

Asset Protection for Accountants

Seven top asset protection strategies

Grant Abbott - Chair
SAPEPAA and Abbott &
Mourly Lawyers



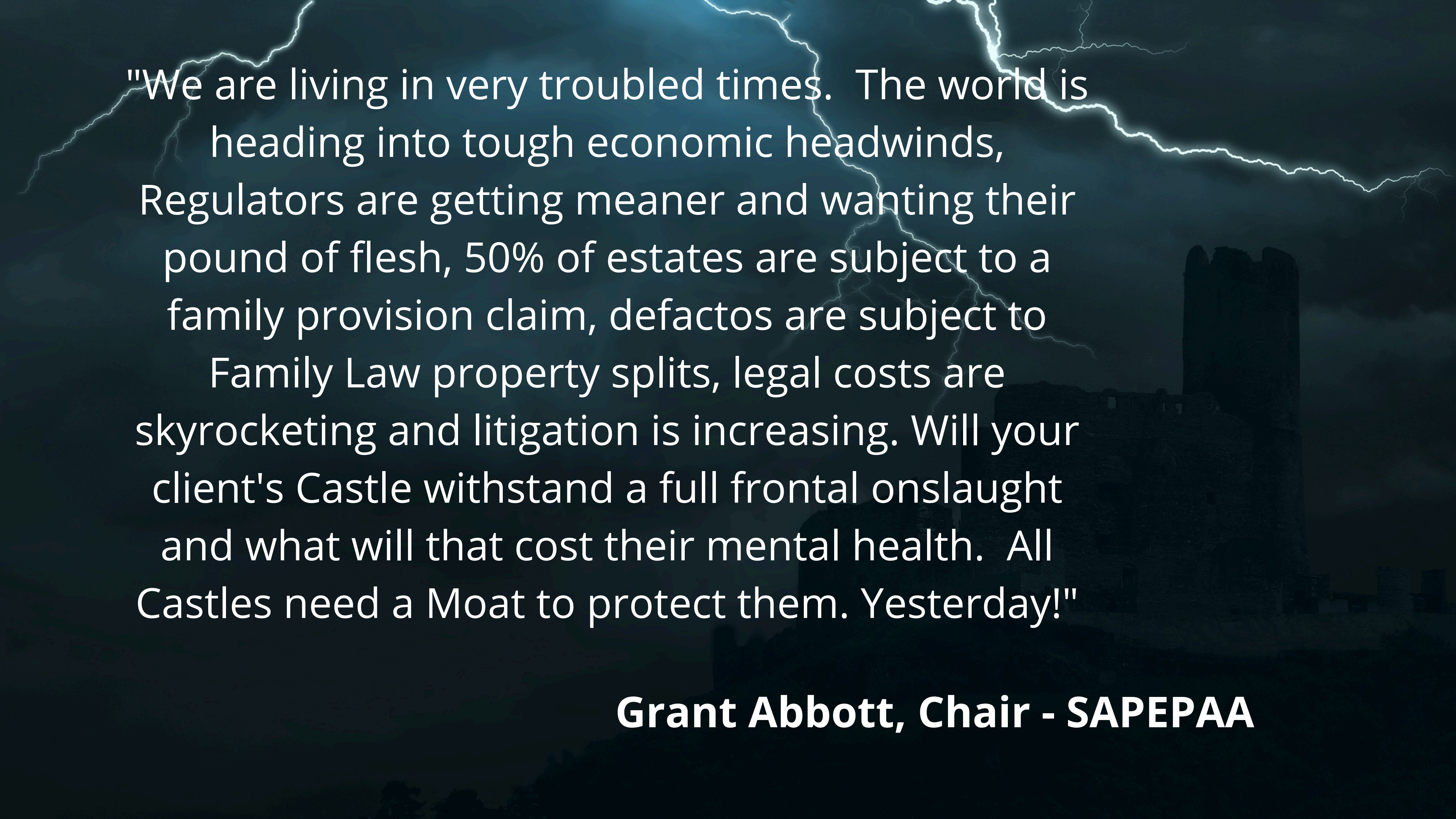
GRANT ABBOTT

*The complete Guide to Protecting your Family Wealth
for your Bloodline for Generations to come by
Australia's Leading Family Wealth Protection
Specialist*

FAMILY WEALTH PROTECTION



**220 page
Guide to
Family Wealth
Protection -
out in late
August**



"We are living in very troubled times. The world is heading into tough economic headwinds, Regulators are getting meaner and wanting their pound of flesh, 50% of estates are subject to a family provision claim, defactos are subject to Family Law property splits, legal costs are skyrocketing and litigation is increasing. Will your client's Castle withstand a full frontal onslaught and what will that cost their mental health. All Castles need a Moat to protect them. Yesterday!"

Grant Abbott, Chair - SAPEPAA

Funding is the real issue

- Over 65's hold the wealth
- But they don't pay taxes and have greater health, aged care and pension benefits
- What will the younger generations do when in power?

Figure 5.2: Baby Boomers won the demographic lottery; Gen Z lost



Sources: Treasury (2015, p. 12) and ABS (2018e).

Source: Grattan Institute 2019



QUESTION

How important is it for you protect
your family's wealth for your
bloodline for generations to come?



Top Seven Asset Protection Strategies

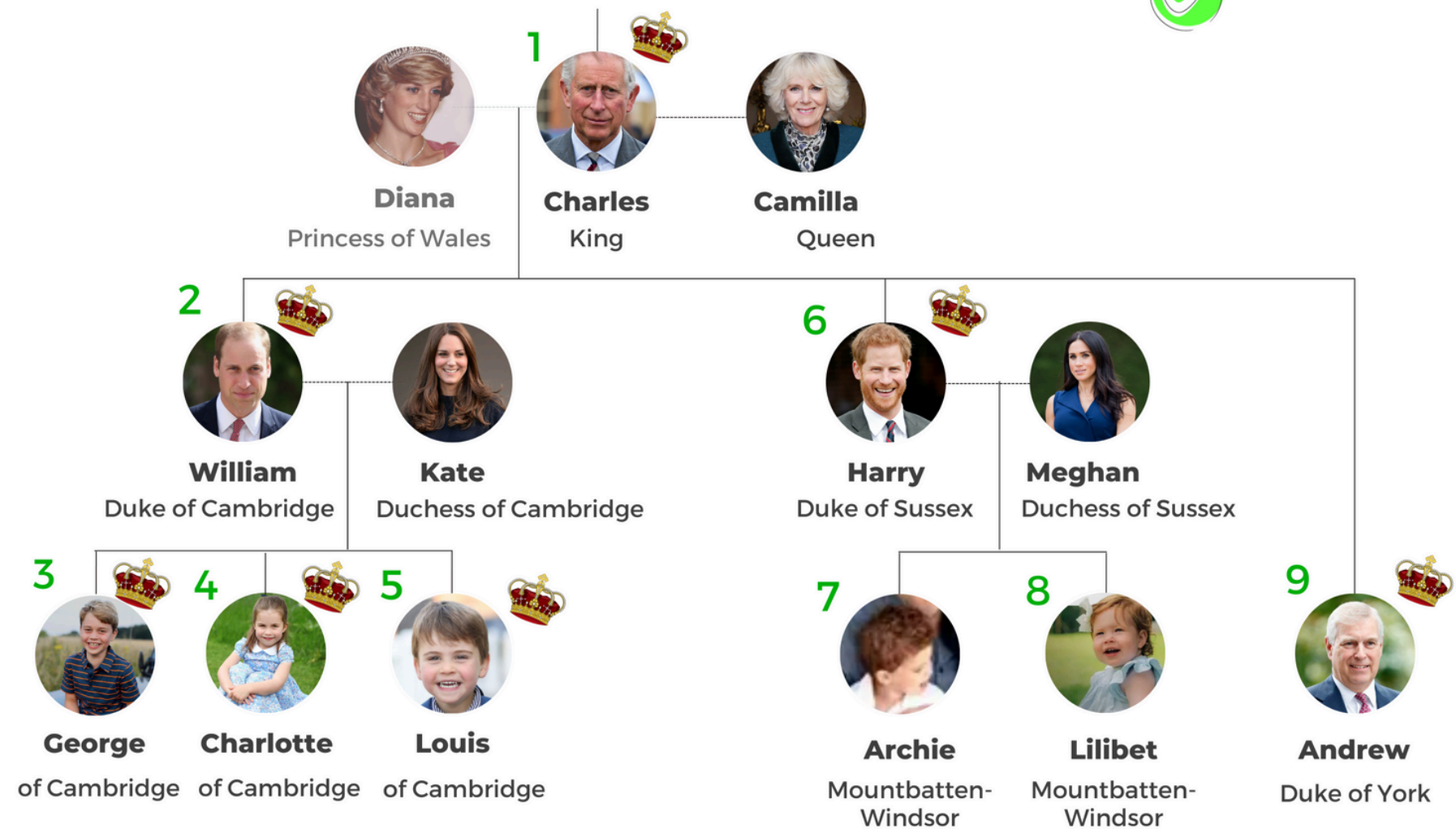


Strategy One - Line of Succession

Line of
Succession
is all
important



British Monarchy Line of Succession



Successors

- Should be Attorneys, Executors and Successor LMA
- Need to be strong in decision making
- Can be supplemented with a SAPEPAA Family Advisory Board Member
- Can make the "at risk" person the first LMA but remove if litigated against and exclude as beneficiary
- Be careful with control in the event of separation
- Go down at least three levels and can be changed at any time



Strategy Two - Successor Directors

Successor Directors

- Need to use for -
 - trustee companies (significant asset protection issues)
 - trading company
 - bucket company
- What happens on incapacity, death or litigation - removal and replacement with qualified successor director
- Three fold strategy - ensure constitution enables it, set in place binding directors resolution and deed of indemnity for the incoming director

Elizabeth Hurley's son cut from father's family trust

Bang Showbiz · 14 hrs ago



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Elizabeth Hurley's son has been cut from his father's family trust.



Strategy Three - Family Protection Trust

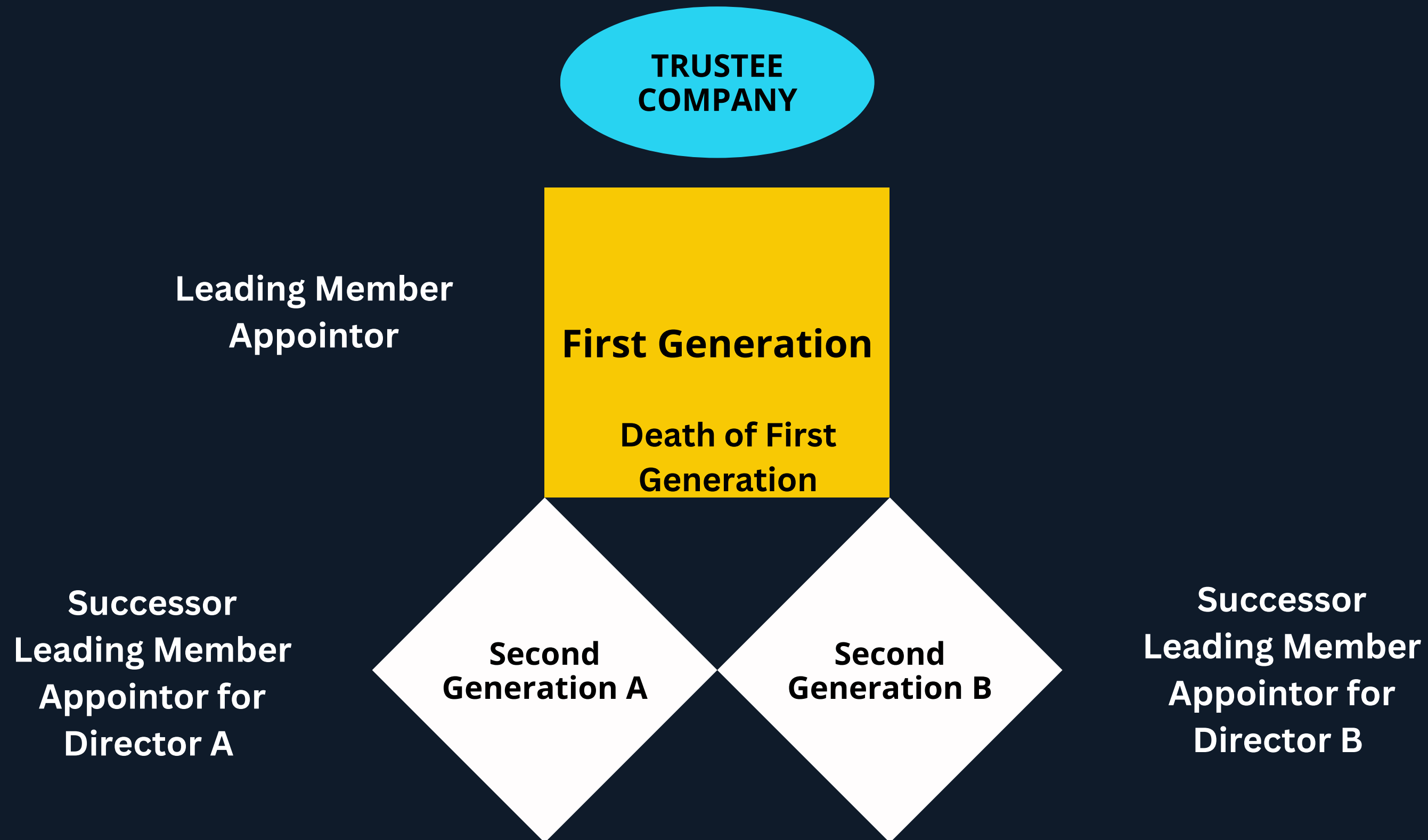
Key Features for Family Protection Trust

- NO named primary beneficiary
- Leading Member and successors are core beneficiaries
- Extends to bloodline children, grandchildren and relatives plus companies, trusts and other entities they control
- Also can make specific or class exclusions
- To be used with a Family Protection discretionary trustee company
- Family Protection Trust = LMĐT (different in name)



Strategy Four - Multi-generational trust splitting

Split Trust - how it works



TD2019/14

Example 2 – separating the control of some of the assets of an existing trust that does not result in creation of a new trust

13. *The Kingdom Family Trust is a discretionary trust settled in 1970 for the benefit of Ian King and his family members – his wife Maria and his children Katarina and Laura. Ian King is the current appointor of the Kingdom Family Trust.*

14. *The trustee of the Kingdom Family Trust is Emperor Pty Ltd (Emperor), a company jointly owned by Ian and Maria. Together with their daughters, Ian and Maria are also the directors of Emperor.*

15. *The Kingdom Family Trust is in the business of property development and the operation of retirement villages. Ian is 70 years old and wishes to reduce his involvement in the family's business activities.*

16. *Ian and Maria King decide that now is an appropriate time for greater responsibility for the administration of the Kingdom Family Trust to be placed on Laura who is currently taking increased responsibility for the property development business. To facilitate the desired succession planning goal, the trust deed is amended to:*

- (a) *allow for the appointment of additional trustees in respect of some of the assets of the trust fund*
- (b) *allow for separate appointors in respect of the different parts of the trust fund*



PROMISSORY NO

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Strategy Five - Gift and Loan Back -

The Protector

holder referred to as Payee to pay

Making it work

1. Who and what is being protected
2. Build a Family Protection Trust
3. Irrevocable Gift to the Trust
4. Cash, bill of exchange, cheque or promissory note to fund the irrevocable gift - ensures protection with no asset transfers - no CGT or stamp duty
5. Loan of cash or cash instruments back to the gifter or gifters
6. Mortgage deed to secure property and securities deed to secure PPSR assets
7. Call option for uplifts and asset claim



Strategy Six - Testamentary Trust

Testamentary Trusts

- Do not escape family provisions claims
- Never insert proposed testamentary trust deed into a Will only the general terms and conditions in case the laws or cases change
- Can use a Family Protection Trust as the core TT documents
- Family law and litigation protection plus family provisions claims for next generation
- Separate TT's for superannuation and also insurances



Strategy Seven - Protecting Founder monies - The Enforcer

The Enforcer

- Founders insert cash into their start up companies or trusts
- There is no documentation for the transfers and thus they may be legally treated as a gift
- Convert those amounts to loans with The Enforcer
 - Loan Agreement
 - Deed of ratification confirming the loan from the start of the company/trust
 - Mortgage deed for any property
 - Securities deed across all the assets of the company or trust



- SAPEPAA Course live on the Gold Coast - 26-28 August followed by the Board of Guardians course - 28-29 August
- SAPEPAA Conference 5-7 October at Anantara Resort Koh Samui - case study and practical based
- Remember with these strategies:
 - Do it yourself on LYD
 - Engage Abbott and Mourly Lawyers for any advice and documentation preparation for any tax, estate planning and asset protection matter
 - Use Legal Back Office to do the hard work, compliance and get legal sign off with a 50% split