



## Happy New Year!



We begin our Winter 2010 issue of *Sempre Avanti!* by wishing you and your family a happy, healthy, and prosperous New Year. We are certain that Year 2010 will be a much better year—for all of us—than was 2009!

In this issue, we will shed some light on the ubiqui-

tous “**TRUST MILL**” and explain why it is of the utmost importance that you obtain estate planning services **only** from an attorney who is licensed by the State Bar of California and experienced in the areas of trusts and estates.

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## What Is a “Trust Mill”?



A **TRUST MILL** is an operation whereby sales people, sometimes aided by unscrupulous attorneys, pose as estate planning experts, and often refer to themselves as “***trust advisors***,” “***senior estate planners***,” “***paralegals***,” or “***legal assistants***.” These sales people offer the unsuspecting

client a “one-size-fits-all” estate plan using documents, that are nothing more than internally-produced forms with the client’s name inserted in various

places in the forms so as to appear “customized” or “personalized.” The practices of these trust mills are almost always **illegal**, as they constitute the unlawful practice of law by persons who are not licensed to practice law. Only **licensed attorneys** are authorized to draft trust docu-

ments. Even if the documents are “signed off on” by an attorney who is licensed by the State Bar, such actions by the attorney are often considered to be violations of the attorney’s ethical and professional duties.

The goal of a trust mill is to **gain access to your financial information** in order to sell you unnecessary and often inappropriate products such as certain types of life insurance and annuities, usually earning a handsome commission for the salesperson. Stories abound of

trust mills convincing clients, who are often elderly, to liquidate their assets and use the proceeds to purchase the trust mill’s insurance or annuity products which often carry penalties for early withdrawal, do not provide adequate income to the client, and are not insured by the FDIC.



## The Price Is Right...or Is It?



Trust mills often lure seniors and others with glitzy semi-

nars, smooth sales tactics, and low-cost document production (e.g., “**get a Living Trust for \$499!**”). However, they often fail to take individual circumstances into consideration when preparing estate planning documents and the terms of the documents often do not

comply with California law. The results can be devastating—estate planning documents may be invalid, one’s estate planning goals (such as the avoidance of probate or the provision for a disabled child) fail, life savings are lost, taxes are higher, and family disputes ensue.

## What Is Being Done about Trust Mills?

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Despite efforts by law enforcement agencies and consumer advocacy groups, trust mills continue to operate in virtually every state in the Union. The owners of these companies are often ordered by courts and state attorneys general to cease their operations. However, these unscrupulous individuals simply close down one business and resume operations under another business name. An example of such a scheme is seen with the father-son operations of **Stanley and Jeffrey Norman**. Creighton Law Offices recently encountered a case relating to a trust mill operated by these two individu-

als. In our research, we turned up at least 24 different business names under which the Normans operated, most of which were no longer active businesses. In 2006, the attorneys general of three states—Pennsylvania, North Carolina, and Minnesota—filed suits against the Normans and their businesses for “trust-mill” activities. Most recently, in October 2009, the Ohio Supreme Court, in a 7-0 decision, imposed an unprecedented nearly \$6.4 mil-

lion civil penalty against the Normans and permanently barred them from operating in Ohio after finding that the Normans had committed “*more than 3,800 acts of unauthorized law practice.*” Based on the size of the fine the Normans face, it is obvious that trust mills are big business.



### Useful tips to avoid becoming a victim of a trust mill:

- A Trust Mill’s sales agents are usually not attorneys and are not experts in estate planning . If you are told otherwise, ask to see their credentials from the California State Bar and **never** meet with them alone.
- Watch out for companies that sell living trusts **and** then try to sell you an annuity or another investment. Competent, qualified estate planning attorneys do **NOT** sell financial investments to their clients!
- An annuity is not 100% safe, and only a portion is guaranteed by the state. Insurance companies can and do fail, and their assets may not be enough to pay the full value of their customers’ investments.
- A Trust Mill’s sales agents may fail to disclose possible adverse tax consequences or early withdrawal penalties that are triggered when transferring stocks, bonds, certificates of deposit, or other investments to annuities.
- Investments referred to as “*promissory notes*” are not insured by the FDIC or any other government agency and may be very risky. They may not be registered as securities with the state.
- Before you buy an annuity or any other investment, **please** review its terms with people you know and trust, such as your **financial or tax advisor**, your **attorney**, and your **trusted family members**.

# Why You Should Seek the Services of an Attorney



**Proper** estate planning requires knowledge of the state and federal laws of probate, trusts, and taxation. It also requires good judgment in matching the right estate plan with a particular client. **Proper** estate

planning will provide you with tax benefits and the avoidance of conservatorship upon your incapacity or a probate upon your death. The services of a local, experienced estate planning attorney licensed

by and in good standing with the State Bar are ultimately no more expensive than those of a trust mill. An attorney's services often cost much less when one considers the costs involved in correcting documents that are either invalid or fail to address one's estate planning goals—something that is usually not discovered until one's death. Additionally, an attorney has a legally enforceable duty of loyalty to his or her client which a trust mill does not. Watch out for companies that sell trusts and also try to sell annuities or other investments. **An attorney sells advice, not products.**



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*Watch out for companies that sell trusts and also try to sell annuities or other investments along with those trusts ...**an attorney sells advice, not products...***

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## ADDITIONAL RESOURCES

If you believe you have been solicited by a **trust mill** (via telephone, direct mailing, a seminar, or even a newspaper advertisement), you may wish to file a report of such contact with any of the following agencies:

- The **District Attorney's Office** of your County; in San Mateo County, contact the District Attorney's Office at:  
400 County Center, 3rd Floor  
Redwood City, CA 94063  
Phone: (650) 363-4636; Fax: (650) 363-4873
  - **Seniors Against Investment Fraud (SAIF)**, a program of the California Department of Corporations, at 1-866-ASK-CORP (1-866-274-2677); online at [http://www.corp.ca.gov/Education\\_Outreach/saif/default.asp](http://www.corp.ca.gov/Education_Outreach/saif/default.asp)
  - California **Department of Insurance** at 1-800-927-HELP (1-800-927-4357)
  - **National Fraud Information Hotline** at 1-800-876-7060
  - California **Attorney General's Office**, online at <http://www.ag.ca.gov/consumers/mailform.htm>
- Finally, if you believe an attorney may be involved in a trust mill or may have acted improperly, contact the State Bar of California at 1-800-772-1213.



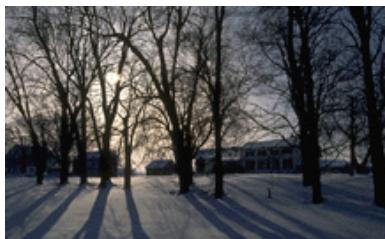
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*Two roads diverged in a yellow wood,  
And sorry I could not travel both  
And be one traveler, long I stood  
And looked down one as far as I could  
To where it bent in the undergrowth;*

*Then took the other, as just as fair  
And having perhaps the better claim,  
Because it was grassy and wanted wear;  
Though as for that, the passing there  
Had worn them really about the same,*

*And both that morning equally lay  
In leaves no step had trodden black  
Oh, I kept the first for another day!  
Yet knowing how way leads on to way,  
I doubted if I should ever come back.*

*I shall be telling this with a sigh  
Somewhere ages and ages hence:  
Two roads diverged in a wood, and I --  
I took the one less traveled by,  
And that has made all the difference.*

**The Road Not Taken**  
By Robert Lee Frost

## The Fine Print

The information contained in this newsletter is for **general information purposes** only and is not intended to offer legal advice on specific cases.

If you have any questions

about the information in this newsletter, please contact

**Creighton Law Offices** or another appropriate professional legal services provider to determine how this information might affect you.

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### IRS Circular 230 Disclosure:

To ensure compliance with requirements imposed by the IRS, we inform you that any US tax advice contained in

this communication is not intended to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code, or (ii) promoting, marketing, or recommending to another party any matter addressed by this communication.

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**Creighton Law Offices** is located in San Mateo, California. The firm specializes in providing exemplary estate planning, trust administration, probate, and long-term care planning services to its clients.

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**Creighton Law Offices** is honored to welcome two talented and capable staff members to our team: Jason P. Michel, our new Sr. Administrative Assistant; and Peter C. Tham, our Administrative Assistant & Client Relations Coordinator. Welcome to both of you guys!

If you would like additional copies of this or previous newsletters, or know someone who would benefit from receiving this information directly, please contact Jason or Peter at (650) 344-0700.