Douglass Lodmell, J.D., LL.M.

Douglass is the Co-Founder and the managing partner of Lodmell & Lodmell, P.C. a Leading Asset Protection Law Firm since 1997. Douglass is a leader in the Asset Protection community and the creator of the breakthrough concept of The Bridge Trust®. He has helped protect thousands of client’s assets and is the published author of many articles and the book, The Lawsuit Lottery: The Hijacking of Justice in America.

Asset Protection Council®

Founded by Douglass Lodmell, the Asset Protection Council® (APC) is a nationwide network of Attorneys, CPAs and Financial Advisors dedicated to providing clients with a consistent and effective approach to protecting their wealth.

www.lodmell.com
Why does Asset Protection Work?
What does Asset Protection look like today?
TOOLS

Limited Liability Company (LLC)

Asset Management Limited Partnership (AMLP)

The Asset Protection Trust (APT)
Limited Liability Company (LLC)

- Protection for Risky Assets
- Segregate Assets into separate LLC’s
- Has Charging Order protections
Asset Management Limited Partnership (AMLP)™

- Family Holding Company
- Holds LLC’s, and other companies
- Strengthen Charging Order Protection
- Include Family and APT
- Privacy to your assets
The Asset Protection Trust

- Assets ultimately reside in Irrevocable Discretionary Trust
- Enhances Domestic Asset Protection Structures
- Not limited to specific risk
- Privacy and Protection for your assets
What Clients Want

1. EFFECTIVENESS ✓
2. CONTROL ✓
3. COSTS ✓
4. COMPLIANCE ✓
Asset Protection Trust (APT)

SSST

Self-Settled Spendthrift Trust
Two Schools of Thought

International

Domestic
The **Cook Islands Trust Act**

1. Created in 1984
2. Statutory Non-Recognition
3. Start Case Over
4. Beyond a Reasonable Doubt
5. No contingent fees
6. Non-amendable
7. Losers Pays
8. Statute of Limitations
The International Option (Pro’s)

- Effectiveness ✔
The **International Option** *(Pro’s)*

Significant cases that support the effectiveness of the FAPT

- **FTC v. Affordable Media** *(1999) (Anderson Case)* – This is the original seminal case in which the FTC attempted to break a Cooks Trust. The FTC attempted 3 separate attacks in the Cooks without success. The best they could do was a Mareva Injunction. The case was ultimately settled for .10 cents on the dollar and the Andersons succeeded in protecting their assets.


- **SEC v. Solow** *(2010) (Solow Case)* – SEC attacks wife’s trust for fines of husband. TBE assets used to fund Trust and court found fraudulent transfer and held Solow in contempt. Assets protected nevertheless.
The **International Option** (Con’s)

- Client’s have challenges getting comfortable offshore
- IRS Reporting:
  - FORM 3520 & 3520A
  - FBAR
  - FATCA
- Fees & Costs
The International Option (Con’s)

- Control ×
- Compliance ×
- Cost ×
Domestic Options

- Domestic Self-Settled Spendthrift Asset Protection Trust (DAPT)
  - Newer (1998)
  - **17 States**: Alaska, Colorado, Delaware, Hawaii, Mississippi, Missouri, Ohio, Oklahoma, Nevada, New Hampshire, Rhode Island, South Dakota, Tennessee, Utah, Virginia, Wyoming and now Michigan
  - Often paired with LLC or LP, providing Charging Order protection
- Hybrid DAPT / 3rd Party DAPT
- Use of Special Power of Appointments
The **Domestic Option** (Pro’s)

- No Offshore comfort component
- Minimal IRS reporting
- “May” be less Expensive
The **Domestic Option** (Pro’s)

- Compliance ✔️
- Cost (maybe) ✔️
The **Domestic Option** (Con’s)

- **Article IV, Section 1 of the U.S. Constitution** states:
  
  “Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state.”

- **Conflicts of Law issues:**
  - Venue jurisdiction may ignore the trust jurisdiction and undo protection
  - Federal and Bankruptcy law issues
The **Domestic Option (Con’s)**

- **Statutory Exceptions:**
  - Certain Tort Claims
  - Alimony and Child Support
  - Property Division
  - Pre-existing Claims
  - Liability from fraud
  - Liability from criminal activity
  - Tax evasion
The Domestic Option (Con’s)

Significant cases that question the effectiveness of the DAPT

- **Battley v. Mortensen** (2011) – Mortensen, an Alaska resident, established an Alaska DAPT when he was solvent. Funded with $60K property and $100K gift from mother. Later due to medical expense declared BK. Court used 548(e)’s 10 yr claw back provision to include DAPT assets – Result was complete Trust failure.

- **In re Huber** (2013) – Huber, a R.E. developer, settled an Alaska DAPT in 2008 when failure of company was likely. Client Filed BK and court used 548(e) to include all the assets of the Trust. Alaska USA Trust company folded immediately. Result was Complete Trust Failure.

- **Kilker v. Stillman** (2012) – Stillman, a soil engineer, established a Nevada DAPT when he had no claims or liabilities. CA court later concluded that funding of Trust was a FT under CUFTA because liability in his industry was ‘reasonably foreseeable’. Result Complete Trust Failure.

The **Domestic Option** *(Con’s)*

- Effectiveness ✗
- Control ✗
The Bridge Trust®
“Offshore Protection with Domestic Simplicity”

1. Tax-neutral Domestic Grantor Trust
2. No IRS Form 3520 or 3520A
3. No IRS FinCEN or FATCA Disclosures
4. No IRS filing requirements
5. Asset can remain in the US with Current Bank
6. No Initial Foreign Trustee
7. Client may begin as Trustee
The Bridge Trust®

1. EFFECTIVENESS ✓
2. CONTROL ✓
3. COSTS ✓
4. COMPLIANCE ✓
✓ Distribute Assets
✓ Maximize Exemptions
✓ Avoid Probate
✓ Smoothly Pass Assets

The Bridge Trust®
Questions
JOIN the Asset Protection Council®
Complete the Application and become a Member.

VISIT www.assetprotectioncouncil.com
If you would like to continue to get more information, study cases, research information, then visit our website to learn more about our Affiliate Member Program.
UPCOMING EVENTS

November 15-17

54th Annual NAEPC

Advanced Estate Planning Strategies Conference

New Orleans, LA

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