



S.E.C. Real Estate Observer

AN E-PUBLICATION OF THE SOCIETY OF EXCHANGE COUNSELORS

Service. Experience. Counsel.



Inside This Issue

Welcome to the 2010 Winter Issue of the S.E.C. Observer. William F. Richert, S.E.C. President, looks back on how the Society began in 1961, where it is now, and why the organization has endured for nearly 50 years.

Jim Brondino, S.E.C., CCIM, conveys his formula for understanding your client so completely that you can confidently “present the taker” when you initiate transactions. Rod Stewart, S.E.C., tells us “where the deals are” and how to find them; Hunter Quistgard, S.E.C., shares his formula for getting “yesterday’s sale price” in today’s market.

Lance Warner, S.E.C. Education Foundation President, welcomes 2010 with plans for expansion and increased courses around the country. Stephen R. England, S.E.C., a past president of the Society and the S.E.C. Education Foundation, is “in the spotlight” this issue and you will learn how his travels led him to a career in real estate.

The History Files this issue are dedicated to “time management” skills with tips from Jim Misko, on how to get more done; and a “Fan Editorial” from the September 1976 issue that emphasizes the importance of “phrasing the correct question” when you problem solve.

Our national sponsor, Bill Exeter, Exeter 1031 Exchange Services, LLC, keeps us up to date on issues that concern our marketplace.

Enjoy this issue, and as always, we welcome your comments, suggestions, and submission of articles to be considered for publication. Please contact the S.E.C. office via email sec@secounselors.com.

Jackie Hellingson
S.E.C. Observer Editor

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“The Way We Were (and Are)”

William F. Richert, S.E.C., CCIM

The year was 1961 — John Fitzgerald Kennedy was the 35th President of the United States. A country called the Soviet Union rivaled the United States for world supremacy and space exploration, putting the first human in space in April. In May the U.S. answers with Alan Shepard's flight and the President vows to put a man on the moon before the end of the decade. Construction of the Berlin Wall begins, the Beatles perform for the first time at the Cavern Club, Roger Maris hits 61 home runs for the Yankees and the Vietnam War officially begins in December with the arrival of helicopters and 400 U.S. troops in Saigon.

And a small group of 19 Realtors met in Southern California with the idea that real estate was more than bricks, mortar and numbers. They suggested that focusing entirely on the “bricks & mortar” of real estate left out the ownership and their specific needs and circumstances. From this beginning two basic axioms evolved:

1. Working with people is more important than working with property. The people are the ones who have needs and desires that drive the transaction.
2. The relationship between the client and the broker is the key to being able to resolve a situation or find a solution. The underlying premise is that the client's best interests are paramount.

As the Society begins the countdown to our 50th anniversary, we still adhere to these basic axioms in the conduct of our meetings and our education offerings. To this end, the S.E.C. has always stressed counseling clients and endeavoring to uncover their goals and objectives as well as finding out what the client is willing to do to reach those objectives.

One of the strengths of the Society is the tremendous amount of creativity and experience within the group and the members' willingness to share their ideas and thoughts. This is truly the only way we can set ourselves apart from other real estate organizations and solve problems for our clients in the process. When we enter into one of our marketing meetings there is over 1500 years of real estate experience there to draw upon and members who have experienced almost any problem that is exposed to the group. There has never been a meeting I attended, that I did not come away with several ideas of how to get transactions completed back home. ALSO, many of our members partner with other S.E.C. members or guests, so a high level of trust within the organization is paramount to the existence of the Society.

Another attribute of the Society is the fact that we are geographically diversified with representation from every region of the U.S. as well as Canada. Everyone's market does not respond the same to the economic conditions such as we see today. By being such a geographically diverse organization we can often help our clients achieve their objectives through the assistance of individuals outside of the client's normal marketing area. There may be takers from another region that are looking for properties when it seems your area is devoid of buyers.

As we navigate through this recession, I believe the Society's attributes place us in a unique position to help solve issues and predicaments, for our clients and ourselves through the counseling and creativity others do not offer. Our group is a problem-solving group whose forte is solving situations and helping clients and members achieve their goals and objectives.

As our founder Richard Reno said, there are no bad properties, just inappropriate ownership. There are always one or more solutions to every problem and the Society of Exchange Counselors is uniquely positioned to try to seek those out through the counseling and creative marketing techniques we incorporate into our meetings.

I look forward to serving this awesome organization this year and wish you all a prosperous 2010.

“Presenting the Taker!”

Jim Brondino, S.E.C., CCIM

Knowing the client is one of the major keys. This takes time and preparation. Finding out what is important to the client, and not you, is critical. By approaching the client in this manner a rapport and a relationship is established. This relationship involves establishing an orderly way to address the client’s needs and solving the “problem” the client is experiencing. In order to achieve the relationship one must delve into the client’s past, their current state of affairs and what they expect in the future. This allows you to understand the entire picture of the client’s circumstances. Understanding the total set of circumstances surrounding the client provides us with the information we can draw upon to formulate, create, and design a feasible transaction. This information includes, but is not limited to, the financial condition of the client, their asset base and the accompanying details, what they are willing and/or capable of contributing to the transaction process, and what the client is willing and/or capable of adding in terms of cash and/or equities to a transaction. Armed with the above information, we are equipped to initiate intelligent transaction proposals. We can become, and present, the **TAKER!**

One cannot get from here to there without there being a **TAKER** involved. It is imperative to have the client understand this concept. It is incumbent for us to “package” the client’s property, whether it is real estate or cash, so we can not only initiate transaction proposals that are likely to lead to a closing, but to present the asset(s) and the client so as to act as a magnet in order to attract a **TAKER**. Once we become a **TAKER**, or have a **TAKER** for what we present, we can commence to transaction making process. At marketing meetings, **TAKERS** are defined as a written document often referred to as a “mini.”

Now comes the critical component, the presentation of transaction proposals or the **TAKERS**. Please note that I choose to call these written **TAKERS** as transaction proposals, opportunities, ideas, and options to current ownership, **NOT** offers! If we tell the client we have generated offers for them, they develop a whole different mind-set than if we refer to the written document as a transaction proposal, opportunity, idea or option to current ownership. The client begins to believe what has been presented or received on their behalf, their asset and circumstances, as of greater value than they actually may be.

The most effective manner to present a written **TAKER** or transaction proposal is to first restate and remind the client of their needs, goals, and what you have accepted that can be achieved realistically. Next, it is beneficial to conceptualize what is written as a **TAKER** document, the transaction proposal or “mini” so the client can understand and digest the concept in conjunction with their needs and goals. Then, provide the client choices. They can either:

1. accept the transaction proposal as written.
2. modify the transaction proposal, in other words, counter it.
3. pass it on to sources or contacts they may have, or
4. reject the proposal with an explanation as to why, under any circumstances, the transaction proposal will not work for them.

Of course, there are a number of transaction proposal presentation pitfalls. They include:

1. not having sufficient research available on the opportunity for the client to render an informed decision.
2. not restating the reasons that the client is motivated or the objective to manufacture a transaction.
3. not reminding the client as to how the proposed transaction addresses their motivation and/or can be structured to provide a viable solution for them.
4. not having the client prioritize the written TAKERS or transaction proposals.
5. not involving or engaging relevant third party influences.
6. not having all decision makers present.
7. allowing the client to summarily dismiss proposed transactions.

An effectively prepared and conducted TAKER or transaction proposal presentation session will result in a more in-depth knowledge about the client, participation on the part of the client and the discovery of new and useful possibilities.

“Where the Deals Are”

Rod M. Stewart, S.E.C.

The world of investment real estate has changed. In the 12 short months since the economic recession finally hit Wichita, everything about our commercial real estate market has changed, and those who do not recognize the new environment are destined for frustration and failure.

In the pre-November 2008 world, cash was plentiful and capitalization rates (cap rates) were low and continually declining. Good properties were available and selling at returns on investment of a sub 8%. Many NNN leased properties with “national” tenants were selling at 6.5% to 7.5% rates of return. Cash was readily available at the local lenders at 6-7% interest rates and an 80% loan was fairly easy to obtain. Cash was so plentiful, that so-called creative finance was almost extinct and no one would talk about owner-carry financing or making real honest to goodness exchanges.

An entire generation of real estate investors and brokers has grown up in this environment and almost no one remembers the double digit interest rates of the Carter administration or the incredible inflation in the cost of living that occurred simultaneously. We had been building and never stopped to consider the underlying fundamentals of commercial real estate.

Welcome to the new reality. Banks do have money to loan, but they are being very careful about doling it out. There is a large disconnect between willing buyers and sellers in today’s marketplace. Government regulation of banking institutions has increased to the extent that even veteran bankers do not know what the rules are from one moment to the next. It is a time of uncertainty and fear. Among the investing public, both uncertainty and fear are the enemies of transactions. Many, if not most investors, have left the market to wait for a more predictable time and for the “bottom” to assert itself. So, what are prudent investors to do?

There are still many deals to be made. They are not quite as plentiful as in the past, and there is a significant emphasis on the fundamentals of good real estate investing. By good fundamentals, one must look beyond just the tried and true “location, location, location.” Traffic count, ease of access, visibility, signage, availability of parking, ancillary traffic generators, tenant mix have all gained significant importance in the new reality.

In today’s marketplace, it is not enough to *just* want to sell a property, and the offering price is not the only determinant as to value. Successful buyers and sellers are working to create win/win transactions where the benefits of a transaction are shared equally. In the absence of readily available mortgage financing, owner-carry financing becomes important if a property is to attract attention in the market. The opportunity to offer alternative down payments is also a

significant factor. Would a free and clear house or condo meet the seller's need for enough security as a down payment? What other equity kickers could be included to sweeten the down payment for the seller? What will the seller do to help sell the property? Can the seller carry back at a reduced interest rate? Can vacant space be leased back for six months or until it is leased? Will the seller accept personal property as part of the down payment?

Thanks to the presence of the Small Business Administration, owner occupied real estate has a newly discovered significance for the sellers of commercial real estate. The loan guarantees offered by the SBA are very significant in unlocking the keys to bank loans as they greatly limit the risk to the lending institution. One needs to remember that owner occupied is a small percent of the available real estate.

Soon, a new form of currency will make itself available in our marketplaces. The escrow contract mortgages or contracts for deed or the first mortgage note will be offered as purchase money becomes harder to find. Many owners will create mortgages backed by their property and use the created paper to purchase equity in properties. They will unlock their under-performing equity to make new transactions and grow their portfolios of investment properties accordingly.

There are many ways to create safe, secure and mutually advantageous real estate transactions. It will be more work than before, and it will require more creativity and innovation than before. It will require more and better due diligence; but there are an infinite number of ways to structure commercial real estate transactions. These creative formulas have fallen into disuse during the era of plentiful cash but will be making their way back into the marketplace. These are but a few of the ideas that will be forthcoming. Are there any takers out there?

IV. Formulas & Strategies A. Yesterday's Sale Price in Today's Discounted Market

“Yesterday's Sale Price in Today's Market”

Hunter Quistgard, S.E.C.

The client is desperate to transact the listed property to get off of the loan payments and get enough cash to solve some other issue. The listed price is \$600K, but the current market will only bring \$500K and the client is still in yesteryear on values. The loan is \$350K.

An S.E.C. broker knows that there are many ways to get people to their objectives over the resistance of advisors, lenders, third party influence, etc. One solution is to disguise the fall in value and avoid the seller's lack of reality.

The broker finds a taker at current values and prepares a proposal that assumes the loan, delivers \$50K in cash, and some free and clear land parcels that are priced at yesterday's values equaling \$200K, but are available to the offeror at a 50% discount on some basis (for example — a created note against the property being acquired).

The desperate client will only take 1/2 the land at \$100K, and requests a receivable for \$100K. The taker proposed to close on that counter offer using a note against the land that was not accepted, no payments for the first year, 4% interest only the next 3 years, and 25 year amortization thereafter, which includes the first right of refusal to purchase the note if an acceptable offer is made to the holder by a bona fide third party during its tenure; and including a right to pay off the note for giant discounts at various mile posts in the tenure of the note. Many times, if an offer of 40-50% of the note in cash is made in the first few months from its making, and the client is still desperate, that much of a discount will be acceptable.

Many overpriced deals can be made with highly motivated sellers by solving part of the most critical need, and the balance with other-than-cash exchange commodities, thereby solving problems for both. "Stuff" instead of cash works better than just a hard discount almost every time. It always takes some counseling before such offers are presented to have the client open to other than “just cash” for a solution in today's tough market. **DON'T PRESENT SUCH OFFERS BEFORE MAKING THE CLIENT READY.** Start at least a few days ahead, so the client has time to process the concept and recognize the potential benefits.

S.E.C. Education Foundation

Lance Warner, S.E.C.
2010 President

The S.E.C. Education Foundation Board looks forward to 2010 and anticipates that creative real estate education will continue to be a valuable tool for commercial real estate practitioners. The Foundation is working to provide you with quality education in various locations around the country. Please consider helping us spread the word about the Foundation's efforts by contacting your local organizations and suggesting one or more courses that they might consider sponsoring in your area.

We are excited to announce that the S.E.C. Bookstore is open for business and "100 Equity Marketing Formulas," by Virgil Opfer and Dan Harrison is available for purchase online. Visit www.secedfoundation.com and click on the S.E.C. Bookstore link to purchase your copy. We plan to add to our inventory as the year progresses, so please check back periodically to see which publications we may have added since your last visit. If you have a publication, or know someone else who has one, that we can consider adding to our list please let us know!

Our goals for 2010 include increasing the number of courses we sponsor and promote. Please help us to help you. We sincerely appreciate any suggestions on how we can be more effective in our outreach, and marketing efforts. Contact the S.E.C. Office, sec@secounselors.com if you would like to bring a course to your area and we will provide you with an application.

Please visit www.secedfoundation.com for information about the foundation, available courses, the Legends of the S.E.C., and our approved instructors.

*S.E.C. National Invitational Marketing Session
Las Vegas, Nevada
January 17-20, 2010*

The S.E.C. National Invitational Marketing Session will be held at the [Planet Hollywood](#) • 3667 Las Vegas Boulevard South • [Las Vegas, NV](#) • 89109.

Visit www.planethollywood.com to learn about hotel accommodations, and www.visitlasvegas.com to learn about the Las Vegas area.

Visit www.secounselors.com and click on the Society Marketing Meetings menu tab for more information. Please contact the S.E.C. Office sec@secounselors.com if you have any questions about the Las Vegas meeting.

The S.E.C. Education Foundation is pleased to announce that **Bill Exeter, Rich Michelson, and Todd King** will each present a segment of education on Sunday, January 17, 2010, in Las Vegas, Nevada.

Highlights

Bill Exeter, Exeter 1031 Exchange Services, LLC will present the latest updates on 1031's, 1033's, Section 453's, partnership/entity issues, Reverse 1031's, Zero Equity Exchanges, and 1031 Exchanges of Foreign Property.

Rich Michelson, RISCO, LLC, will teach you what to look for in your property insurance policies, and what to do if you do not agree with the settlement your insurance adjuster assigns to your claim.

Todd King, VitalSmarts, will present “**Crucial Conversations.**” Audience participants will walk away from this course with a new set of high-leverage tools to achieve breakthrough results.

Mark your calendars now! Please visit the *S.E.C. Observer* at www.secobserver.com and click on Upcoming Events to access the calendar of events and view a brochure for the course.

*S.E.C. National Invitational Marketing Session
Austin, Texas
March 7-10, 2010*

The S.E.C. National Invitational Marketing Session will be held at the [Sheraton Austin • 701 East 11th Street • Austin](#), Texas • 78701.

Visit www.sheratonaustinhotel.com to learn about hotel accommodations, and www.austintexas.org to learn about the Austin area.

Visit www.secounselors.com and click on the Society Marketing Meetings menu tab for more information. Please contact the S.E.C. Office sec@secounselors.com if you have any questions about the Austin Meeting.

“President's Cup Award”

Rod M. Stewart, S.E.C.

The Kansas CCIM Chapter has been awarded the coveted title of the Presidents Cup Award as the best small CCIM Chapter in the United States. All of us should be a part of something that is judged to be the best in the country at some time in our lives.

Many Society Members are a part of both organizations and have contributed to this success of the Kansas Chapter in various ways. The S.E.C. Educational Foundation has sponsored S.E.C. taught courses by Ted Blank, Bob Brougham, Phil Corso, Mark Johnson and Jim Brondino. All of these courses have helped to raise the creative consciousness of our Chapter.

The following S.E.C.s have given of their time and talent to moderate our twice annual marketing sessions: Marilee Anderson, Ted Blank, Ron Bowden, John Brennan, Jim Brondino, Larry Browning, Rosebud Caradec, Dennis Crull, Wes Dingle, Steve England, Steve Eustis, Hank Haden, Jack Harper, Mark Johnson, Harry Kennerk, Lance Moore, Bill Richert, Art Scott, Jon Spelman, Bill Stonaker, Gary Vandenberg, Ken Vidar, Jim Wilson, and Paul Winger.

Jack Hunt's endowed scholarship not only keeps his memory alive, but it helps to provide continuing education to our members. Education is not limited to only CCIM classes.

As S.E.C.'s and members of the KS CCIM Chapter, it is a real honor for Leo Goseland, Paul N. Winger, Colby Sandlian, Nick Esterline and myself to be associated with these two fine organizations. We gratefully acknowledge the individual contributions of the Society's members to the ongoing success of the KS CCIM Chapter.

Biography
Stephen A. England, S.E.C.

Steve England was born in 1946, and raised on a 3,000 acre irrigated farm and ranch southwest of North Platte in Lincoln County, Nebraska. The farm was complete with 300 head of cattle, crops and hay and was operated by his father and two of his uncles.

Steve graduated from the University of Nebraska — Lincoln, in 1969, with a BS in Agriculture. As a non-commissioned officer of the Air Force from 1969 – 1972 Steve served in Vietnam from 1970 – 1971. After Vietnam he was stationed at Francis E. Warren AFB. While in Cheyenne, Steve studied and earned his Master of Arts in Business from the University of Northern Colorado in 1972. This program involved instructors coming to the base to teach courses to the men stationed there. Additionally, he served as a member of the Air National Guard, in Lincoln, from 1972 to 1975.

Steve began his real estate career with the Nebraska Department of Economic Development. Working as a Community Development Specialist and Field Service Representative for two years, he worked in community development, goalsetting, brainstorming, and in industrial recruitment of businesses for Nebraska.

Steve was employed nine years as Farm and Ranch Officer with National Bank of Commerce, Lincoln, Nebraska. During this period (from 1974-1984), Steve worked in the field of Farm Management, Appraisal, and Farm Real Estate Brokerage, having managed an average of 45 farm accounts annually. Specifically, Steve managed farms for absentee owners, leased and sold farms, and developed farms for irrigation.

On November 1, 1983, Steve founded Investment Property Exchange, Inc. Initially, Steve focused on the brokerage of farms and ranches in the Nebraska area. Steve states that the real estate economy in the region was terrible and times were lean. From 1985 through 1989, Steve focused on appraisal and served as expert witness in hundreds of court cases. During the period 1986 through 1989, Steve concentrated on brokering foreclosed farms, marketing commercial properties, creative bank financing, acquisitions and exchanges. From the period 1991 until present, Steve has focused on counseling and problem solving, helping clients in almost every type of real estate. During the same time Steve was involved in investing and developing for his own accounts.

Steve stresses that one of the things that influenced his life significantly was his involvement in FarmHouse Fraternity at the University of Nebraska with approximately 30 Chapters nationally. This organization has a close-knit membership consistently leading local and national fraternities in scholarship and leadership development on their respective campuses. His family has a long legacy with FarmHouse fraternity, as evidenced by the fact that his father, uncles and brother were all members of this fraternity. Steve's sons, Jon and Daniel, also pledged FarmHouse at the University of Nebraska. Steve served as Rush Chairman for the FarmHouse while in college and surprisingly, both Jon and Daniel also served as Rush Chairmen during their years at Nebraska University. It is within this organization that Steve developed his people skills, which have been such an important component of his success.

Steve's well-rounded nature is obvious when looking back on his childhood upbringing on a working ranch. He played football and ran track, having qualified for state in the 100 yard dash for class A schools. As a youth Steve was elected an officer of the Nebraska Junior Hereford Cattle Association and that is where Steve began to extensively travel, gaining a great deal of confidence.

Steve is married with two sons. His wife, Jeanine, is a counselor at a middle school and they celebrated 35 years of marriage in 2009. His son Jon, is married to Hilary and lives in Overland Park, KS where he is a CCIM and works with Colliers Turley Martin and Tucker brokerage firm. Daniel is engaged to Brittany and lives in Omaha where he is the Project Manager for Shamrock Development that does historical rehab and condo development.

Steve England's qualifications and achievements are numerous and significant. Some of them are as follows:

- Awarded membership in the Society of Exchange Counselors in 1992.
- 2006 National President of Society of Exchange Counselors
- 2007 President of the Society of Exchange Counselor's Educational Foundation
- Granted the GRI professional designation by the Nebraska Association of REALTORS and the National Association of Realtors - 1978
- Holds Professional Membership American Society of Farm Managers and Rural Appraisers, Awarded the Accredited Farm Manager (AFM) designation in 1981 and Awarded the Accredited Rural Appraiser (ARA) Designation on November 11, 1986 (Steve is not currently active as an appraiser but continues to own an appraisal company produces the highest volume of appraisals in central Nebraska.)

- Holds Professional memberships in the National REALTORS Association, REALTORS Land Institute (RLI) and served as National President in 1994.
- Awarded the Accredited Land Consultant (ALC) designation on November 9, 1986 and was inducted into the National RLI "Court of Marketing Excellence"
- Holds Equity Marketing Specialist Designation (EMS) from National Council of Exchangers
- Conducted numerous national seminars on "Agriculture Investment" and "Marketing Through Market Sessions"
- National Instructor;
 - Land Education and Administrative Partnership (LEAP) - traveled across the United States in late 1991 completing Resolution Trust Corporation contract to provide education to RTC employees
 - Have served as Senior Instructor for RLI Land University
 - Currently teach a SEC course, "Marketing that Difficult Investment Listing in Any Economy."
- Awards:
 - Winner of 1990 National Marketer of the Year award for transactions from attending RLI/CCIM National Marketing Sessions. Closed four transactions involving \$3.35 million in property
 - Winner 1982 REALTOR's Land Institute (formerly known as Farm and Land Institute) Marketing Transaction "Super FLI" Award for the most outstanding property exchange and sale of 1982
 - Winner 1986 Nebraska REALTORS Land Institute "REALTOR of the Year"
 - Awarded Buffalo County Board of REALTORS Professional Service Award for 1987 and 1989
 - Awarded Special Service Award - Nebraska REALTORS Land Institute - 1991
- Elected Board of Directors - Exchange Bank, Gibbon, NE - 1992
- Elected Board of Directors of the Nebraska National Bank - a new charter in 1995

Steve holds real estate licenses in Nebraska, South Dakota, Kansas and Wyoming

Steve has had a strong interest in kids' sports. During the time that Jon and Dan were growing up he was involved in Kearney Little League, and was coach for the All Star baseball team, midget football, basketball and soccer teams. He takes tremendous pride and enjoyment in coaching his sons and other kids, and watching them improve and succeed. Steve is a past President in 1979 for the Kearney Rotary Club.

An important goal in Steve's life is to help people and to make a living at it. He cherishes the fact that he has been able to focus so much on his family and still make a good living while doing so.

Steve believes in keeping an even keel and staying away from the highs and lows which are part of the real estate business in order to avoid excess stress. He believes people view him as competent and as someone who gets the job done, but not someone who will always be at the center of attention. He feels that he is always trying to improve himself, and the situation and is frustrated if he is not able to do so.

One of the most significant events in Steve's life was watching his son, Jon, win MVP in an All star baseball game; and overhearing an umpire inquire "who is that kid playing second base" while unknowingly he was referring to Steve's son, Daniel, after a stellar catch in another game. Other significant events were watching beautiful sunsets in the Bahamas, Mexico and the Grand Canyon with his wife, Jeanine.

Steve England is a real estate professional highly trained in commercial and rural land brokerage. Therefore he has been retained by various clients to complete due diligence and business plans on properties from Oregon to Georgia, Texas to North Dakota. As is extremely evident in this biography, Steve has given of himself generously throughout the years to his family, community, and the real estate industry. For this reason, all who have had the privilege of being acquainted with Steve are indeed very fortunate.

“Time Management”

James Misko

Editor's Note: This article first appeared in the February 1972 issue of the R.E. News Observer.

I've tried a thousand ways to get more done in a day and the following methods are the ones that work for me. Maybe they will for you. The night before when you go to bed you have chosen a time to get up. When that time comes don't fight it. At the first sound of the alarm, throw your feet out on the floor and stand up, and MOVE toward whatever you do first. With your day started that way, nothing will be able to withstand your attack. The sleepyhead who rolls around in bed and rationalizes and procrastinates is way behind the guy who is up already doing his thing.

Get to your working place ahead of other personnel and ahead of the normal hours for other offices. Try getting to work at 6:30 or 7:00 A.M. That will give you up to two hours of good work time before people expect you to be there and thus no telephone calls or any other interruptions. Those first two hours are worth four hours later in the day. Try it and see. If you don't want to work longer hours, then stop earlier in the day. Try stopping at 3:00 if you came to work at 7:00, and use those last few hours for a game of handball, or golf, or a spa workout.

When you come to work early you should feel good about it because you should have planned your next day's work the day before. The last thing before leaving the office should be to plan for next day. When you plan in advance you don't have to spend the first part of the day figuring out what you need to get done.

One of the best plans I know was advanced by Ivy Lee, one of the original management consultants. Mr. Lee said to write down the six most important tasks you have to do today and list them in order of their importance. Then start working on item number one and do not go to number two until you have thoroughly finished number one. Then go to number two and so on down the line. Do not be concerned if you only get two or three done, you are working on the most important ones and the others will wait. If you can't finish them using this method you wouldn't have by any other way either, and without some system you probably wouldn't have decided which one was the most important.

Telephone calls can disrupt the best thinking and problem solving. Have your secretary or answering service cut off your calls during counseling sessions or during “think” sessions with yourself. Merely have them tell the caller that you are in conference and will return their call at 11:00 o'clock. I have found that you can make a time to return calls and talk to people just like

you can make appointments, and this gives you control of your time, not letting others control when you will talk to them.

When your work day is completed and you have decided to call it quits, try these two things. Take ten minutes to plan the six most important tasks you have to do tomorrow and clear your desk of all the tasks you have completed.

Exercise - vigorous exercise, either with a group or alone will do more to allow you to proceed at full bore than anything I know. It relieves tension, replaces old air in your lungs, keeps you trim, makes you feel young, and will contribute to a long and happy life. Join a spa, or jog a few miles, or play handball, or tennis, or swim. Something that makes your heart beat fast and your breath hard to get. Work up to it slowly but in a year or so you should be able to run two miles without stopping and you will start feeling better and sleeping better, and working better.

If you do these things you will find the flag waving...because there is a breeze around there moving it. You see, a flag doesn't wave on a still day.

What is the Question?

Fan Editorial

Editor's Note: This article first appeared in the September 1976 issue of the R.E. News Observer.

The best problem solvers we all have known always asked a lot of questions, didn't they?

Quick solutions were seldom forthcoming, and multiple-choice selections of answers almost never readily available.

Why? Probably because it seems that the hardest part of solving a problem is really not so much coming up with a satisfactory answer as it is *phrasing the correct question*.

Acclaimed problem solvers agree that *their* problem as problem solvers is most often "What is the question?" Deducing, formulating, and phrasing the question that correctly and most completely pinpoints an area of dissatisfaction (the 'problem'), should probably rate an award of six points on a scale of ten for the total problem solving process.

Only after the correct question has been set forth can the diagnosis be attempted with any measure of validity. Once the *real question* is established, this second step of the three steps necessary to effectively solve a problem becomes credibly possible. And, in most instances, the cause for concern ('problem') will conform to classic symptoms, or a combination of classic symptoms, permitting a prompt and thorough diagnosis of the situation. Now, we can be two-thirds of the way home!

With the problem expressed and exposed, reasonably accurate diagnosis may be expected, and any of a number of methods of solutions may present themselves or be suggested and successfully employed.

So, presto! We then have the answer! Brainstorming, idea-tracking, piggybacking, deductive, inductive and many other methods of arriving at answers become validly effective only if the full three-stage problem solving technique is employed.

Stage One: "What is the question?"

Stage Two: "What is the diagnosis?"

Stage Three: "What is the answer?"

If all this seems elementary, and you are asking yourselves: what is the question? Then the diagnosis is simple — you probably don't understand.

Perhaps you believe that all there is to problem solving is suggesting enough answers to what appears to have been presented as the problem, and one of them should fit. That's like treating what appears to be a heart attack with whatever medication that is on the shelf in the bathroom cabinet. You know what the odds are in that case, don't you? The victim would probably die.

See the value of the three stages of successful problem solving?

Question = Symptoms

Diagnosis = Problem

Answer = Solution.

Take nothing for granted. Assume nothing. First find out: "What is the question?" Then diagnose what the *real* problem is. Then, and only then, can you professionally prescribe the answer or answers - the solution!

Don't be a wham, bam, alacazam problem solver. Take the time to counsel. Take the time to study. Take the time to do your homework. Take the time to be *practically* creative. Take the time for all that, and your problems will stay *solved*.

Strategic Management of Tax Liability: A New Way Out

William Exeter, President & CEO

How many times have you heard, or made these comments?

“If I sell my property I am going to get killed with taxes.”

Those of us who own highly appreciated assets such as homes, commercial real estate and businesses, are often reluctant to sell that asset because of the capital gain tax and depreciation recapture costs associated with the sale.

There is a perfectly legal way to defer capital gains tax and reduce your overall tax burden. The Deferred Sales Trust™ can provide a way out.

“It would be better to let my kids inherit my assets at stepped up value when I pass away.”

Sound too familiar? Most people don't realize estate taxes are almost 50% above varying exemptions, and that non-spousal “step-up” values are set to cap at \$1.3M in 2010! There is a smart, functional, and legal way to address these issues. The answer may lay with a powerful tax tool called the Deferred Sales Trust.™

If you own a business or real estate with a large amount of gain and are not selling your property because of capital gain taxes, or can't find suitable, qualified property exchanges, then you may want to consider a Deferred Sales Trust™ (DST).

The DST utilizes a legal and established method that allows the seller of the property to defer capital gain taxes due at the time of sale over a period of time that is selected by the Seller/Taxpayer in advance.

Deferring taxes, legally, is not new. Some commonly used tax deferral methods include 1031 exchanges, charitable trusts and traditional seller carry-back installment sale contracts.

Trust law predates the formation of the U.S. law and tax law. Various types of trusts are used by millions of Americans in order to protect and preserve their wealth for themselves and their heirs.

The DST can be used with any kind of entity, e.g., LLCs, S or C election corporations, as well as individuals who own real estate, rental properties, vacation homes, commercial properties, hotels, land, industrial complexes, retail developments, and raw land, to name a few.

What are Long Term Capital Gains Taxes?

Long-term capital gains tax is simply defined as the tax we pay on the profit we make when we sell a capital asset we've held for a year or more.

Capital Gains Tax is calculated by subtracting what you paid for the asset from the net selling price.

The current long term Capital Gains Tax rate for a capital asset owned for one year or longer is 15% for Federal taxes. Most states charge 5% to 10% on top of that (CA is 9.3%), making the total tax run as high as 25%. If there was depreciation taken on the asset, the cost basis is lowered by that amount, thus increasing the taxable gain!

Even with your primary residence, factoring in your tax exemption of \$250,000 each for husband and wife, you may still have a hefty tax surprise when you sell your property and in the form of Capital Gains Taxes.

That isn't the end of the story for the total tax effect though. Capital gain is added to the taxpayer's adjusted gross income (AGI). This may raise the "floor" above which one can take a number of itemized deductions and effect, consequently, the Alternative Minimum Tax.

This could result in a large decrease or total loss of those deductions. This makes the effective, but hidden capital gain rate much larger than the stated federal and state rates. And, of course, tax payment obligations would begin immediately.

To make matters worse the capital gains and depreciation recapture taxes must be paid in the following tax quarter after the sale of the asset.

How does the Deferred Sales Trust™ work?

The process starts with a property owner, "Seller/Taxpayer", selling ownership of the property/capital asset to a dedicated trust (the "Trust") that is set up specifically for the Seller/Taxpayer and the contemplated transaction.

Next, the DST Trained and Approved Trustee of the trust pays the Seller/Taxpayer for the property/ capital asset. The payment isn't in cash, but with a special payment contract called

an “installment sales contract”. It is strictly a private arrangement between the trust and the Seller/Taxpayer.

The term of payment is established in advance and pursuant to the installment sale contract negotiated by and between the Seller/Taxpayer and the DST Trained and Approved Trustee.

The payments may begin immediately or they may be deferred for some period of months or years. The Trust then sells the property. There are zero Capital Gains Taxes owed by the Trust on the sale since the Trust “purchased” the property for what it sold it for to a third party Buyer.

The Seller/Taxpayer is not taxed on the sale since he has not yet received any cash for the sale. Often Seller/Taxpayers will choose deferral because they have other income and don't need the payments right away. Of course, the payments may begin immediately.

Deferral is strictly an option. It is important to understand that payment of the capital gain tax to the IRS is done with an “easy installment plan” as the Seller/Taxpayer receives the payments. Part of the payment received is tax free return of basis, part is return of gain which is taxed at capital gain rates, and part is interest. On top of that the tax payments will be made with depreciated dollars. The tax dollars will likely be worth less than they are today due to inflation. If invested properly, the money in the trust could potentially grow at a greater rate than that of inflation and even the distribution rate and ensures the necessary liquidity to pay back the note due to the Seller/Taxpayer. (The interest rate in the note to you is dictated by the IRS to be a competitive rate, i.e., 6% to 10%.)

While we have primarily focused on Capital Gains Tax, the amount of gain due to straight line depreciation is also deferred with a DST. But if you have taken accelerated depreciation in excess over straight line, this amount is not deferrable.

There is proper diversification by the DST Trained and Approved Trustee in investing the DST's funds.

The DST Trained and Approved Trustee may invest in REIT's, bonds, annuities, securities or other “prudent investments” that are suitable to help assure the Trustee's performance in repaying the Seller/Taxpayer pursuant to the held installment sales note. The DST Trained and Approved Trustee's reinvestment of the proceeds may result in more or less risk depending on the nature of where the proceeds are reinvested.

The primary requirement of the trust's investment objective is simply to produce the cash flow necessary for the scheduled installment sales note payments to the Seller/Taxpayer.