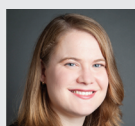


# ESTATE TAX PLANNING GONE AWRY

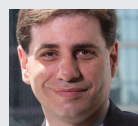
CLE FOR LAWYERS & ACCOUNTANTS | WEDNESDAY MAY 30, 2018 PRESENTERS



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LLP Chair, Trusts  
& Estates group



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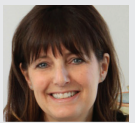
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Hull & Hull LLP



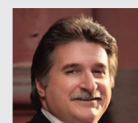
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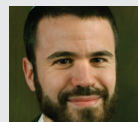
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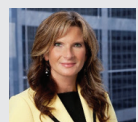
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YU Kollel, Toronto



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**LIONEL TUPMAN**  
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**CRAIG VANDER ZEE**  
Torkin Manes LLP



**BRIAN COHEN**  
Gowling WLG



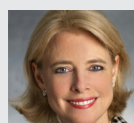
**ARCHIE RABINOWITZ**  
Gowling WLG



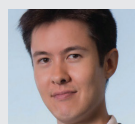
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**HOWARD ZERKER**  
Crowe Soberman LLP

Shaarei Shomayim Synagogue | 470 Glencairn Avenue, Toronto

Registration & Breakfast For May 30, 2018: 7:30 Am

Program: 8:00 Am-12:00 Noon. Cost \$136 Plus Hst

To register, contact Ellen Ostofsky at 416-633-6224 x104 or at elleno@bnaibrith.ca

This program is eligible for substantive CPD hours required of Lawyers by the LSO

[www.bnaibrith.ca/trustsandestates](http://www.bnaibrith.ca/trustsandestates)

Sponsored by: B'nai Brith Canada, Wagner Sidlofsky LLP, Scotia Wealth Management, RBC Estate and Trust Services, WEL Partners, Hull & Hull LLP, Torkin Manes LLP, Gowling WLG, WeirFoulds LLP and KRCM LLP



# Estate Tax Planning Gone Awry

The Moral and Ethical Dilemmas that arise when Lawyers make Mistakes



**Charles Wagner**  
Wagner Sidlofsky LLP  
Chair, Trusts & Estates

Each lawyer must complete Professional Development Hours. Of that time there must be some time spent on professional responsibility and ethics. In its CLE seminars, the B'nai Brith Canada Estates and Trusts Group always includes a segment dealing with ethics, professionalism and Jewish law.

As readers will recall from past columns, this seminar centres on a scenario where a son is working in a family bakery business. The parents implemented an estate freeze for tax purposes, which resulted in their son, through a trust, having a beneficial interest in shares of the corporation. When the son married his former secretary who refused to sign a prenuptial agreement, they were fired. The son sued.

In the vignette, the solicitor who was hired to draft the estate freeze (Lionel Tupman of WEL Partners) meets with his senior partner (Felice Kirsh of Schnurr Kirsh Oelbaum Tator LLP) and a lawyer from their insurer (Daniel Dochylo of Borden Ladner Gervais LLP). He explains that his old clients (the parents) called to tell him about the lawsuit. They have no idea that their drafting solicitor might have been negligent. He seeks guidance on balancing his duty to the client against protecting himself.

In the discussion that ensues, the drafting solicitor explains that, at the time the estate freeze was implemented, he advised his clients that they should make the trust document include a settlor's direction that the son's interest was contingent on entering into a domestic contract approved by the trustee in the form attached.

The clients agreed. However, the drafting solicitor made a mistake. He forgot to include that clause and the schedule. Arguably, had the solicitor done his job properly, he could have pre-empted the lawsuit. His former clients forgot all about the domestic contract clause and the lawyer's oversight for failing to include same in the trust.

This vignette deals with the moral, ethical and professional issues faced by the drafting lawyer. Under the Rules of Professional Conduct, does the lawyer have an obligation to tell his client the story about why he was possibly negligent? What are the moral and legal obligations under Jewish law?

This vignette is followed by a panel discussion chaired by Archie Rabinowitz of Gowling WLG. The panel will address issues raised in the vignette. Deb Stephens of WEL Partners often represents lawyers and Cynthia Miller of LawPro (the insurer) will discuss the professional obligations and limits of what a lawyer who made a mistake can reveal to a client. Rabbi Mordechai Torczyner the Rosh Kollel, of the YU Kollel in Toronto is a noted ethicist and Halachic Scholar. He will discuss the moral and halachic obligations of a professional to his or her client in the context of negligent delivery of services.



**Lionel Tupman**



**Felice Kirsh**



**Daniel Dochylo**



**Archie Rabinowitz**



**Deb Stephens**



**Cynthia Miller**



**Rabbi Mordechai Torczyner**

The event will take place on May 30, 2018 at Shaarei Shomayim Synagogue at 470 Glencairn Avenue, Toronto, Ontario M5N 1V8 and is open to lawyers and accountants.

To reserve your place please contact Ellen Ostofsky at B'nai Brith Canada at (416) 633-6224 x 104 or elleno@bnaibrith.ca