



Report from Counsel - Insights and Developments in the Law

How Insured Are Your Deposits? ... continued

organizations (including charities), and trusts do not qualify.

- The account title must indicate the existence of the trust relationship by including a term such as payable on death, in trust for, trust, living trust, family trust, or an acronym such as POD or ITF.
- For POD accounts, each beneficiary must be identified by name in the bank's account records.

If any of these requirements are not met, the entire amount in the account, or any portion of the account that does not qualify, would be added to the owner's other single accounts, if any, at the same bank and insured up to \$100,000. If the revocable trust account has more than one owner, the FDIC would insure

each owner's share as his or her single account.

Note: The following example applies to POD accounts only. Coverage may be different for some living trusts.

Example: Bill has a \$100,000 POD account with his wife Sue as beneficiary. Sue has a \$100,000 POD account with Bill as beneficiary. In addition, Bill and Sue jointly have a \$600,000 POD account with their three children as equal beneficiaries. These three accounts totaling \$800,000 are fully insured because each owner is entitled to \$100,000 of coverage for the interests of each qualifying beneficiary in the accounts. Bill has \$400,000 of insurance coverage (\$100,000 for the interests of each qualifying beneficiary – his wife in the first account and his three children in the third account). Sue also has \$400,000 of insurance coverage (\$100,000

Account Title	Account Balance	Amount Insured	Amount Uninsured
Bill POD to Sue	\$ 110,000	\$ 100,000	\$ 0
Sue POD to Bill	\$ 110,000	\$ 100,000	\$ 0
Bill & Sue POD to 3 children	\$ 220,000	\$ 600,000	\$ 0
Total	\$ 800,000	\$ 800,000	\$ 0

Amendments to the Pennsylvania Department of Revenue Realty Transfer Tax Regulations

Recently, the Pennsylvania Department of Revenue amended the Realty Transfer Tax Regulations. Transactions which were not previously taxable may now be taxable events. Although each event must be evaluated on its own merit, some important changes in the regulations include taxation on certain aspects of sale-leaseback transactions, conversions of companies, assignments of agreements of sale and terminations of leases which had

not previously been taxed. For example, previously, only the sale portion of a sale-leaseback transaction was taxable. However, since the amendments, the leaseback portion may be taxable as well where the term of the lease is 30 years or more.

Although many of these transactions include new or additional taxing events, the structuring of the transaction will determine whether

For Questions on FDIC Coverage, Please consult a member of the firm's Financial Services Group.

for the interests of each qualifying beneficiary – her husband in the second account and her three children in the third account).

When calculating coverage for revocable trust accounts, be careful to avoid these common mistakes:

- Do not assume that coverage is calculated as \$100,000 times the number of people –owner(s) and beneficiary(ies) – named on a trust account. Coverage is provided for the interest of each qualifying beneficiary named by each owner. Additional coverage is not provided to the owners for naming themselves as owners. For example, a father's POD account naming two sons as equal beneficiaries is insured to \$200,000 only -- \$100,000 for the interest of each qualifying beneficiary.
- Do not assume that the FDIC insures POD and living trust accounts separately. In applying the \$100,000 per-beneficiary insurance limit, the FDIC combines an owner's POD accounts with the living trust accounts that name the same beneficiaries at the same bank. • *SGK*

the changes to the amendments will apply. In the event your company is anticipating undertaking any of these transactions, a member of Sherrard, German & Kelly P.C.'s newly formed Real Estate Services Group or Corporate Services Group will be able to assist you in complying with the amendments to the Realty Transfer Tax Regulations. • *SGK*

Paul David Burke Elected Chairman of the Board for Jumonville

Sherrard, German & Kelly P.C. Shareholder Paul David Burke was recently elected to serve as the Chairman of the Board for Jumonville. Jumonville is a premier non-profit Christian conference, camp and retreat center located south of Uniontown, Pennsylvania in the Laurel Highlands and offers programs for youth, adults, families and other groups.

Mr. Burke was also recently elected to serve as the Lay Leader for the Mt. Lebanon United Methodist Church. As a Lay Leader, Mr. Burke is charged with working with the Senior Pastor and staff in leading and managing the operations and ministries of the congregation.

Mr. Burke is a member of the firm's Financial Services, Corporate Services and Litigation Services Groups.



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Support for HEARTH

SGK will again be a Gold Sponsor for HEARTH at its 13th Annual Tee & Green Golf Outing and Dreammaker Recognition Awards Dinner which follows on June 16th at Sewickley Heights Golf Club. Other sponsors for the event include SGK friends and clients such as Fort Pitt Capital Group, Precision Endodontics, CIBER, PGT Trucking, Northwest Savings Bank, Trinity Jewelers, Herbein & Company, Daniel W. Costa, CPA, CFP, Allegheny Valley Bank, Citizens Bank, Stoltenberg Consulting, and Bobby Rahal

Automotive Group. HEARTH is a non-profit entity that runs Benedictine Place in the North Hills, a transitional housing program for homeless women and children providing a continuum of care that empowers participants to become independent and economically self-sufficient. The focus of Benedictine Place is to provide a safe place for families to live along with necessary support to enable mothers to complete educational or training programs, all while parenting their children and maintaining jobs. In the past few years, HEARTH has

Joseph M. Wymard Joins McGowan Institute for Regenerative Medicine Board

Sherrard, German & Kelly, P.C. attorney Joseph M. Wymard has recently joined the McGowan Institute for Regenerative Medicine Board of Directors. The McGowan Institute combines engineering and biology to develop techniques aimed at repairing damaged or diseased tissues and organs. The McGowan Institute is the most ambitious regenerative program in the nation.

Mr. Wymard is a Director of the firm and is a member of the firm's Litigation Services Group. Mr. Wymard's practice has focused on complex domestic litigation including divorce, property division, support and custody matters, as well as valuation of closely held businesses and ownership interests of public corporations.

helped hundreds of mothers and children in their efforts to transition from homelessness to self-sufficiency. For details regarding HEARTH or the Golf & Dinner Event, please contact HEARTH at 412.939.2302 or visit HEARTH online at www.hearth-bp.org.

SGK attorney Eric C. Springer has served as Vice President and on various committees during his tenure on its Board over the past 8 years. He has also served as the Chairman of the Golf Committee for the past 4 years.

How Insured Are Your Deposits?

As the impact of the subprime crisis spreads further over the financial markets and institutions, individuals and companies should confirm the financial strength of the institutions holding their funds and should review the ownership of their deposit and retirement accounts to maximize the coverage provided by FDIC Insurance. Listed below are some helpful hints and examples provided by the FDIC.

Basic Insurance Amount Is \$100,000

The basic insurance amount is \$100,000 per depositor per insured bank. Certain retirement accounts, such as Individual Retirement Accounts, are insured up to \$250,000 per depositor per insured bank.

If you and your family have \$100,000 or less in all of your deposit accounts at the same insured bank, you do not need to worry about your insurance coverage -- your deposits are fully insured.

Coverage Over \$100,000

The FDIC provides separate insurance coverage for deposit accounts held in different categories of ownership.

You may qualify for more than \$100,000 in coverage at one insured bank if you own deposit accounts in different ownership categories.

Single Accounts

These are deposit accounts owned by one person and titled in that person's name only. All of your single accounts at the same insured bank are added together and the total is insured up to \$100,000. For example, if you have a checking

account and a CD at the same insured bank, and both accounts are in your name only, the two accounts are added together and the total is insured up to \$100,000.

Note: Retirement accounts and qualifying trust accounts are not included in this ownership category.

Certain Retirement Accounts

These are deposit accounts owned by one person and titled in the name of that person's retirement plan. Only the following types of retirement plans are insured in this ownership category:

- Individual Retirement Accounts (IRAs) including traditional IRAs, Roth IRAs, Simplified Employee Pension (SEP) IRAs, and Savings Incentive Match Plans for Employees (SIMPLE) IRAs
- Section 457 deferred compensation plan accounts (whether self-directed or not)
- Self-directed defined contribution plan accounts
- Self-directed Keogh plan (or H.R. 10 plan) accounts

All deposits that an individual has in any of the types of retirement plans listed above at the same insured bank are added together and the total is insured up to \$250,000. For example, if an individual has an IRA and a self-directed Keogh account at the same bank, the deposits in both accounts would be added together and insured up to \$250,000.

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Newly Formed Real Estate Services Group

Sherrard, German & Kelly, P.C. is proud to announce the formation of its Real Estate Services Group. Offering our clients a high quality and diverse commercial real estate practice remains a cornerstone of our Real Estate Services Group. Our real estate lawyers offer advice and legal services in a broad range of commercial real estate transactions including: acquisition, sale and exchange transactions; sophisticated commercial leases; financing transactions; real estate development; as well as title, zoning and other land use matters. In conjunction with our Litigation Services Group, our real estate lawyers also regularly provide legal services in connection with a range of real estate disputes.

Attorney Cynthia K. Rarig Presents to CPA Group

Attorney Cynthia K. Rarig was a presenter on February 27, 2008 at the Penn State Greater Allegheny Continuing Education Certified Public Accountant Series. Ms. Rarig spoke to the group on "Estate Planning Aspects of Tactical Asset Allocation and Preservation." Ms. Rarig is a member of the firm's Estate and Trust Services Group.



Cynthia K. Rarig



UCC Book Authored by Shareholder Ed Rice

Shareholder Ed Rice has authored the legal reference book Pennsylvania Secured Transactions Under Revised Article 9 of the UCC, Forms and Practice Manual, which was published this winter by Data Trace Publishing Company. The book covers a comprehensive review of the law in Pennsylvania for secured transactions under Article 9, as recently revised, and contains an extensive set of forms that can be used by the practitioner in secured commercial transactions. Attorney Sharon M. Menchyk is a contributing author of the book.



Edward G. Rice

Mr. Rice is a member of the firm's Financial Services and Corporate Services Groups, and Ms. Menchyk is a member of the firm's Financial Services and Litigation Services Groups.

Real Estate/Boundary Law

Shareholder Kenneth J. Yarsky, II was a recent presenter at the Pennsylvania Bar Institute's Boundary Law Program and A Day on Real Estate. These continuing legal education programs for seasoned real estate attorneys were held in Pittsburgh, Pennsylvania on March 5, 2008 and March 27, 2008.

Mr. Yarsky is a member of the firm's Real Estate Services Group. His practice focuses on all aspects of real estate, business and banking, estate planning, estate administration, creditor's rights, civil litigation and title insurance litigation.

How Insured Are Your Deposits? ... continued

Note: Naming beneficiaries on a retirement account does not increase deposit insurance coverage.

Joint Accounts

These are deposit accounts owned by two or more people. If both owners have equal rights to withdraw money from a joint account, each person's shares of all joint accounts at the same insured bank are added together and the total is insured up to \$100,000. If a couple has a joint checking account and a joint savings account at the same insured bank, each co-owner's shares of the two accounts are added together and insured up to \$100,000, providing up to \$200,000 in coverage for the couple's joint accounts.

Example: John and Mary have a \$220,000 CD at an insured bank. Under FDIC rules, each person's share of each joint account

Account Holders	Ownership Share	Amount Insured	Amount Uninsured
John	\$ 110,000	\$ 100,000	\$ 10,000
Mary	\$ 110,000	\$ 100,000	\$ 10,000
Total	\$ 220,000	\$ 200,000	\$ 20,000

is considered equal unless otherwise stated in the bank's records. John and Mary each own \$110,000 in the joint account category, putting a total of \$20,000 (\$10,000 for each) over the insurance limit.

Note: Jointly owned qualifying trust accounts are not included in this ownership category.

Revocable Trust Accounts

These are deposits held in either payable-on-death (POD) accounts or living trust accounts.

Payable-on-death (POD) accounts

These are also known as testamentary or Totten Trust accounts and are the most common form of revocable trust deposits. These informal revocable trusts are created when the account owner signs an agreement – usually part of the bank's signature card – stating that the deposits will be payable to one or more named beneficiaries upon the owner's death.

Living trusts

Also known as family trusts, these are formal revocable trusts created for estate planning purposes. The owner of a living trust controls the deposits in the trust during his or her lifetime.

Note: Determining coverage for living trust accounts can be complicated and requires more detailed information about the FDIC's insurance rules. Please consult counsel in such case.

Deposit insurance coverage for revocable trust accounts is based on each owner's trust relationship

with each qualifying beneficiary. While the trust owner is the insured party, coverage is provided for the interests of each beneficiary in the account. The FDIC insures the interests of each beneficiary up to \$100,000 for each owner if all of the following requirements are met:

- The beneficiary is the owner's spouse, child, grandchild, parent, or sibling
- Adopted and stepchildren, grandchildren, parents, and siblings also qualify. In-laws, grandparents, great-grand children, cousins, nieces and nephews, friends,

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Firm Announcements

Alexander C. Sherrard

Sherrard, German and Kelly, P.C. regrets to announce the passing of a dear friend and colleague. Alexander C. Sherrard passed away on March 27, 2008 following a brief illness. Mr. Sherrard was a shareholder of the firm until retiring in early 2003. Alex was a well known and highly regarded lawyer in the field of consumer financial services and banking.



Alexander C. Sherrard

His vast knowledge of the intricate laws and regulations applicable to the specialized area of banking was sought out by some of the largest local banks. He also was a frequent lecturer on consumer banking topics.

Mr. Sherrard was born on July 5, 1923 in Brownsville, Pennsylvania. He graduated magna cum laude from Amherst College with a bachelor of arts degree in 1947 and earned an LL. B. from Yale Law School in 1950. Upon graduation, Mr. Sherrard joined one of our predecessor law firms Campbell, Thomas & Houck.

We express our sympathies to his wife Dorothy, their two children, Amy Weaver and Alexander Sherrard, III and their four grandchildren. He was loved and widely respected and will be greatly missed by all of us at the firm.

Financial Industries Network Event Sponsorship

SGK was a Platinum Sponsor of the Financial Industries Network ("FIN") Dinner Event at the Duquesne Club on March 6th featuring speaker Stephen Kaplan, Pennsylvania Secretary of Banking. Secretary Kaplan provided an overview of the current mortgage crisis, how it is affecting Pennsylvania financial institutions and what his department is doing to address the situation. The Financial Industries Network is a non-profit organization of executives and other senior-level managers from a variety of regional companies, banking and finance-related industries, as well as accountants, investment advisors, securities brokers, tax consultants, business consultants,



Eric C. Springer

attorneys and other professionals. The group meets quarterly to network and discuss issues involving corporate and personal finance. The firm has been involved with the Financial Industries Network for many years and SGK attorney Eric C. Springer is its current President.

Pennsylvania Rising Star

Attorney Erin E. Milliken was named a Pennsylvania Rising Star by Philadelphia Magazine. The complete list of Pennsylvania Rising Stars was included in a special issue of Philadelphia Magazine, published by Law & Politics. The award recognizes just 2.5 percent of Pennsylvania attorneys.



Erin E. Milliken

Ms. Milliken is an associate at the firm, practicing in the Insurance Coverage Services Group. She represents primary and excess insurance carriers in various complex insurance coverage matters involving professional lines of insurance

INTRAFAMILY LOANS SUBJECT TO TAX LAWS

For parents with the financial means to do so, there may be a natural impulse to help a child get started in his or her adult life by making a loan to the child, on terms that are favorable to the child. Notwithstanding the virtues of such generosity, the cold reality is that, if the terms are too favorable to the child, the loan could end up with some undesirable tax consequences.

The better choice may be to go forward with the loan, but with the child repaying the loan with enough interest to avoid the tax consequences. Think of this approach as generosity tempered with practicality and as a borrowing position for the child that is closer to the "real world" marketplace.

For a loan from a parent to a child, the IRS measures the interest rate on the loan against a benchmark interest rate, the "applicable federal rate" (AFR), which it sets each month. Currently, that rate is about 5%. To the extent that the interest due on the loan is less than the interest calculated with the AFR, that amount will be "imputed" income to the parent, even though it was not in fact collected by the parent. The IRS will also treat the same amount as a gift to the child, requiring the filing of a gift tax return. (There would be no gift tax due, however, unless the

parent had used up the \$1 million lifetime gift tax exclusion.) From the standpoint of the child's taxes, he or she may be able to deduct the amount of the imputed interest on a loan secured by a residence.

Exceptions

There are two important exceptions to this scenario. If the amount of the loan to a relative does not exceed \$10,000, and the loan is not used for an income-producing investment, the IRS will not impute any interest. In addition, loans of up to \$100,000 do not lead to imputed interest if the borrower's net investment income in a given year does not exceed \$1,000.

To avoid the income tax or gift tax ramifications for all kinds of intrafamily loans, the simplest approach is to use an interest rate that is at least as high as the AFR. Also, although it may seem unduly formal among relatives, it is advisable to set forth the terms of the loan in a written agreement, signed by all parties. Not only does this protect against faulty memories, but it decreases the odds that the IRS will consider the entire transaction to be a gift rather than a loan. • *SGK*

including, fiduciary liability, directors' and officers' liability and professional errors and omissions liability.

Zurn Industries Acquisition of GA Industries, Inc.

Sherrard, German & Kelly, P.C. client GA Industries, Inc. recently closed a transaction to be acquired by Zurn Industries, LLC for the cash purchase price of \$76 million dollars. GA Industries manufactures automatic control valves, check vales, gate vales and other engineered flow control products used in the water and wastewater markets. GA Industries is based in Cranberry Township, Pennsylvania with other facilities in Mars, Pennsylvania and Orange, Massachusetts. GA Industries employs nearly 300 employees and has approximately \$60 million in annual sales. Sherrard, German & Kelly Shareholder's Robert D. German and Susan J. Messer were lead corporate counsel to GA Industries in the transaction.

Attorneys Join Estate and Trust Services Group

Sherrard, German & Kelly, P.C. is pleased to announce that Cynthia K. Rarig and W. Chad Pociernicki have joined as associates in the firm's Estate and Trust Services Group. Immediately prior to joining the firm, Ms. Rarig was a Vice President and Senior Portfolio Manager with BNY Mellon Wealth Management in Pittsburgh and prior to that time, practiced in the area of estate and trust law for several years with a large local firm. Ms. Rarig earned her law degree from Duquesne University in 1988 and her Bachelor of Arts degree from Duquesne University as well in 1982. Prior to joining the firm, Mr. Pociernicki was an associate with a large international law firm. Mr. Pociernicki's prior practice focused on the estate and trust area, but also included commercial litigation, transactional and regulatory matters. Mr. Pociernicki received his law degree from the New York University School of Law in 2002 and his Bachelor of Philosophy from the University of Pittsburgh in 1999.

Firm is a Sponsor of Westmoreland County Heart Ball

Sherrard, German & Kelly, P.C. was a sponsor for the American Heart Association's 2008 Westmoreland County Heart Ball. The Heart Ball, held on March 29, 2008 at the Rolling Rock Country Club in Ligonier, Pennsylvania, honored, posthumously, Lawrence J. Rhoades. Mr. Rhoades, a longtime friend and client of the firm, was an avid supporter of the American Heart Association.

Sherrard, German & Kelly, P.C. Names New Shareholder, Director and Senior Associate

Sherrard, German & Kelly, P.C. is pleased to announce the election of **Matt A. Jarrell** as a Shareholder and Director of the firm. Mr. Jarrell is a member of the firm's Financial Services, Corporate Services and Litigation Services Groups. In addition to providing financial and transactional services, Mr. Jarrell also devotes a significant amount of his practice to counseling companies involved in the production, transmission and distribution of oil and gas on various matters including negotiation and drafting of leases and other contracts as well as regulatory matters. The firm is also pleased to announce the election of **Robert J. Courie** as a Director of the firm. Mr. Courie is a member of the firm's Corporate Services, Real Estate Services and Financial Services Groups. Mr. Courie's practice includes counseling entrepreneurs and business entities on a wide range of legal issues including entity formation, financing, contract, employment and real and intellectual property matters. Mr.



Matt A. Jarrell



Robert J. Courie



Jennifer R. Applegate

Courie also represents owners of commercial real estate in connection with acquisition and sale transactions, financing and leasing and development activity. The firm also recently promoted **Jennifer R. Applegate** to the position of Senior Associate. Ms. Applegate is a member of the firm's Corporate Services Group and counsels clients in the areas of corporate law and real estate.

Super Lawyer Announcement

Sherrard German and Kelly, P.C. is proud to announce that shareholders Richard C. Lane, Stanley J. Lehman, Gary Philip Nelson, and Kenneth J. Yarsky, II are among the 5% of Pennsylvania's lawyer to have been selected by their peers for inclusion in Pennsylvania Super Lawyers - 2008. The complete list of Pennsylvania Super Lawyers is included in a special June issue of Philadelphia Magazine, published by Law & Politics.

Mr. Lane is Chair of the firm's Financial Services Group. Mr. Lane's practice is primarily devoted to counseling financial institutions and financial service companies with respect to compliance with consumer lending laws and regulations.

Mr. Lehman is Chair of the firm's Insurance Coverage Services Group. Mr. Lehman has extensive experience analyzing and litigating various complex insurance coverage matters for primary and excess insurance carriers in the context of fiduciary liabilities, directors and officers liability, employment practices liability, accountant malpractice, and other professional errors and omissions liability policies.

Mr. Nelson is a member of the firm's Financial Services Group. Mr. Nelson's corporate and commercial practice includes commercial, industrial, and real estate lending transactions; mergers and acquisitions, including asset acquisitions in Bankruptcy; work-outs; restructurings; deed-in-lieu transactions; and bankruptcy.

Mr. Yarsky is a member of the firm's Real Estate Services Group. His practice includes real estate acquisition, financing, development, and use; business and banking transactions; estate planning and administration; creditor's