

SUDDEN DEATH DOESN'T APPLY JUST TO ATHLETES

When legendary boxing manager Cus D'Amato died in 1985, it was the beginning of the end for Mike Tyson. D'Amato was Iron Mike's legal guardian. He had adopted the budding superstar from a boarding school in Catskill, NY. Not to take anything away from Buster Douglas - he fought a determined fight in Tokyo. The invincible Iron Mike Tyson had been Knocked Out - flat on his back. Fact is, Tyson was already out of it before he set foot in Japan. His life was a mess and his career had some large question marks. It was only 1990. Yet 13 years later in 2003, after having earned over \$300 Million during his career, and in some cases, as much as \$30 Million per fight, Mike Tyson declared bankruptcy.

Tyson is not the only celebrity/entertainer who has had a great career yet was in financial shambles. Sting, MC Hammer, and Toni Braxton suffered at the hands of their well-meaning advisors. Much of it could have been avoided had there been a fiduciary oversight plan.

The key is to have a competent team of fiduciaries, each of whom brings a specific level of expertise to the group. Like athletes, business owners, directors and trustees of foundations, and trustees of retirement plans must have a fiduciary team in place to oversee the fiduciary due diligence process when considering investment and financial alternatives.

Sanli Pastore & Hill, Inc. ("SP&H") has devised a service to assist fiduciaries in meeting their legal requirements. **Fiduciary Shield™** mandates that a fiduciary has a comprehensive process in place - one where roles are assigned and acknowledged - and where the process is monitored. We have invested substantial time reviewing the best and most thorough fiduciary plans and focused them into four main areas of concern. Here is a brief overview of the first, **Organizing**, which is the initial step in the overview process.

SP&H corrals and scrutinizes every investment document insuring that the investments are being handled in accordance with the appropriate regulatory body of state and federal laws. After scouring the investment policy statement, trust documents, and spending policy statement, we assure that there is no self-dealing, jeopardy investments.

A jeopardy investment is one that puts the enterprise's corpus at risk, such as an investment in a subprime mortgage hedge fund. Risky investments are permitted, but they must be done with respect to strict adherence to the entity's asset allocation model.

Self-dealing rules are written broadly. They disqualify transactions between persons closely related to the foundation and the foundation itself. An example would be a sale of commercial real estate to the foundation by a board member even if the price was extremely favorable to the foundation.

We make sure that the investments are within the proper jurisdiction as far as the courts are concerned, and protected from theft and embezzlement.

We can help clarify the roles and responsibilities of all fiduciaries and non-fiduciaries. SP&H makes sure that they are assigned and acknowledged in writing. It is important to get all the pertinent facts on the table at this point. One reason for litigation is that material facts are concealed or out of ignorance, they are neglected. We aid in bringing the facts to the surface.

No one can be an expert in every field. If you are a trustee for example, you don't need to have every skill, but you need to make sure that your colleagues have the complimentary skills to your skill set. How are you going to know if the funds are being invested properly if you don't have a firm grasp on the applicable laws? And if you fail to recruit a knowledgeable team, you are the fiduciary that is caught holding the bag. What makes matters worse is that you may have your attorney or CPA licenses at risk also.

Fiduciary Shield™ is an additional safety procedure for you to put into practice. It is an umbrella procedure that most law firms and accounting firms don't have in place. By bringing SP&H onto the team, we captain the process to make sure that the fiduciaries have addressed all the salient points within the roles they need to fulfill for a particular client. Nothing gets by us.

Many attorneys are great at putting an investment policy statement together - maybe off the top of their heads. But monitoring the fiduciary process is another kettle of fish. It is another set of skills and resources that one needs in order to comply with one. We read the compliance annotations and footnotes.

The second of the four areas, Formalizing, will be addressed in the next SP&H Newsletter. Then Implementation and Monitoring will be covered accordingly. Finally, we will sum it all up in a thorough Overview.