



Baystate Financial Planning

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***What are the RISKS
you don't even know about?***

**ASSET PROTECTION
AUDITS**

What are the biggest **RISKS** facing you, your family, and/or your family business?

- **Asset Ownership**

- Tenants-in-Common (family camp with siblings)
- House owned by one spouse (w/o Homestead)

- **Volunteer Activities**

- Directors (org. invested with Madoff, or simply lost value)

- **Business**

- Stockholders have limited liability, but ...
- Directors and Officers have personal liability

- **Trustees and Guardians**

- life insurance policy lapsing before insured lapses
- responsible for relatives'/friends' children

What are the biggest **RISKS** facing you, your family, and/or your family business?

- **Protecting Assets from Creditors**, including:
 - former spouses and former in-laws
 - taxes and liability lawsuits
- **Retirement Accounts**
 - qualified plans have federal and state protection
 - IRAs have state protection, and limited protection in the event of federal bankruptcy (\$1M)
- **Costs of Health Care and Health Insurance**
- **Out-Living Financial Assets**
- **Terrorism**
- **Mold** (the new asbestos)

Risk Management

“Measuring and Controlling the FREQUENCY and SEVERITY of significant losses”

It is too expensive to eliminate risk!

		SEVERITY	
		Large Losses	Small Losses
FREQUENCY	Frequent		◆
	Infrequent	◆	

- ◆ focus budget on: infrequent large losses; and frequent small losses

NOTE: Frequent large losses are a catastrophe
Infrequent small losses are acceptable

Risk Management

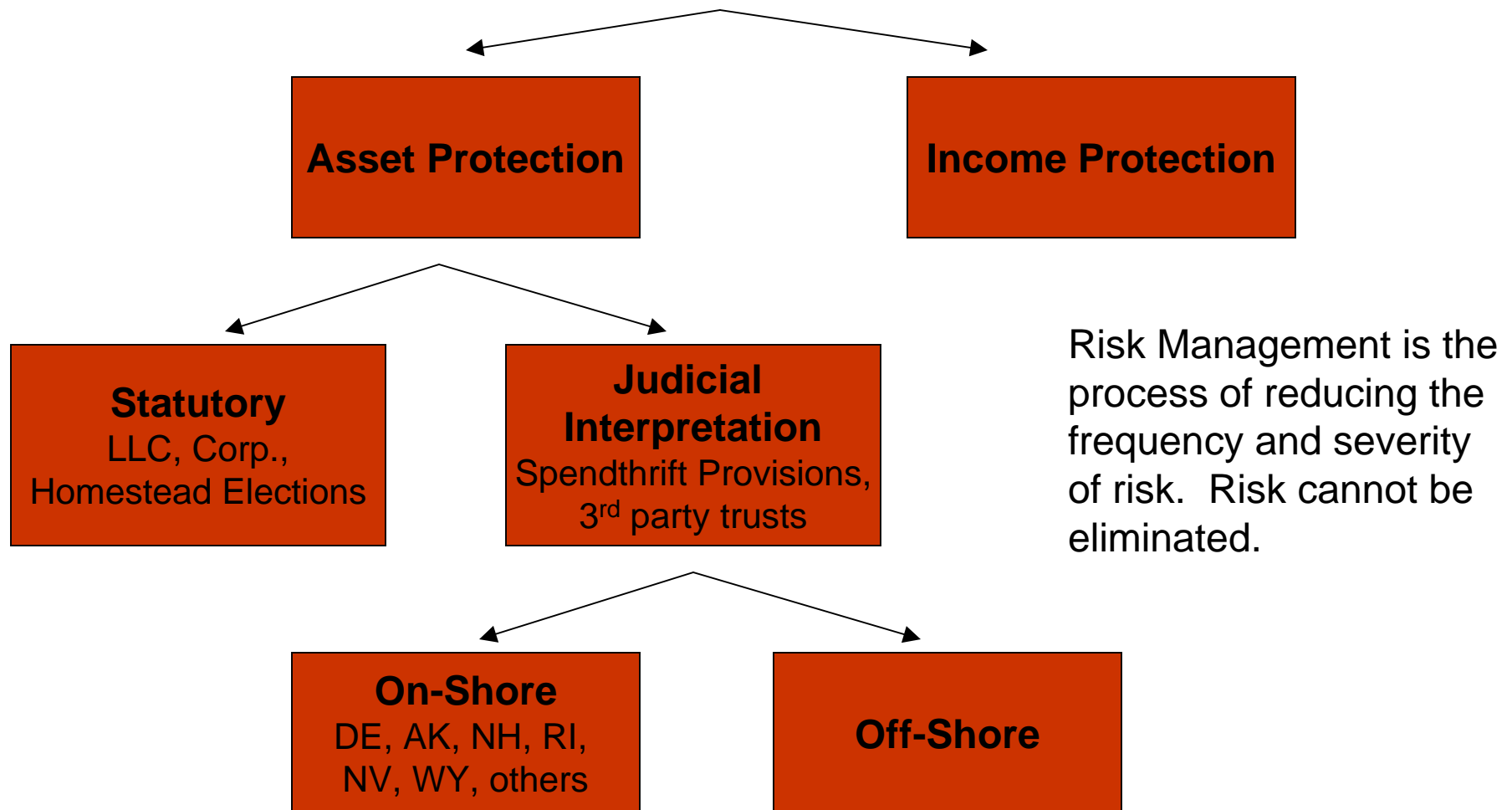
INSURANCE

RETENTION

HEDGING

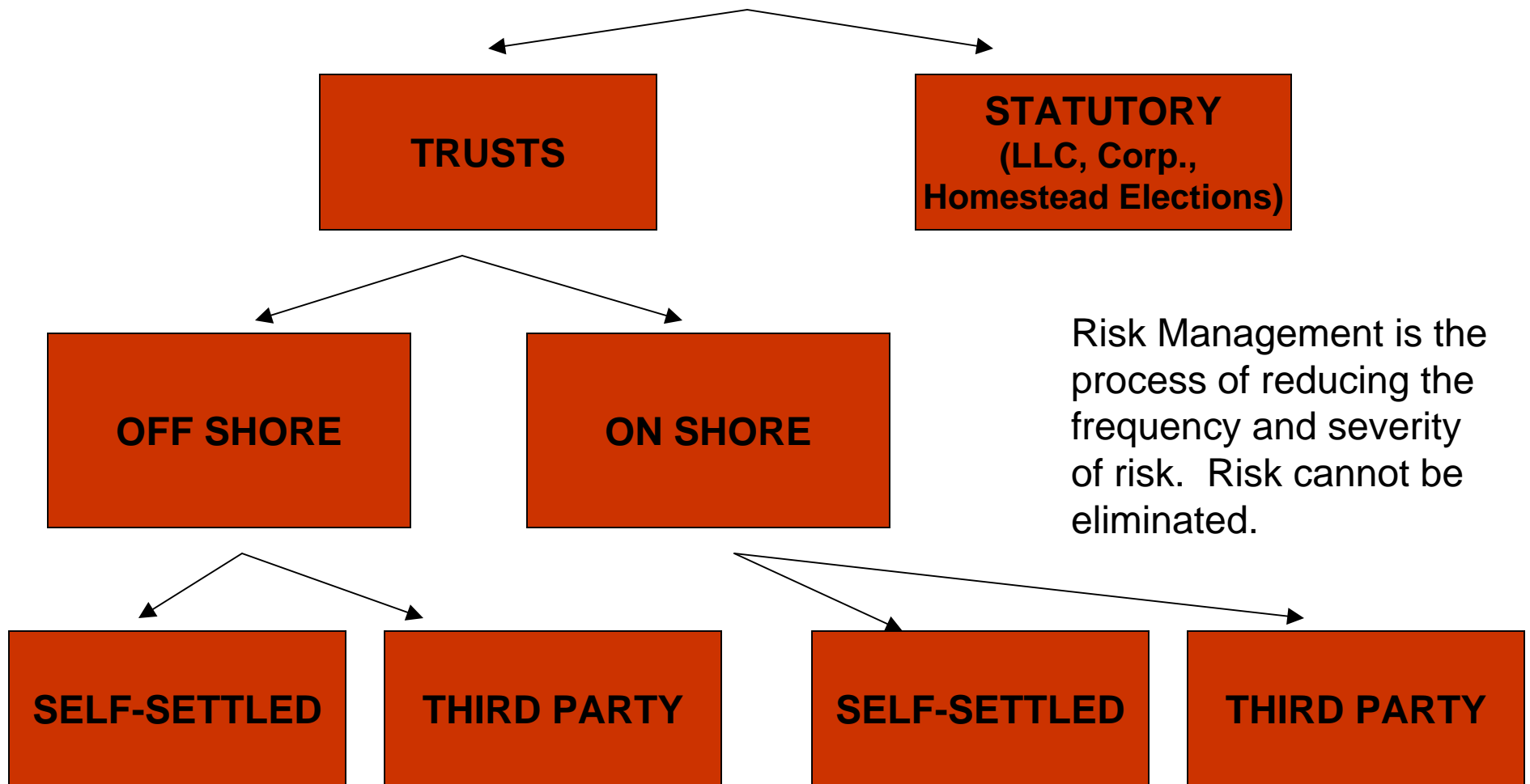
RISK TRANSFER

Risk Transfer



Optimal Asset Protection: combination of Statutory and Judicial Interpretation
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ASSET PROTECTION



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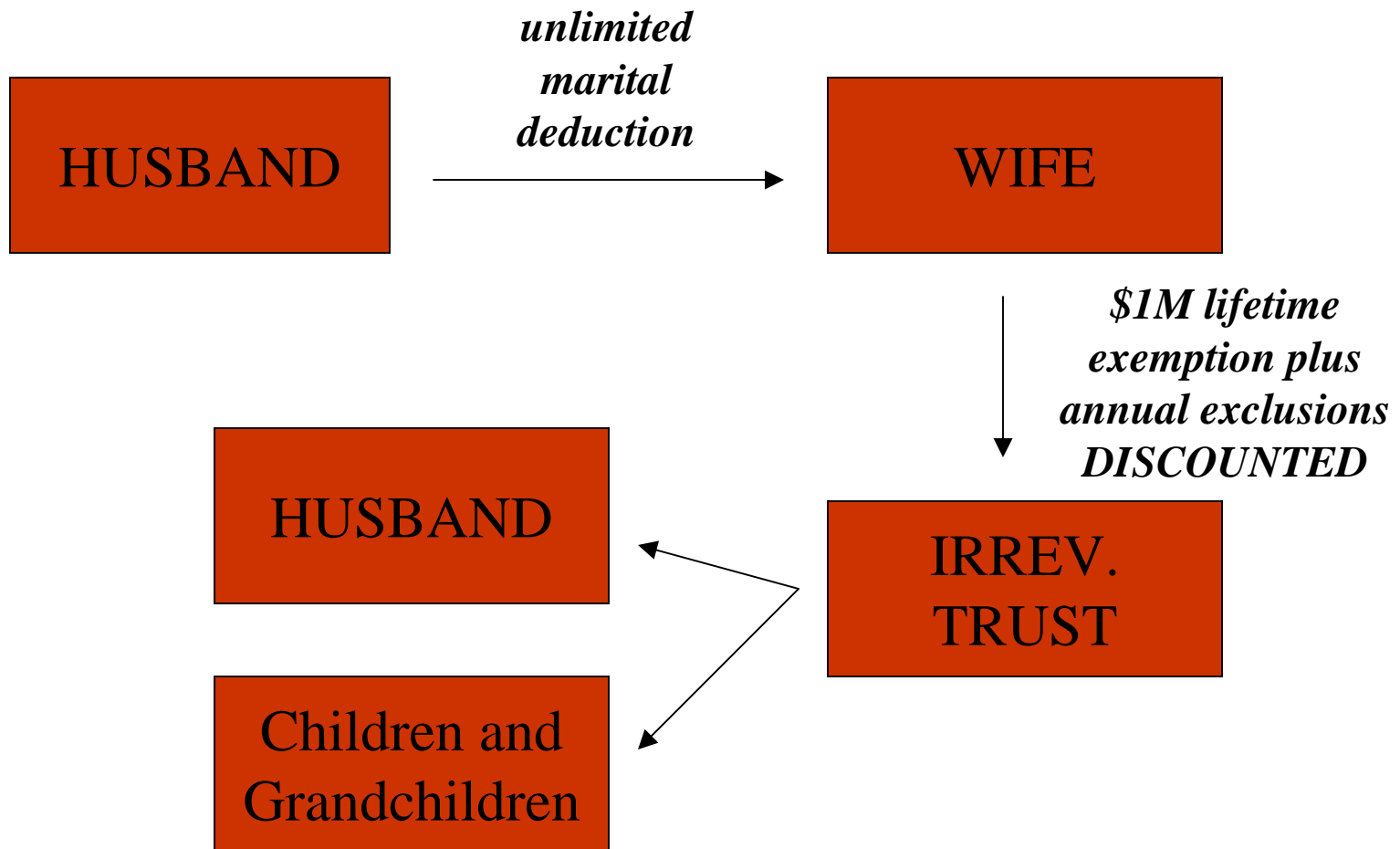
TRUSTS

	OFF SHORE	ON SHORE
SELF-SETTLED	Asset Protection Subject to Patriot Act	Asset Protection only in DE, AK, WY, NV, RI, NH, SD, UT, TN, MO
THIRD PARTY	Asset Protection in all 50 States	Asset Protection in all 50 States

ON SHORE TRUSTS

	REVOCABLE	IRREVOCABLE
SELF-SETTLED	Asset Protection only in DE, AK, WY, NV, RI, NH, SD, UT, TN, MO	Asset Protection in all 50 States
THIRD PARTY	Asset Protection in all 50 States	Asset Protection in all 50 States

THIRD PARTY TRUSTS



TRUSTS

ADVANTAGES	DISADVANTAGES
income and/or principal can be “ <i>sprayed</i> ” to beneficiaries (does <u>not</u> require equal payments)	Grantor (settlor) cannot be the trustee if the goal is asset protection (loses direct control)

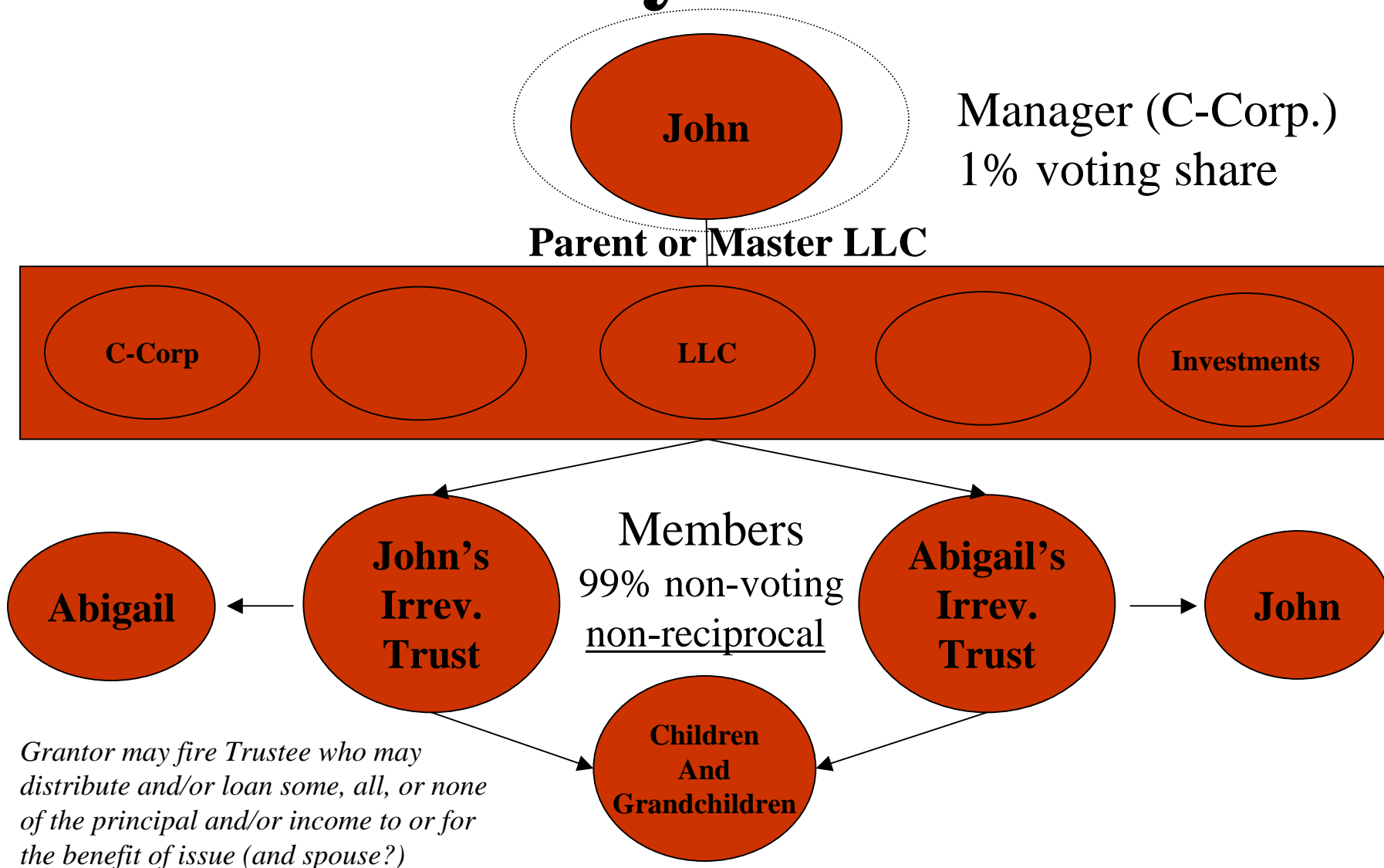
LLCs

ADVANTAGES	DISADVANTAGES
donor retains control <i>(manager)</i>	income and/or principal must be paid <u>pro rata</u> to the <i>members</i> unless multi-tiered

LLCs owned by TRUSTS

ADVANTAGES	DISADVANTAGES
income and/or principal can be “ <i>sprayed</i> ” to beneficiaries	
donor retains control	

Family Bank[©]



Trail of General Liability

Real Estate, LP

General Partners -- A, B, C, D, and E
owned 1% of the equity each

E was also a *partner* in the law firm of EF&G

Limited Partners -- H to Z
owned 95% of the equity

Trail of General Liability

Real Estate, LP

FINANCIAL FAILURE

General Partners -- A, B, C, and D

owned nothing in their own names

E was 100% personally liable

each GP is jointly and severally liable

As a *partner* in the law firm of EF&G

F & G were also personally liable

even though the law firm was not the lawyers for the project
and neither F nor G had any knowledge that E had signed on

as a General Partner

FORMS OF OWNERSHIP


Business

	Pass Through Taxes	Limited Liability
Sole Proprietor	Yes	No
General Partnership	Yes	No
Limited Partnership		
GP	Yes	No
LP	Yes	Yes
Corporations		
C-Corp	No	Yes
S-Corp	Yes	Yes
PC	Maybe	Yes
Trusts	Maybe	Maybe
LLC		
Manager	Yes	Yes
Member	Yes	Yes

FORMS OF OWNERSHIP

Personal

	Individuals	Two or More
Fee Simple	Yes	No
JTWROS Joint with right of survivorship	No	Yes
T by E Tenancy by the Entireties	No	Yes For married couples ONLY
T in C Tenants in Common	No	Yes Can have unequal ownership
Trusts	Yes	Yes
LLC Limited Liability Companies	Yes In some States	Yes



The contents of this presentation are intended for education purposes only.

The presentation provides a brief summary based on our understanding and interpretation of current law.

All tax references are to federal tax law only, unless otherwise stated.

This presentation includes changes made by the 2001 Tax Act.

All these changes are to expire at the end of 2010.

Pursuant to IRS Circular 230:

The information contained in this material is not intended to, and cannot be used to, avoid IRS penalties.

This material supports the marketing and promotion of life insurance.

Seek advice based on your particular circumstances from independent tax, legal, accounting, insurance, investment, and financial advisors.

Individuals, including business owners, should not apply any of these concepts without coordinating with attorneys, accountants, life insurance agents, investment advisors, financial planners, etc.

Consult with your professional tax advisor about your personal situation before making any decisions.

This is not intended to provide tax or legal advice.

Advisors should not apply any of these concepts to their clients without:

- (1) establishing a mutually agreed upon scope of their engagement;
- (2) gathering necessary and sufficient objective and subjective data given the client's goals, needs, and priorities; and
- (3) evaluating that data and determining alternative strategies consistent with the mutually agreed upon scope of the engagement and the data collected.

**Herbert K. Daroff, J.D., CFP® is a Registered Investment Advisor in Massachusetts
doing business as BAYSTATE FINANCIAL PLANNING.**

Herbert K. Daroff, J.D., CFP®

He is an attorney by education and a CERTIFIED FINANCIAL PLANNER™ practitioner by profession.

Mutual Funds magazine (8/2001) recognized Herb as One of the Top Advisers in the Northeast, Worth magazine (7-8/2002) included him in The 250 Best Financial Advisers; and Medical Economics magazine (11/2004) listed him in The 150 Best Financial Advisers for Doctors.

Herb's creativity, experience, and resourcefulness enable him to work well with clients and their personal advisors.

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