When a Client's Spouse/Partner Dies

Karen Altfest,
Ph.D., CFP,
Stanley Teitelbaum,
Ph.D., Psychologist and Financial Therapist
Martin Shenkman,
CPA, MBA, PFS, AEP, JD

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When a Client's Spouse/Partner Dies

Introduction

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Introduction

- Many women are widowed in their 50s, much younger than many advisers assume.
- Finding their footing can be an overwhelming process for these clients. As an adviser, you endeavor to help the client address the issues within your technical purview (probate formalities, tax filings and the like), but recent widows and widowers need more. Advisers can better serve these clients by being prepared to address the wide range of “soft issues” these clients need help with.
- Recent widows and widowers confront difficult changes in their daily pattern of living. Financial worries, even for those who are financially secure, may be critical.
- Grieving surviving spouses/partners may make important decisions while they are emotionally distraught. These errors can jeopardize even an otherwise secure financial decision.

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Introduction

- Women as well as men may become unmoored by the personal changes they are going through. Historically, a widower may have been the primary earner and financial decision-maker and may be accustomed to making financial choices. However, in two-earner families, the loss of a wife’s earnings can be devastating for the widower. Because this has not been the historic norm, the struggling widower may suffer embarrassment and few outlets for help. Helping them cope is critical.
- For many widows, the historic norms remain common. The widow may not have taken an active role in the family finances and may be especially lost as to how to proceed. That confusion can create vulnerability. What help can you provide your client?
- How can you help the client’s advisory team coalesce around these new challenges to provide support? How can you guide clients that are being pressured by well-meaning relatives, and even advisers, to make unwise decisions, or to make changes before they are ready to do so?

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When a Client’s Spouse/Partner Dies

Challenges for the Surviving Spouse

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Challenges for the Surviving Spouse

- A widow or widower (surviving spouse) may not have taken an active role in the family finances and hence find greater challenges and be more vulnerable than one who had.
- What advisers should the surviving spouse retain?
- What decisions must be addressed urgently? Which can be deferred and for how long? How can advisers help clients prioritize and reduce stress and problems?
- Financial planning at this stage involves both the client's emotional and financial state.

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Challenges for the Surviving Spouse

- What emotional considerations should advisers consider?
- Many surviving spouses are pushed by well-meaning relatives, and even advisers, to make inappropriate decisions, or to make changes before they are ready to do so. How can advisers help protect these vulnerable clients?

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When a Client's Spouse/Partner Dies

Emotional Challenges

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The Five Stages of Grief

- Dr. Elisabeth Kübler-Ross in her famous book On Death and Dying identified 5 phases for those facing death, or suffering loss may experience. This may provide practitioners a framework to begin to understand the surviving spouse:
  - Denial.
  - Anger.
  - Depression.
  - Bargaining.
  - Acceptance.
- Remember this is just a general illustration. Some survivors may transition back and forth many times between different stages, others may skip some stages.

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Emotional Challenges

- Clients suffering the loss of a spouse or partner may experience a range of emotions. Practitioners understanding these emotions will be in a better position to guide clients through the difficulties. The discussion following is one practitioners view of the wide range of emotions a surviving spouse might experience.
- **Shock:** The surviving spouse may be stunned by the turn of events, even after a lengthy illness.
- **Disorientation:** Some experience confusion and have trouble focusing.
- **Denial:** The survivor may withdraw from daily activities or experience a flurry of activity and return to work and hobbies in what seems too quickly after the death.
- **Anxiety:** Extreme worry about the survivor's future may lead to paralysis of thought or action.

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Emotional Challenges

- **Anger:** The survivor may be angry at the husband who left her behind, at her circumstances, and at others' more "normal" lives.
- **Guilt:** A widower may wish he had done things differently, or been there for his spouse more frequently, even if he was caring and concerned at the time of illness.
- **Depression:** Lingering sadness or a melancholy that comes and goes even years later.
- **Vulnerability:** The surviving spouse may be at great risk for making poor decisions, and many know that and seek to take advantage.

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Emotional Challenges

- **Loneliness:** Despair at returning to an empty house, especially at night. This emotion may prompt some to latch onto other people just because they are available.
- **Overconfidence:** In contrast to the more common negative feelings, the rollercoaster emotional ride of the survivor may result in periods of the survivor feeling she can do anything. This can lead to short-term risk-taking, and poor decision making. Encourage the survivor to pause before taking action and consult the advisory team.
- **Acceptance:** Acceptance means the survivor is starting to transition to a new stage in life. This will often benefit from planning guidance.

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Encourage the Surviving Spouse to Foster Support

- Most surviving spouses will benefit by involving a trusted friend or relative to help with a range of issues.
- Many surviving spouses may be hesitant to lean on friends and relatives for help. While advisers may not view these matters as within their purview, engage the client in a dialogue about who they can lean on.

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Immediate Considerations

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Immediate Considerations

- There are often immediate steps that may need to be taken to protect the survivor, protect assets, secure the estate, etc. These steps might need to be addressed before a team can be assembled or more comprehensive planning addressed.
- The steps will obviously vary widely depending on the circumstances so practitioners should be cautious following any checklist.
- Often, as important as guiding the client to address urgent considerations, is guiding them as to what is not urgent and can be reasonably deferred.

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Immediate Considerations

- Although the general rule for surviving spouses is “no-action” and “no-new-decisions” for a period of 6-12 months, it is never a safe rule to apply across the board. There are some things that need to be dealt with very soon after the death of a loved one.
- Even if the client appears grounded and rational, in reality their decision-making will often be “fuzzy” at best. They may have little recollection of the choices they made or their reasoning.
- Caution the surviving spouse not to take actions that may appear simple but which may have important, complex and non-obvious implications. A key example of this is often not changing title to assets unless counsel is first contacted.

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Immediate Considerations – Personal and Security

- **Personal Matters**. If any personal matters have not been tended these should often be addressed before moving on to the legal, financial and similar matters. These may not be in the purview of the professional advisers, but guiding the client to address them may nonetheless be helpful.
- **Alarm Codes/Keys.** If home health aides or others had access to keys, alarm codes, and other information, you might wish to update or change these to secure any properties or accounts. It may be prudent to change locks and alarm codes at all locations. Surviving spouses often do not focus on these mundane but important issues. They may not realize that public death announcements may tip-off potential perpetrators who may see the survivor as a potential target.
- **Secure assets**. If the decedent had any property that should be secured, it might warrant addressing quickly if it has not been done (e.g., personal affects in a business office, a boat or another vehicle, etc.) If there was a weekend home that may be vacant for an extended period perhaps an alarm system, or upgraded system, should be installed.

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Immediate Considerations - Financial

- **Bills.** The decedent may have left bills that are urgent to address to avoid service disruptions, penalties, or worse. You should endeavor to help the survivor determine if there are overdue tax payments, liability and property insurance, mortgage payments, etc. Depending on the state of records, and capabilities of the survivor, little or extensive professional help may be necessary.
- **Cash Flow**. You help the survivor assure that there is access to financial resources to address current needs. Depending on the nature of assets, how they were owned (e.g., in whose name), etc. this might require some affirmative steps. The banker or wealth manager may be able to address all or most of this, but depending on the circumstances there could be important legal issues to address as well. If family or others advance funds until estate funds can be accessed records should be maintained, with appropriate receipts, copies of bills and checks, and other corroboration.
- **Credit Cards.** Recommend the survivor identify, secure and cancel credit cards, cash cards, lines of credit and similar facilities to avoid misuse.

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Immediate Considerations - Financial

- **Life Insurance**. If there was any life insurance on the deceased's life the process to collect that coverage should begin. Encourage collaboration of the insurance consultant, financial adviser and attorney in the event that there could be legal complications that should be addressed before contacting the insurance carrier.
- **Property, Casualty and Liability Insurance**. Be certain that key insurance coverage is in place and paid for. In some instances, these formalities have been overlooked prior to death and significant gaps may exist. It is advantageous to have a property, casualty and liability insurance consultant review all coverage, especially considering any new circumstances.

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Immediate Considerations – Legal/Tax

- While many legal and tax issues can be deferred for at least some period of time, without reviewing the facts involved that cannot be assured. So the advisers need to balance not overwhelming the surviving spouse with the concerns of not missing something that might be important to address quickly. If possible, a initial meeting to gather data and make these determinations can better facilitate triaging what needs to be addressed when.
- Some professionals attempt to address tax and legal matters that may be important, but which are not urgent, too early in the process for the surviving spouse's emotional state. It is a delicate balancing act.

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Immediate Considerations – Legal/Tax

- **Disclaimers**. It is often advantageous for certain beneficiaries to disclaim (renounce) assets or bequests. This is a powerful planning tool that may prove especially important given the seemingly constant changes in the tax laws. If disclaiming is a possible option, inform the surviving spouse that it is a complex decision, with many strict deadlines and requirements, which requires planning. Warn the survivor that once a beneficiary has accepted benefit from an asset (e.g., a dividend, a single payment), the opportunity to disclaim may be lost. You should advise any potential joint owner or beneficiary to consider this before taking a distribution, or using property. This might be especially important for family assets which were not owned in the optimal manner for tax purposes, or if all the planning options were not implemented.
- Practitioners should confirm the date by which a disclaimer must be filed in writing to protect themselves.

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Immediate Considerations – Legal/Tax

- **Business Interests, Investment Interests, Trusts.** If the decedent owned interests or served in any official capacity for an entity or trust, further action might be required. Depending on the circumstances, this might be advisable to address quickly. If the decedent operated a professional practice or business, is a succession plan in place? What must be done to activate it? If not, what steps should be taken to meet contractual or other requirements? What should be done to secure whatever value may remain?
- If the deceased spouse operated a professional practice it might be essential to contact an appropriate licensed professional to transition the practice. If there is a value to the practice and no succession or buyout plan was in place immediate action may be necessary to salvage any of the economic value. In other instances, the decedent may have been a partner in a larger firm or business and at a later stage the buyout agreement can be addressed with no urgency.

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Immediate Considerations – Legal/Tax

- **IRA/Retirement Benefits**. There may be important deadlines which must be adhered to in dealing with IRAs and retirement plans. For example, if the decedent was required to take distributions and had not done so in the current year, failure to do so by December 31 could result in a 50% penalty. Practitioners should endeavor to gather information immediately and advise the surviving spouse what steps may be necessary.
- **Tax Filing Issues**. The team, including the Estate's accountant, should discuss planning the estate (and trust) distributions to minimize these taxes, as well as any other income, estate and/or gift tax compliance issues relevant to the Estate. Again, practitioners should differentiate what might be urgent versus important, what can be deferred for a reasonable period of time and what might need to be addressed more quickly.

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Help the Client Build the Team

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Assemble the Professional Adviser Team

- Once immediate issues are addressed, help the surviving spouse complete assembling a team. While various advisers may have been involved in addressing immediate considerations, that is rarely a time when a collaborative planning team can coalesce.
- Practitioners should help the surviving spouse assemble a planning team to provide guidance and support.
- Team members might include: CPA, estate planning attorney, benefits consultant, life insurance consultant, litigator (e.g. if there was a wrongful death), wealth manager, and more.
- The composition of the team will vary from the typical estate and financial planning team in that a psychologist or other mental health professional should be involved. The composition of the team may vary based on assets, needs and size of the estate.
- If the deceased spouse ran a business or professional practice, a specialist or colleague may have to be involved on an urgent basis to transition that asset before the value dissipates.

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Inventory and Catalogue

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Inventory Assets and Liabilities

- The team should assist the client in assembling a balance sheet and inventory of all assets and liabilities. This should include not just figures on a balance sheet or other summary, but copies of key documents so that the appropriate team member can evaluate all relevant points.
- If the clients were organized well prior to death the focus may not be so much on collecting information but on explaining information as appropriate based on the surviving spouse's prior involvement and financial sophistication.

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Inventory Legal Documents

- If a complete compilation of all relevant legal documents does not exist, collect all documents, list them and make them available to the client, and the team. For example, posting all documents to a secure cloud vault, e.g. ShareFile, can make them easily accessible to everyone.
- Death Certificates. Originals will be needed to marshal assets.
- Will. The original will may be needed for probate.
- Revocable living trust.
- Letters of instruction.
- Irrevocable trusts: life insurance trusts, spousal lifetime access trusts, GRATs, QPRTs, etc.
- Life insurance policies.
- Corporate kits.
- Limited Liability Company kits.
- Partnership, operating, shareholder and buy-out agreements.

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Inventory Legal Documents

- Beneficiary designation forms.
- Documents indicating any lawsuit, claim or other debt.
- Bank and brokerage statements.
- Prenuptial, post-Nuptial, divorce and similar agreements.
- Deeds for every property.
- Property and casualty insurance policies for every property.
- Any other possibly relevant documents.

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Catalogue Key Data

- Social Security numbers for the deceased and surviving spouse.
- Birth certificate information.
- Marriage certificate for current marriage.
- Divorce documentation. These should be reviewed for obligations, insurance coverage, etc.
- Dependent children's Social Security numbers and birth certificates.
- Deceased spouse's W-2 forms or federal self-employment tax return for the most recent year.

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Getting the Survivor's Financial Affairs in Order

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Longer Term Cash Flow Considerations

- Assess the level of financial sophistication of the surviving spouse and adjust planning approaches and recommendations accordingly. In all instances bear in mind that even a financially astute surviving spouse may be significantly affected by their trauma for some period.
- In the immediate considerations step, cash flow to pay current bills had to be addressed. While in the short term borrowing on a home equity line, from a family member, etc. is not uncommon or unreasonable, as soon as the surviving spouse is able, more comprehensive long term cash flow planning should be addressed. Review the survivor's cash flow needs.
- Is there life insurance? How quickly can it be collected? Are their any issues or potential challenges by the carriers?
- Will the survivor have sufficient cash flow for the next year to cover lifestyle expenses? What assets might need to be liquidated during that period?
- Does the surviving spouse have an adequate emergency fund separate from investment accounts? If not, guide him or her on how to create and maintain one.

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Is the Current Lifestyle Really Sustainable?

- What about longer term cash flow needs? While a new widower should not sell the family home or perhaps vacation home immediately, is it feasible to maintain the existing residence or residences for the long term? While it may be necessary to defer such decisions for a period of time, say a year, how long is it feasible to retain existing properties and to incur the costs they entail?
- The surviving spouse may insist on keeping a vacation home he shared with his now deceased spouse, but if it is not economically feasible, or necessary, what should be done? How large is the house? Who will maintain it?

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Create/Revise Budgets and Forecasts

- If the clients pre-death had engaged in appropriate planning the post-death need may be to merely tweak the existing budget and forecast to adjust for changes:
  - Loss of earnings of the deceased spouse.
  - Collection of insurance.
  - Funding of trusts. This may or may not affect the survivor's cash flow, e.g. if some assets pass immediately to children from a prior marriage it would reduce cash flow. In other instances it might just change the "pot" from which distributions are made.
  - Expenses may be adjusted, some upward, some downward, to reflect the new circumstances.
  - Review the assumptions used in prior forecasts and consider how the death has changed these assumptions and impacted planning.
- If the clients had not addressed planning with the appropriate discipline before death then the full planning process will have to be addressed to determine whether or not the surviving spouse has to make immediate, or more long term, adjustments to assure adequate cash flow for the remainder of his or her life.

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Investment Considerations

- Based on the new or revised financial analysis what would be a suitable asset allocation for the surviving spouse's new circumstances?
- If the prior asset allocation was insufficiently aggressive to meet the new financial realities, what should be done and when? Is the surviving spouse still too traumatized to accept the investment risk he or she might need to meet the forecasted goals? Can the new plan be phased in over time to be more comfortable? Can lifestyle expense assumptions be revisited to conform with the desired risk level?
- Review how investment goals and performance will be reviewed, when and with whom. This might be especially important if the surviving spouse was not actively involved in the process previously.

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Paperwork

- The client may need help with the paperwork since it can pile up—financial records can be overwhelming. Even a financially sophisticated surviving spouse might be overwhelmed.
- Consider home visits from the wealth managers and/or CPA firm's staff. Perhaps a bookkeeper from one of these advisers can help with initial paperwork, or to deal with a backlog that grew during a last illness, etc. Advisers should proactively inquire how these mundane matters are being handled, because they may not be.
- Encourage the client to set a regular time (weekly or monthly) to deal with paperwork, and schedule professional assistance as needed, so that it doesn't become too much to handle.

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Apply for Benefits

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Inventory Benefits

- Compile a list of all possible benefits to guide the client that every right was pursued, identify deadlines, reporting requirements, etc.
- Life insurance.
- IRAs, Roth IRAs, 403(b)s, 401(k), pension and other retirement plans and benefits.
- Employment based benefits, including a review of governing documents for business interests, employee benefit manuals, etc.
- Disability, long term care and other insurance policies to confirm all benefits were received.
- Review with the surviving spouse other circumstances that might have given rise to other benefits that might be worth investigating.
- See about collecting benefits, whether from Social Security, decedent's employer and any veteran's benefits for which your client may be eligible.
- For information from the decedent's employer, contact the human resources department. You or your client will probably be asked to supply a copy of the decedent's death certificate to process retirement plan claims—such as from 401(k) or 403(b) plans and individual retirement accounts (IRAs).

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Inventory Benefits

- Applying for Social Security benefits can be confusing. If your client was married for longer than nine months, your client will be entitled to a survivor benefit, which can be taken as early as age 60 [this would be at a reduced amount versus what would be received if your client waited to take the benefit at their full retirement age (FRA) for survivor benefits, which will be between the ages of 66 to 67]. The survivor benefit is based on your client's deceased spouse's primary insurance amount (PIA), whether he was already taking his Social Security benefit and, if so, whether he started taking his benefit before or after his full retirement age. Survivors may also qualify for a one-time payment of $255. To find out more from Social Security, you can go to www.ssa.gov or call 1-800-772-1213.
- Depending on what your client's Social Security benefit will be based on their earnings record, it could make sense for your client to take their survivor benefit as early as age 60 and then switch to their own benefit at age 70 (or earlier, depending on your health status). In other cases, it could make sense for your client to start taking their own benefit at age 62 and then switch to their survivor benefit at her full retirement age.
- Your client is also entitled to a benefit at any age if she is taking care of a child (of her and her deceased spouse) who is receiving Social Security benefits and is under age 16 or disabled. The children of your client and her deceased spouse can also get survivor benefits if they are under 18, under 19 and attending elementary or secondary school, or at any age if they were disabled before age 22 and remain disabled. Social Security survivor benefits are complicated; the above is just a general overview, so it can make sense to consult with a professional knowledgeable in this area to maximize your benefits.

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Health Insurance

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Assure Continued Medical Coverage

- Help the surviving spouse address continued health insurance coverage, or bring into the planning team the appropriate expert to assist.
- If medical insurance was through the deceased spouse's husband's employer, call the human resources department to determine options which may be available to the survivor. Consider COBRA (Consolidated Omnibus Budget Reconciliation Act of 1985), which is continued temporary coverage under the deceased's group health plan at your cost for up to an additional 36 months.
- To learn more, go to frequently asked questions about COBRA at the Department of Labor website at www.dol.gov/ebsa.
- Explore more long term options as well.

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Retitle Assets

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Retitle Assets

- This is a matter that is often handled too simplistically and incorrectly. Caution the surviving spouse not to retitle assets until the team is consulted and the implications understood.
- Evaluate whether disclaimers (renunciations) should be used. Even if not necessary from a tax perspective, it may be advisable for emotional, asset protection or other reasons to direct assets that might otherwise be inherited outright into trusts for the survivor if that is feasible.
- Old wills and trusts might mandate the distribution of assets into trusts that are no longer optimal given changes in law or circumstances. Evaluate what might be feasible:
  - Might a tier of disclaimers better redirect the assets?
  - Can a trust protector or other fiduciary modify the terms of the trust?
  - Is a non-judicial modification or decanting feasible to improve or correct the dispositive scheme and trust?
  - What other options are available?

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When a Client's Spouse/Partner Dies

Help the Client Move Forward

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Guide the Client towards the Future

- This key to strength and independence after loss is taking one step at a time and develop long term goals to head towards.
- All professional advisers can help surviving spouses develop their personal roadmap based on their own goals for the future. This can relieve considerable uncertainty and anxiety.
- The goals and choices need not reflect the habits of the late spouse.

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Conclusion and Additional Information

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Conclusion

- Clients who have lost a spouse or partner need a collaborative, compassionate and involved advisory team.
- Often the matters to be addressed are intertwined with emotional and other personal issues that many on the financial and estate planning team have not been trained to address or are uncomfortable dealing with.
- As a team, and stepping outside of the traditional roles, the professionals can provide these clients with solace, critical advice, and a more secure path to the future.

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Additional information

- Martin M. Shenkman, CPA, MBA, AEP, PFS, JD shenkman@shenkmanlaw.com
- Karen C. Altfest, Ph.D., CFP®, of Altfest Personal Wealth Management kaltfest@altfest.com (212) 406-0850
- Stanley Teitelbaum, Ph.D., Psychologist and Financial Therapist, Cobaltjag@aol.com (201) 836-1531

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