

**POLI-TICKS**

# How can so many know so little?

As the 38 Studios court documents show, "I know nothing" seemed to be the most common refrain among the then-leaders in this state. It is as though all were auditioning for the role of Sgt. Hans George Schultz in a rerun of the television series "Hogan's Heroes" (1965-1971). The record is pockmarked with protestations of ignorance.

Take Governor Don Carcieri and most of the Economic Development Corporation (EDC) Board whose job it was to vet the Curt Shilling project. Prior to their approval of the \$75 million deal, board members were presented a report detailing the potential successes and pitfalls with arguments about how difficult and expensive this project would be. The governor and all the board members with the exception of Karl Wadenstein, who voted against the proposal, stated that they might have read the one page summary or did not recall reading anything at all. Doesn't that sound just like Sgt. Schultz in the season one episode "Hold That Tiger" when he says "Oh, I see nothing. I was not here. I did not even get up this morning!"

Also vying for the ignorance is bliss award is Steven Costantino, the then-House Finance chair. Both Keith Stokes (then-EDC) and Representative Jon Brien testified that Costantino was an avid proponent of pushing the project. Mr. Costantino now feigns amnesia as to his role. As Klink once said to Schultz, "If the prisoners ask any questions about these explosions, you know nothing. You are ignorant."

Schultz: "Oh, I can handle that."

Klink: "I know." And, of course, the beat goes on. Now Speaker Nick Matteillo, who was the number 2 person in the House of Representatives right after Gordon Fox and higher than Costantino, doesn't remember anything being discussed with him. He now has reluctantly agreed to have the House look into the 38 Studios fiasco—with-out, however, clarifying if he will allow subpoenas to issue.

His recent conversion to transparency reminds me of a dialogue in "The Pizza Parlor" episode.

Schultz: "Herr, ex-Kommandant, I have good news and bad news."

Klink: "What is it, Schultz?"

Schultz: "They ordered you to be shot first thing in the morning."

Klink: "That's good news? What's the bad news?"

Schultz: "They are not giving you a blindfold."

Something tells me that this 38 Studios matter is going to follow the rest of the script in this episode:

Schultz: "They're asking for volunteers for the firing squad."

Klink: "Ha! They'll never get any volunteers from my men."

Schultz: "I beg to report, Herr Kommandant, they got 76 men to volunteer."

Hogan: "How many men do you have?"

Schultz: "Eighty two."

Klink: "At least six of my men are loyal."

Schultz: "No, Herr Kommandant. Two are in the hospital and four are on furlough."

Klink: "Wait a minute. We only have 80 men."

Schultz: "Not counting the two deserters. But they came back this morning when they heard you were going to be shot."

Hmm....Only on television?

*Arlene Violet is an attorney and former RI attorney general.*



**Arlene VIOLET**

**AGING WISELY**

# A primer on trusts, part two

Trusts fall into two basic categories: testamentary and inter vivos.



**Macrina G. HJERPE**

A testamentary trust is one created by your will, and it does not come into existence until you die. In contrast, an inter vivos trust starts during your lifetime. You create it now and it exists during your life.

There are two kinds of inter vivos trusts: revocable and irrevocable.

**Revocable trusts**

Revocable trusts are often referred to as "living" trusts. With a revocable trust, the person who created the trust, called the "grantor" or "donor," maintains complete control over the trust and may amend, revoke or terminate the trust at any time. This means that you, the donor, can take back the funds you put in the trust or change the trust's terms. Thus, the donor is able to reap the benefits of the trust arrangement while maintaining the ability to change the trust at any time prior to death.

Revocable trusts are generally used for the following purposes:

- **Asset management.** They permit the named trustee to administer and invest the trust property for the benefit of one or more beneficiaries.

- **Probate avoidance.** At the death of the trust grantor, the trust property passes to whoever is named in the trust. It does not come under the jurisdiction of the probate court and its distribution need not be held up by the probate process. However, the property of a revocable trust will be included in the grantor's estate for tax purposes.

- **Tax planning.** While the assets of a revocable trust will be

included in the grantor's taxable estate, the trust can be drafted so that the assets will not be included in the estates of the beneficiaries, thus avoiding taxes when the beneficiaries die.

**Irrevocable trusts**

An irrevocable trust cannot be changed or amended by the grantor. Any property placed into the trust may only be distributed by the trustee as provided for in the trust document. For instance, the grantor may set up a trust under which he or she will receive income earned on the trust property, but that bars access to the trust principal. This type of irrevocable trust is a popular tool for Medicaid planning.

**Testamentary trusts**

As noted above, a testamentary trust is a trust created by a will. Such a trust has no power or effect until the testator (i.e., the person who signed the will) dies and the will is probated. Although a testamentary trust will not avoid probate and will become a public document, it can be useful in accomplishing other estate planning goals. For instance, the testamentary trust can be used to reduce estate taxes on the death of a spouse or to provide for the care of a disabled child. Also, when one spouse is likely to die before the other, using a testamentary trust can protect all of the couple's assets from the long term care costs of the second spouse to die. For example, I had a client who was dying and called me to review his estate plan. I drafted a new will for him which created a testamentary special needs trust for his wife. After my client died, 100 percent of the trust assets were Medicaid protected for his wife, which was important because she had Parkinson's disease. To maximize the assets that would be Medicaid protected for the surviving spouse, before my client died, we moved

most of the couple's assets into the name of the dying spouse. I find this type of estate plan to be beneficial for many clients. Since the plan occurs in a will, however, and not in an inter vivos trust, all of the assets must be probated. Although most people might not believe it, sometimes probate can be beneficial.

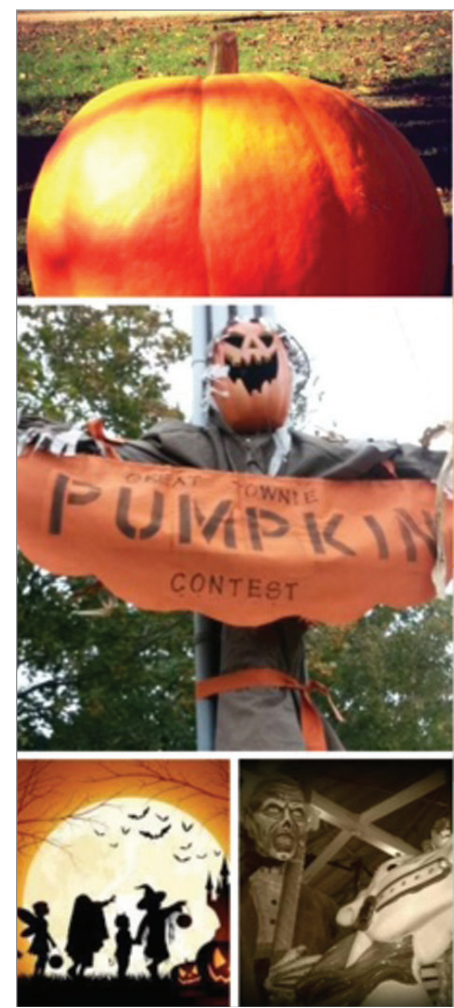
**Special needs trusts**

The purpose of a special needs trust is to enable the donor to provide for the continuing care of a disabled spouse, child, relative or friend. The beneficiary of a well-drafted special needs trust will have access to the trust assets for purposes other than those provided by public benefit programs. In this way, the beneficiary will not lose eligibility for benefits such as Special Security Income, Medicaid and low-income housing. A special needs trust can be created by the grantor during life or be part of a will as described above.

**Credit shelter trusts**

Credit shelter trusts are a way to take full advantage of state and federal estate tax exemptions. When a couple owns more than \$1.5 million of assets (the amount of the R.I. estate tax exemption), creating a credit shelter trust at the death of the first spouse ensures that the estate tax and generation skipping tax exemptions of the first spouse to die are fully deployed and not wasted. I will discuss more about credit shelter trusts in future articles.

*Attorney Macrina G. Hjerpe is a partner in the Providence law firm Chace Ruttenberg & Freedman. She practices in the areas of Estate Planning, Probate, Estate Administration, Trust Administration, Trust Litigation, Guardianship, Business Succession Planning, Asset Protection Planning, Elder Law and Estate Litigation.*



## Crescent Park Carousel October 17, 2015

**Festivities begin at 11:00am**

## 3rd Annual Townie Pumpkin Festival

**11:00am - 4:00pm:** Vendors, Face Painting, Bounce House, Pumpkin Painting, Mini Golf, Corn Hole, Scarecrow & Pumpkin Contest  
\* Carousel rides begin at noon \*

*For more details: [www.eastprovidence.com/carousel](http://www.eastprovidence.com/carousel)*

**4:30pm** - Halloween Parade begins at Oldham School and ends at the Carousel. Haunted Carousel rides & refreshments available for purchase until 6pm.  
**6:15pm** - Movies in the Park - Join us for Hocus Pocus!

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# GRAND OPENING

## SUNDAY, OCTOBER 18TH • 12-3PM

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Free consultations on all services!

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