



# Succession, Asset Protection and Estate Planning

Workshop with Grant Abbott and Tony Anamourlis from Abbott & Mourly lawyers, Tim Munro from Change GPS and Michael Jeffriess from Jam LightYear Docs

14 October 2020

**YOUR SUCCESS IS OUR SUCCESS**



**WE ARE YOUR STRATEGY ENGINE**

Liberation –  
Freedom -  
Succession

# Some rules for today

- You will receive a recording for the session today which will be available from Thursday
- **There is a lot of content and ideas coming through in the session so sit back and enjoy – get some paper handy in case a client comes to you**
- Ask questions along the way either in chat or the Q&A where we can add to the materials
- For FASEA CPD there are four hours – one technical, two client care and one professionalism and ethics
- For Tax Practitioners Board there are four CPE hours as it relates to structuring and tax work

The Succession, Asset Protection and Estate Planning space covers a wide range of structures and strategies all with the goal of providing protection and if you like a Moat around a client's affairs.

Make no mistake there is a multitude of lawyers seeking to Robin Hood your clients to distribute their wealth amongst a list of aggrieved parties. With in excess of \$3 trillion to pass hands over the next fifteen years expect litigation upon litigation. Do we care?

***Absolutely!*** They can Robin Hood all they want but my client's Moats are filled with skanky water, crocodiles and piranhas.



Justice Jeremy Curthoys, who was scathing of lawyers' "indefensible" legal fees. Credit: WA News

**Legal fee scandal: Lawyers 'feast' on Perth family estate**



This is what it is all about

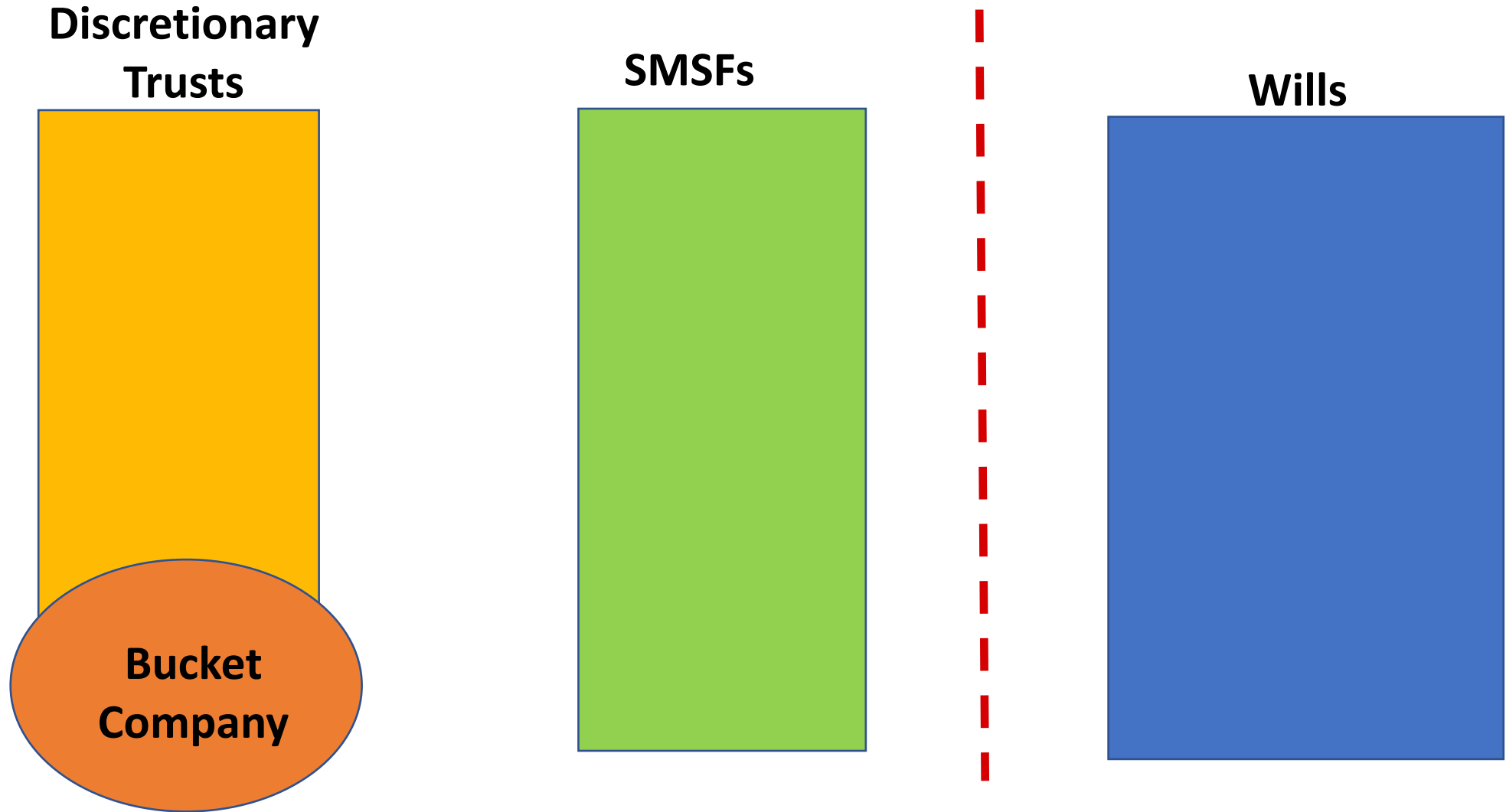
# Building a Successful SAPEP

- Determine what is important to a person about looking after their family and loved ones during life and when they die;
- Create a blueprint to deliver the desired life, asset protection and estate planning goals using the right combination of vehicles and life insurance if need be;
- Make sure the plan is simple, certain and easy for all parties to understand before the person dies;
- Ensure the person or persons left in charge of implementing the plan what they are doing or use experienced advisers to deliver the plan;
- Ensure it is tax effective; and
- Ensure it complies with the laws and any chance of legal disputation is minimised.

# To control you must have a Succession Plan

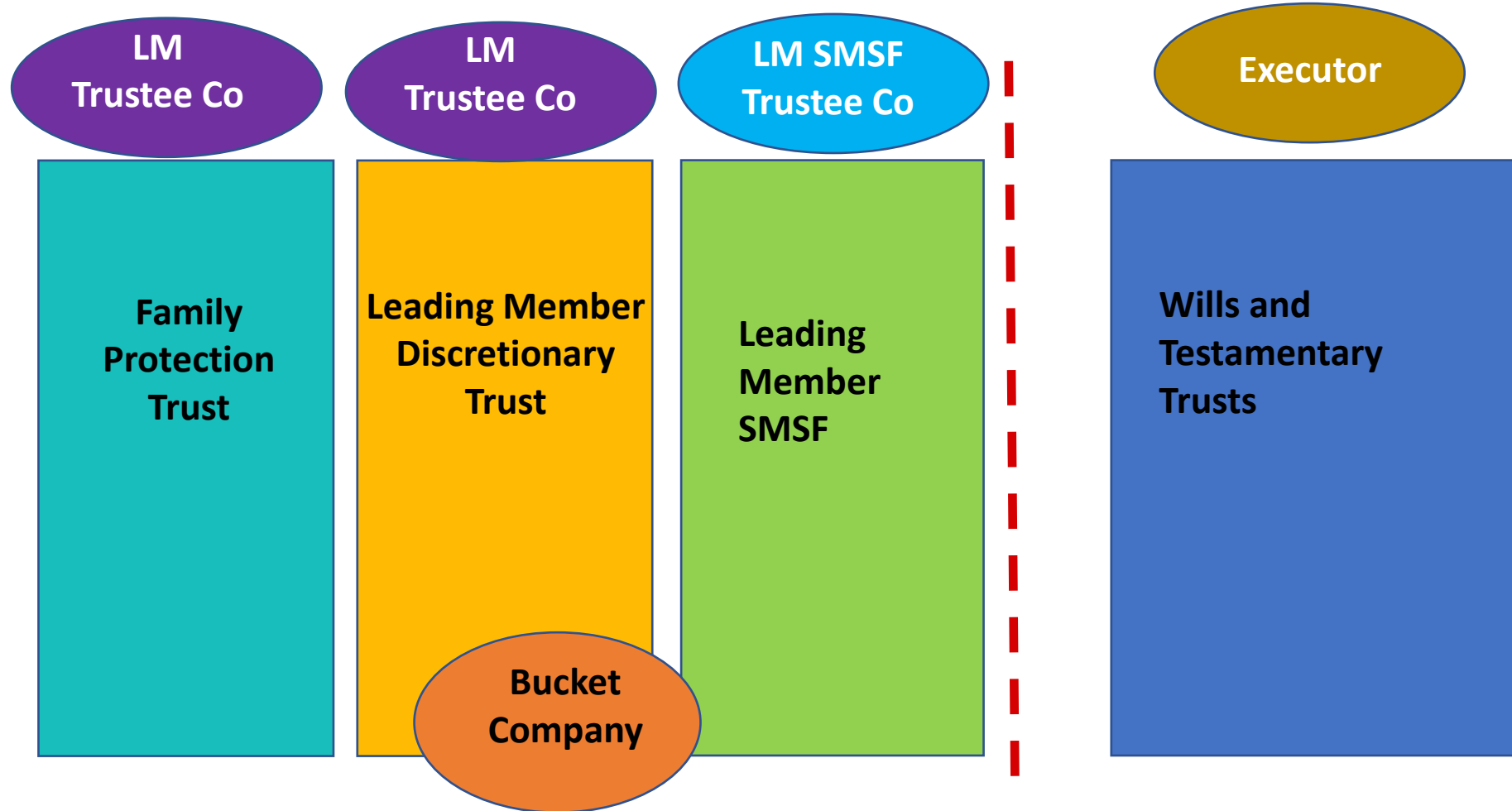
- Royal families have great succession control
- Each has a Leading Member - the person with the power to control, protect and grow the family wealth – no democracy allowed
- Linear in succession with three or four successions to be put in place for every structure and catering for death, dementia, retirement, bankruptcy, divorce and litigation – get me out of here
- Provides for family down the line but can also cut across the line – think of beneficiaries in a Discretionary Trust so not just lineage but bloodline
- Discretionary Trusts – SMSF – Legal Estate
- *Ideally* – **EPOA = Executor = Successor Leading Appointor = Successor Leading Member**

# The Old Structures are fallible

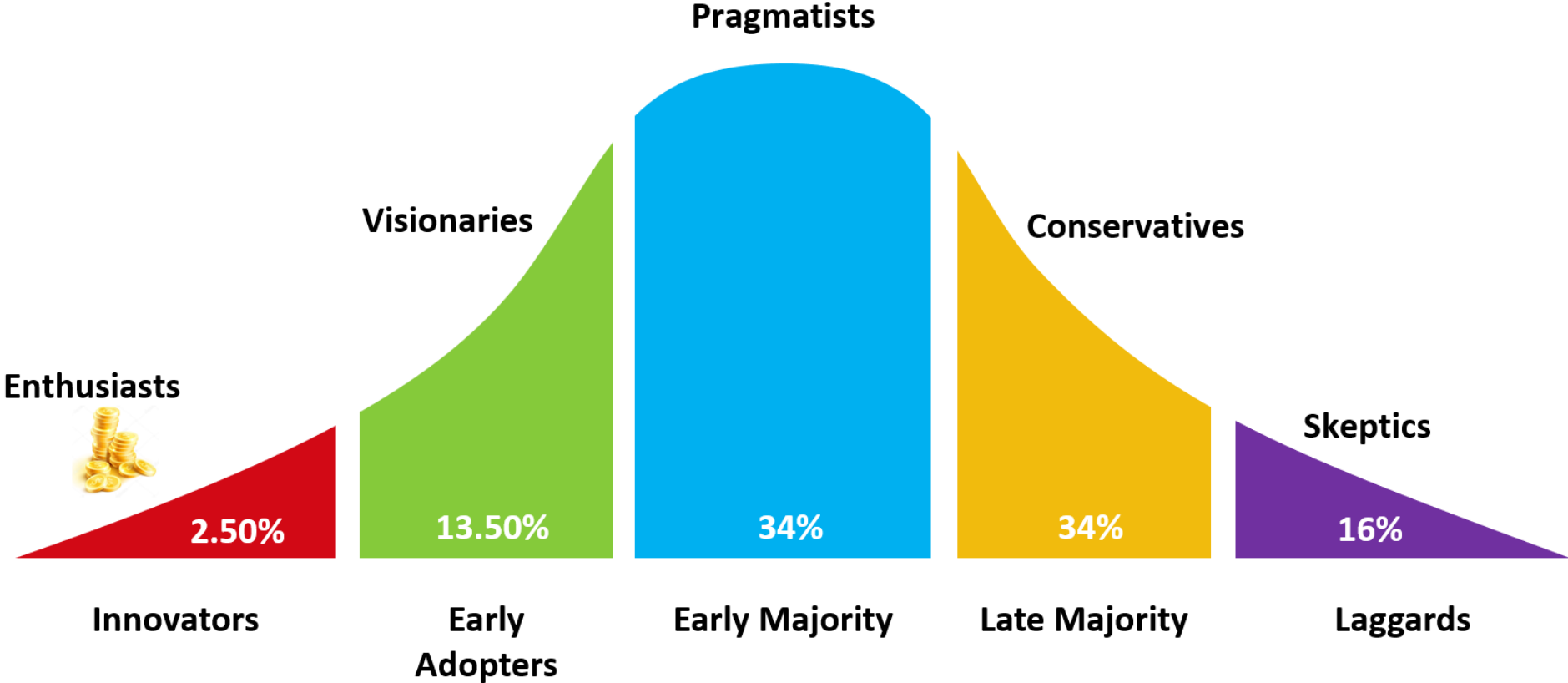




# The New Moat Structures



# Get in first as that is where the spoils are ...



# The Five Reasons Accountants and Planners are the best Succession, Asset Protection and Estate Planning Advisers

- The large majority of business clients and those with sizable assets use Discretionary Trusts and SMSFs for asset protection purposes. The assets in these trusts do not form part of the estate – so what is left?
- **Reason One:** Accountants can look across all of the client's structures, including bucket companies and ensure they are protected with a Moat
- **Reason Two:** Lawyers lack tax and knowledge of Discretionary Trusts and SMSFs and push superannuation into a challengeable estate – Why?
- **Reason Three:** Accountants and many planners have long term relationships with clients and their families so are empathetic to the importance of building a Moat. Lawyers are transactional and have no long term relationship
- **Reason Four: The Trusted Adviser** – in a Princeton Study published in Australian lawyer Accountants were high on the trust score while lawyers ranked alongside prostitutes
- **Reason Five:** It is the whole family so looking at providing succession, estate planning and insurances across the family unit not just one person

# The Legal Side of Advising

- Like all legal documents it is how it is done that is important
- A lawyer cannot hold themselves out to be a financial planner, accountant or real estate agent and vice-versa
- For a long time tax agents have provided tax law advice which on its face looks like legal advice but they are covered by a Commonwealth statute as part of their role
- The same with any licensed financial planner, they provide legal advice day in and day out. An SoA is in part a legal letter of advice underwritten by the Corporations Act 2001
- Day in and day out we set up pensions, SMSFs, trusts, companies, loan agreements so where is the line drawn?



# Review of the Law - Tony Anamourlis from Abbott & Mourly



## **Actions that are legal services and the provision of legal advice**

- drawing and drafting documents of a legal nature;
- giving legal advice;
- appearing in Court; or
- using the name of barrister, solicitor, Australian legal practitioner or any other name used to describe someone who is qualified to engage in legal practice.

# Review of the Law

## Actions that are NOT legal services nor legal advice

- Undertaking work in association with the law will not necessarily constitute engaging in legal practice. Examples may include:
  - clerical or administrative tasks such as inserting parties' names in a document;
  - selling of legal documents; or
  - advising of incidental legal requirements by a person in the pursuit of an occupation other than law - tax agents advising on the requirements of tax legislation.

# Abbott & Mourly Advice

LightYear Docs documents have been reviewed and signed off by Abbott & Mourly.

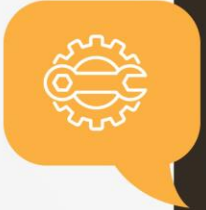
*Tony Anamourlis of Abbott & Mourly advises that “at no time, due to inbuilt legal protection and security measures can a user change or amend a document on the LightYear Docs platform that has been signed off by a practicing solicitor. To do so would result in the user drafting a document of a legal nature and engaging in the provision of legal services. In addition it would be a breach of copyright. In our opinion when completing the form fields through the LightYear Docs platform, users and their employees are merely carrying out an administrative task which is not the provision of legal advice.”*

# ESTATE PLANNING ROADMAP FOR ADVISORS



**01 Preparation of Data Capture Sheet**  
Advisor collects the information from the client and then inputs that information via the LY Estate Planning platform. Cost agreements prepared any other ancillary documents

**02 LY Generates the Estate Planning Documents**  
LY system produces the Will, EPOA & any other Estate Planning Documents as required by the client



**04 Zoom with Advisor & Client (45-60Mins)**  
Advisor arranges a Zoom Conference with the client to obtain any final instructions relating to any amendments to the documents.



**03 Estate Planning Documents Reviewed by Abbott Mourly.**



**05 AM finalizes the documents**  
AM finalizes the documents and documents are sent back to Advisor & client. Another Zoom is then arranged for signing and Witnessing



# First Case Study

- Max and Samantha Smith are 37 years old and have two daughters – Janine and Kathy who are 4 and 2 years old
- They own their family home jointly in Fairlight NSW which is currently valued at \$1.6M and has a \$600,000 mortgage
- Max is a director in a large construction firm on the Northern Beaches of Sydney as is paid \$140,000 per annum
- Samantha has an Amazon store where she sells her small line of Mums clothing which is gaining steam and turns over \$15,000 per month with a \$5,000 profit
- Max and Sam are in Australian Super with Max having \$160,000 and Sam \$50,000
- They would like Wills for each of them
- Let's look at their Data Capture



# Go to the Data Capture



## Max and Samantha Smith

### INTERVIEW AND DATA CAPTURE

### Enduring Power of Attorney and Will

The following enduring power of attorney and Will interview captures details around who will be looking after your affairs in the event of your incapacity or demise. It also goes into whether you want to leave any specific gifts to anyone and finally who and what percentage of the estate you would like to leave your primary beneficiary. Also, for completeness if they are not alive what is to happen to their share and so on. If you have any questions, please do not hesitate to contact us.



# List down other issues that are on the table

- Australian Super needs a BDBN to be paid directly to each other or the estate in the event they are both not around – not possible so direct to the estate
- Max lived with Claire for eight years before he fell for her best friend Samantha. Claire hates Samantha and her life. What claim does Claire have on Max's estate?
- Are their balances in super too small to start up a SMSF?
- What insurances should they have to cover the children's education and living expenses and where should they be housed?
- Is it too early to put Mum clothing into a trust using a small business restructure rollover?

# Enduring Powers of Attorney

- Must be completed in line with the laws of the State that the person resides
- Can be all encompassing including the ability to handle finances, transact and do things on behalf of the Principal
- Can include health and ensuring the Principal is looked after
- Crucial to have identification of the Principal for any contract or transaction to prove Principal is alive and has signed identification
- Can come into play on incapacity for health and for finances straight away or at a time desired

# Enduring Powers of Attorney for SISA

- It is a completely different game than ordinary EPOAs and can be completed solely for SMSF Trusteeship
- Must ensure that the EPOA is capable of running the Fund
- Section 17A(3)(b)(ii) of SISA 93 provides an out to the member/trustee or member/director of corporate trustee rule
- Enables an EPOA to take over from a current Trustee or Director of a Corporate Trustee
- They act as Trustee and are bound by the provisions of the SISA and Corporations Act 2001 for directors – they are not acting as an agent as was originally argued by most lawyers
- The Commissioner of Taxation issued a ruling SMSFR 2010/2 to clarify

# Successor Directors – What to do on death?



*This is a question that Tim Munro from Change GPS asked me and made me ponder. What would happen to a business where the founder and prime business mover gets Covid is sick, goes to hospital and stuck there for months?*

*And then what happens if they die and probate take months or they don't have a will? Who has the authority to run the business, deal with contracts, contacts and bank accounts? Is it a problem?*

2,065,523

Using the employment measure of small business, there were **2,065,523** small businesses in Australia employing less than 19 people, accounting for 97 per cent of all Australian businesses by employee size. There were 51,000 medium sized businesses, employing 20 to 199 employees, which is 2.4 per cent of all firms.



# Why a Successor Director?

	<b>Alternate directors generally (subject to differences in company constitutions)</b>	<b>Successor director</b>
Do you need to notify ASIC?	Yes	Yes, it's a fully-fledged director
Power to sign circulating resolution	Yes	Yes
Power to vote at meeting?	Yes, only when appointing director not present	Yes
Counted as part of the total number of directors?	No	Yes
Must be a director to act in the role?	No	Yes
Does the position cease if the appointing person loses capacity or dies?	Yes	No, it is these events that automatically appoints the nominated successor director as a 'real' director



# So Successor Directors are the top of the tree

- First the company constitution needs to have relevant authority for Successor Directors
- For SMSF trustee companies:

5.1.4 Any Member who is a Director may seek to appoint a Successor Director, as a Replacement Director, who is to take the Directors directorship in the event of the Director's incapacity, bankruptcy, death or by their own choosing provided such an appointment does not breach the Superannuation Laws.

- For ordinary companies:

45.6. Notwithstanding rule 45.5 the Directors, at the request of a Director, may confirm the appointment of a Successor Director who is to take the Directors directorship in the event of the Director's incapacity, bankruptcy, death or by their own choosing.



# Successor Director is built into EPOA

- We chose EPOA rather than a separate document as it saves time and also it places the EPOA in as the Successor Director
- A separate EPOA for Successor Director can be achieved by only ticking the Successor Director button

Please enter the **Power of Attorney** details below

Attorney is authorised to...

- Act on behalf of the principal for the superannuation fund or superannuation funds including acting as a Replacement Trustee or Replacement Director while this enduring power of attorney is valid and the principal have consented to them acting as such
- Do anything on behalf of the principal that can lawfully be done by an attorney (including both personal and financial matters)
- Act as a Successor Director where the Principal is a director and no longer able or willing to act as a director through incapacity, death or their own choosing

# Let's get Family Provisions out of the way

- For lawyers they are a gold mine as it means long term, fully paid fee work with no real chance of a settlement
- Only need to find an eligible person which includes:

## Succession Act 2006 No 80

Current version for 1 December 2018 to date (accessed 10 June 2020 at 11:59)

Chapter 3 Part 3.2 Division 1 Section 57

### 57 Eligible persons (cf FPA 6 (1), definition of "eligible person")

(1) The following are *eligible persons* who may apply to the Court for a family provision order in respect of the estate of a deceased person:

- a person who was the spouse of the deceased person at the time of the deceased person's death,
- a person with whom the deceased person was living in a de facto relationship at the time of the deceased person's death,
- a child of the deceased person,
- a former spouse of the deceased person,
- a person:
  - who was, at any particular time, wholly or partly dependent on the deceased person, and
  - who is a grandchild of the deceased person or was, at that particular time or at any other time, a member of the household of which the deceased person was a member,
- a person with whom the deceased person was living in a close personal relationship at the time of the deceased person's death.

**Note.** Section 60 sets out the matters that the Court may consider when determining whether to make a family provision order, and the nature of any such order. An application may be made by a tutor (within the meaning of the [Civil Procedure Act 2005](#)) for an eligible person who is under legal incapacity.

**Note.** "De facto relationship" is defined in section 21C of the [Interpretation Act 1987](#).

# Enter the Protector

Family Protection Company

Step One  
Family Protection Trust  
– DNA style



Family Beneficiaries  
Lineage or Bloodline

Step Three: Loan with Security



Step Two: Settle or Gift

Assets	Net Equity
Home	\$1,000,000
Cars	\$50,000
Bitcoin	\$50,000
Net Equity	\$1,100,000

# Client use of The Protector

- Family provisions claims by eligible persons which include children, grandchildren and in some cases ex-spouses can make a claim – even from 25 years ago
- Need to protect estate assets by not having any assets
- Have them transferred by The Protector into a trust that provides asset protection in life and death, and with a veil of protection under Family Law
- The Trust should also limit any distribution or control to lineage (direct descendants) and bloodline (any DNA) in its rules and set up at the same time
- Can convert an existing trust but watch its dealings – better to be clean

# Legal Side of The Protector

- Two cases looking at the legal side - *Pelly & Nolan* [2011] FMCAfam 530 and *Atia v Nusbaum* [2011] QSC 044 – but both were effective between family members until there was a fight so must do with a Family Protection Trust
- *It is a proactive measure and unlikely that it can defeat creditors if you are knocking on the door of bankruptcy but with new Coronavirus bankruptcy rules – who knows*
- We will be putting together an Insolvency Barristers opinion on the bankruptcy issue
- Great for Family Provisions claims and keeping assets away from new spouses and children – if you want!

## RETAIL FEES – LEGAL STRATEGIES AND DOCUMENT PRICING – JULY 2020

STRATEGY AND DOCUMENTS PREPARED BY ABBOTT & MOURLY	Cost (Inclusive GST)
<b>Uncomplicated Wills</b> , including a 30-minute personal consultation either face to face, or via Zoom conferencing to discuss your situation, provide draft documents and an appointment to sign completed documents. Additional personal and telephone consultations are charged thereafter at our hourly rate.	\$795 (for one Will) \$1,150 (for 2 Mirror Wills) *
<b>Wills including Testamentary Trusts</b> or drafting for difficult or more complex circumstances including one consultation for up to one hour. Additional personal and telephone consultations are charged thereafter at the hourly rate.	\$1,850 (for one Will) \$2,600 (for a 2 mirror Will) *
<b>Enduring Power of Attorney (Financial)</b> , including providing information sheet to clients and prospective attorneys.	\$275 (for 1 EPOA) \$440 (for 2 Mirror EPOA's)
<b>Enduring Power of Attorney (Financial &amp; Personal).</b>	\$330 (for 1 EPOA) \$550 (for 2 Mirror EPOA's) *
<b>Appointment of Medical Treatment Decision Maker.</b>	\$275 (for 1 EPOA) \$440 (for 2 Mirror EPOA's) *
<b>SMSF Will with Non-Lapsing Binding Death Benefit Nomination for Self-Managed Super Fund</b>	\$795 (for one Will) \$1,150 (for 2 Mirror Wills) *

**Abbott & Mourly Sign Off Fees - \$495 for Single Will & EPOA: \$895 for Couple Wills & EPOA**

# The Financials for the MOAT




<b>Number of LYDClient Wills + EPOA pm</b>	<b>Fees \$ \$1,600 per couple</b>	<b>Time per Will and EPOA - 2 hours</b>	<b>Per Annum Fees \$</b>
2	\$3,200	4 hours	\$38,400
4	\$6,400	8 hours	\$76,800
6	\$9,600	12 hours	\$115,200
10	\$16,000	20 hours	\$160,000

<b>Number of LYDClient Wills + EPOA with Protector per month</b>	<b>Fees \$ \$4,500 per couple</b>	<b>Time per Will and EPOA 3 hours</b>	<b>Per Annum Fees \$</b>
2	\$9,000	6 hours	\$108,000
4	\$18,000	12 hours	\$216,000
6	\$27,000	18 hours	\$324,000

# A Moat Case Study

- John Smith is a 60 year old doctor with his own practice and also a locum at two local hospitals. He operates via a trust
- John wants to retire in the next 3 years to go adventure traveling with his wife Sally – a 48 year old charity worker and his second wife. The first one ended acrimoniously and with many a threat to take John's fortune
- John and Sally have three investment properties worth a total \$2.2M with \$300,000 in debt, a SMSF with \$1.4M in his lump sum account and \$1M in Sally's account with John and Sally as trustees
- They live in a \$2M property in Toorak Gardens in Adelaide with their disabled daughter and the house is owned jointly with no debt



- 
- 
- John and Sally have three children
    - Max aged 35 who is a successful stock broker and according to John “a chip off the block” – he lives in Sydney with wife Samantha and two children – Kathy and Janine;
    - Sarah who is a 32 year old doctor working in country NSW and is estranged from her father
    - Jody who is 21 and John and Sally’s only child together who is disabled and still living at home
  - John completed a Will with his family solicitor in 2010 giving all of his estate to his former wife and a BDBN directing the Trustee of the Fund to transfer all of his superannuation to his estate
  - The Executor of the estate is his ex-wife
- 

# What John wants

- On a scale of importance in his life right now, family and looking after the family is 9 out of ten
- If something happened to him he would like:
  - His super to go to Sally as an income stream and then to be shared between Mathew and Marie and any of his lineage at the time
  - Mathew and Marie to get \$200,000 from super
  - Each of his children to get an investment property
  - Sally to remain in the house for life and then to go to the children
  - The shares in the medical practice to go to Marie and Mathew via a Testamentary Trust that is for his bloodline only




# Income Streams and Pensions



Before account based pensions there were annuities with the first ever recorded in Egypt in 2500BC where a lump sum gives way to an income stream. In England they have been around for centuries, so we are not reinventing the wheel here.

Here's the deal, an annuity is generally offered by a life insurance company for a term certain, life, reversionary or with a residual capital value – and even jointly or severally. A pension is an income stream that is an annuity but simply comes from a pension plan (ex Australia) or a superannuation fund in Australia. They can be offered all over the world as only the country that you reside in can tax you.



# Pension and Income Stream Strategies

- An income stream, whether a pension or a transition to retirement income stream, are financial products and thus licensed products and all that goes with that
- They can have a finite term such as five, ten, fifteen years, life or carry on to one or more reversionaries
- A reversionary is simply a person nominated to carry on the pension or income stream at the time of the death of the member – see SIS Reg 6.21 and the limitation in sub-regulation (2A)
- There can be first, second, third, fourth reversionary beneficiaries and so on
- One of the most complex I have worked on was four pages of terms and conditions – *This Is A Contract Between The Fund And The Member*

# SMSF Estate Planning Pensions

- Let's start with the end in mind and the **reversionary beneficiary**
- Ask these questions:
  1. *Who is going to be the reversionary beneficiary?*
  2. *Who is going to be the reversionary beneficiary if they are not alive at the time of the pension member's death?*
  3. *Will there be a second or third reversionary and will the intermediate reversionary beneficiaries take income only with any commutation prohibited in order to stretch the pension as long as possible?*
  4. *Would the pension member like a clause where any bloodline dependant at the time of the member's death shares jointly in the on-going reversionary pension?*
  5. *What happens if there is no-one left? Will the commutation lump sum go to the estate or should it go into a fixed trust for the benefit of the pension member's lineage only?*

# SMSF Dependants: The Family Allowance

- The Family Allowance enables John and Sally to look after Mathew and his children plus daughter Marie 8 aged 3 who is in a single sex relationship living in Sydney
- Meaning of Dependancy - ATO Private Binding Ruling - Number: 1051231612657
- Set up a Family Allowance contract
- Couple up with a Dependancy Declaration to show dependancy of each member of the Family
- What are all the benefits of meeting the definition of dependency under the SISA 93 and ITAA 97

# The SMSF Will Choices

Please enter the **Nomination** and **Direction** details

Does the member want to revoke earlier nominations?

**Yes**  **No**

Does the member want reversionary pensions to take precedence?

**Yes**  **No**

Does the member want to appoint the executor as the replacement trustee or replacement director?

**Yes**  **No**

Does the member want death benefit payments including pensions and lump sum?

**Yes**  **No**

Does the member want a Professional to look after the estate upon the members death?

**Yes**  **No**

Do you want a catch all - escape clause in case the superannuation benefits are not payable because of non-compliance of the Fund?

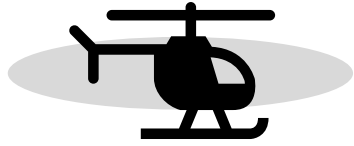
**Yes**  **No**

# The SMSF Death Benefits Trust

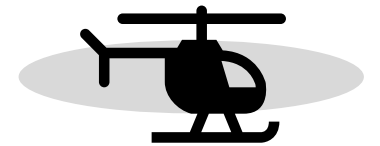
- We need to put a Moat around a clients SMSF so we can use SISA 93 to protect estate planning
- If we use a Testamentary Trust then it goes to the Estate and can be challenged but it does have the advantage of ordinary taxation for minors such as grandchildren
- Or we can create a SMSF Discretionary Trust that flows from a BDBDN or a Reversionary Pension
- Can be a Leading Member or the Dependant can be the Trustee/Appointor and Primary Beneficiary
- Clients need to be informed of both and determine what is most important for them



# Saving a Client from Liquidation Case Study

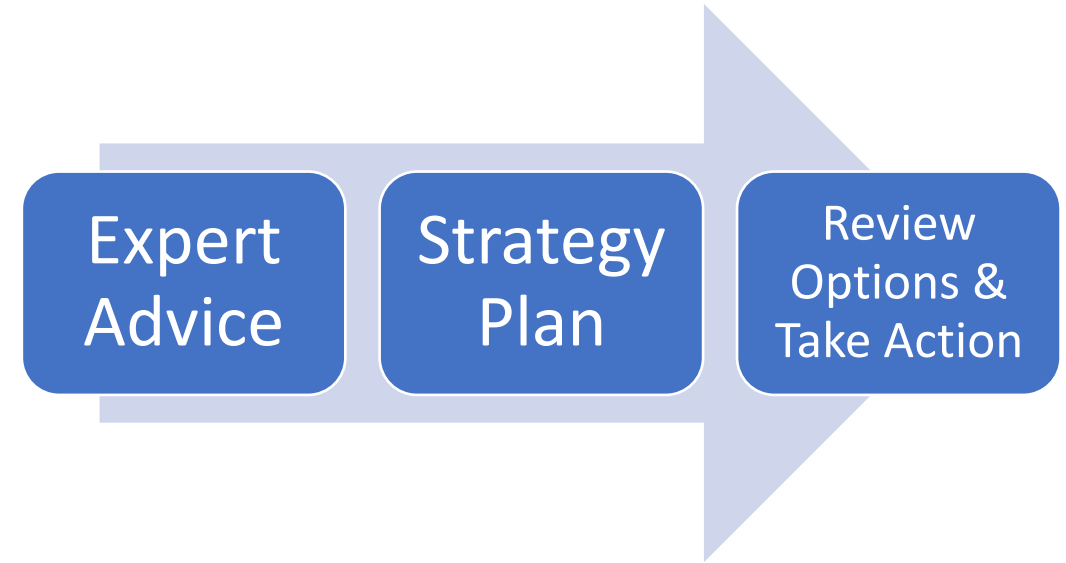


- Helicopter business
  - Strong profits ↑ \$1m; Good Cashflow
  - Crippling debt profile – cashflow lenders; ATO
- 
- Structure = trading company only, all P& E held
  - Mum and Dad directors both in late 50's
  - Mix of employees and contractors
  - Director loans – owing by the company to them
  - Joint personal assets
  - Directors with high consumer debt

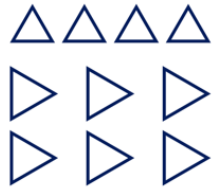


# Always Options for your clients

- Advisors need to give appropriate advice or seek experts
- Make sure your clients act now
- Potential liquidator claims against accountants & advisors post Covid-19



# Asset, Risk & Protection



Eventum Optimum Pty Ltd

**THE BEST RESULT**

- Secure director / shareholder loans, UPE's
- Creditor + Predator negotiations
- Protect assets + Derisk
- Restructure
- Liquidator appointment & negotiation
- Funding & Finance Solutions – Debt & Equity
- Management Consulting

*Work for your clients not against your clients*

**B2B**



- Maintain client relationship
- Provide services where requires as part of EO engagement:
  - Structures
  - Valuations
  - Finance





# Solutions

Wills and Testamentary Trusts –  
Traditional Estate Planning

23 and 24 March 2020

# Case Study Revisited

- **EPOA:** Establish a new EPOA for John to replace the current EPOA with his attorney being eldest son Max and in the event that Max is not alive or incapacitated - Sally and Sarah with Sally having the binding vote in the event of a tied vote. The EPOA would be for health, finances and also note specifically that it is for superannuation replacement trustee purposes. At the same time, Sally's EPOA would have John as the attorney with Max as the successor attorney in the event that John dies or is incapacitated. Both EPOA's would commence once the EPOA is executed not incapacity as lawyers normally draft.
- **Discretionary Trust:** Add Max as the successor appointor to the Discretionary Trust in the event that something happens to John. If Max is not alive or is incapacitated then Sally and Sarah become the second successor appointors. Put Max in as director of the corporate trustee of the discretionary trust and retire Sally. Note: The discretionary trust does not form part of John's estate and with our newly built succession planning for the trust we have created a moat around this structure. ***Safety – Certainty - Security***

# The SMSF Death Benefits Trust

- **Leading Member SMSF:** Set up a Leading Member SMSF corporate trustee with only John as director (he is holding Sally's EPOA so she does not need to be a director even though a member) plus bring in Max as a member and director. Change the SMSF trustee and upgrade the SMSF to a Leading Member SMSF with John as the Leading Member, followed by Max on John's death, incapacity or retirement followed then Sally and Sarah. Leading members have the power to appoint and remove members, hire and fire trustees and hold veto power on trustee decisions.
- **Reversionary Pension:** Retire John immediately by resigning from one of his locum positions. This is deemed retirement under SISA even though he remains working. John to set up a reversionary pension that goes to Sally on this death and then on her death or if she is not alive when John dies, is payable to the three children equally but as a lump sum commutation into a SMSF Death Benefits Trust where John is the appointor followed by Sarah. John and Sarah would be directors of the corporate trustee of the Trust which is created by the Trustee of the SMSF not the Executor of the estate and is thus not open to challenge. A similar course of action would be put in place for Sally. **Safety – Certainty - Security**

# The SMSF Death Benefits Trust

- **Super Contributions:** John and Sally would keep on contributing into super with John and Sally taking pension payments. The exact amount to be salary sacrificed from the discretionary trust for John and Sally to be most tax efficient would need to be calculated. Any pension amount over the minimum pension would be treated as a commutation payment and have a corresponding debit to John's TBAR.
- **SMSF Will:** A SMSF Will to be created for John for his building accumulation account with super benefits to go to his children equally and in the case of Jody into a SMSF Death Benefits Trust with John as appointor and trustee to provide some Family Law protection and not limited to solely Jody as beneficiary but all of John's lineage. **Safety – Certainty - Security**

# The SMSF Death Benefits Trust


- **Will with in-built Testamentary Trust:** Create a new Will and TT but this is where things get funny. I have done such a good job securing the discretionary trust and the SMSF from legal challenge and with the family home in joint names what assets will be left in John's legal estate now that SMSFs are being dealt with by the SMSF trustee not the Executor. No matter, there may be proceeds from the family home if Sally passes away. So have John as the Executor of the estate, with Sally and Sarah as successor executors. Any estate assets, which we are limiting as this is where any challenge will lie, are to go to Sally in a Testamentary Trust with Max the appointor and trustee. Unlike the SMSF and discretionary trust moats I can't guarantee that any estate assets will not be challenged but I have done the right thing by keeping as much as I can from the estate which fits in with our asset protection strategies for a doctor (which most estate planning lawyers do not understand).





# Succession, Asset Protection and Estate Planning Advisers Association



- We have the not for profit public company set up
  - Would like to get up and running in early December
  - **Looking at establishing a working group to go through:**
    - **Membership options and requirements**
    - **Foundation membership**
    - **CPD requirements**
    - **On-line discussion groups**
    - **Other issues that evolve from the group**
- 



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