OIPE JUL 12 2004 JC25 PATENT & TRADEMARK OFFICE

Please place on Upper Right Corner
of Response to Office Action ONLY.
Examining Attorney: GARTNER, JOHN
Serial Number: 75/508698
[redacted]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant Name: UBS AG

Mark: **SWISS BANK CORPORATION**

Ser. No. 75/508698

Filing Date: June 25, 1998

Our Ref. No. 27578/303973

REQUEST FOR RECONSIDERATION

Box RESPONSES NO FEE
Commissioner for Trademarks
Attention: John M. Gartner
2900 Crystal Drive
Law Office 102
Arlington, Virginia 22202-3514

Sir:

In response to the Office Action of May 19, 2004, please consider the following in support of registration:

FILING BASIS – DELETE 1(b) BASIS

The applicant intends to rely solely upon Section 44(e) as the basis for this application. Therefore, please delete the Section 1(b) filing basis from this application.

SUPPLEMENTAL REGISTER

The applicant seeks to amend the application to seek registration on the Supplemental Principal Register.

DISCLAIMER

Please amend the application to include the following statement:

> No claim is made to the exclusive right to use BANK CORPORATION apart from the mark as shown.

IDENTIFICATION OF GOODS

Please amend the identification of goods to read as follows:

> INGOTS OF PRECIOUS METAL; AND MONETARY AND NON-MONETRY COINS OF PRECIOUS METAL in International Class 14.

RECITATION OF SERVICES

Please amend the recitation of services to read as follows:

> CONSUMER CREDIT INSURANCE, SURETY INSURANCE, LIABILITY INSURANCE, LIFE INSURANCE, LOSS INSURANCE, RE-INSURANCE, INSURANCE ASSESSMENT, INSURANCE APPRAISAL, INSURANCE CONSULTANCY, INSURANCE BROKERAGE; FINANCIAL TRANSACTIONS, FINANCIAL FORECASTING, FINANCIAL PLANNING; BANKING SERVICES AND STOCK MARKET SERVICES; FINANCIAL PORTFOLIO MANAGEMENT, SECURITY BROKERAGE, INSTITUTIONAL ASSET MANAGEMENT; FISCAL ASSESSMENTS AND EVALUATION; FINANCIAL SPONSORSHIP OF CULTURAL EVENTS, SPORTING EVENTS AND RESEARCH in International Class 36.

REMARKS

First, the Examining Attorney has maintained the refusal under Section 2(e)(2) of the Trademark Act. Rather than contest the refusal, the applicant has elected to amend the application to seek registration on the Supplemental Register. In connection therewith, the applicant has elected to drop the Section 1(b) basis and proceed to registration based solely upon Section 44(e) of the Trademark Act. Per TMEP Section 1014, the applicant is not required to file an allegation of use prior to obtaining a registration on the Supplemental Register. Moreover, the change to the Supplemental Register does not change the application filing date.

Therefore, the Examining Attorney need not conduct a supplemental search for conflicting marks.

Second, the Examining Attorney required that the applicant amend the instant application to include a statement disclaiming the exclusive right to use the term BANK CORPORATION apart from the mark as shown. Without waiving its common law rights, the applicant has amended the application to include a disclaimer statement.

Finally, the Examining Attorney continues to object to the identification of goods and the recitation of services as being outside the scope of the applicant's home country registration. In response, the applicant has amended the identification of goods and the recitation of services to limit the goods and services so that they are within the scope of the Swiss registration. With respect to the insurance related services, the applicant maintains that these services are within the scope of the home country registration. More specifically, the applicant previously asserted that these services fall within the scope of "financial affairs." The Examining Attorney did not directly contest this assertion, but instead noted that the applicant had not explained why insurance services are "financial affairs" services. The applicant avers that insurance is an integral part of a person's overall financial affairs. As evidence of this fact, the applicant attaches hereto print-outs from various third party web sites showing insurance related services being offered under the heading "financial affairs." See attached. Therefore, the applicant avers that the identified insurance services fall within the scope of the "financial affairs" services identified in its home country registration.

The applicant submits that this application is in condition to be expeditiously approved for publication and such action is earnestly requested. Moreover, the applicant believes that the appeal of the statutory refusal has been rendered moot and that the sole issue remaining for consideration is the "scope" issue which, the applicant notes, was first made final in the Office Action dated May 19, 2004. Therefore, the applicant avers that a six month response period from the issuance of the May 19, 2004 Office Action is applicable to this sole remaining issue. Should the Examining Attorney believe that a telephone conference would expedite the prosecution of this application, he is invited to telephone the undersigned at 703-905-2145.

Please charge any fees due in connection with this document to Deposit Account No. 03-3975, 27578/303973.

Respectfully submitted,

UBS AG

By: James R. Menker
Patrick J. Jennings

Applicant's Attorneys
Pillsbury Winthrop LLP
P.O. Box 10500
McLean, Virginia 22102
(703) 905-2000

Acquaint Grown Children with Your Financial Affairs

Many parents may feel it is unnecessary to inform their adult children about their personal financial affairs. However, as your children grow older, it can work to your advantage-and that of your entire family- to share with them key financial, medical, and estate planning information. An awareness of important information, and the ability to locate relevant documents, can help your grown children take appropriate and timely action if a sudden death or catastrophic illness were to occur. Consider these issues:

- **Health Insurance.** If you are age 65 or over, your adult children should be aware of any and all health insurance policies, as well as Medicare materials. There may be **"Medigap"** policies that go beyond the basic care coverage provided by **disability income insurance** policies and **long-term care** policies. You may benefit greatly in an emergency if appropriate procedures are followed and necessary forms are submitted in a timely manner.
- **Living Will.** This document specifies an individual's preferences regarding the administering or withholding of life-sustaining medical treatment. Under many state statutes, a patient must be considered "terminal," "permanently unconscious," or in a "persistent vegetative state" before life support can be withdrawn. Copies of living wills should be made available to anyone who would be involved with the care of either parent, and the originals should be kept in a safe, readily accessible storage place.
- **Health Care Proxy.** Similar to a living will, this instrument allows you to appoint another person as your "agent" to make health care decisions in the event you become incapacitated and unable to make your own decisions. Specific directions regarding medical procedures to be administered, withheld, or withdrawn can be made within the document. A copy should be readily available to the "agent."
- **Durable Power of Attorney for Property.** If you become disabled, who will manage your financial affairs? With a durable power of attorney in place, an individual or bank may act as an agent to oversee your financial affairs. Your grown children should know what steps have been taken to ensure the competent direction of your affairs, should the need arise. However, your children's actual involvement with your affairs can be limited, if so desired.
- **Wills.** Do they exist and are they up-to-date? The exact contents can be kept private, but the location of your will should be known by all family members.
- **Trusts.** Wills can accomplish much in the direction of your estate after your death. However, a trust managed by yourself, or a trustee of your choosing, may meet your planning needs, including potentially protecting the estate from taxation. Trust documents should be kept with wills for ease of access, and you should discuss pertinent terms with those who will be involved. As your children reach adult age, it may be time to select a responsible child to serve as a trustee in the event of your death.
- **Life Insurance.** Life insurance is typically purchased to provide cash to help cover mortgages, liabilities, expenses, and estate

Next Step

Find ATM
Con
Cha

Related A

- Dividing t Are Equal
- Your Lega Generatio Taxes
- Retiring B Owners - Successio

Related S

- Wealth M
- Insurance
- Online Se

taxes, as well as to benefit your loved ones. Knowledge of the existence and whereabouts of life insurance policies can be of critical importance. A policy locked in the deceased's safe deposit box cannot accomplish the aims for which it was intended.

- **List of Assets and Debts.** Once again, adult children may know of the existence of lists of assets and debts without seeing the actual lists themselves, unless you so desire. An asset list-developed and updated regularly-should include all bank accounts, real estate holdings, pension holdings, annuities, business agreements, brokerage accounts, documentation concerning boats, cars, works of art or other valuables, and collectibles, and insurance policies. A debt list should include current mortgages, consumer indebtedness, personal loans, and business obligations. Both lists should provide complete information on where associated paperwork and files can be found.

Planning for death or disability can be difficult. However, leaving your grown children uninformed about your key financial, medical, and estate planning information can result in confusion and delay at a time when clarity and timeliness are of the essence. At first glance, these preparations may seem burdensome. However, once completed, both you and your children can rest assured that your affairs will be properly managed if needed.

Search the Site
GO
Browse the Encyclopedia

- **Wills & Estate Planning**
  - Estate Planning Basics
  - Wills
  - Living Trusts and Avoiding Probate
  - Medical Powers of Attorney & Living Wills
  - **Financial Powers of Attorney and Other Financial Arrangements**
    - Powers of Attorney, Conservatorships & Guardianships
    - Life Insurance & Funeral Prepayment Plans
  - Estate Taxes
  - For Executors/Probate Court
- Retirement & Elder Care
- Small Business
- Employment Law
- Independent Contractors
- Patent & Trade Secrets
- Trademarks & Copyrights
- Internet Law
- Landlords & Tenants
- Real Estate
- Consumer & Travel
- Neighbors & Pets
- Marriage & Living Together
- Caring for Children
- Divorce & Child Custody
- Debt & Bankruptcy
- Taxes & Audits
- Immigration & Green

Law Centers > Encyclopedia > Wills & Estate Planning > Financial Powers of Attorney and Other Financial Arrangements >

Checklist for Getting Your [redacted] in Order

by Attorney Bethany K. Laurence

Take the following steps to help your family should you die or become incapacitated.

√ **Have you made a financial power of attorney?** With a durable power of attorney for finances, you can give a trusted person broad authority to handle all of your finances for an indefinite period of time if you become incapacitated and unable to handle your own affairs. The person you name to handle your finances is called your agent or attorney-in-fact (but doesn't have to be an attorney). For more information, see How Durable Powers of Attorneys Work.

√ **Do you have young children?** You should name either a property guardian, custodian, or trustee to manage the money and property you leave to your minor children. (This can be the same person as the personal guardian you name in your will). For more information, see Leaving Property to Young Children.

√ **Do you need life insurance?** If you have young children or own a house, or you may owe significant debts or estate taxes when you die, life insurance may be a good idea. For more information, see Do You Need Life Insurance? and Using Life Insurance to Provide for Your Kids.

√ **Have you filed a beneficiary form for your bank accounts and retirement plans?** Naming a beneficiary for these types of accounts makes the account automatically "payable on death" to your beneficiary and

Cards

- Lawsuits & Mediation
- Personal Injury
- Criminal Law
- Cars & Tickets

allows the funds to skip the probate process. Likewise, in almost all states, you can register your stocks, bonds, or brokerage accounts to transfer to your beneficiary upon your death. For more information, see Ways to Avoid Probate.

√ **Have you considered the possibility that your heirs may have to pay estate taxes?** If your assets are currently worth over $1.5 million and you are married or have a domestic partner, you might want to consider an AB trust. For more information, see Tax-Saving AB Trusts.

√ **Do you own a business or part of a business?** If you're the sole owner of a business, you should have a succession plan. If you own a business with others, you should have a buy-sell agreement. For more information, see Plan for Changes in Ownership With a Buy-Sell Agreement.

√ **Have you considered funeral or cremation arrangements?** Rather than a funeral prepayment plan, which may be unreliable, you can set up a Totten trust with your bank and deposit funds into it to pay for your funeral and final arrangements. For more information, see The Perils of Prepayment Plans.

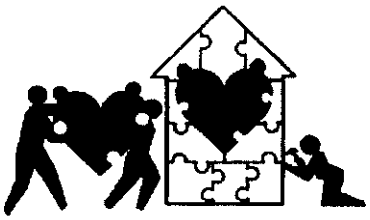
√ **Have you stored your important information in a place where your attorney-in-fact or your executor can find it?** Your attorney-in-fact and/or your executor (the person you choose in your will to administer your property after you die) may need access to the following documents:

- will
- trusts
- insurance policies
- real estate deeds
- certificates for stocks, bonds, annuities
- information on bank accounts, mutual funds, and safe deposit boxes
- information on retirement plans, 401(k) accounts, or IRAs
- information on debts: credit cards,

office of Policy & Project Management

(HOME)

To print a copy, we recommend downloading the (PDF) print version. (Download the free Adobe Acrobat Reader, if you don't already have it.)



Caregiver
Fact Sheet

Information for People Who Provide Care for Elders

Putting Legal and Financial Affairs in Order

Regardless of age, situation or health condition, it is always helpful to have personal records, legal papers and instructions for final arrangements organized and available for family members or friends. None of us knows when an accident, sudden illness or death might require someone to have access to records or to make important decisions for us. In this fact sheet, you'll find useful information on legal and financial records that will help you and elders you care for.

Important Information to Collect

> **None of us knows when an accident, sudden illness, or death might require someone to have access to records or to make important decisions for us.**

There are many helpful booklets and programs available to help you organize data. Check your local bank, bookstore, library, county Extension office or Area Agency on Aging. Most material suggests finding, identifying, and recording the following:

Personal Data and Records: Date and place of birth, birth certificate, marriages, divorces, deaths of immediate family members, military service, personal/family history.

Employment History: Social Security number, places and dates of employment, pension plans, union membership, benefits.

Assets: Bank account numbers, real estate, mortgages, rental property, savings bonds, stocks, securities, personal property with inventory, and other assets (debts owed you, royalties, trust income). Type of ownership on assets (i.e. sole, joint, tenancy in common) should be noted; it affects access and estate status.

Insurance Policies: Life insurance beneficiaries, medical/hospital/disability/ medi-gap policies, Medicare and property and car insurance (include policy numbers, agent, phone number).

Professionals and Family to Notify: Names, addresses and phone numbers of attorney, banker, doctor, employer, insurance agents, accountant, clergy, funeral director, executor of estate, fraternal and professional groups, relatives and friends.

Wishes/Instructions: Will, burial instructions, advance health care directives (living will), guardianship/ conservatorship, power of attorney, etc.

Having these items recorded and kept in an identified site will save loved ones hours of anxiety and grief. It can also provide a sense of security that someone's wishes will be known and honored.

Wills: Planning for the Later Years

In our society, you have the legal right to make decisions that affect you, and you keep this right as long as you are considered competent. Further, a person is presumed to be competent until proven otherwise. The law states that an individual is incompetent or incapacitated when he or she is unable to make responsible decisions about property because of an illness or disability, physical or mental. Wills are an important part of securing your legal rights, no matter what the future holds.

Understanding a Will

A will usually contains five parts:

(1) **the opening recitation**, which tells who is making the will, where that person lives, that the testator (person making the will) is competent, and that all previous wills are revoked;
(2) **the dispositive clauses**, which indicate who gets what;
(3) **the administrative clauses**, which name how the dispositive clauses are to be carried out (administrators and guardians are named in this section);
(4) **the testimonium clauses**, which end the will with the testator's signature as proof of the will's approval; and
(5) **the attestation clause**, which contains the witnesses' signatures and tells that the person who is making the will is the actual signatory on the document.

Making a Will

If people take time to think and plan ahead, there are many ways to make sure that their wishes for the future will be honored.

The process of making a will allows you to make arrangements for the final disposition of property and assets according to your wishes. Wills may be made, revoked or changed throughout a person's lifetime. A will only comes into effect when a person dies. The actual steps involved in making a will cause a person to critically examine his or her assets. Therefore, the first step in making a will is to document what constitutes the "estate" of the person making a will. An "estate" simply means all the property a person owns. That property may be land, houses, bank accounts, certificates of deposit (CDs) and personal items

Steps in Making a Will

The eight steps in making a will are to

1. determine assets;
2. list potential heirs;
3. decide distribution of property;
4. list names of heirs;
5. select an administrator of the estate (a personal representative);
6. have an attorney draw a draft will;
7. sign the final version; and
8. make two copies.

The signed original should be placed in a safe deposit box. One copy can be left with the attorney, and the other can be used for reference at home. Remember, a will may be changed at any time.

Planning for Incapacity

Most people do not like to think that they might be unable to handle affairs without help. But anyone can become "incapacitated" and need a hand. Some people may get help from family members or attorneys and bankers, but many elders find themselves confused, "ripped-off," and vulnerable to the decisions of others.

If people take time to think and plan ahead, there are many ways to make sure that their wishes for the future will be honored. These wishes can include choosing someone to make decisions about finances, property, living arrangements and health care.

Advanced planning is ideal. Most legal planning can only be made voluntarily by a "competent" person. A lawyer can explain competency requirements, and can also take special steps in case someone's competency might be challenged in the future.

Tools to Organize Affairs in Case of Incapacitation

Banking Assistance for Bill Paying: Banks can arrange to pay designated accounts automatically, such as utilities, charge accounts, health care and others.

Direct Deposit: Direct deposit is available for Social Security checks and some other pension checks. Call 1-800-772-1213 or contact your local social security office to request a direct deposit form for Social Security checks.

Joint Accounts: The other person can make deposits and withdrawals and sign checks; he or she is considered a co-owner, so upon death the survivor owns the account, and it won't go through probate. (Note: A co-owner could withdraw all the money, or their creditors could tie up your account. This is used only with spouses or at a lawyer's advice.)

Authorized Signer Account: Also called a convenience account or power of attorney account. This account allows the other person to make deposits, withdrawals and sign checks. He or she could withdraw all the money. However, he or she is not a co-owner, so the account is not liable to creditors, and he or she doesn't become the owner. Any remaining funds belong to the estate of the deceased.

Payable on Death Account: This names one or more people to automatically own an account when you die, without having to go through probate. However, during your lifetime, they have no power to make deposits or withdrawals, or to write checks.

Power of Attorney: This gives written authorization for someone (termed the "attorney-in-fact") to handle property or financial matters for you (termed the "principal") in whatever way you spell out. It may be limited to specific decisions, accounts or properties, or may be very broad and authorize general power over all property and finances. This authorization ends if the "principal" becomes incompetent.

Durable Power of Attorney: With this document, the power of attorney continues to be valid even if the principal becomes incompetent. Some states (Minnesota, for example) allow residents to use a durable power of attorney short form, but be cautious how much complete authority you give your attorney-in-fact. Safeguards to consider are to request an annual account report, to name two attorneys-in-fact and to name a successor to take over if the first attorney-in-fact dies or becomes incompetent.

Living Will: Also known as "Advanced Health Care Directive," a living will is a written declaration in which individuals state their wishes regarding health care treatment they wish to have or not have in the event they are terminally ill, unconscious or otherwise unable to communicate for themselves. To be valid, the living will must follow a certain format, be witnessed and meet other criteria. Guideline forms are available from the Area Agency on Aging, senior centers and legal service agencies.

Trusts usually are considered only for larger estates and can be expensive to maintain.

Trust: This is a legal arrangement where a person or financial institution ("trustee") holds legal title and manages assets for the benefit of some person ("beneficiary"). The person who creates and funds the trust is called the "grantor."

Testamentary Trust: The grantor creates the trust to take effect after he or she dies. This is a planning tool to provide for loved ones.

Living Trust: Created during the grantor's lifetime, the living trust manages their property for their own benefit, planning for incapacity. Living trusts may also be set up to continue after the death of the grantor, to provide for loved ones. Trusts usually are considered only for larger estates and can be expensive to maintain. If trusts are considered as a means to avoid probate, be aware there are other, less costly ways to do this (joint tenancy ownership, "payable on death" or "in trust for" bank accounts and others). Using living trusts to qualify for medical assistance and to avoid spending savings for future nursing home care is very risky. Anyone considering setting up a living trust should seek competent legal advice.

If There are No Plans and an Elder Becomes Incapacitated

What if there are no plans? What are your options? Here is a list of possibilities to consider.

Conservatorship: This court proceeding appoints someone ("conservator") to handle the finances, property and personal decisions for an individual who has become incapacitated ("conservatee"). You may plan ahead and nominate your own conservator, giving instructions on how you would want your personal and financial matters handled, declaring it in a written, witnessed document. Then, if you become incapacitated, the court must name your chosen conservators unless the court finds this would not be in your best interests. Be sure your nominated conservator agrees to serve in this way.

If there has not been a "nominated conservator," anyone can petition the court to be a person's conservator, whether or not the person wants one. The court will appoint a conservator if it decides that the person is incapable of making decisions for himself or herself.

Guardianship: This is very similar to conservatorship, except that guardianship takes away more civil rights, such as the right to vote.

Representative Payee: A representative payee is someone designated by a federal agency to manage a person's social security, veteran's benefits, railroad retirement or public benefits check. This device is most useful when the older person's expenses can be covered by the benefit check(s), since the representative payee is not empowered to gain access to the person's savings accounts or other assets. To arrange for a representative payee status, contact the appropriate agency for an application form and instructions.

Getting Legal Advice and Help

Many of the planning tools mentioned in this fact sheet require expert legal assistance. You can shop for an attorney. Get estimates of their fees for various services and compare. Ask friends, relatives, bankers or pastors to suggest someone, or call the Maine State Bar Association, Lawyer Referral and Information Service at (207) 622-1460 (in Maine). You can also contact area legal services for suggestions, information or low-cost legal aid if you meet income guidelines. Three Maine agencies to try are Pine Tree Legal Assistance (207-942-8241), the Volunteer Lawyers Project (1-800-442-4293) or Legal Services for the Elderly (1-800-750-5353).

For more information on caregiving, contact your county Extension office.
Revised by Deborah B. Killam, Extension educator, Aging and Mature Adult Life Skills.

References

Making the Most of Your Money, Quinn, Jane Bryant. Simon and Schuster. N.Y.
Managing Finances, in **Caregiver Connection**, published by Purdue University Cooperative Extension.
Health Insurance Fundamentals, in **Planning Ahead for Elder Care**, Published by North Carolina Cooperative Extension Service.
Talking with Aging Parents about Finances, published by Oregon State Extension Service.
The Medicare 1993 Handbook, Publication #10050. U.S. Department of Human Services. Baltimore, Maryland.
1993 Guide to Health Insurance for People with Medicare, Publication #02110. U.S. Department of Human Services, Baltimore, Maryland.
Aging: Taking Care of Business, A Guide for Older People, Families and Friends, Maine Department of Human Services, Bureau of Elder and Adult Services.
University of Missouri Cooperative Extension, Center on Rural Elderly, SOS for Caregivers/Senior Series.
Pacific Northwest Extension Publication *Helping Your Older Family Member Handle Finance*.
Northwest Regional Committee on Caregiving Newsletter, *The Caregiver*, Vol. 2, No. 2, 1991.

Order a Publication
Return to Publications Catalog Online Table of Contents
Return to Publications Homepage

Putting knowledge to work with the people of Maine

THE UNIVERSITY OF MAINE
Cooperative Extension

A Member of the University of Maine System
Last Modified: 01/12/04
These pages are currently being maintained from the
Communications Office, University of Maine Cooperative Extension.
Send comments, suggestions or inquiries to www-questions@umext.maine.edu

COUNTY OFFICES | TOPICS OF INTEREST | RESOURCES | PUBLICATIONS | NEWS AND EVENTS | UMCE HOMEPAGE | UMAINE