

CREATIVE

Wealth Maximization Strategies

 John Driscoll & Company, Inc.
3501 N. Campbell Ave., Suite 102
Tucson, AZ 85719
520.577.2596 tel
520.577.2608 fax
www.JDriscollCo.com

Richard Patterson CLU, ChFC
Richard_Patterson@glic.com

JULY 2009

“Economic prognostication is hamstrung by a tendency to extrapolate from recent trends endlessly into the future.”

Daniel Gross, *Newsweek*, February 16, 2009.

WILL YOU STAY-THE-(FINANCIAL)-COURSE, OR MAKE A CHANGE?

In any election, at every level, the basic issue presented to voters is, in some fashion, a question of whether to stay the course or make a change.

When the vote is between candidates, one (often the incumbent) is a proponent of staying the course, continuing things as they are, while the other candidate offers a change – a new list of priorities, a new way of doing things. When the vote concerns an issue (taxes, public funding, laws) the decision is still whether things should stay the way they are or be changed.

How you decide to vote depends on your perspective. Your decision to stay the course or pursue change doesn't really hinge on facts, but on *how you interpret* the facts.

Similarly, your financial decisions are really based on your financial perspective. And just like a voter, you must decide: should I stay the course or is it time to make a change?

A new direction?

Because of the ongoing economic crisis/turmoil/downturn/depression, many people are looking for fresh **financial direction**. They want someone to help them stop the losses – the loss in their retirement account or stock portfolio, the loss in their real estate values, the loss of their job.

The losses people have experienced are facts. But before you make another financial decision, you may want to first reconsider your financial perspectives. While a financial loss may be an indicator that some things need to change, the specific actions to correct the situation depend almost entirely on your financial philosophy.



You need a financial perspective that can interpret the events from the past in a way that gives some direction for the future.

In a segment of life that seems to be dominated by mathematical data, the idea of looking first at your “financial philosophy” – whatever that is – may sound a bit “out there”. For many, their overriding financial philosophy is pretty simple: “I don’t care much about the ideas; I just want to do whatever makes the pile of money bigger.” But because mathematical assessments can only be made about the past, you can’t make future decisions based solely on which decisions produced the biggest pile last year, or last week. Instead, you need a financial perspective that can interpret the events from the past in a way that gives some direction for the future.

Are the “incumbent” financial philosophies still valid?

Historically, the past three decades produced several significant trends that influenced conventional financial thinking. As a result of recent events, each of these developments, once thought to be almost a “sure thing,” is receiving skeptical scrutiny.

As values have plummeted in a manner not seen since the Great Depression, people are asking...

Is the stock market worth the risk? After three decades of trending upward in a steady, profitable course, it was common for financial observers to conclude that the financial markets offered the greatest opportunities for investment reward. And the expansion of the mutual fund industry meant even small investors could reap big-time profits.

However, the steep declines since the all-time highs in October 2007 have left many people reeling. Investors may have always known that returns aren't guaranteed, they may have even experienced periodic short-term losses. But the majority of investors never expected to see 30% to 50% of their account values wiped out in one year. Very swiftly, planning for next year's retirement became planning to keep on working, and hoping for enough time to recover from the losses.

As real estate values have declined, and foreclosures continue to glut the market, people are asking...

Does it still make sense to "invest" in a personal residence? The realtor's mantra is, "Your home is your greatest asset." Buy in with as little down as possible; use the appreciated equity to keep trading up. It wasn't unusual for a \$5,000 down payment on a starter home to result in a \$1 million mansion 10 years later. And if you didn't use the equity to trade up to a larger residence, you could always open a home equity line of credit to tap your gains.

Every part of this scenario worked – until the economy slowed. Defaults and foreclosures started to pile up, and housing values started to level off, and then drop. In a flash all that equity vanished – poof! For some, the loss has turned them upside down – they owe more than the house is worth – and they face two choices, neither of them good. They can continue making mortgage payments, knowing it may be years before the payments result in any equity. Or they can simply walk away, taking a hit on their credit history and losing whatever they had invested.

As employment has become more tenuous, people are asking...

Should I keep maximizing my qualified retirement plan? The conventional wisdom was "a path to a bountiful retirement was through maximum contributions in an employer's 401(k)". The tax deduction on deposits and the tax deferral on the earnings could make for some gigantic long-term compounding opportunities. With automatic withdrawals and loan provisions in many plans, it was easy to keep pouring in the maximum from each paycheck, and take

some out for emergencies. And savvy investors didn't have to accumulate years of service or wait until age 65 for a pension – retirement could happen on your timetable.

But a few things misfired. It turns out almost no one was a savvy investor – not the employee who asked his co-workers for advice or the professional money manager. And many of the outstanding loans became due in full when employment was terminated. For some who lost their jobs, their only financial resource was their retirement account, and many withdrawals resulted in income tax penalties.

As budgets get tighter, more people are asking...

How much debt should I carry? Credit is the grease of commerce. It allows people to obtain things now and pay for them over time. The use of credit makes people homeowners – and business owners – sooner. For manufacturers and service providers, it boosts sales – of cars, computers, office equipment, travel, everything. Smart and industrious entrepreneurs have used credit as the springboard to turn great ideas into fabulous fortunes.

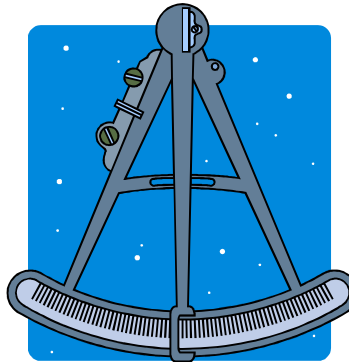
Of course, there's also the recognition that your ability to borrow is dependent on your ability to repay. You can't borrow indefinitely – at some point, you have to pay it back. Or you have to declare bankruptcy and start over. Right now, there's a sense that many Americans have reached their credit limit.

And what about the "new" financial candidates?

As some of the incumbent financial philosophies have staggered, a host of options have emerged. Many of these ideas aren't new, but circumstances have given them renewed relevance.

The fallout from the declining markets, rising unemployment and the credit crunch have resulted in greater government involvement in what once was considered the "private sector" of Americans' financial lives.

- There has been a massive infusion of government stimulus spending and bailout assistance from AIG and TARP to Chrysler and GM.
- As the United States government takes a more direct role in "managing" the national economy, the short-term result appears to be increased government borrowing and higher deficits, along with greater government regulation over products, transactions and compensation.
- The administration is actively seeking to re-structure the tax code, offering incentives and/or credits to home and car buyers, re-evaluating the



estate tax and considering new “sin” taxes on items such as beer and soda pop.

- Government is also looking to reform the health care system, including a government-sponsored insurance alternative, and digitizing the medical record system.

Regardless of your political persuasion, these government initiatives represent potentially significant changes in the financial landscape – for businesses and individuals. As Jon Meacham and Evan Thomas put it in their cover article for the February 16, 2009 issue of *Newsweek*: **We Are All Socialists Now**. If that’s true, what impact will it have on your financial philosophy?

Is it time for a change? It depends.

Is there a new economic paradigm? Have the losses and government intervention fundamentally changed the rules and strategies for prosperity? As was mentioned at the beginning of this article, how you vote depends on your perspective.

For some people, nothing has changed, even with all the apparent economic turmoil. A value investor probably still sees great opportunities in the stock market. A person looking for a home might find fantastic bargains among foreclosures. And a true free-market libertarian already felt the United States economy was essentially socialist – the only difference was the degree.

For others, the events of the past 18 months are forcing them to re-evaluate their approach to financial decisions. A June 2, 2009 *Wall Street Journal* article titled “Americans Get Even Thriftier as Fears Persist” begins with “Americans are saving more of their paychecks than at any time since February 1995.” “New Horizon, New Behavior,” a survey from *Barclay’s Wealth* released on June 15, 2009, reported that 68% of wealthy investors are staying out of the stock market – even though 88 percent believe there are profitable opportunities – because they can’t tolerate the risk of loss. As for the possibility of the United States becoming socialistic, a March 26, 2009 *Washington Post* article reported that many college graduates “now see the government as an employer of choice.”

So...Even though things have changed, you can still make a strong case for staying the course – or making a change. It all depends on the financial philosophy you use to interpret the events.

Times May Change, But Good Philosophies Are Timeless

It’s quite likely that many of the people who feel whip-sawed by the current economic shake-up are those who believed that financial conditions were static – what was happening now would continue in the future. They saw the stock and real estate markets always going up,



Here’s a quick quiz on a financial concept. Do you know the answer?

“Adjusted for inflation...”

At an intellectual level, everyone understands that inflation affects prices – the same product or service costs more because our money is worth less. But at the same time, technology and other economic factors can also have an affect on prices, which is why computers and other electronic technology devices seem to get cheaper all the time, even with monetary inflation. So it can be hard to tell if the things we buy are really more expensive than they used to be.

This is why economists have developed the idea of adjusting for inflation. By taking the price for a similar commodity from the past and adjusting that number for inflation, it provides a method for comparing prices from different eras.

Question: According to the GasBuddy website (www.gasbuddy.com) the average price for a gallon of gasoline in the United States on June 25, 2009 was \$2.63. Adjusting for inflation, how does this price compare to the average price in 1979?

- a. higher
- b. lower
- c. about the same

(Answer on Page 6)

their employment conditions stable, and their access to credit infinite. If so, that was a faulty interpretation.

Financial history is full of ups and downs. While the events of the past 18 months have been somewhat unusual in their severity, they are not uncommon; in fact, the peaks and valleys occur regularly.

One of the characteristics of a good financial philosophy is that it provides insight and direction to make it possible to thrive in *all* circumstances – not just the particular trends of the moment.

For example, people with a timeless financial philosophy:

- **Have guidelines for their participation in the stock market or other investment opportunities.** This doesn’t mean the guidelines are guarantees. Rather, it means there is recognition (and preparation) for what can happen, both positive and negative.
- **Understand the psychological value and true financial costs of home ownership.** Besides price of the home and size of the mortgage, owning a home consists of other benefits and liabilities. There may be tax deductions to consider, as well as overhead costs like insurance and property taxes. Profitable home ownership takes all these issues into account.
- **Know when borrowing can multiply their wealth – and when it should be avoided.** Just like a home is more than the price and the mortgage, borrowing is more than the interest and length of term. It depends on whether the borrowing is for emergencies or wealth-building. And even those who are debt-free and not currently looking to borrow should be sure they have access to credit.

- **Balance their retirement savings against emergency and liquidity needs.** Much of the hype of qualified retirement plans was built on “Plan A” premises – where everything goes exactly as planned. But history shows there’s often a need for a Plan B.

If the events of the past 18 months have undone your financial progress, now is a good time to evaluate whether you would be better served by an adjustment in your financial philosophy. Not only that, it might also be a good time to ask the same questions of the financial professionals you’ve asked to help you with your financial programs, and see if their financial philosophies are ones that work – and are in line with yours.

- **ARE YOUR FINANCIAL PHILOSOPHIES TIMELESS?**
- **HAVE THEY WITHSTOOD THE UPS AND DOWNS THAT ARE CHARACTERISTIC OF ECONOMIC CYCLES?**
- **ARE THEY DESIGNED TO SUCCEED UNDER ALL TYPES OF ECONOMIC CONDITIONS?**

STATISTICS: Full of Sound and Fury, Signifying...What?

Is this a Bull or Bear Market? *It Depends on Your Perspective*



The Standard & Poor’s 500 stock market index is a mathematical calculation of the collective value of selected U.S. stocks. On March 9, 2009 the Standard & Poor’s 500 Index closed at 676.53, its lowest closing value in well over a decade. On June 15, the same stock index finished at 923.72, a 36.5 percent increase in a little more than three months. Since financial analysts often identify a bull market as one in which values rise more than 20 percent over a previous low, the recent run-up certainly seems to qualify as good news for stock market investors. Except...

As the retirement planning website dshort.com succinctly reported on June 15, 2009, “The S&P 500 is 36% above the March 9th low, but 41.2% below the October 2007 high.” A bear market is usually identified as one where values are 20 percent below a previous low.

So is it a bull market or still a bear?

Yes.

Which means...it may be a secular bear market.

A “secular market” is defined as one where the long-term trend is up or down (i.e., bull or bear), but punctuated by periods of significant counter-trends. A secular bull market will include some bearish periods, a secular bear market will still have some bullish moments.

According to investopedia.com, secular market trends since 1900 have lasted from 5 to 25 years. During this time there have been three secular bull markets and three secular bear markets. The last secular market was a bull – the long-term trend was upward – and began in 1983. When did the bullish trend end? It depends on your perspective. Some sources will say 2000, others point to 2007. One of the characteristics of secular trends is that it takes awhile to identify them.

An Analysis of Secular Bear Markets and Secular Bull Markets since 1900, issued by amateur-investor.net in June 2009, identifies the secular bull and bear markets using S&P 500 data. But the time period from 2000 forward ends with a “?”; in other words, after nine years there’s still no conclusion on whether the long-term trend is up or down.

Statistics may accurately represent historical events, but still need a framework in which to interpret them in order to be useful. The perspective matters as much as the math.

BANKRUPTCY: Proceed with Caution

Rebecca Wilder, the pen name for an “economist working in the financial services industry in Boston, MA,” had this headline in a December 28, 2009 newsneconomics.com article.

“The Hottest Trend in 2009: Declaring Bankruptcy”

Jane Bryant Quinn kicked off the New Year with these comments in the January 12, 2009 issue of *Newsweek*:

“Go bankrupt in 2009. If you’re reaching the end of your rope, don’t try to hold on. Save what you can.”

Either these commentators know their stuff, or a lot of people are following their advice. A June 3, 2009 *USA Today* article reported that consumer and commercial bankruptcy filings are on a pace to “reach a stunning 1.5 million this year, according to a report from Automated Access to Court Electronic Records...In May, the number of bankruptcy filings reached 6,020 a day, up from 5,854 in April.”

This is sobering information, especially in light of legislative reforms enacted in 2005 that made it more difficult to use bankruptcy as a legal procedure to erase

debts. And while most of the increase in filings is due to the financial distress inflicted by a struggling economy, a change in attitude may also be a factor.

Some may now see bankruptcy as a pre-emptive measure rather than an act of last resort. Quoting Bryant: *“The right time to go bankrupt is when you're financially stuck but still have assets to protect.”* As more people file for bankruptcy, the social stigma diminishes, individuals are taking a closer look at the legal and financial merits of a bankruptcy filing.

An Overview of Bankruptcy

Bankruptcy has a long history, going back to ancient times, because there have always been people who find themselves unable to pay their debts. While not an ideal solution, the process of bankruptcy provides a structure for resolving this dilemma, for both debtors and creditors.

The word bankruptcy comes from the Latin *bancus*, the tradesman's counter, and *ruptus*, broken. (In Rome at the time of the Caesars, a merchant or tradesman unable to pay his debts would have his bench in the market place either broken or removed by a court-appointed official, who would then auction off the bankrupt person's property to the highest bidder.)

The first English bankruptcy law was passed in England in the late 1500s during the reign of Henry VIII, and provided the foundation for basis for bankruptcy laws in the United States. Under both Roman and English law, bankruptcy was not something an individual chose; rather it was forced upon them by their creditors. Besides the seizing of assets, creditors could continue to demand repayment of all outstanding debts. If the debtor failed to repay, some laws allowed for imprisonment and even physical punishment.

Today, there are two basic forms of court-authorized bankruptcy: liquidation or reorganization. In the US, liquidation is known as Chapter 7 Bankruptcy, which refers to the chapter of the bankruptcy law that allows your assets to be sold off. Reorganization bankruptcies can fall under Chapters 11, 12 and 13, with 13 applying to most individuals. Chrysler and General Motors both filed under Chapter 11. When you file for bankruptcy, the court prohibits your creditors from taking action to collect debts without the approval of the court.

Chapter 7 – Liquidation

In a liquidation bankruptcy, you put your personal property in the hands of the bankruptcy court, which sells it and uses the proceeds to pay your debts (or as much of your debt as possible). Once the process is

completed, old creditors have no further claim of payment, but the bankruptcy stays on your credit history for 10 years, which may result in restriction or denial if you attempt to borrow money during that time.

Under the new law passed in 2005, you may not have the choice of filing a Chapter 7 liquidation bankruptcy. If your income exceeds the median income for the same size family in your state you must submit to a bankruptcy means assessment. This test essentially establishes a budget for you, based on a minimum standard of living. If after imposing this budget, the court believes that you have \$100 or more per month in disposable income that you could apply towards your debt repayment, you may be pushed into a repayment plan under Chapter 13 instead of qualifying for Chapter 7.

Chapter 11, 12 or 13 – Reorganization

In any reorganization bankruptcy, the filer submits a repayment proposal to the bankruptcy court. Payment plans usually cover three to five years, and not all debts receive equal treatment. The law requires that some debts must be repaid in full, while others may require a percentage, and some may not be repaid at all.

There are some debts that cannot be discharged or “forgiven.” These include debts you forget to list in your bankruptcy papers, child support and alimony, most student loans, fines and penalties as a result of breaking the law, tax debts, and judgments for personal injury or death caused by driving while intoxicated

During the repayment period, the court will place restrictions on how you can spend money. In many cases, wages will be garnished by a trustee of the court, who will make the payments to your creditors.

Provided you make your payments as promised, it is possible that creditors will grant you credit at the end of the repayment period. But the bankruptcy will stay on your credit history for six years.

Asset Protection in Bankruptcy

Bankruptcy laws allow filers to exempt certain types of assets from liquidation for settlement with their creditors. Typical exemptions include homesteads or personal residences, qualified retirement accounts, college saving accounts and some types of trusts. These exemptions are designed to keep filers from losing everything, but often create some potential ethical and legal challenges – with significant adverse financial consequences if abused.

Federal government allows each state to determine which assets are exempt, and there can be quite a

Bankruptcy is a complex legal process. For anyone contemplating bankruptcy, you should not proceed unless you have retained professional legal assistance.

(Our firm does not offer legal or tax advice.)

variation in which assets qualify. Some states have generous exemptions, some do not. When individuals are contemplating bankruptcy, they may realize that certain assets might be excluded from bankruptcy if the asset could be transferred to someone else. Or they might conclude that it would be advantageous to establish residence in a different state, because the bankruptcy exemptions are more favorable. This awareness leads to what some bankruptcy attorneys call “exemption planning.”

While some measures can be taken to enhance the status of exempt assets, individuals must understand that “transfer of assets prior to filing is generally a ‘no-no,’ ” according to Leon Bayer, a Los Angeles Bankruptcy lawyer with 29 years of experience, in a legal guide posted on avvo.com. Bayer continues: “Do not hide, conceal, transfer, or falsely encumber non-exempt assets. Doing so carries the risk of being prosecuted for committing bankruptcy crimes, it is likely to result in the denial of a bankruptcy discharge, and the trustee can still recover such property, or its value, from whoever it was given to.”

The Importance of Correctly Positioning Assets

Indirectly, the issue of bankruptcy emphasizes the importance of forward-thinking risk management. While you know you can't expect to transfer assets in anticipation of filing bankruptcy, the ramifications of a possible future bankruptcy may cause you to consider how your assets are owned right now. In the event of a financial setback, one that might result in either bankruptcy or a lawsuit, which assets would you want

protected? Planning (and action) undertaken now might be your best defense against sacrificing years of hard work to satisfy creditors or litigants.

Nobody wants to file bankruptcy. Nobody wants to be in an automobile accident, either. But while most responsible individuals recognize the value of auto insurance, a much smaller percentage actually follow through on securing “insurance” on their assets, either through the vehicles they use, or the financial structures around them.

Because of bankruptcy's complex legal issues and the variations between different states, it is important that any asset transfers be supervised by competent legal counsel. The licensed insurance or investment professional you work with should be made aware of your intentions, as they can provide assistance with the details of properly titling assets, from the perspective of their industry expertise.

FINANCIAL LITERACY QUESTION: “Adjusted for Inflation”

Answer: b

Using data from the Consumer Price Index, which the Bureau of Labor Statistics uses to calculate inflation, \$2.63 today is the equivalent of .79 in 1979. From historical information provided by the Energy Information Administration, the average price of a gallon of gasoline in the United States in 1979 was .86 per gallon. This means a gallon of gas is 8 % cheaper today than it was 30 years ago.

Material discussed is meant for general illustration and/or informational purposes only and it is not to be construed as tax, legal or investment advice. Although the information has been gathered from sources believed reliable, please note that individual situations can vary, therefore the information should be relied upon when coordinated with individual professional advice.

CREATIVE **Wealth Maximization Strategies**

Richard Patterson, CLU, ChFC

Richard_Patterson@glic.com

John Driscoll & Company, Inc.

3501 N. Campbell Ave., Suite 102

Tucson, AZ 85719

520.577.2596

520.577.2608 fax

www.jdriscollco.com

Registered Representative, Park Avenue Securities LLC (PAS). Securities products and services are offered through PAS, 5050 N. 40th Street, Suite 350, Phoenix, AZ 85018, (602) 957-7155. John Driscoll & Company, Inc. is not an affiliate or subsidiary of PAS.

PAS is a member FINRA, SIPC.