

Patent Pending

Investment Break-Through by Halpern Group

Both Attorneys and Injured Clients Benefit

The Halpern Group's **Proportionally Reactive Investment Management System** (P.R.I.M.S.), a fully automatic investment process that achieves maximum profit in financial markets with minimal risk, is now patent-pending.

"This invention will re-write the rules of investment," says Halpern Group President Richard G. Halpern, who devised the system as the result of an unexpected convergence of two diverse disciplines — financial planning and Chaos Theory. "Once people accept the fact that it works, and works in a way that nobody thought was possible, it will revolutionize the financial services industries."

What is P.R.I.M.S.?

It is the solution to the age-old financial dilemma. To make money investing in anything, be it stocks, bonds, mutual funds, currency, or baseball cards, you must buy low and sell high. But knowing what price is high and what is low is problematical, because it can't be determined until after the fact. Financial analysts cite trends, cycles, forecasts, and targets, but in the end determining when to buy and when to sell is guesswork; educated, analytical guesswork, but guesswork all the same.

P.R.I.M.S. removes the guesswork, because it accepts a reality that no other investment system acknowledges: it is impossible to predict the behavior of the financial markets, for reasons rooted in physics and mathematics. "Financial markets are what scientists call non-linear systems, and one of the distinguishing characteristics of such systems is that they are unpredictable," explains Halpern. "Furthermore, they are affected by a myriad of other non-linear systems, such as weather, political events, and management developments."

P.R.I.M.S. reacts automatically to the unpredictable fluctuations of a market, always maximizes investment at the market bottom, and maximizes the profit-taking at a market top, while

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Y2K Poses Threat to Structured Settlements

Halpern Secures Compliance Statements from Trustee Banks

The Halpern Group continues to service its various structured settlement trusts, including the U.S. **Treasury Bond Structured Settlement Trust** and the **Plaintiff Controlled Structured Settlement**, as well as its alternative to structured settlements, the Settlement Fund Management Trust, throughout their lifetimes. So it is no surprise that securing documentation that trust payments will not be disrupted by the looming year 2000 problem is a primary concern to the company.

"We have an obligation to ensure that injured individuals who depend on periodic payments encounter no hardships as a result of year 2000 breakdowns," says Halpern Group V.P. Dick Moore. "Fortunately, our three trustee banks are The Bank of New York, First Union National Bank, and NationsBank, all of whom have been executing meticulous plans and procedures over the past several years aimed at overcoming the Y2K disturbance. They are all ahead of schedule."

"Banks are at the top of the Y2K compliance success scale," notes Jack Marshall, who has researched the issue exhaustively. "The financial services industry as a whole has been very attentive to the problem. But there are gaps, and plaintiffs counsel cannot afford to let clients fall into them. Due diligence absolutely requires that attorneys obtain written verification that an injured plaintiff's structured settlement will not break down on January 1, 2000."

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"Scare Tactics?"

In recent months, a well-orchestrated campaign on the part of the defense structured settlement industry has attempted to discredit information printed on the Halpern Group's Website and this newsletter as "scare tactics".

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Call 1-800-524-1631 today to learn how the new **Proportionally Reactive Investment Management System** will give your injured clients **INCOME, GROWTH, FLEXIBILITY, AND SAFETY** unmatched by anything the Defense can offer; in fact, anything *anyone* can offer. This revolutionary financial management innovation ...**available only from the Halpern Group**...is ideal for **structured settlements** as well as **any investment setting where risk of loss is not an acceptable option.**

Why entrust your client's future with the adversary? The Halpern Group is the **Plaintiff's Only settlement consulting firm...** and our only concern is the plaintiff's welfare.

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Counsel's Peril and Clients Salvation

Finding the Right Financial Plan For the Tort Victim *By: Richard Halpern*

1. Get the settlement for the injured plaintiff
2. Shake hands.
3. Collect fee.

Today, there is growing consensus that an attorney following the time tested formula above is courting disaster -- for himself, and his client. The consequences to the attorney may include malpractice. The consequences to the client, however, are worse: financial catastrophe.

Prior to the advent of structured settlements as a routine option, it was beyond debate that agreement on a settlement amount or the declaration of a damages verdict ended an attorney's obligation to his or her client. What remained what to do with the cash was in another professional realm entirely, that of the financial specialist.

In the age of structured settlements, knowledge of settlement options is an essential component of the plaintiff's attorney's training if he or she is going to competently discharge the duty of an advisor. Telling an injured plaintiff that certain options entail certain well-documented risks is now required by the attorney's duty of

communication. Like it or not, structured settlements are part of the representation relationship. For the attorney, it is a matter -of competence.

For the client, it is more a matter of survival. The typical personal injury victim has little experience managing large sums of Y money. All observers seem to be in agreement that the likelihood of a recipient of a lump-sum settlement squandering his money on discretionary purchases, gifts to family and friends, and bad investments is unacceptably high. Financial planning, in other words, is imperative. Structured settlements are one category of financial planning that may be appropriate, but there are other options as well. The key point to remember in advising your client, is this: *the principles of financial planning for negligently injured people and their families are profoundly different from those applied to the typical clients of financial planners, stockbrokers, bank trust departments, and insurance agents.*

Let's examine why, beginning with the traditional annuity-based structured settlement, what I often refer to as a "defense-controlled" structured settlement.

This is an appropriate term because this form of structured settlement is covered by Section 130 of the Internal Revenue Code, which requires that the structure must be part of the settlement agreement and thus must be implemented by the defense. The defense frequently uses the leverage bestowed by this provision to steer the settlement into insurance annuity products (which is the reason the Section was devised in the first place.. .but that's another story).

A structured settlement is, by definition, fixed amount periodic payments over a certain time. ***The defense-controlled structured settlement using annuities has other characteristics as well, including:***

Rigid Interest Rates. This is a real problem, at a time when interest rates are at historic lows. With an annuity-based structured settlement, these rates are locked in.. .and they are virtually certain to rise. What does this mean? Invariably, using interest accompanies rising inflation, so while costs are rising for the injured former-plaintiff, perhaps dramatically, income remains constant. While being locked into low interest rates is not terrifically appealing to an everyday investor: for whom the income is supplementary, it is potentially disastrous for a victim whose every need must be paid for by an income stream that ~loses purchasing power over time.

The Continuing Threat of Dissipation. Once upon a time, preventing dissipation was the selling point for defense-controlled structured settlements. Now any successful litigant near a TV set can see an 800 number that will rapidly put him and his annuity structured settlement in the clutches of a company ready, eager, and willing to pay 35 cents on the dollar or less for all future payments. Interestingly, this development arguably makes annuities a riskier option than lump sum settlements, for at least when a lump sum recipient dissipates Cite money, he has rite full amount to dissipate.

The Risk of Commercial Failure. The flurry of insurance company failures at the beginning of this decade exposed a deep fault line in the supposed security of annuity investments. While it is certainly true that most insurance companies

Investment Break-Through Benefits Clients

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adjusting the purchases and profit-taking between these two poles, proportionate to the movement of the market. So whenever the market is at its lowest, that must be the point of maximum investment; at whatever point the market peaks, that is when the formula dictates the largest sell-off Buy low and sell high."

Halpern put the P.R.I.M.S. formula through rigorous testing, by applying it to every conceivable stock market scenario. "It makes a profit during the Great Depression. It even makes a profit when you repeat the decade of the Great Depression for seven decades, and that, if it really occurred, would destroy the U.S. economy.

The following chart is a summary of the internal rate of return over sequential 10 year periods based on the Standard & Poor's 500 stock index. The results are striking, yet typical of all the various projections Halpern has run.

Time Period	P.R.I.M.S. IRR	Buy & Hold IRR	Annual Differential
1929-1938	4.04 %	-6.64 %	10.68 %
1939-1948	4.98 %	2.08 %	2.90 %
1949-1958	14.73 %	13.73 %	1.00 %
1959-1968	8.73 %	5.26 %	0.47 %
1969-1978	2.21 %	-0.23 %	2.44 %
1979-1988	11.99 %	11.09 %	0.90 %
1989-1998	16.82 %	15.72 %	1.10 %

The P.R.I.M. system is an ideal investment tool for personal injury victims, who require safety of principal as well as income that will keep pace with inflation. "But there are many other applications," explains Halpern. "It is ideal for retirees, as well as participants in 40 1K, Keoghs or IRA plans who want to take their profits and reinvest. In fact, P.R.I.M.S. is the answer for any investor who wants to keep risk at a minimum, while maintaining a steady rate of profit."

[NOTE: P.R.I.M.S. results have been extensively documented. Materials and further information are available from The Halpern Group at 1-800-524-1631.] [Go to page 3](#)

Finding the Right Financial Plan for the Tort Victim

will not fail, it is also certainly true that the Standard and Poor's, Best's, Moody's, and Duff and Phelps' ratings no longer can be taken as a guarantee of stability, just as its highly favorable ratings of the Executive Life companies did not give any hint of their imminent collapse. With the percentage of insurance company assets in high-risk investments at an all-time high, and the ominous volatility of the economy, insurance companies, even the largest and most prestigious, must be regarded with caution. No victim of negligence dependant upon annuity income can say with 100% certainty that the income is safe. For individuals with no risk tolerance, that is unacceptable.

Sleight of Hand. Long suspected and now confirmed are a range of maneuvers by claims carriers designed to use defense-controlled structured settlements for illicit profit. These include under-the-table kickbacks and rebates from brokers, post-settlement underwriting, and cash-refund annuities, where the claims carrier, not the plaintiff's estate, receives any left-over funds when the annuitant dies prematurely.

There is a lot to be wary of here. [See story page 1. *The new P.R.L.M.S. is the first investment that can increase the pay-off without increasing risk.* - Ed.]

But there is also a lot to be wary of in the typical approach of financial planners, stockbrokers, mutual fund managers and bank trust departments, which springs from one basic principle of investment: the greater the potential pay-off, the greater the risk to the investor.

For all clients of these industries are "asset accumulators;" logic tells us so. People who do not accumulate wealth have none to invest. These same clients emphasize performance over safety, just as the financial institutions judge employees on their success in maximizing return.

But the vast majority of injured plaintiffs are not asset accumulators. They are the opposite -- asset dissipators. Their emotional condition,

following their trauma, exacerbates this deficit by preconditioning them to spend their new-found wealth. Deprived of pleasure for so long, living with pain and an uncertain future, these individuals characteristically respond with lavish purchases of houses, cars, and luxury items. For the same reason, these individuals are naturally more sensitive to the travails of others. Knowing what it is to feel powerless in a crisis, the profoundly injured have enormous empathy for those who are suffering (or those who say they are suffering). This creates a greater tendency to dissipate funds that they desperately need, by reaching out to help others.

The financial services industry considers none of this, because the behavior and mind set is so far outside the norm. Similarly, the impact of various types of grievous injuries, not only on the client's needs but also on the client's ability to direct the management of his assets is never considered. For example, a closed head injury can cause an individual to make rash decisions, ordering brokers to liquidate assets or make imprudent investments.

Y2K Poses Threat to Structured Settlements

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This is a message that trial attorneys seem determined to avoid. While much attention has been focused on the probable tidal wave of litigation arising out of Y2K-related damages, the majority of plaintiff's counsel have, so far, ignored their own potential liability. The fact is that injured individuals are far more vulnerable to disruptions in financial services than the typical citizen. And they are already likely to suffer because medical service providers are among the least prepared sectors regarding potential Y2K breakdowns. Any attorney who has permitted an injured client to accept a traditional annuity-based structured settlement without ascertaining that the annuity company has insulated itself from Y2K consequences is playing malpractice roulette.

"No one knows exactly how all the factors will play out," says Marshall, "because there are too many unknowns. But some insurance companies may be in an especially risky position due to damages incurred by their corporate policy holders as a result of the Y2K anomaly. Remember, this isn't an act of God, because everyone saw it coming. There could be some insurance company failures after the dust clears. This is why the industry is strongly backing Congressional legislation (vehemently opposed by ATLA) to cap Y2K liability."

As usual, plaintiff's counsel can discharge his or her duties by meeting the requirements of due diligence and communication, fully informing the client of options and risks:

Due Diligence

Before your client agrees to any defense-proposed structured settlement, you must obtain letters from both the potential holder and the issuer of the annuity stating that:

- The companies have instituted the necessary steps to ensure that their operations will not be disrupted by Y2K related breakdowns, and that systems have or will soon be tested to confirm this.
- Their assets will not be jeopardized by Y2K breakdowns elsewhere, and thus there will be no diminishment or delay in annuity income as a direct or indirect result of Y2K related incidents.

Communication

- You should make certain that your client appreciates the potential disruptions threatened by the Y2K problem, and that it could affect periodic payments.
- You should make it clear that there are alternatives to the typical annuity based structured settlements.
- You should explain that a US Treasury Bond structured settlement using a trust with a major bank as trustee is the safest option, both because the trust's assets are backed by the US Government, and because the banks are the one financial institution most prepared for January 1, 2000.
- You should emphasize that receipt of a Y2K compliance statement from both the issuer and the holder of the annuity is an absolute prerequisite, should your client decide upon a traditional, if risky, annuity structured settlement.

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This mismatch of the experience of the financial services industry with the reality of the injured plaintiff creates, predictably, an investment setting that is antithetical to the best interests of your client; particularly with stockbrokers, mutual fund raisers, life insurance company brokers and financial planners.

These are:

1. An emphasis on performance over safety.
2. A lack of dissipation safe-guards.
3. *Regulations that require only that investments be "legal", not that they be "appropriate."*

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The Right Financial Plan

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Safer, and more appropriate for such a specialized task, are major bank trust departments. Unlike mutual funds, they offer full financial planning. Their investment management resources include a family of mutual funds, many of which are appropriate for use in a tort victim's portfolio. And "appropriate" is the word that is relevant here: regulations --require that investments be *both* "legal" *and* "appropriate." Trustees are held accountable *if investments are not properly suited to the specific needs of the trust beneficiary --exactly the element missing in the alternatives above.*

There is a proverbial fly in the ointment, however: banks have little or no specialized experience managing money for individuals pre-disposed to dissipating their assets. This potentially fatal flaw can be addressed if the bank works in tandem with *a special breed of financial planner - those who specialize in serving negligently injured victims and their families.*

Unfortunately, there are many who claim to belong to this bloodline, and few who qualify. Here is the acid test:

Does the financial planner have documented experience with three hundred or more tort victims? Less than that, and you are dealing with an apprentice at best.

Does the financial planner have an ongoing relationship with two or more major banks to serve as trustee?

Will the financial planner arrange for significant discounts from the bank's fee?

Once the knowledge and experience of such a financial planner is teamed with the investment acumen and security provided by a major bank, the special needs and proclivities of tort victims will be imbedded in the asset management process.. where it belongs. The plaintiff's counsel's duty is to make sure the client can make an informed decision, for it is, after all, a decision that will have a critical effect on an injured victim's future, for better or ill. That means helping the client resist the siren song of those who do not understand the tort victim's special vulnerability, while seeking out the professionals whose track record --shows that they do.

Scare Tactics?

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The industry has taken this approach as an alternative to addressing legitimate concerns, or refuting our information. The latter it cannot do, because what we say is true. The former it will not do, because it is too lucrative to continue misrepresenting its products and positions.

The facts we have printed are not "scare tactics"; they are scary. Any plaintiff's counsel who chooses to discount them should know this: **none of the statements below have been challenged or refuted by any representative of the insurance or structured settlement industry.**

1. **Annuity companies can fail and have failed.** When they do, structured settlement income derived from affected annuities is at risk.
2. **The various ratings services do not and cannot predict** which insurance companies will remain sufficiently stable for an injured victim to rely upon for a lifetime of support.
3. At least one major insurance company has stated, in an official submission to the IRS, that **annuity-based structured settlements are not perceived to be safe enough for injured victims.**
4. Neither the defense, nor the defense claims carrier, nor the structured settlement broker designated by the defense, **have any legal or ethical obligation to the plaintiff.** They only have an obligation to those they represent. not seeking a "fair settlement." They are seeking a settlement that benefits the defense.
5. Because of "after-market" or "gray-market" buyers, **an annuity no longer offers "spendthrift" protection.**
6. " The approved list" of structured settlement brokers is frequently **a list of brokers who provide "rebates"** or, in direct terms, kickbacks, to the insurance company. this kickback amount is a fraudulent charge to the plaintiff.
7. **When the defense says it cannot tell a plaintiff the cost of an annuity without triggering "constructive receipt," it is lying.** There is no such law, ruling, or principle.
8. **The insurance industry engages in widespread deceptive practices,** including post-settlement under-writing, kickbacks, and more.

These are facts , and we have documented them. **We challenge the insurance industry to refuse any of these statements, or to indicate how we may have mis-stated the case.** Its current response that we are engaging in "scare tactics" should be seen as a transparent effort to avoid these critical issues.