

The 13 Secrets of the Rich or Informed™



**Business, Estate, & Asset Protection Plans
Secrets of Insurance, Financial & Pension Products
Secrets to Asset Protection Even When Being Sued!**

**Gas Station Owners & Franchisees!
Forewarned is Forearmed, Don't Be A
Sitting Duck!**



**New 2023 Threats Must Be Countered with
Renegotiations of Unprofitable Contracts &
Owner Asset Protections!**

13 Secrets of the Rich or Informed™

By Rich Rydstrom, Esq. (California Attorney/Accountant,
33 Years' Experience, Rated Superb, 10/10)



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2023 Economic Threats:

With ever-growing threats to your survival from government, class action lawsuits, and unprofitable franchisor contracts, gas station owners must (1) take action to secure profitability, including renegotiations of unprofitable contracts, and (2) look-inside to protect your own family and business assets.

If you don't know how to pull-out and lock-away wealth, legally and safely, you're not ready for a fight, because you can lose. If you're not ready for a fight, you're not ready to make costly demands, like enforcement of the liquidated damages clause or the personal guaranty. The devil is in the details. Depending upon the language (for example, breach vs. terminated), the Retail Sales Agreement (RSA) between Shell and [Highland Park] required 'termination' of the RSA, not only a breach. Forewarned is Forearmed. (Shell/Anabi Oil v. Highland Park)

Liquidated Damages

"The term "liquidated damages" is used to indicate an amount of compensation to be paid in the event of a breach of contract, the sum of which is fixed and certain by agreement, and which may not ordinarily be modified or altered when damages actually result from nonperformance of the contract.' [Citation.]" (McGuire v. More-Gas Investments, LLC (2013) 220 Cal.App.4th 512, 521 (McGuire).)

For a liquidated damages provision to satisfy the damages element of a breach of contract claim, the plaintiff must prove the existence and applicability of such a clause. (McGuire, supra, 220 Cal.App.4th at p. 521.) Then, the burden shifts to the defendant to prove the clause is invalid. Under Civil Code section 1671, a "provision in a contract liquidating the damages for the breach of the contract is valid unless the party seeking to invalidate the provision establishes that the provision was unreasonable under the circumstances existing at the time the contract was made." (§ 1671, subd. (b); Com. Code, § 2718, subd. (a) [§ 1671 applies to contracts for the sale of goods governed by the Commercial Code].)

Forewarned is Forearmed

You must protect your family and business assets in this risk environment. Entities alone, are almost useless as to personal or family lawsuits or challenges, especially when facing litigation with Personal Guarantees. It takes specialized legal knowledge to implement a separate Safe Silo Device or Trust that is not subject to creditor attachment from lawsuits, judgments, or even government and taxation claims.

After 33 years, as a small business and high net worth California protection attorney, no time is more appropriate than now, to take steps to safeguard your business and family assets including your retirement nest egg.

In the event of lawsuits, taxation or regulations that impair or cripple the success of your business or franchise, how will you protect your family nest egg. Most business owners and executives are not safely protected. Having money in the bank or on deposit in investment funds offer no protection in the event of judgments, government, or taxation challenges. Most don't realize that Living Trusts do not offer asset protection. In fact, Living Trusts act as an initial list of assets and homes to be seized in such events. Bankruptcy is not a protection device; it usually acts as a costly government liquidator.

Can you protect yourself, your family nest egg, and your business? How?

Legal structures, trusts and devices can protect business owners from varying threats, such as lawsuits, and endless government regulation and tax over-reach. Step one is to set-up such asset and business protections prior to any claims.

Solutions:

I first wrote my 13 Secrets of the Rich or Informed™ as my personal cheat sheet when I was working as a Beverly Hills Celebrity Business Manager for some of the most famous or informed people in the country. This article grew and grew over the years, and it now covers the common and the special devices used in Estate, Business, Asset, Litigation and Retirement Protections.

The Rich or Informed will use certain entities and trusts to avoid loss contingencies, but the most important overarching principle is to structure your personal, business and retirement assets and liabilities by compartmentalization. This is the process to separate risky assets or lines of business from less-risky assets and lines of business, and transferring each to its own entity or trust, and smartly defining the relationship among same by contract or device.

Some of the most common trusts or devices include:

- "C" Corporation

- "S" Corporation

- Business or Land Trust with Parent Protection

- Family Limited Partnership (FLP);

- Family Limited Liability Company (FLLC);

Irrevocable Life Insurance Trust (ILIT);
Children's Trust;
Charitable Remainder Trust (CRT)
Grantor Retained Annuity Trust or its cousins (GRAT, GRUT, GRIT),
Qualified Personal Residence Trust (QPSST),
Self-Canceling Installment Note (SCIN),
Private Safe Silo Device (PSST),
Intentionally Defective Irrevocable Trust (IDIT),



The Stand-Out: The Private Safe Silo Device (PSST):

However, there is one device that is not offered in each state, and varies when it is, that stands out as one of the most powerful devices to lock-away assets including cash, and property, even in the event of lawsuits, judgments, personal and business liabilities, and bankruptcy. That is what I call, the The Private Safe Silo Trust (PSST).

Although California may be one of the worst asset protection states, with one of the most intrusive laws and taxation, the California Private Safe Silo Trust best illustrates the end-goal for protection for small businesses. ***This is true because this trust invokes the black-letter law transforming or converting Non-Exempt Assets to Exempt Assets.*** The law defines Exempt Assets as not reachable by creditors. Moreover, it protects those assets from creditors or attachment, even on distribution from the trust to the judgment debtor. The purpose is to protect assets, funds and property appropriate for retirement.

This can be accomplished through a retirement plan and trust sponsored by your own business entity, along with pensions and (marital or separate) property or transmutation agreements. The PSST is one of the most powerful devices used to enhance an estate and business plan which protects the wealth, equity or assets transferred into this irrevocable trust for purposes of retirement.

In California, under its Code of Civil Procedure Section 704, all amounts held, controlled, or even distributed by a private retirement plan are exempt. This means that you could even transfer certain assets to a (pre-existing) PSST during litigation or after a judgment. The term private retirement plan is not defined in the state code however, typically, the retirement plan would be sponsored by an employer (LLC), in writing pursuant to an actuarial calculation based upon numerous retirement factors including age. All amounts held, controlled, or in process of distribution by a private retirement plan, for the payment of benefits as an annuity, pension, retirement allowance, disability payment, or death benefit from a private retirement plan are exempt.

IRAs Have Limited Protection:

This differs greatly from other exemption codes in California such as California Codes Code of Civil Procedure Section 704.010-704.210. or the Individual Retirement Accounts (IRAs). IRAs are not fully protected under the asset protection laws found in federal ERISA protections. However, some states have enacted special but restrictive protections of IRA plans protecting the funds and distributions only to the extent necessary for the support of the debtor, his/her spouse and dependents.

Qualified ERISA Plans.

ERISA (Employee Retirement Income Security Act of 1974) supplies very effective asset protection over pension funds. The federal law overrides state law to the contrary and protects 401k, profit sharing and pension plans that prohibit involuntary assignment of plan benefits to any creditors. Assets may be transferred into such a plan with known creditors, lawsuits or judgments. However, ERISA will not protect such assets from the IRS or subject to court order in divorce court (Qualified Domestic Relations Order). ERISA plans protect employees not owner-only plan participants. If the plans only participants are the owner and his family (spouse or dependents), then ERISA will not apply to protect the funds.

The Private Safe Silo Device (PSST) stands-out as the most directly authoritative trust to lock-away retirement purposed assets. The PSST referenced herein is not limited retirement trusts used as designation devices for retirement accounts. The PSST also offers actual asset protections from creditors.

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Notice: When discussing these planning matters the following devices and alternatives should be discussed with your attorney, wealth building and protection team. This list is a non-exhaustive list and only given as a tool to afford easier discussions with your professional team. Your first step in the right direction is to put together a team, which should include an estate, business and asset protection attorney, CPA, insurance agent (re life, disability, buy-sell, long term care, business interruption or income replacement, etc.), CFP (Certified Financial Planner), money manager or investment advisor and a brokerage. This article is not intended as legal, tax, accounting, financial, money management or insurance advice, and as such you may not rely upon same for that purpose. It is recommended that you hire an attorney experienced in this area to plan your business, estate, and protection matters.

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Mr. Rydstrom has been quoted or published by: United States Congress, AIR Commercial Real Estate Association, Constructor Magazine for the AGC Association, The Los Angeles Times, USA Today Magazine, MortgageOrb, Mortgage Daily News, Orange County Register, Tax.org, National Business Institute, CMISfocus eMagazine, Pepperdine University (Law, Business Journal), Society of California Accountants, various Landlords and Real Estate Owners associations and others. Richard is a frequent keynote speaker, moderator, panelist, and CLE instructor for National Business Institute for lawyers, judges, banks, and servicers. Various keynote speeches and panels.

Rich Rydstrom, Attorney/Business & Markets Advisor:

Introduction: Richard has over 33 years as a California Attorney, business and real estate advisor. Richard was chosen by 110th CONGRESS to deliver a Statement on the solutions to the Great Recession. When the U.S. Treasury and the ALFN wanted to develop and teach the mortgage meltdown solutions to the banks, they choose Richard as the Chairman of CMIS. Richard co-created the donated \$1,000,000 in financial education for underprivileged kids in Los Angeles. He helped Elon Musk with his first Tesla Newport Beach Showcase.

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