12,321 (5 year + 10 %)
  – March 2016 17,213 (10 year + 50 %)

• Residential Housing (Case-Shiller)
  – April 2006 184
  – April 2011 139 (5 year - 24 %)
  – December 2015 176 (10 year - 4 %)
Negative Change Drivers

- Decreased significance of federal transfer taxes
- Increased income taxes
- Increased competition from non-law firm sources
Decreased Significance of Federal Transfer Taxes

- Increased exclusions
- Decreased rates
- Stability of transfer taxes and less need to change estate planning documents
- Portability and less need for marital trusts
Number of Estate and Gift Tax Returns Filed: 2001-2014
Make-Up of 2014 Estate Tax Returns

- Under $5 Million: 938
- $5 Million to $10 Million: 345
- $10 Million to $20 Million: 1,631
- $20 Million to $50 Million: 2,283
- $50 Million or More: 6,735
Transfer Tax Changes: Lessons Learned

Less estate tax planning work for the clients with less than $5 million)

More estate tax planning work for the ultra high net worth

Large population with $5 to $10 million of wealth

But may be one election away from changes
Increased Competition

Financial institutions (family offices) educating clients on estate planning

**Advantages**
- Great referral sources
- Screening out unwanted clients
- Better educated client is a better client

**Disadvantages**
- Danger of the lawyer becoming a scrivener
- Danger of lawyer not being the trusted advisor
Positive Change Drivers

- Transfer of wealth
- Changing demographics
- Clients are better educated
- Life is more complicated requiring more advice
- Robo investing makes investing more of a commodity
Transfer of Wealth

• $12 trillion transferred from individuals born between 1928-1949
• Additional transfer of $30 - 41 trillion between 2011 and 2048
• Money is in motion
• Opportunity to build/lose client base
Changing Demographics

• Older population
• Children are dependents longer
• Children are marrying later and having children later
• Creates opportunity
Clients Are Better Educated

• “Estate planning” 11,100,000 results on Google (Legal Zoom and financial institutions)
• Most informed client does not always hire the best lawyer
• “ACTEC” does not show up until deep
Life Is More Complicated

• Clients face more complicated situations at an older stage in life when clients are less able to deal with complications
• Clients need more advice on more subjects
• But will clients pay for the advice?
Financial Services: – Client Controlled?
Financial Services: One Stop Shopping?

- Estate Planning
- Tax Planning
- Investment Planning
Robo Investment Advisor

- Online investment advice which provides automated investment advice
- Client completes form to determine investment goals and risk tolerance
- Automatic rebalancing
- No wealth planning advice
Robo Investing

• Reduced investment fees (15/25 basis points plus ETF fees)
• Commoditizes investments
• Betterment.com-Wealthfront.com
• Assuming ethical rules permit, should a law firm create a partnership with investment management firm to create a one-stop shop?
Future of ACTEC Fellow

- Must adapt to changes to survive
- Darwin theory
It is not the strongest of the species that survives, nor the most intelligent that survives. It is the one that is most adaptable to change.”

- Charles Darwin
Darwin Award

Lawn Chair Larry
Growth Areas

• Planning for the ultra-high net worth
• Income tax planning
• Fiduciary litigation
• Business planning
• Charitable planning
• Elder law planning
• International planning
High Net Worth Market

- National market
  - $30 to 41 trillion wealth transferred in next 50 years
- Increasing market
- $5 to $10 million is growing
Business Planning

• Transfer tax planning
• Income tax planning
• Governance
• Shareholder disputes
• Mergers and acquisitions
Charitable Giving

• **Increase at the ultra-HNWI**
  – Focus on transferring family values

• **Decrease at the Affluent level**
  – Less tax incentives

• **Private Foundations will increase**
  – Client control

• **Donor Advised Funds (Community Foundations, etc.) will remain popular**
ACTEC – Independent Advice

• One distinguishing feature of most ACTEC Fellows is that the Fellows don’t sell products
• This gives a Fellow the ability to give independent advice when compared to financial institutions, investment advisors, and insurance professionals
How to Respond to Change Factors

• **SWOT analysis**
  – What are your strengths (independence)
  – What are your weaknesses (billable hours)
  – What are the opportunities (transfer of wealth)
  – What are the threats (transfer tax not as significant, becoming a scrivener)

• Develop and follow strategic plan
How to Respond to Change Factors

• **Determine your current clientele**
  - Determine net worth of all clients served during last 36 months (above $50 million, $50 million to $10 million, $10 million to $5.0 million, and under $5.0 million)
  - Determine type of work performed for clients during last 36 months (planning, estate administration, litigation, business planning, charitable)
How to Respond to Change Factors

- Are your current clients the right clients for you, your staff, and your firm?
- If not, what clients do you want?
What can financial planning professionals learn from a comparison of the *Beverley Hillbillies* and *Star Trek*?
The Beverley Hillbillies

*The Beverley Hillbillies* ranked among the top 20 most watched programs on television for eight of its nine seasons, twice ranking as the number one series of the year.
Star Trek

The series was produced from September 1966–June 1969. *Star Trek*'s Nielsen ratings were low, and it was canceled after three seasons and 79 episodes.
The Beverley Hillbillies vs Star Trek

Beverley Hillbillies
• 9 Seasons (three times more seasons than Star Trek)
• 274 Episodes (195 more episodes than Star Trek)

Star Trek
• 3 Seasons
• 79 Episodes
Beverley Hillbillies after Cancelation
Star Trek after Cancellation

Star Trek - The Next Generation
• Television series: 1987-1994

Star Trek
• Movie series- six

Total box office world wide:
$2 billion
The Beverley Hillbillies Clientele

- Easy to develop
- Profitable in the short term
- Not memorable in long term
- Little spin-off work
The Beverley Hillbilly Lawyer/Clients

- Simple matters
- One shot relationship
- Price sensitive

- Commodity clients
- Pays the overhead
Star Trek and a Financial Planning Practice

- Complicated plots
- Requires investment
Issues Facing a Beverley Hillbilly Lawyer/Clientele

- Commodity
- Price sensitive
- Leverage
- Boredom
- Drift to the left
Drift to the Left
Complex Work Becomes Commodity over Time
The Beverley Hillbillies Clientele

• Not disrespectful
• Makes up a portion of my clients
• I have hillbilly blood
Red Belcher (1914 – 1952)

• Banjo player with band, Kentucky Ridgerunners
• Played hillbilly music on WWVA jamboree (Wheeling WV)
• Now called early bluegrass music
• Died in a car crash 1952
The Star Trek Lawyer/Clientele

• More complex matters
  – Assets
  – Beneficiaries
• Less price sensitive
• Multiple contacts
• Lawyer becomes trusted advisor
Issues Facing a Star Trek Lawyer

• Investment in the client – it takes a while to become a trusted advisor
• Intrusion by other trusted advisors – Financial institutions
• Generally requires a team because of the client’s needs
The Advantages of Being a Trusted Advisor

A trusted advisor:

- Gets more legal work
- Gets more sophisticated work
- Gets more lucrative work
- Produces attractive work for younger lawyers
How to Be a Trusted Advisor

• Have credibility (ACTEC designation)
• Invest in knowing more about the client
• Spend time with the client without charging
• Schedule regular meetings with the client
• Get to know the client’s family
• A client can have more than one trusted advisor
What Can ACTEC Do to Help?

- Increase visibility of ACTEC (mayoclinic.org)
- Let public know significance of being a Fellow
- Educate public about importance of independent advice
- Increase value of ACTEC diploma
RETIREMENT
Because you've given so much of yourself to the company that you don’t have anything left we can use.

Courtesy of Change-Despair.com