Pitfalls of Operations and Management of Specialty Assets

A Session Specifically Designed for
The ITM TwentyFirst University
Wednesday, April 20, 2016 at 2pm EST
credit for CFP, CTFA and FIRMA Certified Member

Presented By:

Kip West
Chief Operations Officer PDS Services
W: pdscompanies.com
About ITM TwentyFirst University

ITM TwentyFirst University was created to provide those individuals working with personal trusts and TOIL trusts a source of vital information to utilize in their practice. The course topics will include real life case studies that can be applied to day to day situations. Subject matter is designed to help Advisors provide better guidance and assistance to clients. Our faculty consists of sought after presenters who are experts in their related fields. The courses are offered for free and will carry Continuing Education (CE) credits. See specific courses for CE listings.

2016 Course Schedule - Free CFP® & CTFA CE Credits

Beyond Ratings: An Alternative Approach to Analyzing Life Insurance Financial Strength

David Paul, Principal, ALIRT Insurance Research
Wednesday, May 4, 2016 at 2pm EST
• 1-HR CE For CFP® & CTFA (Financial Planning)

Trustees and advisors need to better understand the financial strength of life insurance carriers in this low interest rate environment we are in. The market crash of 2007 and the quick credit worthiness drop of AIG pointed out this lesson to all. Past life insurance debacles, like Executive Life and the more current struggles of Phoenix Life and Conseco have shined a light on carrier financials strength as an area that Trustees and Advisor’s should be aware of. This session will provide the professional with a much greater understanding of gauging carrier financial strength and provide an insight inside carrier financials that, to this point, probably was not seen or understood.

How to Make Sure Your TOLI Policies Are Competitive

Michael Brohawn, CFP®, CLU®, Managing Partner, ITM TwentyFirst
Wednesday, May 18, 2016 at 2pm EST
• 1-HR CE For CFP® & CTFA (Financial Planning)

Many TOLI Trustees struggle to understand the concept of life insurance policy competitiveness, one of their responsibilities. This session will show the steps that need to be put in place to create a program to document the competitiveness of policies and how to deal with noncompetitive policies, including proper documentation to mitigate Trustee liability. We will also provide actual case examples to bring the process to life.

10 Questions Every Trustee or Advisor Should Ask Before a Client Purchases or Continues a Life Insurance Policy

Barry D. Flagg, CFP®, CLU®, ChFC, GFS, Veralytic, Inc.
Thursday, June 2, 2016 at 2pm EST
• 1-HR CE For CFP® & CTFA (Financial Planning)

This presentation will provide Trustees and Advisor’s with practical questions to ask before the purchase or continuation of any life insurance product in order to reconcile the difference between prevailing life insurance industry practices designed to sell a policy versus proven Prudent Investor principles designed to manage life insurance as an asset pursuant to the client’s best interests. It is provided by an industry expert and one of the architects of the Best Practices for Life Insurance Stewards.
Meet The ITM TwentyFirst University Faculty Team

Jason Hassman - ITM|TwentyFirst
jhassman@itm21st.com / itm-twentyfirst.com
TOLI Policy Management

Jon B. Mendelsohn - Ashar Group
jon@ashargroup.com / ashargroup.com
Life Settlement, Longevity, and Secondary Market Valuation (SMV®) Specialists

Randy Pople, CFP®, AEP - Pople Financial Consulting
rpople@poplefinancial.com / poplefinancial.com
Trust Practices and Consulting

Don Trone, GFS - 3ethos
don@3ethos.com / 3ethos.com
Leadership, Stewardship and Governance (Fiduciary Responsibility)

Richard W. Jacobs - PDS Services, Inc.
rjacobs@pdscompanies.com / pdscompanies.com
Hard to Value Asset Management & Recordkeeping

Michael Brohawn CFP®, CLU - ITM|TwentyFirst
mbrohawn@itm21st.com / itm-twentyfirst.com
TOLI Policy Management

Jason T. Mendelsohn - Ashar Group
jason@ashargroup.com / ashargroup.com
Life Settlement, Longevity, and Secondary Market Valuation (SMV®) Specialists

Barry Flagg, CFP®, CLU, ChFC, GFS - Veralytic, Inc.
bflagg@veralytic.com / veralytic.com
Best Practices Standards for Life Insurance Stewards

Randy Pople, CFP®, AEP - Pople Financial Consulting
rpople@poplefinancial.com / poplefinancial.com
Trust Practices and Consulting

Don Trone, GFS - 3ethos
don@3ethos.com / 3ethos.com
Leadership, Stewardship and Governance (Fiduciary Responsibility)

Richard W. Jacobs - PDS Services, Inc.
rjacobs@pdscompanies.com / pdscompanies.com
Hard to Value Asset Management & Recordkeeping

Visit itm-twentyfirst.com/Education to register!
Pitfalls of Operations and Management of Specialty Assets

Do you currently have specialty assets you manage or will you have them in the future? They do not fit in a specific documented category. These assets are special and unique but, they carry the reputation of risk and can certainly give you a headache. The fiduciary world is changing with the baby boomers leaving the workplace. IRS data shows that about half of the wealth transferred to the next generation will be non-securitized assets. This means everyone should be prepared to not only accept these assets classes but should excel in providing the products and services for these unique assets.

Management of the special asset classes is more than just checking off compliance boxes. With each asset class comes a whole new list of challenges. A few questions to ask yourselves are:

1) Do you have an adequate software system for tracking special assets?
2) Do you have or can you get the special asset experts?
3) Do you have trust policies that deal with specialty assets?
4) Are your policy and procedures for the management and operations of special assets tested and solid?
5) Are the controls for this asset class consistent?

Don’t sweat it! Pick the right tools - people, processes, and technology – and the risk can be minimized.

- Management of Specialty Assets
  - All Special Asset Categories
    - Title – Evidence of Ownership
      - Evidence of ownership is different for the special asset classes. There must be sufficient evidence that the asset exists. If verified ownership/title is unavailable, then an option is to create a plan to cure the title. Some common title options are below.
        - Minerals
          - Division Order prepared by operator/purchaser showing legal description and percentage of ownership
          - Mineral and royalty deeds
          - Mineral Leases
        - Real Estate / Farms / Vacant Land
          - Warranty or quitclaim deed
          - Executor Deed
        - Closely Held Businesses
          - Operating Agreements
- Intergenerational Transfers
  - Validate title is correct prior to transfer
  - Establish title correctly from the start to avoid problems later

- Environmental
  - Asbestos, lead-based paint and radon
  - Soil & groundwater contamination
  - Fuel or Chemical Storage
  - Waste/Dump Sites
  - Natural Disaster that cause environmental concerns
  - And the list goes on and on

- Client Privacy
  - Third party service providers (repair services, pool, yard, contractors)
    - Background Checks
    - Determining the quality of the service personnel
    - Maintaining the secrecy of the family
    - Confidentiality Agreements for everyone involved with the relationship

- Valuations
- Annual Reviews
- Tracking of Events
- Failure of Due Diligence in the pre-acceptance process

- Residential, Vacant Property, Commercial and Farm & Ranch Real Estate
  - Insurance/Taxes for Real Estate (under insured)
  - Vacancies
  - Leasing – Commercial
    - Review a very specific market knowledge of the type of property and where it is located

- 3rd Party Vendor Management
  - Licensed & Insured
  - 3rd Party Managers for commercial real estate
  - Trust Training
  - Using service providers specifically trained for trust clients

- Farm or Business Plan for Assets
  - Extremely sophisticated business
    - Environmental
    - Vacant Land
    - Ag Property
  - Because of its location it lends itself to environmental issues

- Sales
- Property Maintenance
  - Encumbrances
    - Mechanics Liens
    - Lien holders
      - Lien from a bid that was not accepted
      - For any work/capital improvement be sure to get a signed Release of Lien from owner/operator
  - Capital Improvements (are you qualified to manage the general contractor)
  - In-home inspections vs drive-by inspections
    - At least every three years an in-home inspection should be conducted by someone to make sure the home is in good working order and you don’t have any surprises.
- Protection Waivers for leasing
  - Deer/hunting leases
  - Liability insurance coverage for extra activities on property
- Oil & Gas and Minerals
  - Division Order verification
  - Dormancy Statues – severed minerals
  - Production Audits
  - AFE/JIB Participation
  - Lease Negotiation
    - Special addendum – not always accept OG company form
  - Purchase Offers
  - Bankruptcy
- Closely Held Businesses
  - Underlying assets in an LLC
  - Nature of Organization
  - Risk Management
    - Partnership & Joint Venture
    - Environmental
    - Litigation
    - Ownership
    - Financial
- Notes & Mortgages
  - Foreclosure
  - Quality of Collateral
  - Collateral over Pledged
  - Encumbrances
  - Compounding Notes
  - Escrow (taxes and insurance) for Real Estate Collateral
- Operations of Specialty Assets
  - Split Ownership
    - Manually or Automated
o Exception Processing
  - Auto payments
  - Ownership allocation
  - Income Allocation, principal and income
  - Does your software accommodate the exception processing

o Delinquencies
  - Loans
  - Rents
  - Collection
  - Delinquent Notices

o Revenue & Expense Processing
  o Mineral Revenue Tracking / Missing Revenue
    - Missing Check vs Missing Production
  o Deductions on mineral checks
  o Principal & Income Accounting
    - Note & Mortgage – automatic calculations vs manually tracking loan payment schedules
    - Automated allocation of principal/interest/late fees/escrow

o Tenant billings
  o Distributions
  o Mineral Depletion
  o Escrow Payments

• Controls for Management/Operations of Specialty Assets
  o Computer Software Systems Solutions
    - Can you count on trust systems or spreadsheets for accurate record keeping?
  o Outside providers specializing in the management and operations of specialty assets
    - Any kind of sizable portfolio would require you to have a special assets software system or to outsource
    - Consistent Controls – be sure all who manage or provide operational support follow consistent controls, processes and procedures. Without this, and individual administrative or operations personnel could manage/process differently then it could create and audit exception or be a risk to the bank.
  o Vendor Management for 3rd Party providers
    - Due Diligence on the selection process
    - On-going monitoring (SSAE16 Audit)
    - Privacy
    - Money Management
    - Automated Trust System Interfaces
    - Systems & Physical Security Policies
    - Confidentiality
    - Business Resumption / Disaster Recovery
    - IT Infrastructure testing by outside organizations
    - Adequate Process controls, tested & audited
o Checklists
  ▪ All Asset Classes (Directed vs Discretionary)
  ▪ Management Workflows
  ▪ Operational Workflows

o Procedures Manuals
  ▪ Test your procedures often and with multiple accounts and types of assets

o Trust Policies
  ▪ Be sure they line up with your procedures and OCC or FDIC handbooks and regulations

o Centralize Management and Operations

o August 2012 “OCC” Unique and Hard-to-Value Assets Handbook
o February 2015 “OCC” handbook on Process and Controls
o FDIC Regulations & Examinations Manual Section 3 Asset Management
  ▪ While handbooks describe what needs to be done, there are a number of grey or questionable areas. Your policy & procedures around those grey areas will make you successful with not only an audit but with clients that have special assets.

• Test Case – Establishing Account / Asset
  o Doing it right the first time to minimize issues later
  o Pre-Acceptance
  o Ownership
  o Documentation collection
  o How it can go wrong
  o Finding Hidden Information
  o Underlying Assets in LLC

• Test Case – Oil & Gas
  o Accounting Complications
  o Conveyance Issues
  o Suspended/Missing Revenue
  o Deductions taken but not allowed per lease
  o Depletion
Kip West

Executive Vice President and Chief Operations Officer – PDS Services, Inc.

EXPERIENCE:

Ms. West is the Executive Vice President and Chief Operations Officer of PetroData Business Systems, Inc. and is primarily responsible for management of new client conversions and transitional training, operations support teams accountable for providing all aspects of customer services, asset management outsourcing, revenue and expense accounting functions, property tax processing, software development and software support. She has 27 years of experience in customer service, project management and software development.

EDUCATION:

Ms. West’s primary educational focus is in business and marketing concepts.

QUALIFICATIONS

Ms. West has successfully managed the implementation of new systems and services for 20 large banks through PDS Services since 1992 and has vast experience in software development and programming. She has addressed the SES Trust Advisory Board on matters concerning system conversions, data file transfers and management outsourcing, and manages ongoing support and training for all client.