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Trust UPDATE

Stillman BANK

Who will protect your estate?

Few people appreciate how complicated the job of an estate executor can be.

The estate plan of Robin Williams was quite thorough, including separate trusts for his widow, Susan, and his children from earlier marriages. Susan received lifetime use of a home, and the children received other real estate.

The children also were given certain collectibles, including a valuable watch collection, that were located in Susan's home. The independent trustees (Williams' accountant and lawyer) went to the home fairly soon after his death to begin the process of inventorying these items for purposes of estate settlement. Susan became upset, concerned that an attempt to strip the home of its contents might be under way. She brought a lawsuit over interpreting the trust language, and the children were forced to hire their own lawyers in defense. The case remains unresolved at this writing.

Although Robin Williams seems to have done a very good job of preparing his estate plan, he (or his advisors) may not have prepared the beneficiaries for the implementation of that plan. Perhaps this is not surprising, especially when one considers how many people have done no estate planning at all. Had the beneficiaries been advised, they would have learned that conducting an inventory of assets is an essential first step in settling an estate. For death tax purposes, all assets must be valued at the date of death, so the inventory is not something that should be put off for several months, even if grieving relatives feel otherwise. The federal estate tax for Robin Williams will be due nine months after his death.

Elements of estate settlement

Winding up the financial affairs of an affluent individual is not an easy undertaking. The steps include:

- Inventory the assets;
- Obtain insurance as necessary;
- Manage investments;
- Collect debts owed to the decedent;
- Pay debts owed by the decedent;
- Raise cash;
- File death tax returns (federal estate tax and state estate or inheritance tax) if needed;
- File decedent's final income tax return;
- Distribute assets or fund trusts in accordance with the will; and
- Provide an accounting for the management of the estate.

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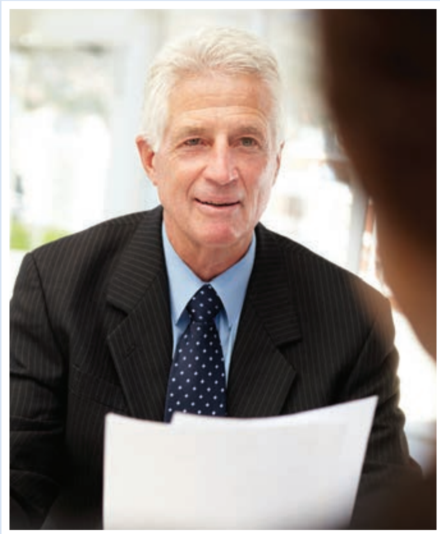
Questions to ask your executor



Here are a few key characteristics to look for as you evaluate the candidates for settling *your* estate:

• **Experience.** Have the individuals or organization settled estates before? Is it part of their daily business routine? Have they been exposed to a wide range of estate settlement issues over the years?

• **Skills.** Is the executor candidate familiar with modern portfolio theory? How about the prudent man rule? Will investment management issues be a problem, or can they be handled routinely?

• **Availability.** Will the proposed executor be ready to take on the job at any time? Is there a chance that illnesses, vacations or career issues will interfere with the job of estate settlement?

• **Impartiality?** Does the prospective executor have a financial interest in the estate? Will all parties consider the executor fair and impartial? Can the executor play a constructive role in settling any disputes that arise among beneficiaries?

Choosing an executor is similar to hiring an employee, but the stakes are much higher.

Advanced planning with trusts

In addition to identifying heirs and their inheritances, a will can provide a financial management plan for that inheritance. This may be achieved with a trust. For example, there are:

- marital trusts for a surviving spouse;
- qualified terminable interest property trusts for spouses and children from prior marriages;
- qualified domestic trusts for spouses who are not American citizens;
- credit shelter trusts for maximum protection from federal estate taxes, in the years when that tax applies;
- testamentary trusts to protect a child's inheritance from creditor claims;
- charitable trusts to meld philanthropic and private interests.

Someone coming into this task for the first time is likely to find it daunting. There are companies, such as us, that include estate settlement as a core business function. We have the recordkeeping systems in place, and we have the experience and expertise required to make estate settlement as painless as possible.

If you die without a will

Tax planning is one element of estate planning, and in many estates it is the least important factor. The larger issue is: Who will inherit and what will they inherit?

In the absence of a will, each state has provided for a plan to distribute property to heirs. There is surprising variability from state to state. If there is a surviving spouse and no children from a prior marriage, the surviving spouse inherits everything in 16 states. Other states provide one-third or one-half for the surviving spouse, with the balance divided equally among the children.

What if there is no surviving spouse or children? Siblings, parents and more remote relatives may then lay a claim to a share of the estate. If no relatives come forward, the assets will pass to the state.

Finally, a will is the place where a person or company is nominated for the position of executor (also called *personal representative* in some states). In the absence of a will, the probate court is forced to appoint someone to oversee the process.

Will substitutes

A will controls only a portion of one's property at death, the part that goes through probate. Property with named beneficiaries may pass to them automatically. Examples of such property include:

- jointly owned property, such as real estate, bank accounts and brokerage accounts;
- pay-on-death accounts;
- life insurance;
- qualified retirement accounts, such as IRAs and 401(k)s; and
- revocable living trusts established for lifetime financial management.

Understanding the role of such assets in the composition of the estate is an essential element of will planning.

We are ready to serve you

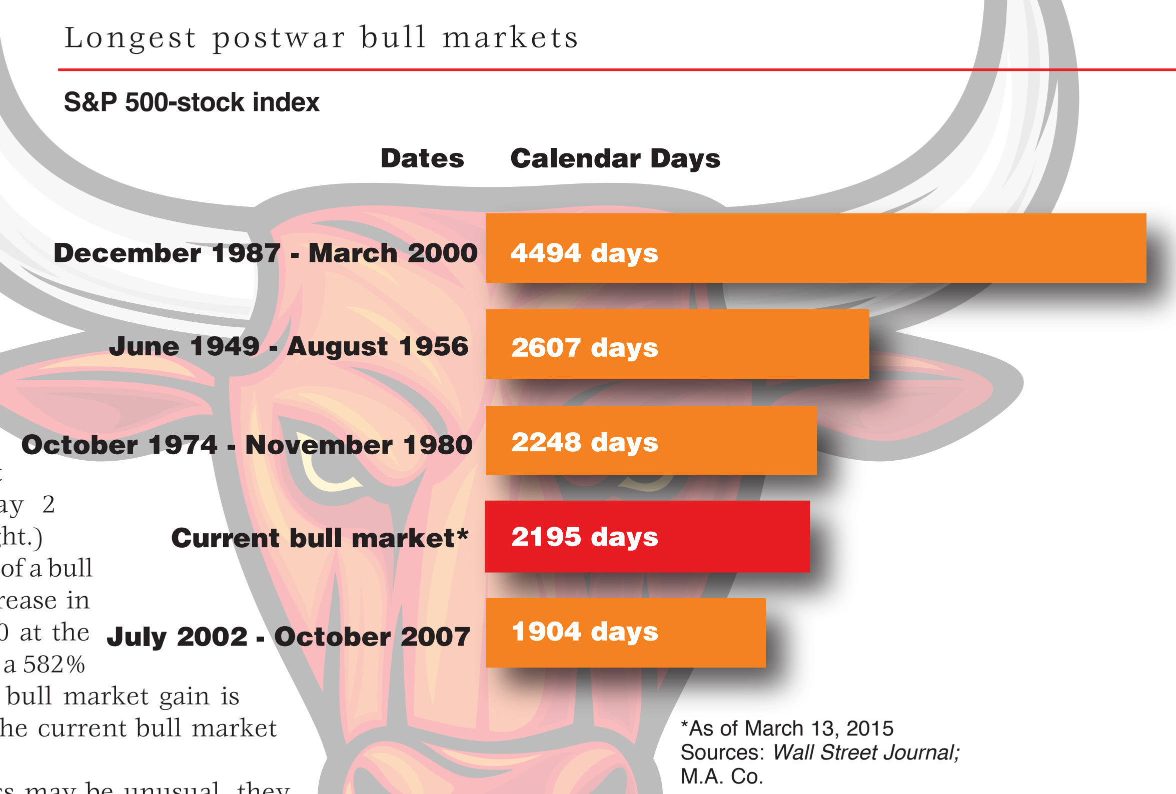
Who should you choose to settle *your* estate? We have the skills, the experience and the knowledge to handle properly the job of estate settlement. We are available, and we are impartial. We understand the nature of fiduciary responsibilities, and we know how to discharge them.

And for all this, our fee for settling an estate is generally comparable to what an inexperienced individual would receive. In some cases our experience will help to reduce estate shrinkage, increasing the amount available for beneficiaries.

Would you like to learn more? Please call on us for more details about our estate settlement service. ☐

How much longer will this bull run?

A “bull market” is generally defined as an increase of at least 20% following on the heels of a decrease of at least 20%. The current bull market for the S&P 500-stock index began in March 2009, three months before the end of the recession, in June 2009. It is now the fourth-longest bull market in modern stock market history, and will become the third-longest should it continue to May 2 of this year. (See graph at right.)



As important as the length of a bull market is the amount of increase in the index. The crash in 2000 at the end of the tech bubble ended a 582% gain. The historical average bull market gain is 106%; the median is 77%. The current bull market is up 206%.

Even though these metrics may be unusual, they don’t tell us anything about whether stocks are fairly valued, or whether values are high or low by historical standards. That information may be had by looking at price/earning ratios. That tells us how many dollars an investor is willing to pay for each $1 of future earnings. Higher price/earning ratios, indicating a large element of investor speculation, are associated with market tops. Professor Robert Shiller publishes the CAPE ratio, a cyclically adjusted price/earnings ratio, in connection with his books on the financial markets. The CAPE ratio uses ten years of earnings to reduce the volatility in the measurement.

The CAPE ratio reached 44.20 in December 1999, shortly before the tech bubble popped. We are far from that level of irrational exuberance, as the ratio as of February 2015 is 27.85. Still, that figure is above the peak of 27.54 reached in May 2007, a year before the collapse that accompanied the great recession.

So, a note of caution may be in order.

An all-weather portfolio?

Worrying about where the market is headed is natural. What to do about it is something else. Those who trade frequently, trying to gauge market tops and bottoms, do not have a very good long-term record. Studies have shown that although the S&P 500-stock index has, on average, gained 11.1% annually over the past 30 years, mutual fund investors have gained only 3.8%. The reason seems to be that they trade at the wrong times, effectively buying high and selling low.

The better course is to build a portfolio that is balanced for positive returns in a variety of markets, an “all-weather” portfolio. Once a plan is devised, it’s better to stick with it than incur trading and tax costs of getting in and out of various securities. Periodically, the portfolio should be rebalanced, to be certain to adhere to the plan.

Do you have questions about your investments? Bring them to us, for a professional consultation. We will be pleased to be at your service. ☐

No magic numbers

After 15 years the tech-heavy NASDAQ Composite index again crossed the threshold of 5,000 as March began. The last time that the index was at this level, in March 2000, the Internet bubble was about to burst. In those heady days, many companies in the NASDAQ had not yet had a year with earnings, which made calculating a price/earnings ratio a challenge. (Division by zero is not allowed.)

Both the S&P 500-stock index and the Dow Jones Industrial Average returned to and exceeded their highs of the Internet bubble long ago. What took the NASDAQ so long? It fell much farther. In the 19 months following the 5,000 high-water mark, the index dropped a gut-wrenching 78%. As recently as six years ago, it stood at 1,268.64.

More importantly, today's NASDAQ is very different from that of 2000. Only four of the top 20 NASDAQ firms (by capitalization) from 2000 remain in the top 20 today. Many of the rest went bankrupt or were acquired by other firms. What's more, those that remained did not grow their way back to their former prosperity.

In 2000 the three largest NASDAQ firms were Microsoft, Cisco and Intel. Their combined market cap came to $1.391 trillion. Today their combined value is just $668 billion; they remain down 50% from their highs. The index has new leaders now.

Does the establishment of a new NASDAQ record suggest that the bull market is nearing its end? Probably not. Today's NASDAQ is not showing the signs of speculative excess that we saw 15 years ago. For example:

- The forward p/e is at 21, less than a third of what it was in 2000;
- In 2000 the aggregate dividend on the NASDAQ was one-tenth that of the S&P 500, while today it is about half;
- The valuation premium for the NASDAQ over the S&P 500 is 20% today, compared to 200% at the top of the Internet bubble.

Today the NASDAQ is being powered by companies that are making large profits making things, such as Apple, the most important recent contributor to the rise in the index. What's more, other firms in the NASDAQ are suppliers to Apple and also benefit from that firm's success. That's not "irrational exuberance."

Still, there are new firms coming on board all the time, and some almost certainly will fail. Venture capitalists reportedly have invested $52.1 billion in new companies in 2014, up 47% from a year earlier. They are looking for a big payoff from the "next big thing." Perhaps that is simply "rational exuberance." ☐