

# THE STRAUSSSES

## Father and Son Deliver Estate Planning, Tax and Business Solutions

by Sherry M. Karabin

NORTHBROOK—One uses a pad of paper, the other relies on an iPad. No matter what tools they employ, the father and son team of Benton C. and Michael S. Strauss of Strauss Malk & Feder LLP has a reputation for coming up with unique and effective results.

In addition to offering assistance with mainstay estate planning matters, such as revocable trusts, irrevocable gift and insurance trusts, QPRTs (qualified personal residence trusts), GRATs (grantor retained annuity trusts), CRATs (charitable remainder annuity trusts) and spousal access trusts, they provide tailored legal solutions to clients that meet their financial and personal needs.

“Our practice is a people practice,” says Michael S. Strauss, co-managing partner at the firm. “It is our job to help our clients identify and understand the sometimes-complex issues involved in their matters and guide them through the planning process.”

### VENN DIAGRAM OF THEIR WORK

The two have overlapping practices with both handling trust and estate planning and business transactions.

Benton also focuses on employee benefits and executive compensation, while Michael addresses technology-related issues for the firm’s clients.

“Mike and I sometimes work together on matters, but we also refer one another clients,” says Ben. “He is our go-to person for cases that involve technology and the digital age, and he is often our first line of defense when equipment goes awry in the office.

“When he started here as an associate in 1998, some clients were a little hesitant to have a younger lawyer on their team,” says Ben, 71, former co-managing partner. “Now, the pendulum has swung in the other direction, and many of our clients prefer to deal with him.

“That allows me to enjoy a little more leisure time,” Ben adds.

Ben still handles some of the administrative functions, but he is happy to have a lot of the work off his plate.

While Ben and Mike are extremely satisfied with the paths they’ve chosen, neither grew up



intending to become a lawyer.

Born in Chicago, Ben and his two younger siblings, Robert and Helen, grew up on the city’s South Side.

After graduating from Bowen High School, Ben received his bachelor’s degree in anthropology with a minor in psychology from the University of Illinois at Chicago.

“When I started, I was on a pre-med track, but I soon veered into the social sciences and particularly anthropology,” Ben says. “I enjoyed anthropology but realized it was not practical. I thought law was more down-to-earth, so I started heading in that direction around the middle of college.”

When Ben graduated, he began working in the trust department of the American National Bank & Trust Co. (now part of JPMorgan Chase) while taking night classes at Loyola University Chicago School of Law. “I was made a trust officer at the end of 1972, the same year I received my law degree,” he says.

He left the bank in February 1974 and started his own practice, which he ran briefly

before joining a larger firm. Prior to co-founding the firm then known as Strauss & Malk, Ben worked at several firms including the predecessor of Katten Muchin Rosenman LLP and Jenner & Block.

“My focus was primarily trusts and estates, but from the mid-1980s to the mid-1990s I also handled a lot of employee benefits matters,” says Ben. “I was active in the Chicago Bar Association, including being chairman of the Trust Law Committee, and I made many CBA and IICLE (Illinois Institute for Continuing Legal Education) presentations.”

In Mike’s case, he planned to go into business. Born in Skokie and raised in Highland Park, he also has two younger siblings—his sister Amy and his brother Jonathan.

He received his bachelor’s degree in economics and history from the University of Wisconsin-Madison.

When Mike finished college, he worked in retail, selling consumer electronics. He also had a brief stint as a licensed stockbroker.

After obtaining his master’s degree in

business administration from DePaul University, Mike went into retail management before deciding to go to law school.

"Job prospects were not promising in the early 1990s, and I began thinking about becoming a lawyer," Mike says. "Estate and trust planning looked like a good match for my interests and skills."

In 1998, he received his law degree from Chicago-Kent College of Law, Illinois Institute of Technology. Everyone in his class was required to have and use a laptop computer. Unlike his father, his first and only legal position has been at Strauss Malk & Feder.

## GETTING PERSONAL

Their journeys to the legal profession took different paths, and there were also major differences in the way they met their spouses. Mike met his wife, Dawn, online. Ben met his wife, Sandy, at a social event during college.

Mike lives in Chicago with Dawn and their son Noah. Ben and Sandy live in Highland Park.

Aaron Maduff, now an attorney at the father and son employment law firm Maduff & Maduff LLC, has known Mike and Ben for almost 40 years.

"Mike and I went to third grade together," Maduff says. "We were good friends, and when I was there, Ben treated me as if I was one of his own kids. There were times where Ben would just take Mike and me for a father-son day or for a birthday."

"We both ended up working with our fathers in the family law firm."

Maduff says while Mike and Ben each have their own way of doing things, they share some important qualities.

"Ben and Mike are ethical, organized and dependable, and they go the extra mile for their clients," says Maduff. "Ben and Arnie Malk built a very good estate planning, business and real estate practice, and Mike continues to add additional facets to the firm."

"Like my own firm, I think they understand that their work impacts people and their families, and they hold it in the highest regard," says Maduff.

"Just as we have kept that principle in mind in building a national employment and appellate law practice, that same principle has led Strauss Malk & Feder to become a top estate planning firm, originally in Lake County and now one of the top in the state of Illinois. It is what gives us all a purpose," he says.

## A PLACE OF THEIR OWN

Around the time Mike was working on his MBA, Ben was beginning to realize that starting his own firm might be the way to go.

"I had gone through four firms in about 20 years, partly by design and partly because of

necessity since one firm dissolved," he says. "I had come to feel that my practice would run more efficiently if I were able to structure it myself."

By the end of the 1980s, Arnold B. Malk was starting to share the same sentiment.

"I withdrew my practice from Malk, Harris & Miller and joined Kamensky & Rubinstein," says Malk. "About 18 months later, Ben joined the firm."

"What I like most about Ben is that he does not take himself too seriously," says Malk, the firm's co-founder and former co-managing partner. "He is very bright, and he's not afraid to be wrong. Together, we come up with solid solutions to client problems."

The two say the idea to begin in the suburbs seemed to be a natural progression since Kamensky & Rubinstein had its office in Lincolnwood.

Ben says that while he did not like the big firm structure, he did enjoy working outside the city. "It convinced me that starting a practice in the suburbs was the way to go."

The firm opened in Deerfield on May 4, 1994. "There were a lot of small firms in the suburbs when we arrived, but they were not able to compete with us," says Ben. "We practiced on a downtown level, but at much less than downtown prices."

"We grew very quickly, but we decided to stay in the suburbs," says Ben.

"We moved further east, and we outgrew our space twice. We have been at our current location on Revere Drive since 2003. While there are many large firms in the suburbs now, we are able to compete well because we got a foothold long before they even considered moving here," Ben says.

When they first opened, Ben handled estate planning and employee benefits and Malk dealt with business and transactional matters.

"The only thing Benton's and my practice have in common is that we both rely on tax law," says Malk. "Benton uses tax concepts to help clients with their estate planning, and I use them to buy down the risk and/or cost of the transaction," says Malk.

"When his son Michael joined the firm, it was clear that the apple didn't fall far from the tree," says Malk. "Michael is a wonderful young man. It's very satisfying to see the two of them working together and bouncing ideas off one another the way Benton and I have done for years."

## THE MANY PIECES TO THE PRACTICE

Although Strauss Malk & Feder has grown, the core practice areas of trust and estate planning, business transactions and related litigation remain the same.

"We represent a lot of different businesses and entrepreneurs in estate planning matters,

transactions and litigation," says Ben.

He says people may not realize that, in a trust and estate planning practice, attorneys deal with a wide variety of topics and businesses. This provides many learning opportunities.

"I have sold a \$50 million art collection as well as airplanes and ships that were assets of estates, helped lottery winners make long-term plans for their money, and bought and sold businesses," Ben says.

"We have formed LLCs for our business clients, which is not considered to be part of a traditional trust and estate practice. Litigation is an inevitable part of an estate and trust practice," Ben says. "Mike and I are not litigators, so we hand that work over to our litigators at the firm."

"We also do some real estate work, which was not a core area of our practice when we began."

Mike, too, has handled his share of non-traditional estate planning work, including helping a client execute long-term contracts and a lease for a gas station, delving into corporate tax laws in the United States and abroad, and assisting an overseas client in selling a warehouse in Indiana.

He's also helped craft the terms and conditions for the website of a tech company, addressing both technology and privacy issues.

"It's not traditional estate planning, but one of the benefits of working in a small firm is that I get to handle many different types of work," says Mike.

One of the things he enjoys most about his work is the challenge of mastering complex concepts.

"I am a very detail-oriented person, and I enjoy the technical elements of the law," Mike says. "The recent changes to the tax code have provided many new things to learn. Some of the elements are quite complex and will impact the mechanisms by which clients choose to leave their assets to their loved ones."

Mike has written several articles published in national journals on topics ranging from the use of technology to enhance a trust and estate practice to the application of the OID (original issue discount) rules to an intra-family promissory note and non-business bad debt deductions.

Since 2005, he's co-authored a treatise called *Post Mortem Tax Planning*. He is also a co-author or updating author of two more books.

Paul Kozak, chief operating officer at MNJ Technologies Direct, has been a client of the firm since 2002. "I initially contacted the firm to do some personal financial planning," says Kozak. "I thought they did such a good job that we started using them as the lawyer of choice for our company. They handle all of our regulatory compliance, keep us up to date on changes in the law that impact the company, and advise us regarding collections."

When Kozak first retained the firm, he dealt with Ben. Now his primary contact is Mike. “They both have a great hands-on approach,” he says. “They are not only knowledgeable and personable, but they take the time to explain why they are recommending a particular solution to me and others at the company.”

“When they handled my personal financial plan, they discussed the various tools available, letting me know the pitfalls and following up to make sure I stayed in compliance.”

Kozak says the personalized attention he received prompted him to recommend the firm to others.

“It was the first time I ever dealt with a father and son team at a firm,” he says. “Whether it’s Benton or Michael, each one demonstrates concern for you not only as a client but as a person.”

### A BOUTIQUE PRACTICE

When the firm opened its doors in 1994, the dot-com bubble had not yet begun, and trust and estate laws weren’t quite as technical, says Ben.

“In the early 1970s, it was possible for a general practitioner to dabble in trust and estate planning,” says Ben. “Today the area has become highly specialized.”

“The other major change is that far more people and small businesses have now invested their wealth in trusts and other man-made entities than when I first started. This means attorneys must have an in-depth knowledge of what each of these entities does, the advantages and the pitfalls. As a result, I believe it’s almost impossible for an attorney who does not focus on the practice area to effectively represent clients.”

Digital assets are now a part of the trust and estate planning process.

Many states now have laws that allow people to give their fiduciaries access to their digital assets. The Uniform Law Commission developed the Fiduciary Access to Digital Assets Act. The act, which was revised in 2015, provides executors, trustees or a person appointed by the court with access to a deceased person’s digital assets. This can provide a fiduciary with access to a person’s email account or online files.

“Digital assets involve an area of the law that is still evolving,” says Mike. “There are many issues that remain unanswered, and digital assets function differently than physical assets.”

“For example, if you own a hardcover book, you can leave it to someone in your estate plan. But if you own an e-book, it is likely non-transferrable. There are also privacy and security issues involved with digital assets,” he says.

“When I meet with new clients, I now ask them about their digital assets and whether they want to give an executor or other fiduciary

the power to access them.”

Mike says he’s also begun dealing with cryptocurrencies. “I had a client who was investing in Bitcoin,” he says. “I believe these digital currencies will become more important over time as more people obtain them.”

### CHANGING OF THE GUARD

From the beginning and for the first 20 years, Ben and Arnie Malk served as co-managing partners of the firm, charting its course, handling administrative duties, doing the firm’s marketing and the hiring.

“Whenever Benton and I would disagree on something, we would sit down for lunch and listen to each other’s side of the argument,” says Malk. “The amazing thing is that the next time we sat down to lunch we usually found ourselves switching roles and advocating for the other person’s position. That’s how we did it.”

“We tried not to spend too much time focusing on minor things that did not impact the practice, and when our attorneys were doing a good job, we let them know,” Malk says.

“When we found someone we wanted to promote, we guided that person along the way, offering advice on how to improve.”

Today, the firm has 16 lawyers and a total staff of 24.

“With hard work, we have done well,” says Ben. “We set up the firm in the suburbs as an experiment, and today we are competing with big name downtown firms.”

“Our firm provides a high level of service along with a personal commitment to the clients we serve, and I think if we stay the course we’ll do just fine,” says Ben.

After 20 years at the helm, in 2014 Ben and Arnie stepped down as co-managing partners, passing the torch to Mike, now 48, and to Gary Hollander, one of the firm’s litigation partners.

“I feel confident in passing the torch to the younger generation,” says Malk.

“Like his father, Michael does not get lost in the details of everyday management. He has an amazing ability to focus,” Malk says. “He is probably the only person I know who I have to ask for more information because he gets straight to the point and provides clear and succinct answers.”

Mike’s technical expertise also allows him to oversee the firm’s cybersecurity.

“We have two high-capacity physical servers that run a number of virtual servers, with redundant backups and encryption at multiple stages to both protect client data and allow our people to work efficiently from almost anywhere,” says Mike. “I do try not to be the one fixing everyone’s printers and other computer problems because we have tech support for that.”

“Having Michael in the office is great because we have someone to address major problems

that need immediate attention,” says Malk.

Co-managing partner Gary Hollander started at Strauss Malk & Feder about eight years ago.

“Ben and Arnie interviewed me, and I was really impressed with them, as I still am,” says Hollander. “Ben and Arnie developed a financially and personally solid firm with a large estate planning practice, with a stellar reputation for honesty and integrity. Michael and I plan to protect that legacy while continuing to grow the firm.”

“Ben and Michael are both very straight shooters, extremely calm and professional. There is never any drama with them.”

Hollander says the transition of power has not had much of an impact on the firm.

“Even though Michael and I are now technically in charge of firm management, we still go to Ben and Arnie when we have significant issues that impact the firm,” says Hollander.

### NURTURING TALENT AND THE FUTURE

As the firm moves forward, Ben says one thing that won’t change is the firm’s desire to acquire and nurture new talent.

“When you hire the right people, everyone in the firm benefits,” he says.

A former associate at the firm, Izabela Czajkowska, says she’s grateful for the training she received, which led to her developing a longstanding passion for estate planning.

“Benton taught me the basics of estate planning,” says Czajkowska, a partner at the estate planning and elder law firm Otte & Czajkowska LLC. “He stressed the importance of looking outside the box for client-focused solutions.”

“Michael knows the tax code very well, and he taught me some good drafting techniques,” she says. “They laid the foundation for my career.”

“Perhaps most importantly, they got me involved in their projects, which is not always the case for associates.”

As Ben makes plans to engage in more leisure activities while still working regularly, Mike is busy preparing for the continuing evolution of the practice area.

“I am focused on the legal and technological changes in the practice,” Mike says. “I try to keep up with the tools that will allow for more efficient client service while maintaining security and confidentiality. There is always something to learn or do that could help me solve future client problems.”

“When I grew up,” says Ben, “I lived in a home with five people, two bedrooms and one bathroom.”

“You always hope you can make things better for your children. I think I’ve been able to do that.” ■