

COHEN & BURNETT, PC AND LEGACY ANALYTICS, LLC



Founding Partner
I. Mark Cohen,
JD, LL.M., & CFP™

Welcome to the family section of our newsletter. Most of you have seen the pictures of my children that I proudly display in my office, so here is an update. Michael is now a freshman at Thomas Jefferson High School and really enjoys it. Rachel is in her 8th and final year at the Nysmith School for the Gifted and plans to go to Marshall High School to be in the IB program and play Clarinet in band. Kathy, my wife, continues teaching ESL and I am training in the mornings for a Triathlon.



Managing Partner
Weston D. Burnett,
JD, LL.M., CFP™

After three years of study, Wes took and passed the examination for, and was admitted as a Certified Financial Planner,™ this past quarter. His wife, Barbara, is a math teacher at Longfellow Middle School in McLean, where her Math Counts team was the Virginia State champion for the fourth year running and finished for the fourth year in the top 12 in the nation. Their three children, David, age 26, Edward, age 23, and Jennifer, age 20 are all doing superbly at

New Website and New Staff

By the time this newsletter is mailed, our new website will be up and running for Legacy Analytics, www.legacyanalytics.com. Please check it out. Its purpose first and foremost is to provide service to our clients. On the Welcome Page, you will see the following on the right-hand side: a market snapshot of the Dow Jones, NASDAQ and S& P 500; and CNN headline news. On the left-hand side of the Welcome Page, the list starts with: our company, including our mission statement; links to other web sites; pictures and biographies of our staff; our products and services; map directions; and how to contact us or have a friend contact us. The information section has numerous topics and articles. The research section has market summaries, stock quotes, mutual fund quotes, and more news by sector or industry. Finally, you can click on Calculators and there are over 40 of them relating to retirement, savings, education, taxes, mortgages, business or auto loans and insurance. For our fee-based clients, we expect by next year to link them, using passwords, to their portfolios that they can access through our website.

We have also added new staff. Our summer newsletter announced that Brian Pasley had joined us as our Financial Analyst, responsible for financial modeling and securities analysis. His prior work experience was with Marberry, Miller & Bales CPA's, an accounting firm, where he prepared monthly financial statements and taxes for clients. Brian has a B.S. in Accountancy from Columbia College located in Columbia, Missouri (graduating Magna Cum Laude) and is finishing his M.S. in Finance this fall at The George Washington University in Washington, D.C. His hobbies include soccer, golf, hunting, biking, running, and following the Chiefs, Cardinals, and University of Missouri Tigers. Brian was born and raised in Columbia, Missouri and has lived in the Washington, D.C. since July of 2002.

In October, Brian Hege replaced Wendy Cheung who returned to her former human resources work. Brian Hege is our Director of Client Services. He recently completed his B.A. in Political Science and Business Foundations at the University of Texas at Austin and plans to pursue an MBA in the near future. His hobbies include traveling, following his beloved Texas Longhorns, playing basketball, fly fishing, sailing, skiing, and actively participating within the community. Brian was born and raised in Dallas, Texas and recently transitioned to the Washington, D.C. area in early October of 2003.

Finally, before the end of this year, we will lose a wonderful paralegal and friend, Linda Reyman, who is leaving the law firm after 3 ½ years, to devote herself full time to family matters.

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LIVING WILLS AND SCHIAVO

Many of you have read about the Terri Schiavo case in Florida. She has been in a persistent vegetative state for many years. The husband obtained court authorization to remove the feeding tube, after which the legislature empowered the Governor to reinsert the feeding tube, reversing the court decision.

For our clients, the Durable Medical Power of Attorney (Living Will) we have executed over the years has one section entitled “Advanced Medical Directive” that expressly empowers the Medical Agent to make decisions on Terri Schiavo-like issues. Terri had no such document and so the courts and legislature have struggled with when and who can decide to “pull the plug.” Our documents expressly permit your Medical Agent to make such decisions when two physicians find you to be in a terminal condition or an irreversible coma. Read your document if you are concerned about this issue, talk to your Medical Agent (for many of you that is your spouse) and, if you have questions, call us to talk about or make an appointment to discuss the matter. For your friends, if this issue is of concern, urge them to ensure they have a living will, advanced medical directive or Durable Medical Power of Attorney.

Great Quotes

“Between the optimist and the pessimist, the difference is droll. The optimist sees the doughnut; the pessimist the hole!”

~ [McLanburgh Wilson](#)

INDEPENDENT ADVISORS

In a recent article, published in Wealth Management Letter, The Spectrum Group surveyed 327 wealthy individuals and found that *more wealthy Americans are moving their investment dollars from brokerage firms to independent advisors and planners*. Why is this shift occurring? The survey suggests that advisors at large brokerage houses are deemed too self-interested. “The biggest concern for these wealthy investors was objective advice,” said Tanya McDonald, a spokeswoman for Spectrum.

According to the survey, wealthy Americans, defined as having a net worth of at least \$5 million, have significantly changed the way they view those handling their money, and the news isn't good for brokers or advisors affiliated with traditional brokerage firms. An increasing number of wealthy clients are questioning the quality and objectivity of the advice they are receiving from brokers tethered to the large firms, and that suspicion, in many cases, is leading to a switch to an advisor who appears less compromised by the recent spate of scandals.

Assuming a high-net-worth investor does need guidance, to whom are they turning? 15% of those surveyed said they have turned to investment advisors in 2003 (up from 8% in 2001), 14% to investment managers (up from 7%), and 17% have gone to financial planners (up from 15%). Those wealthy investors who severed a relationship with a broker also expressed concern that their broker's advice neglected important points, such as asset allocation, tax planning and estate planning. Of course, this is exactly what our fee-based clients receive from our multidisciplinary practice.

MEDICAL RECORD PRIVACY

Earlier this year, the Federal regulations for the Health Insurance Portability and Accountability Act (HIPAA) became final, which attaches penalties for each violation of the regulations that run from \$100 to \$25,000 and up to ten years in jail. When in doubt it denies third parties, including spouses or children, access to a patient's health-care information, unless there is express written consent to such release. This can be hard to come up with if you rush to the emergency room with your spouse too sick to talk or write. The medical power of attorney that we prepare for our clients reads at Article IV that your Medical Agent can “request, receive and review any information, spoken or written, regarding my physical or mental health, including medical and hospital records, to execute any releases or other documents that may be required in order to obtain such information, and to disclose such information to such persons or entities as my Agent shall deem appropriate...” I consider that language sufficiently explicit, but I am also waiting for the first report by someone that they were denied access as Medical Agent to medical records because the power of attorney did not explicitly reference HIPAA. Starting this fall, we have updated our Durable Medical Power of Attorney to now include an explicit reference to HIPAA.

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S & P INDEX FUND INVESTING

Investors in the many S&P 500 Index Funds or Spiders (SPY) may believe they are well diversified across 500 different companies. However, S&P Index investors may not be as diversified as they think. While the S&P 500 Index does in fact represent the performance of 500 stocks, the Index is market-value weighted. In other words, a company's weighting in the S&P 500 Index is determined by multiplying its stock price times the number of shares outstanding, making each stock's weighting in the Index proportionate to its market value. Below are the ten largest companies by market value in the S&P 500 Index as of August 29, 2003.

Company	Market Cap (in Millions of \$)	As a % of the S&P 500 Index
General Electric	296,257	3.22%
Microsoft	284,726	3.10%
Wal-Mart	259,101	2.82%
Exxon Mobil	250,209	2.72%
Pfizer	232,964	2.53%
Citigroup	223,289	2.43%
Intel	186,121	2.02%
American Int'l Group	155,411	1.69%
Johnson & Johnson	147,154	1.60%
IBM	141,892	1.54%
TOTAL:		23.69%

Chart Source: Standard & Poor's

As the above chart indicates, over 9 % of the S&P 500's performance is determined by its largest 3 holdings, and 23.69% of the S&P 500's performance is determined by its 10 largest holdings. Is this proper stock diversification? Mid and small cap domestic stocks as well as international equities are basically being ignored by those using the S&P 500 Index as a primary investment vehicle for their stock portfolio.

MARITAL BANK ACCOUNT

In a decision handed down June 9, 2003, the 19th Judicial Circuit Court of Virginia held that a joint bank account held by husband and wife "with survivorship" was owned as a tenancy by the entirety. As such, the bank account was not subject to garnishment by a judgment creditor of one of them.

PRIVATE COLLEGE PREPAID TUITION

In fall 2003, the first national prepaid private college tuition plan hit the market with a fund managed by TIAA/CREF. This fills a need for those who want to cover tuition inflation and have a prepaid plan that crosses state lines. The information can be found at www.independent529plan.org. Particular attention must be paid to the list of participating colleges. In essence, you buy a certificate in a set dollar amount. When that certificate is redeemed years later, its value for tuition bills due is determined by the college's tuition in the year of purchase of the certificate and a certificate discount rate declared for that year. For our fee-based clients, college education and related costs are a critical part of the planning process whether the client is focused on the education of children, grandchildren or

Things to Ponder

Do you know what would have happened if it had been Three Wise Women instead of Three Wise Men?

*They would have :
asked directions,
arrived on time,
helped deliver the baby,
cleaned the stable,
made a casserole, and,
brought practical gifts.*

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IRS UPDATE ON TAX SCAMS

Below are a few more of the top 12 tax scams on which the IRS focuses:

◆ **Pay The Tax, Then Get The Prize:** The caller says you've won a prize, and all you have to do to get it is to pay to them the income tax due. It is true that a prize winner may need to make an estimated tax payment to cover the taxes that will be due at the end of the year on the prize. But the payment goes to the IRS - - not the caller. A legitimate prize giver generally sends both the winner and the IRS a Form 1099 showing the total prize value that should be reported on the winner's tax return.

◆ **Frivolous Arguments:** Frivolous arguments or phony ads such as "I don't pay taxes - - why should you" or that urge you to "untax yourself for \$49.95," are false snake-oil con games that are unsupported by law. Paying income taxes is not "voluntary." There is no "secret" "the rich" have for not paying income taxes and "untax packages" don't work. Selling such packages or following the advice contained in them often results in civil and/or criminal penalties.

◆ **IRS "Agent" Comes To Your House To Collect:** Do not let anyone into your home unless they identify themselves properly; IRS special agents, field auditors and collection officers carry picture IDs and will normally try to contact taxpayers before they visit. If you think the person on your doorstep is an impostor, lock your door and call the local police. To report IRS impostors, call the Treasury Inspector General's

Great Quotes

"The key to getting everything you want is to never put all your eggs in one ask-it!" ~ [Source Unknown](#) ~

WHAT TO DO WHEN YOUR SPOUSE DIES

Three times in the past six months, a client of ours has called up and told us that their spouse had died over a year ago. In the course of the conversation, we found out that the surviving spouse had failed to take care of certain matters, such as: (1) filing an estate tax return within nine months of the decedent's date of death; (2) qualifying as executor for some probate property that had not been titled in the name of the decedent's trust; or (3) filing trust income tax returns for the decedent's trust. In each instance, fixing the problem after the deadlines had passed proved much harder than doing it correctly and on time. At least one client had consulted a CPA who clearly did not understand trust tax returns and, on his incorrect advice, she had failed to file the required federal 1041 return for four years running. Our advice is come see us if your spouse passes away and we can review matters with you to figure out whether there is a requirement for any tax returns or probate work. If you successfully implemented our plan, there may be little or no work to do, but a check up is the only safe way to ensure that is the case.

AND THE BEAT GOES ON: STATUS OF ESTATE TAX

The Business Section of the Washington Post on October 22, 2003 reported that one of the staunchest advocates for repeal of the estate tax, Senator Jon Kyl (R-AZ) had drafted a proposal that would raise the estate tax exemption to \$15M and tax the excess at 15% like capital gains. The driving force cited for dropping permanent repeal of the estate tax in 2010 is the surging budget deficit. Certainly, a \$15M exemption would render the estate tax irrelevant for all but a very small percentage of decedents' estates.

E-MAIL ALERTS

Offered in last Summer's Newsletter to put anyone that requested it on an email list. The idea was to keep clients advised electronically of changes to estate, tax and financial planning. I received about 12 responses and have sent them two emails to date. For those who are interested, please send an email to Wes@cohenandbburnett.com and I will add you to the list. There is no charge for this service, no obligation and I send the email blind copy to each addressee so that no one knows anyone else's email address.

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