

THE COUNSELOR

SIROTE & PERMUTT'S STATEWIDE LEGAL NEWSLETTER

WINTER 2009

BIRMINGHAM

HUNTSVILLE

MOBILE

DEPRESSION?

RECESSION?

*Karl B. Friedman
Charles R. Driggars*

Some time ago, as we began to gather information for this article, we hoped to clarify some of the often-used terminology in respect to the financial affairs of the United States and its citizens. At that time, we undertook a series of inquiries among major brokerage companies and prominent investment advisors about the meaning of “recession” and “depression.” At that time, the brokerage houses and their representatives still stood primarily on the test of “two down (i.e., negative GDP growth) quarters” as the hallmark of a recession, even in light of the failure of the government to announce that we were already in a recession. On the other hand, all of the individuals who responded had no doubt that we were actually already in the midst of a recession. We received responses that emphasized other items beyond the “two down quarters” that influenced

whether a “recession” was in place: the slowing of the economy generally, the rise in inflation and the uptick in unemployment figures. The consensus was, yes, we are in a recession, even if certain statistical tests have not conclusively proven it.

Then, the bottom fell out. There was no longer any doubt about the recession, but rather how deep and how long it would be. Further, for the first time, reasonable and sophisticated individuals began to wonder aloud: Forget about a recession; is another depression possible?

We are now hearing a lot more talk about depression, but the truth is, no one has ever pronounced precise a formula that defines the transition from recession into depression (beyond that old, grim economics joke:

(Continued on page 2)

ALSO IN THIS ISSUE:



Grandparent
Visitation

- 4 -

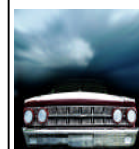
Summary of Selected Provision
of the Emergency Economic
Stabilization Act of 2008

- 6 -



Conservation
Easements:
An Effective Land
Preservation Tool

- 8 -



What if
Your Employee
Has a Wreck?

- 9 -

CHARLES R. DRIGGARS -Editor

©2008 Sirote & Permutt, PC

A recession is when your neighbor loses his job; a depression is when you lose your job). Those who still personally recall the Great Depression are few; most citizens today, and even most observers of the markets, learned about the Great Depression in history books at school. We remember the panic that struck when, after we'd been told all our lives that the safest place for our money was in the bank, Franklin D. Roosevelt took the drastic step of closing all of the banks. There was total frustration and a lack of preparedness. The government was ill-equipped and lacked the tools to deal with the situation, and so two things happened.

The primary Roosevelt solutions were, first, to hire people to perform work that was not strictly necessary (through the creation of the so-called "alphabet agencies," including the Public Works Administration (PWA)), but did create jobs. This step, while doing little to halt or reverse the march of the Depression, was important in improving morale, fighting the public's fear, and providing work for the unemployed (in and of itself a huge help for the psychology of the nation). The government was "doing something," and that something could be felt in individual house-holds and seen by the nation in newsreel footage showing the building of parks, bridges, and dams.

More drastically, Roosevelt closed the borders to trade. America raised tariffs on foreign goods so that the imports stopped, and we were forced to buy homemade goods. That decision traveled quickly around the world so that every nation did similar things, closing down international trade. As a consequence, the one thing that could have been making real progress against the Depression - free trade - was instead shackled by protectionism, leading to the extension and expansion of the Depression. In hindsight, we can see that this well-intended action was probably the single most

important element in the continuation of the Depression and the inability of America, and the world, to end it.

When the Great Depression ended, the government took steps to regulate the market in the hope that such a terrible crisis could never happen again

We know that the Great Depression lasted for roughly 10 years, and, in fact, the economy was only salvaged by the inception of World War II and the need for guns, planes, tanks and ships. At that time, America was then a manufacturing nation, and the demands of war created job demand in all sorts of war-

related industries. When the Great Depression ended, the government of the United States took many steps to regulate the market in the hope that such a terrible crisis could never happen again.

Yet, in 2008, if we are not at the precipice of or already in a new depression, then there are many signs that indicate we may be headed that way. It is, realistic, not alarmist to recognize this fact. As Robert J. Samuelson, a regular writer for *Newsweek* magazine, wrote recently: "Our real vulnerability is a highly complex and interconnected global financial system that might resist rescue and revival."

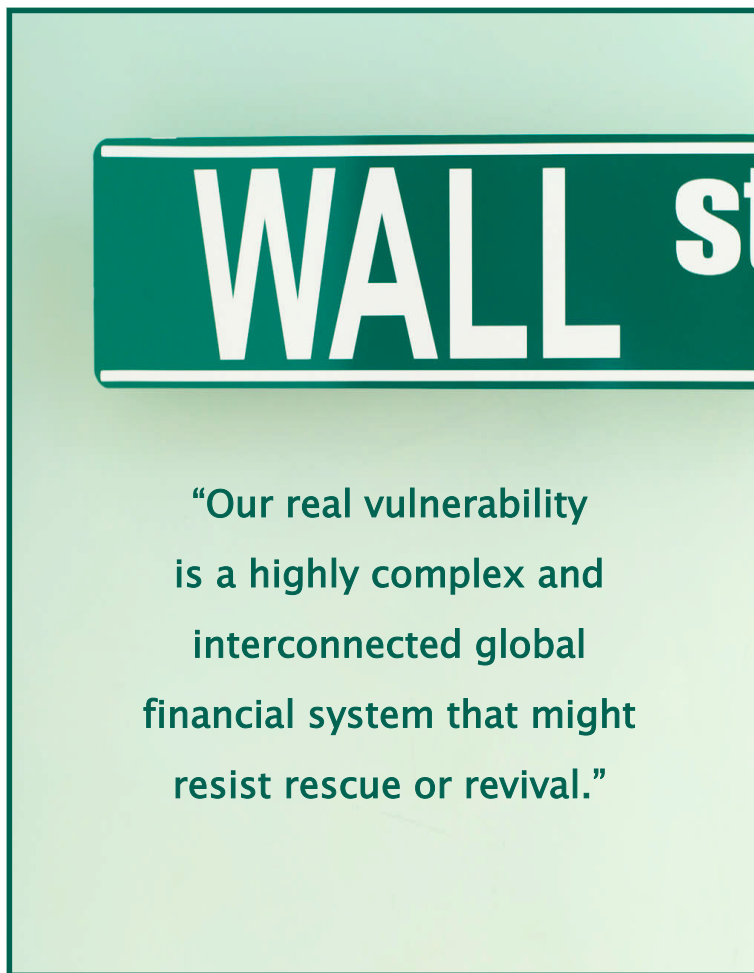
At least today the government has more tools and far more experience than we had in the Great Depression, although the country and the world economies have changed vastly since the 1930s. The government has not been idle, although it remains to be seen how effective its efforts will be. First, we made a distribution of cash to every taxpayer through a "stimulus package," hoping, basically, for citizens to put it back into the economy by purchasing more. Next, we invested federal government money into some major institutions, like Freddie Mac and Fannie Mae, so that they could keep operating, and



hopefully improve the real estate market. We next dumped billions and billions of dollars into the marketplace—which pushes our national debt to approximately \$10 trillion, an amount of money that beggars the imagination. Finally, in an action that both emphasizes the seriousness of the problem and the fact that the concern is indeed wide-spread, several nations of the world gathered together to treat the current condition as a universal problem because of the realization that international trade is the foundation of the recovery.

In a recent issue of *The Kiplinger Letter*, the following is predicted: a long period of slowdown for the economy, a shrinking of the GDP for at least the first half of 2009, unemployment growing to 7.5 percent in 2009, and exceeding that in 2010. If accurate, this prediction indicates a recovery that will be slow, painful, and frustrating.

Credit is the fuel that runs the engine of our economy. If banks do not make loans because they do not have sufficient capital, the government will supply either loans or buy-ins of bank ownership. In effect, the theme seems to be for the federal government to put up however much money it takes to keep the institutions running. But one can never forget that “there is no such thing as a free lunch.” Basic economics tells us that printing more money and passing it out as loans or



purchases will spur more inflation. Additionally, we have other economic problems that are directly impacted by the turmoil in the markets we are now experiencing.

For example, the government already recognizes (but does not talk about or address) that soon it will have used up the surplus from the Social Security fund, which means reducing benefits, delaying the time when the benefits begin, and potentially establishing “means testing” or other methods of reducing

the number of individuals actually receiving social security benefits. From its inception, the concept of Social Security was somewhat analogous to “forced saving” by workers. The idea was that the Social Security (payroll) taxes paid in over a lifetime of work would be put into a “trust fund” and would be available to assist the worker when the individual reached retirement age or became unable to work. The real world of Social Security is much different. Instead of a Social Security trust fund, there are just more government bonds issued. Sooner or later, unless some substantial changes are made, Social Security benefits will simply be a direct government obligation.

As we struggle to deal with the current recession? depression?—our underlying economic issues must not be ignored or forgotten, because they will not simply go away. How can we ever cope with a \$10 trillion debt, a

(continued on page 11)