

# THE CAMBRIDGE STERLING LETTER

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## ASSET PROTECTION

By Attorney David C. Grossack



It is estimated that at any given time perhaps fifty percent of the adult American population is involved in a lawsuit of some kind. This means that, at any given time, at least 25% percent of the American adult population, i.e. the other party, has to have concern about the process of judgment proofing. Judgment proofing means putting your income and possessions outside of the reach of people who are trying to use legal process to grab what you have.

The ideal time to take these steps is before a lawsuit or similar crisis occurs. The operating rule to follow in designing your strategy is "keep it invisible." Your name should, ideally, not be connected with any real estate, bank accounts, financial instruments, tangible assets (i.e. automobiles, boats and paintings) or streams of income, ever, that a legal predator can seize.

There are methods of arranging your affairs to make certain that your savings, home and investments and other belongings are outside of the reach the blood sucking tics who inhabit the world of lawsuits and courthouses.

In certain situations, assets have exemptions or immunities which can foil a judgment creditor or even the Internal Revenue Service. For example, certain retirement accounts have exemptions. And many if not most states protect some or all of the equity in your home by means what is called a "homestead" filing. At last check, Florida and Texas offered the best protection for one's residence, with many other states also offering large exemptions. This basically means that if the sheriffs ever auction off your home, a certain amount of the proceeds will be exempt, except for taxes, mortgage and child support. Florida, for example, protects 160 acres of land plus the entire home. Some Wall Street operators have, in contemplation of hassies from the IRS or SEC, built homes worth \$15 - 20 million or so knowing that even in bankruptcy they could keep them.

However, homesteads usually only cover your primary residence. What happens if you own other real estate. Read our essay on Trusts.

Trusts of course can own checking and savings accounts, investment portfolios, collectibles and businesses in operation as well as real estate.

Other means of judgment proofing involve the Family Limited Partnerships. Limited Partnerships have been described as a hybrid between corporations and partnerships. There is an entity which includes a General Partner ( a person, trust or corporation ) who plays an active role in managing the partnership business, and "limited partners" who enjoy the benefits of being a partner but play no

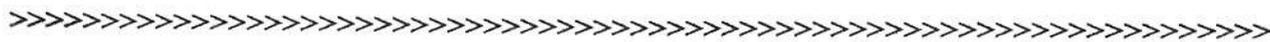
active role in managing partnership assets and are shielded from liability.

Families can place their assets in this vehicle and allow each family member to be a limited partner with a trust as the general partner. Assets of limited partnerships are usually 98% exempt from any liability facing individual limited partners, so this has become a popular vehicle for the very wealthy. It could be useful for middle class Americans as well.

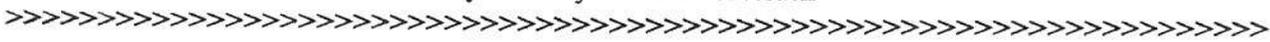
Other tools such as the international trust, offshore corporations, foreign bank accounts and private offshore banks have been used also with varying degrees of success. Because highly sophisticated criminals and swindlers have been known to flourish in such locations as Liechtenstein and Grand Cayman, it is extremely dangerous to use any kind of offshore vehicle unless you know for absolute certain that the people you are dealing with are legitimate. Moreover, there are tax reporting consequences of shifting assets across international borders and great inconvenience and risks in getting your money back into the U.S. Mexico and Singapore's banks have an atrocious reputation of accepting deposits and refusing to let customers make withdrawals, if they are from the U.S., threatening all kinds of blackmail.

One important thing to keep in mind is the perspective of lawyers who represent the people who are making claims.

The lawyers who handle plaintiff's (those persons who are bringing the suit) cases often work on a contingent basis, (i.e. fee taken from what is recovered ) because the average person cannot afford legal counsel on a per hour basis. Thus the plaintiff's counsel does not want to spend hours chasing somebody who has no easily attachable assets. They prefer cases with an insurance policy or a large corporation as a defendant. Thus the importance of building a financial fortress where they would have to work dozens of uncompensated hours to pierce the walls. But even middle class or lower income people get sued. Nobody should be a sitting duck in these days of an out of control lawsuit explosion.



**KEEPING IT IN THE FAMILY**  
**How to Use Family Limited Partnerships to Plan**  
**Your Estate, Protect Your Assets and Save on Taxes**  
By Attorney David C. Grossack



If you are successful in business and have accumulated a substantial net worth, it is important at any age to consider the following:

1. How do you want to distribute your business, savings, property and investments to your heirs?
2. Who do you want to be your heirs?
3. How can you save on taxes?
4. How can you ensure that a frivolous lawsuit doesn't affect your estate?

Every state in the country has now made provisions for the formation of an entity known as the "limited partnership."

The Limited Partnership is registered as the Secretary of States office in the Corporations Division, and consists of documents establishing who will be the General Partner and take the active role in the management of the business and who will have a passive role and be the "Limited Partner."

The identities of the limited partner are not disclosed in public filings in Massachusetts, although other states have different rules.

Operating agreements spell out the rights and responsibilities of the General Partner and Limited Partners.

The General Partner assumes exposure for the contracts or other claims involving the partnerships, therefore, when the partnership is structured (he or she, or an entity acting as a General Partner) is to own only a tiny fraction, i.e.  $\frac{1}{2}$  of 1% of partnership assets. That way, if a seizure of assets ever occurs the amount at risk is small.

But let's say you would like to give your assets to your children while you are still alive and save them the inheritance taxes in the process.

A parent could be the general partner and limited partner in the beginning, and give portions of their limited partnerships away to the children each year to the value of \$10,000.00 a year without incurring any gift tax liability.

This not only accomplishes reducing the parent's taxable estate, it keeps those assets under the parents' legal control. As general partners of the partnership, they are always making the decisions for the entire partnership.

This includes the power to decide if and when income distributions are paid to the partners.

This is helpful in using limited partnerships as a means of protecting assets.

Generally, assets of a limited partnership cannot be seized to pay the creditors of a limited partner. The most a creditor can hope for is to seize income paid from the partnership to a partner.

Under these conditions, a general partner can foil his children's creditors by simply failing to pay out any distributions to the child.

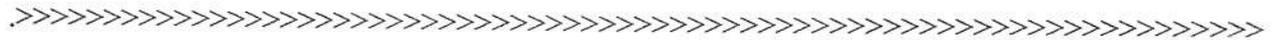
There are more advantages. When transfers of limited partnership interests are made as a gifts, the declared value for tax purposes can lawfully be less than the actual value. The IRS recognizes that the recipients inability to control the investments and the lack of a trading market for family limited partnerships interests decreases the value of the gift by as much as 35%.

### **Are there Disadvantages to the Family Limited Partnerships?**

They are complicated and expensive, and require the involvement of accountants and lawyers. But the advantages outweigh the disadvantages.

Finally, when used in conjunction with trusts and corporations, the Family Limited Partnership

can be the ultimate financial fortress to withstand virtually any attack and to provide significant tax savings for you and your heirs.



**This just in... GOLD PRICES ARE A SERIOUS WARNING SIGN THAT SOMETHING IS VERY, VERY WRONG**

At the time of writing, the price of gold has climbed to \$731.00 per ounce, the highest level since the unlamented, incompetent and near treasonous administration of James Carter.

Historically, gold climbs to a high price in one of two situations.

First, when the currency is debased, gold prices naturally rise. Gold is considered a constant in terms of intrinsic value. It has been cherished since at least Biblical days, fought over and prized for creating jewelry, sacred objects and various other ornaments. Today it is prized for all of these reasons, but it has industrial and electronic applications as well. Unlike the so-called "legal tender" issued by the Federal Reserve, gold truly has intrinsic value. The price of gold goes up as the Federal Reserve keeps printing up more currency without the slightest backing for it. There is no gold, silver, copper, platinum or anything else linked to the American dollar, just the fact that we all accept it.

Secondly, in times of uncertainty, gold prices also rise. The reported discovery of a North Korean presence in Syria together with nuclear materials does not bode well for future world stability. North Korea is a difficult nation for ours to deal with. It is operated more as a criminal syndicate than as a responsible member of the world community and

Because North Korea apparently has no inhibition about sharing its nuclear technology and materials with other countries, the worst scenarios are becoming close to reality, the worst being that nuclear weapons will soon fall into the hands of a terrorist group and a major Western city will be destroyed.

In such an eventuality, the social structure for every nation will be threatened and a chaotic world situation will emerge. At such a time, national currencies may lose significant respect and gold will be reign as the dominant world currency.

How far fetched is this? We don't know. The actions of the North Koreans in the post 9-11 world make it increasingly worrisome.

Does this mean that Gold is a good buy? This depends in part if you believe leaders can stabilize the international security situation and also prevent the crisis in the mortgage markets from spilling over and injuring other sectors of the economy. \$731.00 seems like an awfully high price for an ounce of gold. However, during the bleakest days of the Carter administration, when American hostages were held in Iran, and the peanut farmer did nothing, gold actually reached a bit over \$850.00.



# FINANCIAL TERRORISM

By John E. Mc Manus

*The standard of living of the average American has to decline. I don't think you can escape that.*  
- Paul A. Volcker (1979) Trilateral Commission Insider/former Federal Reserve Chairman

**What is happening to the American dream? Financial Terrorism cuts through the fog of economic double-talk to answer that question. In layman's language, John F. McManus explains the economic problems facing our nation and where false leaders would take us.**

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- **How other nations have recovered from similar problems.**
- **Where America went wrong and why more than tinkering is needed to put her back on the right course.**
- **Why Congress must abolish the Federal Reserve.**
- **Why the solutions offered by the Concord Coalition, Empower America, Ross Perot, Harry Figgie's Bankruptcy 1995, and a popular talk show host are misleading.**

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