

# ***The “Daily Plan-It™”***

*Law Office of Robert Sample*

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## **Financial Planner Sued for Millions**

A recent case in the Sixth Circuit Court of Appeals emphasizes the necessity for all members of a client’s professional team to work together. Failure to do so can result in a costly price tag, in this case to the tune of \$3 million.

### **Sagemark v. Karam**

In 1987, Abraham Karam executed a trust agreement that contained a tax equalization clause requiring that his assets be divided equally between a marital trust and family (residual) trust. Instead of deferring estate taxes until the death of the second spouse, which is the more common path chosen by estate planners, this arrangement allows for smaller individual distributions upon the death of each spouse. With this type of provision in a trust, the assets that do not pass to the surviving spouse are immediately subject to estate tax.

### **“Word Processed” Financial Plan?!**

In 1994, Karam responded to a direct-mail solicitation from Sagemark Consulting, who agreed to provide a review of his financial and estate plan for a \$2,500 fee. Sagemark was aware of the existence of the previously-executed trust agreement, but never received it from Karam’s attorney. Instead of waiting for and reviewing the trust, they assumed that it provided for the normal distribution of assets. They advised Karam that under his “current situation,” there would be no federal estate tax due upon the first spouse’s death.

When Karam died in 1997, his \$10 million estate was required to pay \$1.9 million in federal estate taxes, much to the surprise of his family. They turned their shock into a lawsuit.

### **\$3 Million Verdict Against Advisor**

The district court jury found in favor of the plaintiffs, and ordered Sagemark to pay \$3 million. Sagemark filed a motion to overturn the jury verdict and the district court judge overturned the jury verdict as a matter of law. However, the Sixth Circuit Court of Appeals disagreed, and overturned the decision, reinstating the \$3 million jury verdict.

## **What Can You Learn From This?**

The facts of this case stress the importance of having a team effort in planning for a client. It is essential that all professionals coordinate a client’s individual situation. If the financial planner had worked closely with Karam’s attorney while developing his plan, Sagemark would not be writing a big check.

In an ideal situation, the attorney would have informed the financial advisor of the logic behind the tax equalization clause. The attorney could have also brought in the advisor to discuss life insurance needs when the estate plan was drafted.

## **Why Practice Law?**

The interesting part is why the advisor committed malpractice and decided to commit the unauthorized practice of law. He basically formed a legal opinion on a trust he never read. He made two major mistakes. It is a lesson we can all learn from.

## **Your Personalized Info Here!**

This area of the Daily Plan-It newsletter is used by subscribers to provide information about their firm, upcoming workshops or any other information you would like to include.

### **Upcoming Workshops**

#### **Estate Planning Workshop**

❖ October 16, 2004 at 7:00 p.m.

#### **Medicaid Planning Workshop**

❖ October 24, 2004 at 2:00 p.m.

### **Biographical Information**

Robert Sample limits his practice to the areas of Estate Planning and Business Law. Our offices are conveniently located just minutes away from...

Perhaps you will include a photo or clip art!

