HERITAGE, LEGACY AND GIFT PLANNING

PREPARED FOR:

HISTORIC HAWAI'I FOUNDATION

OCTOBER 27, 2020

PRESENTED BY:

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IT ALL STARTS WITH YES

SOME ELEMENTS OF PHILANTHROPY

Heritage: property that is or may be inherited

Legacy: an amount of money or property left to someone in a will

[from www.google.com (which uses Oxford Languages)]

Gift Planning: the rest of this presentation

PHILANTHROPIC SERVICES

Serving the philanthropic needs of our community

- Private Foundation administration
- Support organization administration
- Charitable "split-interest" trust administration
- Nonprofit endowment investment services
- Assistance with nonprofit planned giving
- Trustee of and investment agent for donor-advised and endowed funds, and investment agent for charitable gift annuities, for Hawaii Community Foundation

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GIVING CAN SUPPORT OPERATIONS AND CREATE A LEGACY:

Giving Strategies include:

- Immediate gifts
- Deferred or delayed gifts
- Planned gifts
- Blended gifts
- Any gift that supports the long term purposes and goals of Historic Hawai'i Foundation

IMMEDIATE GIFTS

Donations of:

- Cash
- Securities (especially appreciated securities)
- Real Estate
- Business and Partnership Interests
- Tangible Personal Property
- Intangible Personal Property
- Qualified Charitable Distribution (Charitable Rollover)

QUALIFIED CHARITABLE DISTRIBUTION

You may see several names for this:

- Qualified Charitable Distribution (QCD)
- IRA Charitable Rollover
- Charitable IRA Rollover

28 U.S.C. Section 408(d)(8) uses the term Qualified Charitable Distribution (28 U.S.C. 408(d)(8)(B).

QUALIFIED CHARITABLE DISTRIBUTION

- **What is a qualified charitable distribution?**
- Generally, a qualified charitable distribution is an otherwise taxable distribution from an IRA (other than an ongoing SEP or SIMPLE IRA) owned by an individual who is age 70½ or over that is paid directly from the IRA to a qualified charity. See Publication 590-B, Distributions from Individual Retirement Arrangements (IRAs) for additional information.

Source:

https://www.irs.gov/retirement-plans/retirement-plans-faqs-regarding-iras-distributions-withdrawals

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QUALIFIED CHARITABLE DISTRIBUTION

[Y]our qualified charitable distributions can satisfy all or part the amount of your required minimum distribution from your IRA. For example, if your 2018 required minimum distribution was $10,000, and you made a $5,000 qualified charitable distribution for 2018, you would have had to withdraw another $5,000 to satisfy your 2014 [sic] required minimum distribution.

Source:

https://www.irs.gov/retirement-plans/retirement-plans-faqs-regarding-iras-distributions-withdrawals (updated 28-Jan-2020)

See generally:

https://www.irs.gov/publications/p590b

THE SECURE ACT: NEW AGE FOR REQUIRED MINIMUM DISTRIBUTIONS

“What’s New for 2020

For distributions required to be made after December 31, 2019, the age for beginning mandatory distributions is changed to age 72 for IRA owners reaching age 70 ½ after December 31, 2019. The required beginning date for IRA owners who haven’t reached age 70 ½ by the end of 2019 is April 1st of the year following the year of the owner’s 72nd birthday.”

Source: https://www.irs.gov/publications/p590b

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QUALIFIED CHARITABLE DISTRIBUTION

Practical tips:

- Consult with your tax advisor to determine your RMD (Required Minimum Distribution).
- Ask your custodian/trustee/investment agent for their form to request a QCD transfer.
- Allow sufficient time for
    - the form to be processed
    - the necessary trades to be made
    - the transfer of funds to occur.

DEFERRED OR DELAYED GIFTS

- Any of the Immediate Gifts which take effect later.

- Beneficiary Designations
  - IRA (Note: “Stretch” IRAs impacted by SECURE Act (Pub. L. 116-94, effective 1/1/2020)
  - 401(k) or 403(b), or other retirement plan
  - Life Insurance Policies
    - » Name Historic Hawai’i Foundation primary or contingent beneficiary
    - » Donate paid policies to Historic Hawai’i Foundation
    - » Donate policies with ongoing premium payments

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DEFERRED OR DELAYED GIFTS

- Beneficiary Designations
  - IRA (Note: "Stretch" IRAs impacted by SECURE Act)
    - » Previously: Qualified designated beneficiaries, including individual family members, could take distributions from inherited IRAs over the ***beneficiary's life expectancy.***
    - » **NOW: Beneficiaries inheriting IRAs must take distributions within 10 years of inheritance.**
    - » ***[Either way, the distributions are income taxable to the heir.]***
    - » Certain categories of beneficiaries are exempt, including:
      - the surviving spouse of the IRA owner,
      - non-spousal beneficiaries not more than 10 years younger than the account owner
      - minor children (while they are minors)
      - disabled or chronically ill beneficiaries.

Source:

https://www.irs.gov/newsroom/new-law-helps-people-save-for-retirement-other-retroactive-changes-impact-many-taxpayers

DEFERRED OR DELAYED GIFTS

– Beneficiary Designations

  • IRA (Note: “Stretch” IRAs impacted by SECURE Act) (cont’d):

    » These are often the beneficiaries’ highest earning years.

    » Beneficiaries’ income taxes may be increased by large distributions.

    » Is there a work-around?

DEFERRED OR DELAYED GIFTS

– Possible work arounds:

- Make QCDs to charity.
- Make a charity the designated beneficiary of your IRA.
- Consider a testamentary Charitable Remainder Trust, to benefit both your heirs and the charity.

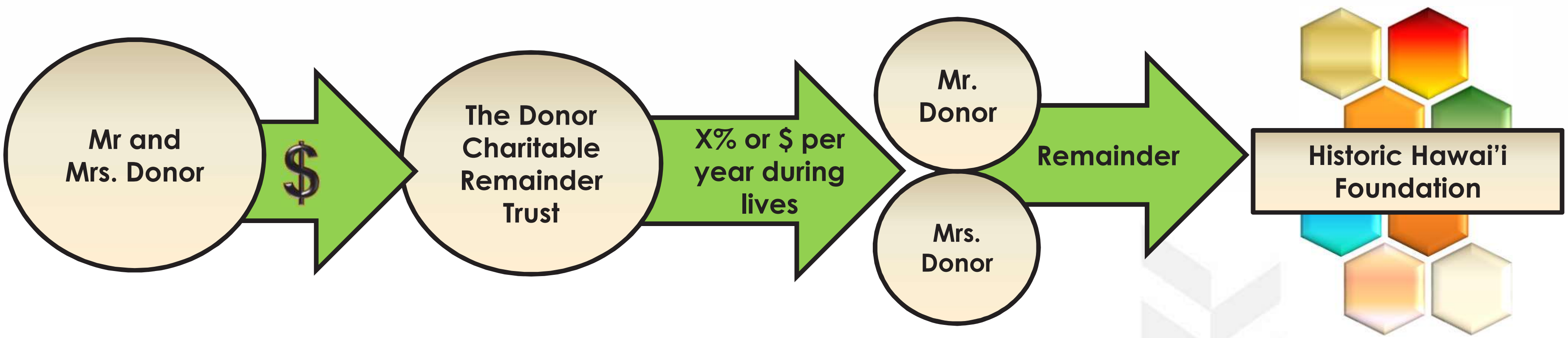
PLANNED GIFTS

Charitable Trusts and Donor Advised Funds:

- Charitable Remainder Unitrusts
- Charitable Remainder Annuity Trusts
- Charitable Lead Unitrusts
- Charitable Lead Annuity Trusts
- Support Organizations
- Private Foundations
- Donor Advised Funds

CHARITABLE REMAINDER TRUST

During life or through estate plan:



CRUT Case Study – Pauline Provider

- Pauline Provider, aged 72, was a successful woman with no children, but devoted to her family—her older sister and her elderly mother. Pauline had retired, and wanted to increase her retirement income, and possibly add to her family's income as well. Pauline looked over her portfolio.

- Years ago, Pauline had invested in a condominium, which she had always rented out. The condominium was now in need of some repair and renovation.

- Pauline considered whether she should renovate the condo, or put it on the market. Would the sales price be increased by the renovation costs? And how much would she pay in capital gains tax?

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CRUT Case Study – Pauline Provider

- Pauline had attended a Planned Giving seminar, and knew that a Charitable Remainder Trust could provide a solution for her.
- **BEFORE** engaging in any discussions with buyers, she instructed her attorney to create a CRUT, naming FHB as trustee, and transferred the condominium to the **Pauline Provider CRUT**.
- FHB as trustee then sold the condominium, avoiding capital gains taxes within the CRUT. Pauline received a charitable deduction on her income taxes. [Pauline and her family will pay income and capital gains taxes on a tiered and as-distributed basis.]
- As trustee, FHB administered the CRUT according to its terms, making unitrust payments to Pauline, her sister and mother for the remainder of their lives. The CRUT provided that the amount remaining after their passing would go to **Historic Hawai'i Foundation.**
- Upon the passing of the last person in the family, FHB presented a check for the balance remaining to **Historic Hawai'i Foundation.**

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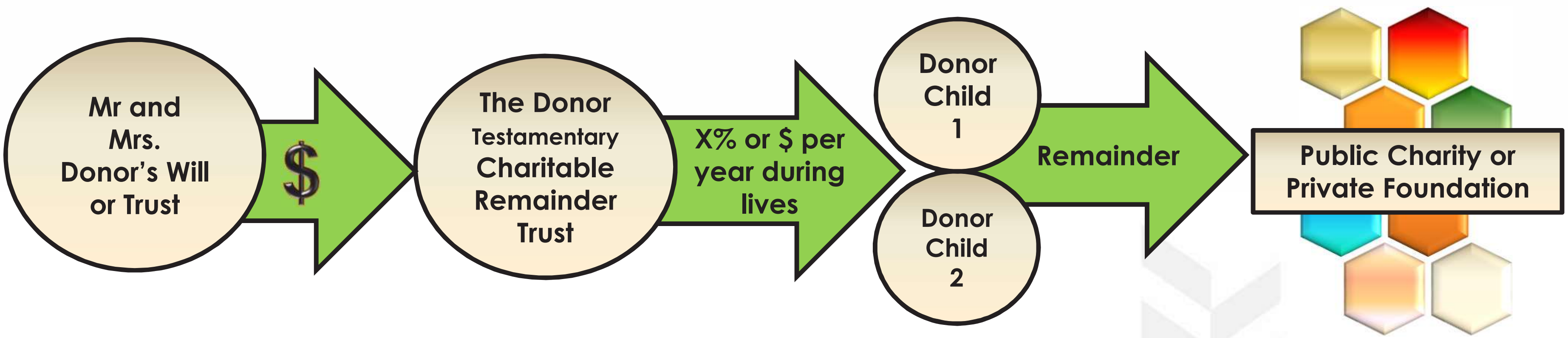
CHARITABLE REMAINDER TRUST

During life or through estate plan:



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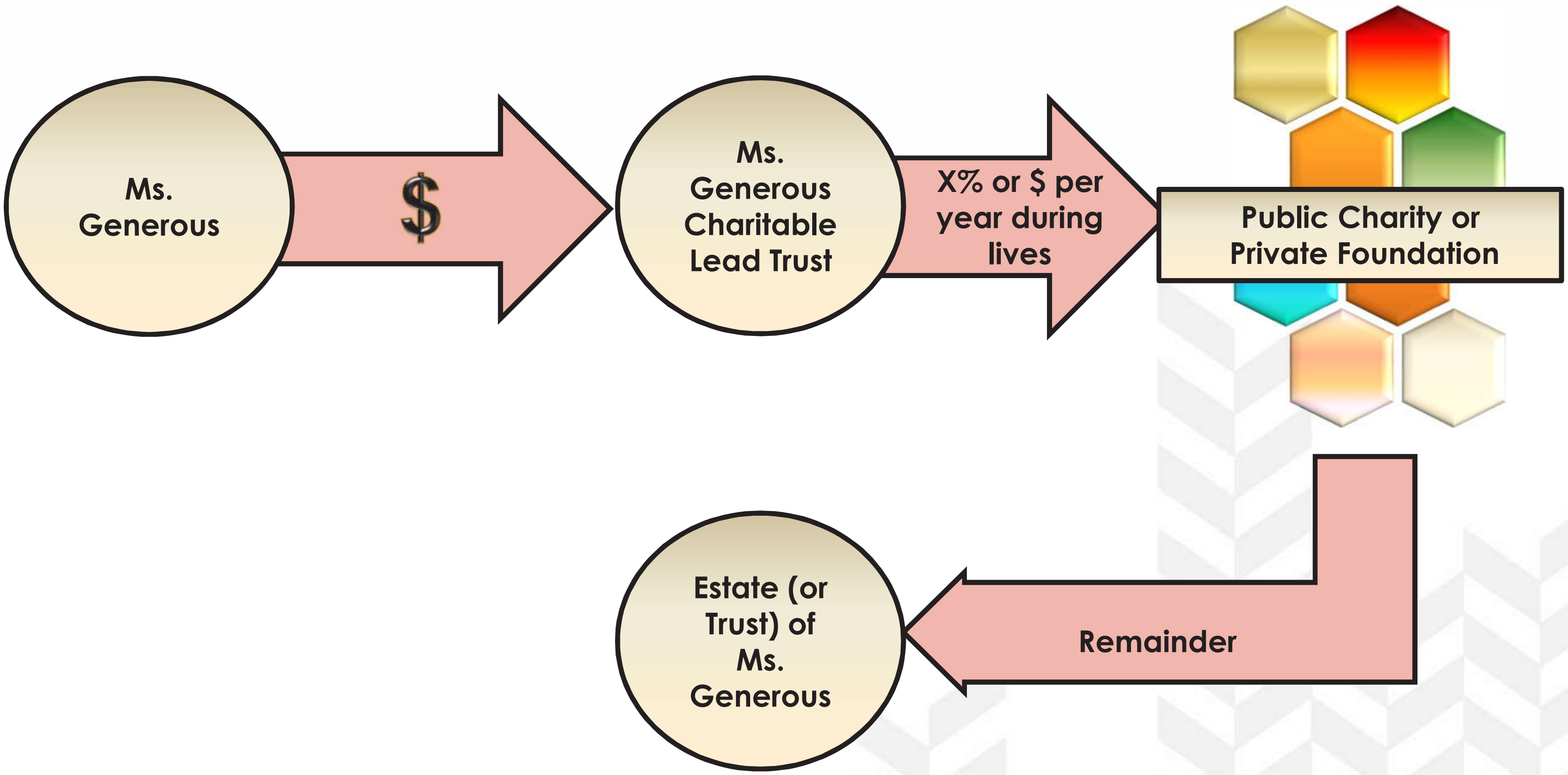
CHARITABLE LEAD TRUST

During life or through estate plan:



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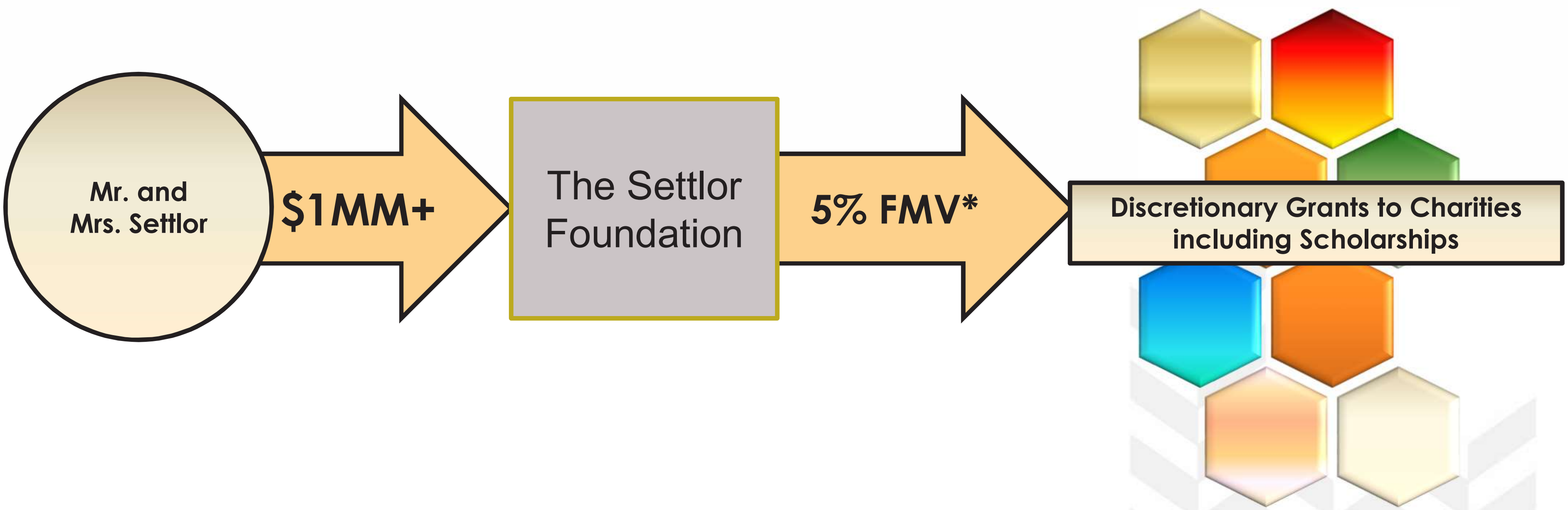
ABOUT SPLIT INTEREST TRUSTS

- CRT’s and CLT’s are irrevocable, but if document permits, they can be amended to change charitable beneficiaries or trustees.
- CRT’s can reduce the gross value of estate for estate tax purposes, and the remainder interest is not probated. Settlor may receive an income tax deduction at creation.
- CRT’s are tax exempt, therefore appreciated assets can be contributed and sold without capital gains consequences to the trust or immediate tax consequences to the donor. Distributions from CRT’s to individuals (non-charities) are subject to income and capital gains taxes.
- Unitrust or annuity distributions from Testamentary CRT’s can be payable to the donor’s beneficiaries, as can any residual interest in Testamentary CLT’s.
- Trustee provides asset management, investment, recordkeeping, tax compliance (including characterization of distributions), calculation of annual distributable amount, and distributions, including terminating distribution(s).

PRIVATE FOUNDATION

During life or through estate plan:



*FMV="Fair Market Value"

ABOUT PRIVATE FOUNDATIONS

- An independent legal entity, either a corporation or a trust.
- Makes charitable grants and distributions, including scholarships.
- Generally exempt from taxes other than a 1-2% federal excise tax on net investment income.
- Private foundations are the premier charitable giving vehicles.
  - With full control over charitable giving, expenses and investing, the donor(s)' value legacy in the community can continue forever.
- Trustees or Directors (or their agents) provide:
  - Fiscal Administration, operational and compliance support
  - Investment management
  - Financial reporting
  - Tax preparation
  - Grants Administration, including screening, compliance, distribution.

PRIVATE FOUNDATION CASE STUDY

- Ms. Betty Doe was a single woman, hard working and financially capable. She had no children, and did not have a close relationship with her nieces and nephews.

- Ms. Doe passed away, leaving specific bequests to her nieces and nephews, and the substantial residue of her estate to the Betty Doe Charitable Trust, a private foundation. Her trust documents specified that the grant distributions go in equal parts to four specific charities.

PRIVATE FOUNDATION CASE STUDY

- First Hawaiian Bank was named as Successor Trustee of Ms. Doe's trust. After collecting the assets and paying the debts, FHB made the specific bequest distributions to the nieces and nephews. Then a new account was set up in the name of the Betty Doe Charitable Trust, and the remaining assets, including two significant residential properties, were transferred into the new trust.

- The properties were then sold within the private foundation charitable trust, avoiding capital gains taxes to the estate of Ms. Doe. The proceeds were invested in a diversified investment portfolio of mutual funds and exchange traded funds (ETFs).

- The trust continues in perpetuity, supporting the four charities named by Ms. Doe.

BLENDED GIFTS

Any combination of the above.

Examples:

- A donation of $10,000 with a copy of the distribution page of a Will or Trust directing a gift of cash, securities or real estate to Historic Hawai'i Foundation.
- A pledge of QCD's for the remainder of the donor's life together with naming Historic Hawai'i Foundation as the beneficiary of the IRA.

A GOOD GIFT

Any donation that supports
Historic Hawai’i Foundation.

First Hawaiian Bank.

WE ARE PRIVILEGED TO SERVE YOU AND OUR NONPROFIT COMMUNITY

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JEAN P. CREADICK, JD

VICE PRESIDENT, PHILANTHROPIC SERVICES

Jean is a Trust Officer specializing in philanthropic services. She administers and manages private foundations, support organizations, nonprofit endowments and charitable split-interest trusts. She also assists nonprofits with their charitable giving programs.

Work Experience

Jean has over 12 years of experience in Trust Administration, including over 9 years in private foundations and charitable trust. Prior to that, she practiced law in Hawaii over a 23 year period.

Education

She graduated from the University of California at San Diego, Muir College, with a Bachelor of Arts degree in World Literature, and later obtained a Juris Doctor degree from the University of San Diego School of Law.

Licenses and Certifications

Licensed to practice law in Hawaii (voluntarily inactive).

Professional Affiliations and Community Involvement

Hawaii Gift Planning Council, Director; Education and Membership Committees, Member

Hawaii Estate Planning Council, Past President

Hawaii State Bar Association, Member Probate Section, Tax Section, Commercial Real Estate Section

Chaminade University Non-Profit Organizations One-Day Seminar Planning Committee Member

Personal

Jean was born and raised in San Diego, California, and moved to Hawaii immediately after law school. She enjoys spending time with her family, and travelling as time permits.

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