

# Planning Points

The Karp Law Firm, P.A.

2009 Annual Newsletter

## From Mr. Karp

**A**s the new Administration attempts to steer our troubled economy to calmer waters, we as individuals can do little but hang on and hope for a speedy turnaround. I am reminded of my irrepresible Uncle Irv, better known as “Uncle Icky” after his Hebrew name, Itzhak. Uncle Icky died in November at age 90, after staring down the Great Depression, suffering a massive heart attack before age 40, sustaining combat injuries in the Pacific and earning two Purple Hearts, caring for his disabled brother and elderly parents for decades, and coping with many health problems in his golden years. Through it all, he never had two nickels to rub together. Yet when asked how he felt, he would always grin and unhesitatingly reply, *Fantastic!* No matter the circumstances, he was a wellspring of optimism, kindness and nonstop humor – at the end, he even had the Hospice staff chortling at his one-liners. We’d all do well to emulate this old soldier’s “fantastic” attitude. It worked wonders for Uncle Icky, who wrote the book on keeping afloat, keeping the faith, and even keeping some fun, in the most turbulent times. Best wishes for the new year,



*Joseph S. Karp*

## Time for Action

**T**he buzzword this election season was *change*, and from an estate planning perspective, we’re getting plenty of it in 2009. Changes in the law, tax code and financial circumstances make reviewing your estate plan a priority at this time.

With long-term care Medicaid benefits now more difficult to obtain, it’s time to get serious about protecting your assets with advance Medicaid planning. If you’ve been thinking about getting long-term care insurance, remember that the younger you are, the easier it is to qualify – and you’ll never be younger than you are today!

The new year also ushered in a higher estate tax exemption which, coupled with your undoubtedly smaller nest egg, means you should revisit your estate plan’s tax planning features. If you have a taxable estate and are married, this may be a good time to establish a spousal option trust, which provides the survivor with maximum flexibility no matter the status of your finances or tax laws when the first spouse passes away.

Also, take a fresh look at the people you’ve named to positions of responsibility upon your disability or demise: Do financial or time constraints make it difficult for them to effectively perform these duties? If they could use financial help and you’re in a position to provide it,

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keep in mind that the gift tax exemption has increased in 2009, allowing you to put more tax-free money into your heirs' pockets.

More detailed information on these changes is found later in this newsletter.

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## FDIC Coverage for Trust Assets

In October the FDIC increased federal deposit insurance from \$100,000 to \$250,000 per depositor. For revocable trusts, however, coverage is \$250,000 per beneficiary *on a proportionate basis*. To clarify, let's say you have \$1,250,000 in a revocable trust at Bank A, and five beneficiaries in your trust. If each beneficiary gets an equal share (\$250,000), then the full \$1,250,000 in your trust is protected. But if one beneficiary gets 50% of your assets (\$625,000), that will leave \$375,000 unprotected (\$625,000 - \$250,000). FDIC protection would thus cover only \$875,000 of your trust assets (\$1,250,000 - \$375,000) at Bank A. Remember too that unless future legislation extends the increased coverage, FDIC insurance will revert to just \$100,000 per beneficiary after Dec. 31, 2009. These considerations should be kept in mind whenever you place assets in a bank.

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## Handling In-Law Issues

It's a problem as common as it is troubling to many clients. A child, let's call her Sue, marries Bob. He is a devoted husband, a good stepfather to Sue's young children from her first marriage, and his children from a prior marriage are delightful. Thrilled as they are with the marriage, the clients nonetheless want their assets to pass to Sue and her children, not to Bob and his kids. At the same time, they don't want to stir up discord between Sue and Bob. Do they have any options?



They do. We often recommend a Heritage Trust in these circumstances. One trust is created for the

client(s) and one for Sue (or for as many children as the clients have). When the clients pass on, their assets flow into Sue's trust. Sue can access the principal and income during her lifetime, after which any remaining assets in her Heritage Trust pass to her children. If she has no children at that time, the assets pass to the clients' other children, i.e., Sue's siblings. The benefits of this strategy are twofold: First, it assures clients that their hard-earned assets will stay in their own family. Second, since Sue has no legal authority to leave the money to anyone else, she avoids having to explain to Bob why he has been "cut out." If you think a Heritage Trust might be a good estate planning strategy for you and your family, please call our office to schedule an appointment.

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### Children Explain Love & Marriage

*One of you should know how to write a check because even if you have tons of love, there is still going to be a lot of bills. Ava, 8*  
*I'm not rushing into being in love. I'm finding 4th grade hard enough. Regina, 10*  
*Beauty is skin deep. But how rich you are can last a long time. Chris, 9*

# Protect Yourself From Financial Predators

Joseph S. Karp, Certified Elder Law Attorney

As 2008 drew to a close, the greatest Ponzi scheme in history came tumbling down, taking with it some of the world's wisest and wealthiest investors. It's natural to want to trust people – carrying a cynical chip on your shoulder can get awfully heavy – but if these savvy folks can be swindled, the rest of us would do well to ramp up our defenses a notch or two.

It's commonplace to hear about an isolated, incapacitated person being fleeced by a trusted caregiver, but economic exploitation comes in many disguises. One of my clients, for example, agreed to give \$5,000 to help a start-up religious group purchase property. As a member, he felt sufficiently comfortable to sign documents without flinching -- and without reading. He later discovered that he had handed over many times the agreed-upon amount, as well as a mortgage on his home! Another client, a woman in her eighties, came to me after someone convinced her to buy a large annuity that was utterly inappropriate for both her age and financial circumstances.

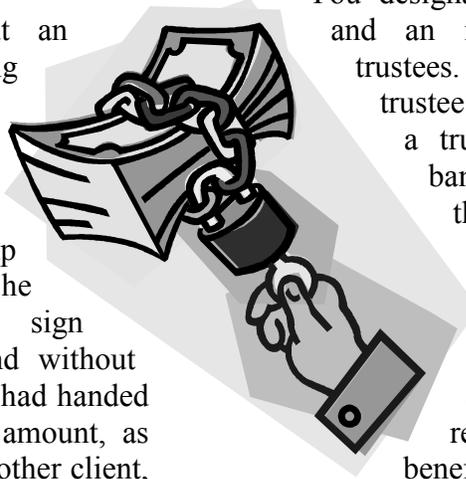
Unfortunately, even family members can be economic predators -- and because you love them, quite effective ones. Most people with sufficient resources are understandably eager to help family in legitimate financial need - a granddaughter drowning in college debt, say, or an unemployed son whose rent is due. But

there's a big difference between helping with legitimate financial need and subsidizing financial greed. Discerning the difference can be tough for loving parents and grandparents; saying no, even tougher.

Here's one way you can protect yourself from economic abuse: Create an irrevocable trust or make your current revocable trust irrevocable.

You designate a trusted family member, and an independent person, as co-trustees. The independent, third-party trustee may be a longtime accountant, a trusted attorney, or perhaps a bank trust department. You place the bulk of your assets in the trust, to be used for your benefit. A smaller amount is kept in an operational account that you can easily access and that can be replenished as needed. The key benefit of this arrangement is that

the third-party trustee is impervious to financial manipulation from family members or others, and along with the co-trustee, can concentrate on carrying out the provisions of your trust. You will pay a fee for a third-party trustee, but without exception, clients who go this route say it is well worth the freedom and peace of mind. As an Accredited Investment Fiduciary®, I am often tapped to serve as third-party trustee. My law firm has the staff, knowledge and resources to do the job effectively. Please contact The Karp Law Firm to explore this option.



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## Get Our E-Letter

Want the latest in estate planning and related news? Sign up for our e-newsletter at our website, [www.karplaw.com](http://www.karplaw.com). The link to subscribe appears on the lower left portion of the home page. Our website also features a “blog” with our attorneys’ advice and views on current topics; a section devoted to changes in the law; news about our law firm; and our current “Senior Survival Workshop” schedule. You don’t need to be a client to subscribe, so spread the word to friends and family, too.

## Tax Help Available

**R**ebecca Maglio, CPA, is available to assist you with your income tax returns. You do not need to be a client to use our accounting services. If you'd like to schedule an appointment with Ms. Maglio, please phone our office or e-mail [rmaglio@karplaw.com](mailto:rmaglio@karplaw.com).



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## Medicaid Mayhem: Act Now

Genny Bernstein, Elder Law Attorney

**B**irthday and holiday presents, helping children with financial problems, contributing to grandchildren's college tuition, giving to charities... When you have sufficient resources to share, you feel as good about giving as the recipient does about getting. But do you ever stop to think about how these acts of kindness may impact you down the road? *No*, you're probably saying – *Why would I?* Well, here's why: That's exactly what the government will be thinking about if you apply for Medicaid benefits for long-term care.



If you or your spouse one ever need to go into a nursing home or assisted living facility and you apply for Medicaid benefits to defray the cost, the government will require you and your spouse to disclose all gifts made to third parties from Nov. 1, 2007, no matter the size of the gift or even if the recipient is a charity. The total gifted amount is used to determine a period of ineligibility during which time an applicant who would otherwise be eligible will be denied benefits. And the law is only getting more

stringent. The lookback period, currently three years prior to the date of application, will increase incrementally beginning November 2010. By November 2012, the lookback period will be five years prior to the date of application. (Gifts given prior to November 2007 are still reportable, but the method used to determine their effect on eligibility are less stringent.)

Many citizens and senior advocates argue that requiring Grandma to document \$30 spent on a grandson's baseball mitt or \$500 to finance a daughter's roof repair is unreasonable. I agree... but technically speaking, that's what current Medicaid law expects you to do.

Do I advise you to modify your lifestyle and stop giving gifts to loved ones? Certainly not. I do advise you to start formal Medicaid planning right now, in view of the increasingly narrow window of opportunity for securing benefits. Do not wait for a catastrophic event to occur, when your options will be more limited and the potential financial damage to your family more devastating. Please call our office to discuss this important issue with one of our attorneys.

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*In spite of the cost of living, it's still popular.*

Kathleen Norris

# Estate & Gift Tax Update

Adele Small Harris, Elder Law Attorney

The 2009 Federal Estate Tax exemption has jumped to \$3.5 billion, up from \$2 million. This means that any one individual may pass up to \$3.5 million tax-free, or a married couple who does proper planning, up to \$7 million. Any excess is taxed at 45%. In 2010, the estate tax will disappear entirely, but only temporarily. Unless Congress acts, in 2011 the estate tax will return to its pre-2006 level of \$1 million, with the excess taxed up to 55%. President Bush and his Republican colleagues had always favored making the 2010 repeal permanent. That is unlikely to happen now, given the current financial meltdown. In light of these developments, a married couple whose revocable trust includes a tax planning feature may wish to revisit their estate plan. Eliminating the tax planning feature, if it is no longer required, can spare the surviving spouse additional paperwork and administrative steps.



Another change in the law: Effective January 1, 2009, the federal gift tax exemption increased from \$12,000 to \$13,000. This is the amount you can give away annually to any one individual – with no limit on the number of individuals you may give to -- without reporting the gift and impacting your lifetime estate tax exemption. If you are a married couple, you can give away twice that amount.

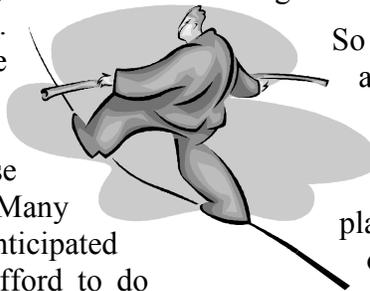
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## Bridging “The Greatest Gap”

Exploding health care costs, particularly long-term care, are a serious threat to the financial security of older Americans. Richard Kaplan of the University of Illinois calls it the “greatest gap in retirement planning.” Notwithstanding their valiant efforts to plug that gap, average Americans continue to find themselves caught between a rock, a hard place, and an even harder place. Medicaid, the last refuge for those trying to avoid the paupership that frequently results from an extended nursing home stay, continues to impose ever-stricter eligibility requirements. Many seniors with once-deep pockets who anticipated self-insuring now find they cannot afford to do so. As for the one in ten Americans with long-term care insurance, their situation is a mixed bag: They can deduct premiums for income tax purposes, but face premium hikes from insurers large and small.

Until someone comes up with a better system, long-term care insurance continues to be a good

option if you’re healthy enough to qualify and can afford it. Unfortunately, many people recoil at the premiums, figuring they may not recoup the money. Odd, since many of those individuals would never dream of going without fire insurance, yet losing one’s home to fire is surely a more remote possibility than needing long-term care!



So if your main concern is protecting assets for yourself, your spouse and/or your loved ones, you should strongly consider including long-term care insurance in your estate plan. You’ll undoubtedly have plenty of questions that will need to be answered, questions like, *Under what circumstances will a policy pay benefits? If I have an existing medical problem, is it possible for me to qualify for a policy?* For answers to these and your other questions, call Steve Levine, President of Karp Financial Services, at 561-626-1130, or toll free at 877-319-1130.

## Attention Veterans!

**V**eterans with wartime service (and some without) who have been honorably discharged, and their widows – not just veterans with service-related disabilities – may be eligible for benefits for long-term care. Because this fact is little known, many elderly and disabled veterans fail to apply for benefits to which they may be entitled. Note that all our attorneys are accredited by the Veterans Administration to provide benefits advice. In addition, Attorney Karp is admitted to practice in the U.S. Court of Appeals for Veterans Claims.

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## Kudos & Community

**MEMORY WALKS** The Karp Law Firm participated in the Alzheimer's Association's 2008 Memory Walks in West Palm Beach and Stuart. Raising money for research and community services were Attorneys Joseph Karp, Genny Bernstein, Adele Harris and husband Andrew; and staff members Audrey Yeager and husband Terry, Dawn Wiggins, Deeanna Farrington, Gail Brown, Liz Lebron and fiance David, Deborah Karp, Sandy Jones, Brittany Ballew, Crystal Cappadoro, Susan Zwick, and Alena Strother. Karp's Kommandos won the best team T-shirt contest in Stuart, thanks to our creative Administrative Assistant, Liz Lebron. The 2009 Memory Walks are scheduled for Feb. 28 in Hollywood; March 28 in Port St. Lucie; and April 4 in West Palm Beach. To participate or to make a donation to Karp's Kommandos to benefit the Alzheimer's Association, call 800-861-7826, or visit [www.memorywalks.com](http://www.memorywalks.com).



L-R Paralegal Gail Brown, Bookkeeper Crystal Cappadoro, Attorney Adele Harris and Paralegal Dawn Wiggins at a rainy Memory Walk in West Palm Beach

**KARP LAW FIRM IN TOP 250** The Karp Law Firm was named one of the top 250 firms in South Florida by *The Book of Law*, the legal guide published by *South Florida Business Journal*.

**JOSEPH KARP CONTRIBUTES EXPERTISE TO C.P.A. GUIDE** Attorney Joseph Karp was a contributor to *The CPA's Guide to Long-Term Care Planning*, published by the American Institute of Certified Public Accountants and Elder Law Answers. The book addresses governmental benefits, long-term care insurance, reverse mortgages, disability planning, nursing home issues and advance directives.

**CASE MANAGER JOINS MEMORY WALK PLANNING BOARD** Deeanna V. Farrington, MSW, CDP, has joined the board of the Alzheimer's Association Treasure Coast Memory Walk. Ms. Farrington is assisting in planning for the 2009 fundraiser in Port St. Lucie, Florida.

**PASSIONATELY PINK** Our office fundraiser generated over \$200 for the Susan G. Komen Breast Cancer Foundation on "Passionately Pink Day," October 6, 2008. In January 2009, as we do every year, The Karp Law Firm Team will participate in the "Race for the Cure" in downtown West Palm Beach.

**IT'S A GIRL!** Congratulations to Attorney Adele Harris and husband Andrew on the birth of their daughter, Anne Sophie, on October 6.

**AWARDS FOR ATTORNEY KARP** What a nice way to start a new year: Joseph Karp was named a 2009 Florida SuperLawyer by *Law and Politics* magazine, an honor based on outstanding professional achievement and peer review, and awarded to only 5% of Florida lawyers. Mr. Karp was also named a Lifetime Legacy Fellow by the Palm Beach Area Chapter of the American Red Cross, in recognition of his efforts to help clients achieve their philanthropic goals. Pictured right: American Red Cross Gift Planning Officer Gail Kaplan presents the Legacy Award to Mr. Karp.



**2008 SPEAKING ENGAGEMENTS** Speaking engagements in 2008 included New Day Adult Day Care Center at Faith Lutheran Church, North Palm Beach; The Palm Beach Rotary Club; and The Retired Public Employees Association of New York. If you'd like one of our attorneys to address your civic, business, religious, community or social group, please contact Deborah Karp at 561-625-1100, ext. 105.

**COMMUNITY EVENTS** Our firm participated in several community events in 2008. Among them: The "Fearless Caregiver" Conference, hosted by *Today's Caregiver Magazine*; the Mae Volen Senior Center/Hospice by the Sea Health Fair; the Social Workers Appreciation Luncheon sponsored by the Health Care Social Workers Association of Florida; and the Alzheimer's Educational Conference sponsored by Alzheimer's Community Care.

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## Reverse Mortgages Now More Attractive

A reverse mortgage is a loan against your home that is paid back when you no longer live there and the home is sold. It is available to homeowners 62 and older, and can be a smart move if you need an infusion of cash; you're "house poor" with untapped equity in your home; you don't intend to leave your home to your heirs; and you expect to live in your home for several years. The latter point is critical, since if you are absent from your home for twelve consecutive months, the loan and any associated fees come due.

Today's market has obviously deflated the amount that can be borrowed. But if home prices continue to fall -- and many experts think that they will -- this may be a good time to borrow. If and when housing prices recover, you can refinance your reverse mortgage to take advantage of the increased equity in your home.

The housing bill that went into effect July 30, 2008 provides several new borrower-friendly provisions. Among them:

- Federally backed reverse mortgages can be obtained on co-operative properties, not just single-family homes, townhouses and condos.
- A national loan limit of \$417,000 is established. In high-cost areas of the country, the limit can rise to \$625,000.
- Origination fees are capped at 2% of the home's value up to \$200,000, and 1% on the balance thereafter, with a cap of \$6,000. Note additional fees still apply.

Taking a reverse mortgage can be a great opportunity, but must be approached with an abundance of caution and knowledge. To explore your options, please contact Steve Levine, president of Karp Financial Services, at 561-626-1130, or toll free at 877-319-1130.

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*A bank is a place that will lend you money if you prove that you don't need it. -Bob Hope*

# Our Fiduciary Services

If you have an estate plan, you've already chosen one or more fiduciaries: a personal representative, trustee, and/or agent under your Power of Attorney. A fiduciary is simply the legal term for someone you entrust to handle your financial affairs. For certain clients, choosing a fiduciary is simple: they name one or more adult children. But what if your children can't work together amicably? Or the child you wish to serve lacks the time, inclination or knowledge? Or you have no children and don't know anyone else you trust to serve? If any of these situations applies to you, you may wish to talk with Attorney Karp about serving as your fiduciary. As an Accredited Investment Fiduciary®, he is highly experienced in these matters, and our office has the resources to handle these duties effectively. Please call our office for an appointment if you would like to explore this possibility.

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## Good News for Retirees

If you are over 70½ and have a 401K, 403B, 457B or IRA, you may skip taking your minimum required distributions in 2009 without penalty, thanks to The Worker, Retiree, and Employee Recovery Act. The suspension of penalties also applies to beneficiaries of these accounts. The new law offers seniors the opportunity to recover recent losses and provides additional financial flexibility during these trying economic times.



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*One of the secrets of life is to make stepping stones out of stumbling blocks.*

-Jack Penn

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