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Rachel Thomas Rowley
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J. Kemper Will

Established in 1980, Burns, Figa & Will, P.C. offers clients exceptional legal services and individualized attention in three areas:

- Business Law and Transactions
- Commercial Litigation
- Environmental and Water Law

While focusing in our primary practice areas, our attorneys maintain expertise in a broad range of specialized practice areas and subspecialties. We pride ourselves on being able to offer clients the sophistication of a big firm based on the depth of our attorney experience, and yet provide the personal service, cost effectiveness, and innovation only possible by a firm of our size.

At Burns, Figa & Will, P.C. we view our unique mix of size and expertise as the key to providing exceptional legal services with integrity, professionalism and expertise.

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Briefly

. . . from Burns, Figa & Will, P.C. Winter 2005

From Left to Right: David Starck, President, HRCC, Tim Knight, Sean Velarde, Natalie Tysdal, KWGN – WB2

Burns, Figa & Will honored with the Corporate Business of the Year Award from the Highlands Ranch Chamber of Commerce

Englewood, CO – The Highlands Ranch Chamber of Commerce recognized Burns, Figa & Will as its annual Corporate Business of the Year. The award was presented at the Chamber of Commerce Gala held in January. Accepting the award on behalf of Burns, Figa & Will were D. Sean Velarde, Managing Director and Tim R. Knight, Firm Administrator.

The Corporate Business of the Year Award recognizes Burns, Figa & Will's business achievements and corporate citizenship that have contributed to the Highlands Ranch community.

"I am honored to receive this award on behalf of Burns, Figa and Will. This award is a wonderful acknowledgement of all the hard work our partners and employees do in the community each year," said D. Sean Velarde, Managing Director.

Burns, Figa & Will has a strong history of giving back to the community. This year, Burns, Figa & Will was instrumental in the sponsorship and development of the first annual Chamber of Commerce of Highlands Ranch Turkey Day 5K Family Fun Run/Walk. A portion of the net proceeds benefited the Colorado National Guard Foundation, which provides interest-free loans and grants to soldiers and airmen of the Colorado Army or Air National Guard who are in need of emergency financial assistance.

25 Years
1980 - 2005

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A Compensation Solution for Professional Services Firms

by D. Sean Velarde

Professional services firms are changing the variety of services they offer to clients, and their cultures are changing as a result. A new compensation model can be employed to help adjust to the new expectations on the part of shareholders, managers and staff.

An effective compensation system should provide incentives to achieve the firm's desired goals in the areas of revenue production, business origination, client service and firm culture.

Developing ways that offer long-term benefits to clients, staff and the firm is the new way to optimal performance.

An incentive-based compensation system rewards the contributions of the individual partners in a more objective fashion than a traditional partner sharing system. This system places more value on individual contributions and less value on what the firm does overall. Applied consistently, this system will promote the desired behaviors necessary to achieve the firm's goals. Those few professionals unwilling or unable to help advance the firm's goals within the system will do so through voluntary or involuntary attrition.

For example, a system that rewards new business development might solve the concern of those partners most responsible for bringing in the work. If, however, the system does not reward the partners who do the work, you will fail to motivate that group of partners. You can bring in all the work in the world, but you will not improve your profitability if no one takes responsibility for the clients. The reverse is also true. The partners who are capable client managers will have nothing to do unless the rainmakers bring in the clients. Likewise, your compensation system will largely influence whether the culture of your firm is a sweat-shop or one that promotes quality of life outside the workplace. The compensation system should be simple. If it leaves most partners scratching their heads over the calculation of their individual compensation, the plan is doomed to fail.

The Compensation Plan

The most successful system for professional services firms is derived from the incentive-based model adapted from the Boston law firm, Hale and Dorr, in the 1940's.

The Hale and Door model creates categories in which a partner could earn income: New Business – originator of the client and Client Services – actually doing the work. These percentages can be adjusted each year to address issues that the firm determines are the most important for the coming year.

An example of the compensation model might be:

- 40 percent derived from development of New Business
- 60 percent derived from Client Services

The model can be easily modified to produce the firm's desired results in each of the four categories described.

As an illustration, a firm may seek to raise the New Business category's percentage if it desires to generate new work coming into the firm. In the year following, the focus may shift and percentages can be adjusted to reflect those changes.

Partners know exactly what they have to do if they wish to increase their income. Many partners prefer such a system because it allows them to become the masters of their own financial destiny. Essentially, this system allows efforts and contributions because it rewards success and hard work.

Competitively, there is less bitterness toward a partner who is perceived to be making less of a contribution to firm profitability because when they contribute less, they receive less.

D. Sean Velarde is Managing Director and a member of the Business Group at Burns, Figa & Will, P.C. You can reach Mr. Velarde at 303.796.2626 or svelarde@bfw-law.com.

Kemper Will Receives Prestigious Award from the Environmental Protection Agency

The Award:
Kemper Will of Burns, Figa & Will, P.C. along with Kevin Baker of Kennecot Energy Company and Michael Franko formerly with Texaco/Chevron were recently honored with the prestigious Environmental Achievement Award from the Environmental Protection Agency.

This honor was for leading the development of a remediation of the Approved Oil Services (AOS) site in Commerce City, Colorado that minimized stakeholder costs and liability. This site has been selected by US EPA Headquarters as a RCRA Brownfields Pilot Project.

The Approach:
The approach was designed to avoid potential responsible parties' involvement in a CERCLA administrative settlement, which could be more time consuming and costly to stakeholders.

The remediation objective for the AOS site was to achieve clean closure of the site for unrestricted redevelopment. Clean closure provides maximum liability protection to stakeholders. The general approach to remediation of the AOS site involved removal of all liquids/sludges remaining in tanks, demolition of existing site structures, offsite incineration of sludges, off-site disposal of impacted soils, and groundwater verification sampling.

The stakeholders formed a very effective steering committee, which interacted with the EPA to raise the necessary remediation funds from former customers of AOS.

From Left to Right: J. Kemper Will, Carol Rushin, Assistant Regional Administrator for Enforcement, EPA

The Results:
The agencies determined clean closure has been accomplished, and deemed the site clean closed. This determination by the agencies has opened the door to redevelopment of the property under RCRA Brownfields.

The stakeholders were pleased that remediation was completed quickly, at a minimal cost and without involvement in a CERCLA administrative settlement.

The EPA was pleased to learn how to effectively work with a private stakeholder group in a collaborative approach.

J. Kemper Will heads the environmental and water law practice group at Burns, Figa & Will, P.C. and is active in environmental litigation, regulatory matters and contaminated property transactions. You can reach Mr. Will at 303.796.2626 or kwill@bfw-law.com.

Burns, Figa & Will and the Chamber of Commerce of Highlands Ranch

Turkey Day 5K:

A Winning Combination for the Community




Burns, Figa & Will is pleased to have presented the first annual Chamber of Commerce of Highlands Ranch Turkey Day 5K family fun run/walk which took place Thursday, Nov. 25 – Thanksgiving morning. The event proved to be a great success and was truly embraced by the community. With 825 participants, as well as a number of volunteers and spectators, the Turkey Day 5K was an event for everyone to enjoy. Participants received a long-sleeved shirt, refreshments and goodie bag with donated items by Running Sponsors.

In addition, event attendees brought canned food items to benefit the Douglas County Task Force food bank. Several boxes of non-perishable items were collected and the race committee approved $200.00 to purchase additional items for the Food Bank.

"The Turkey Day 5K exceeded our wildest expectations and we could not be more pleased with the involvement, results and contributions that were raised for the community," said D. Sean Velarde, Managing Director of Burns, Figa & Will, P.C. "We are very proud to be a part of this event as we strive to do all we can to make our community a better place."

A portion of the net proceeds in the amount of $5,000.00 went to the Colorado National Guard Foundation, which provides interest-free loans and grants to soldiers and airmen of the Colorado Army or Air National Guard who are in need of emergency financial assistance.

From Left to Right: Major General Mason C. Whitney, COANG; Deb Blackburn, State Family Program Director; Diane Phillips, Co-Chair 2004 Turkey Day 5K; Robert Perella, Co-Chair 2004 Turkey Day 5K; Tim R. Knight, Firm Administrator, BFW; David Starck, President, HRCC; and Sean Velarde, Managing Director, BFW.

Maximizing the Benefits of the Estate Tax Exemption

by Michael J. Norton

So much has been jokingly written and said about the need to die in 2010 so as to take advantage of the one year repeal of federal estate taxes that little additional comment on this issue is usually necessary.

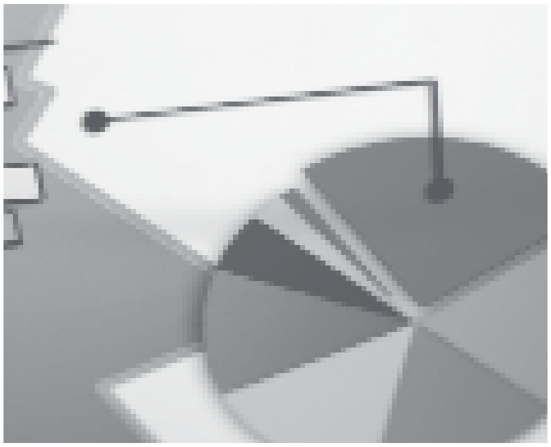
The value of an estate that is exempt from federal estate taxes increases gradually from an amount that is equivalent to $1.5 million in 2004 and 2005 to $2 million in 2006, 2007, and 2008, and then to $3.5 million in 2009. After a one year hiatus in 2010, the exemption, popularly known as the "unified credit," returns to only a $1 million exemption in 2011.

If you own a home, have some life insurance, and a retirement plan in place, your gross estate may already exceed the 2005 "unified credit" threshold of $1.5 million. Moreover, an estate plan which results in the surviving spouse receiving all the assets of the first spouse to die may well result in estate tax liability at the death of the second spouse. This, in turn, reduces the amount available for your children and grandchildren or other beneficiaries. Since the top tax rate in 2004 is 48 % (and is phased down to 45 % by 2009), it makes good sense to plan to make the best use of your exemption no matter the level or the year.

A married couple can escape federal estate tax on assets of up to two times the exemption amount, $3 million in 2005, if the couple's wills are drafted to take full advantage of each spouse's own unified credit. The wills should provide that, when the first spouse dies, the amount protected from federal estate tax by the available credit passes to a "credit shelter trust" from which the surviving spouse can benefit during his or her remaining lifetime but which will not be included in the surviving spouse's estate at death.

Here is an example that illustrates the tax savings that can result from using a credit shelter trust in the will of the first spouse to die instead of leaving the entire estate outright to the surviving spouse. Assume that a husband and wife have assets of $3 million and $1 million respectively and that the husband predeceases the wife. If the husband leaves his entire estate to his wife, there will be no estate tax at the husband's death, even if he dies before 2009 when the unified credit reaches $3.5 million. That is because his $3 million qualifies for the marital deduction and passes to the surviving spouse free of estate tax. However, when the wife dies, assuming no changes in wealth, her estate, which now includes the $3 million inherited from her husband and her $1 million would total $4 million. If the wife were to die in 2007 or 2008, when the unified credit is $2 million and the top estate tax rate on amounts in excess of $2 million is 45 %, the wife's estate tax liability would be $900,000. This would mean that, after the estate taxes are paid, $3.1 million is left for the children.

If, instead, the husband's will provided that an amount equal to the unified credit passed to a credit shelter trust from which the wife and/or the children would receive income and have principal paid to them if they needed it, there would be no estate tax due at the wife's death. In other words, with a credit shelter trust, $900,000 in federal estate taxes would be saved and the full $4 million could be available for the children.



So, as you can see, while it may make a difference when we die, and each of us will, it makes good sense to plan for your family and their future.

Michael J. Norton is a senior member of the Litigation Group at Burns, Figa & Will, P.C. Mr. Norton specializes in Estate Planning, Civil Litigation and Criminal Defense. You can reach Mr. Norton at 303.796.2626 or mjnorton@bfw-law.com.

Firm News

- **Scott A. Clark Named New Shareholder**. The firm is pleased to announce that Scott A. Clark has been named as a shareholder. Mr. Clark has more than 10 years of experience in environmental, water and municipal law. He represents clients on a wide range of environment and natural resources matters, including brownfields, remediation, real estate transactions, litigation, permitting, petroleum storage tank fund applications, regulatory compliance, water quality and water rights.

  Mr. Clark joined Burns, Figa & Will, and P.C. in 2000 and has practiced law in Denver since 1994. He received his B.A. degree in biology from DePauw University, and his J.D. degree from the University of Denver.

- **Geoff Anderson** was a featured speaker at the Attorneys Title Guaranty Fund, Inc.'s 2005 Assembly, in Denver on February 24, 2005.

- **Geoff Anderson** will present the Law Of Easements: Legal Issues And Practical Consideration Seminar on April 1, 2005 in Denver. Whether you are heavily involved in real property matters on a daily basis or occasionally advise clients on right-of-way issues, you need to be aware of the essential legal and practical issues associated with easement agreements. The materials and presentations offered at this seminar will allow participants to gain a better understanding of the definition and characteristics of an easement, how easements are created, general and provision-specific drafting considerations, and easement amendment and termination.

- **Geoff Anderson** will be a featured speaker at the Colorado Bar Association's annual Real Estate Symposium in Snowmass, Colorado, July 28 - 30, 2005. He will speak on due diligence and research to determine the status of public roads, rights-of-way and other easements that can affect real estate.

- **Steve Leonhardt** will present Water Rights Sales and Transfers in Colorado March 2nd in Denver and April 14th in Colorado Springs.
  Each 'Water Rights Sales and Transfers' seminar will provide: the attendee with an understanding of how water rights can be changed in Colorado, the depth and the expense of the engineering and legal work required to accomplish a change and get it decreed, how water rights are sold and transferred in Colorado, and issues surrounding acquisitions of water rights.

- **Alec Rothrock** will present the Ethical Pitfalls for Paralegals & Legal Assistants Seminar April 18th at the Marriott City Center Hotel in Denver.

- **Alec Rothrock** will present Ethics (not just) for Government Lawyers at the Colorado Municipal League Conference, June 24th in Vail.

- **Alec Rothrock** will present Trust Accounting 101 on July 26th.