

# CLIENT ADVISORY

OCTOBER 2001

## AN OPEN LETTER TO OUR CLIENTS, COLLEAGUES AND FRIENDS

The terrorist attacks on September 11, 2001 deeply affected everyone. The impact of these senseless attacks will undoubtedly have a profound impact upon our local and national economy. As part of our focus on these events, our newsletters in coming months will attempt to highlight important issues and developments resulting from this tragedy. In that spirit, during the next several months, we will host a series of breakfast panel discussions dealing with topics that the World Trade Center attacks have raised. The first discussion will focus on insurance coverage issues. It will be held on November 14, 2001 from 8:00 A.M. to 10:00 A.M. in the Regency Room of the New York Grand Hyatt Hotel, located on 42<sup>nd</sup> Street adjacent to Grand Central Station between Park and Lexington Avenues. Please join us. If you plan to attend, please either call Amarilys Garcia of our office at 212-922-9250, extension 262, or send a confirming e-mail to her at [agarcia@ganshore.com](mailto:agarcia@ganshore.com) by October 31, 2001. The second discussion will focus on security-related issues, and will be held in January 2002.

## IN THE EVENT A LOVED ONE IS MISSING

In the wake of the events of September 11, 2001, many families have suffered greatly, unexpectedly losing loved ones who were the main source of financial support for their families. As we have heard during the past few weeks, the number of persons reported missing far exceeds those persons identified as having died from the World Trade Center disaster. Sadly, those families, in addition to grieving, are sometimes placed in difficult financial circumstances due to the inability to collect life insurance proceeds, receive a pension benefit or conclude their loved one's business affairs as a result of not having a death certificate. The relevant New York statute, Estates, Powers and Trusts Law Section 2-1.7, requires that a missing person be continuously absent for three years during which, after diligent search, he or she has not been heard from and whose absence is not satisfactorily explained. After those three years have passed, a missing person, in any action or proceeding involving such person's contractual or property rights which is contingent upon his or her death or the administration of his or her estate, shall be presumed to have died three years after the date such unexplained absence commenced. Under present circumstances, many families could not wait the required three years without tremendous hardship. In response, the Surrogate's Courts of the state of New York have adopted an expedited procedure permitting families of persons missing in the World Trade Center disaster to obtain death certificates. The process adopted, which commenced on September 26, 2001, is briefly as follows:

- Upon the request of the next of kin, the New York City Corporation Counsel will file a complaint in New York County Supreme Court on behalf of the Chief Medical Examiner to obtain death certificates for missing individuals.
- That petition will be supported by affidavits of family members and the employer or other entity confirming the individual's presence at the World Trade Center on September 11<sup>th</sup>.
- Relevant government agencies and private employers have been contacted and will file affidavits on behalf of missing individuals connected to them.
- Volunteer lawyers will be available to aid family members in completing affidavits to be filed in Court. Volunteer lawyers are stationed at the Family Assistance Center at Pier 94 to assist families with this process. Families may also call (646) 710-6245 to request information about this process or speak with a volunteer lawyer to begin the process.
- After the documents have been prepared, they will be delivered to the office of the Corporation Counsel of the City of New York which will coordinate the filing of legal paperwork with the Court.
- Where the Court grants the application, the Court Order will be delivered to the Office of the Chief Medical Examiner, which will issue the death certificate.
- The death certificate will then be delivered to the Bureau of Vital Records of the Department of Health which will register the death certificate, prepare certified copies and send 10 certified copies to the next of kin by overnight mail.
- All court filing fees and fees for certified copies will be waived.

Though a ruling on such a petition will solely relate to the issuance of a death certificate, it will clear the path for families to distribute the assets of the missing loved one. While the process is ongoing, families may make an interim application to the appropriate Surrogate's Court for either Preliminary Letters Testamentary pursuant to Section 1412 of the State's Surrogate's Court Procedure Act ("SCPA"), or if the missing family member did not have a Will, then petition for Letters of Administration under Section 1612 of the SCPA. Once Letters have been issued, the named Executor can marshal the assets of the estate, pay debts and manage property, with the exception that assets cannot be finally distributed until the death certificate has been issued. To alleviate the financial pressure many families may unexpectedly find themselves under, the petition should also contain a request for an allowance from the Estate for periodic payments to be made to the missing person's husband, wife, children and/or dependents, which would be in accord with the standard of living to which the family was accustomed before September 11<sup>th</sup>.

The website established by the American Liberty Partnership to facilitate the making of a contribution to rescue and philanthropic organizations can also direct families in need to those organizations offering assistance. Visit [www.libertyunites.org](http://www.libertyunites.org) for more information.