EPISODE 719

[INTRODUCTION]

[0:00:00.0] ANNOUNCER Welcome to the Real Estate Syndication Show. Whether you are a seasoned investor or building a new real estate business, this is the show for you. Whitney Sewell talks to top experts in the business. Our goal is to help you master real estate syndication.

And now your host, Whitney Sewell.

[INTERVIEW]

[0:00:24.4] WS: This is your daily real estate syndication show. I'm your host Whitney Sewell. Today, our guest is Brian Bradley, thanks for being on the show again Brian.

[0:00:33.1] BB: Thanks Whitney for having me back on again and you know, I'm excited about this and for your listeners and we're going to be blowing up some more of the status quo on this conceptions and then talking about a great new entry level protection system for your listeners.

[0:00:48.1] WS: Nice. In case you haven't heard of Brad, I encourage you to go back and listen to the show, WS431, it came out December 26th of last year so Brad's a returning guest as I said but nationally recognized asset protection attorney for investors, he teaches and presents on higher end asset protection, at various global investments summits, he was selected to the Best Attorneys of America's list in 2020, Lawyer of Distinction list three years in a row. Super Lawyer Rising Star and top 100 High-Stake Litigators list.

Welcome back Brian, thanks again, you know, let's just jump right in, why don't you, give us a slight recap of you know, what we covered in 431, I know we talked about a bridge trust and I know a lot of the listeners are probably either foggy about what that was or since it's been a while, maybe you could refresh them on what that is and let's jump in to a few other things that we're going to discuss today in this new type of asset protection that you have ?

[0:01:43.6] BB: Yeah, sounds good, you know, I guess the recap would just be a good way to start with just how broken our legal system really is and you know, I for simply just a sue-happy nirvana, we have more than 40 million lawsuits that are filed every year in the US and litigation has just become its own 300 plus billion dollar business or its own stand alone industry. What we're trying to do here is just give clients peace of mind, you know, that's what clients calling in for and asking for when they call in and ask for asset protection and saying, "Hey, I want to be able to have a stress free life, I want to be able to have some peace of mind."

But we can't really do anything to stop you from being sued. You know, we can only deal with how collectable you are and we do this by placing legal barriers between your assets, through the proper use of LLCs, LPs, which are limited partnerships and a bridge trust. There's very flexible, you only have one added tax filing and you keep control of your assets. Like I said, the reality is though that we can't stop you from being sued, it's just a matter of how collectable you are and the idea is, to make yourself as unattractive as possible to a creditor.

And then, as you grow with your assets, so does the system. To jump in to kind of like the full recap because we went through LLCs, LPs and the bridge trust before, to recap these layers, the key concepts and the tools we use are these limited liability companies, limited partnerships and asset protection trusts. I want you and your listeners to think about winter, you know, when it comes to asset protection, you have different layers. I'm from the mountains, I'm from Lake Tahoe, we get a lot of snow, I also lived in Michigan, it gets freezing cold out there. We learned to dress in layers and the first layer is your base layer and is generally made from merino wool.

Now, that's going to sit on your skin and then you want to have mid layer on top of that which is usually going to be thicker and is going to be like synthetic or is going to made out of wool. Then you want an outer shell, a waterproof layer and that's going to keep you nice and dry and warm when the weather gets really cold and it's bad out there. But by layering like this, you're now more flexible.

When you get really hot and you're skiing or you're ice fishing, you know, you can take the outer layer off or the inner layer off and the mid layer off. You can adjust to make yourself more comfortable. The same thing goes with your asset protection planning. The base layer is your LLC, that's going to be the holding all your real estate. Your mid layer is your holding or operating company and that's going to be owning and holding your real LLCs, you can also put your patch of syndication shares into that mid layer and if you're the general partner on those syndications, you would put them into your own separate LLC entity. And then your outer layer shell is going to be an asset protection trust or the bridge trust. Just to kind of blow up some misconceptions on LLCs.

[0:04:38.5] WS: Could you just quickly highlight those layers again like the base layer, what it's for, the mid layer, what it's for, the outer layer and what it's for.

[0:04:48.4] BB: The base layer is going to be an LLC and insurance. It's simply to get the assets out of your own personal name and to limit some liability, some personal liability. Eventually, you're going to outgrow this, especially as you start adding more and more assets, more and more LLCs, starts growing up, you're going to then want to have a mid-layer, limited partnership or management company to own those LLCs and the reason is you then want to have a second layer of protection but you also want to make your tax filings a lot easier.

Your LLC is then will be owned by a management company, all those K1s will passively flow into that limited partnership or management company. You only have one tax filing. It cleans up your system as a second-tier layer of protection. You're managing that limited partnership with that management company. But you're not owning it, what's going to own it down the line or what if you're owning right now would be an asset protection trust.

The asset protection trust is your really bad weather, you're getting sued, it's a blizzard outside protection and you generally want that protection, that layer to have an offshore component, simply because of the way our legal system works. You can't run from judgments, you have no real true protection, even if you go state from state. For example, if you're a California resident, with a Wyoming LLC or Delaware LLC, you still have to recognize judgments from other states, it's just full facing in credit clause in our constitution, you can't get away from it, by the way our legal system is.

If you don't have an offshore component in your back pocket, you have no statutory, beyond recognition or you have no strength or ability to say, "I don't recognize that judgment, we don't' care, let's make a deal." As you grow, even as you're starting out, start out with an LLC, just know its limitation is with a jump in to real quick. Next, but then as you grow, realize the system's going to grow with you, then you're going to add another LLC and then you add a management company when you get to around about 500,000 net worth, and when you hit about a million net worth or more, you either going to jump into a quantum living trust or bridge trust when you get past that million dollar mark, you're going to be falling on the line of a bridge trust. If you're under the million dollar mark, you're going to most likely fit into the quantum living trust route.

[0:07:05.6] WS: Is that mid layer going to typically be a corporation or will it be another LLC?

[0:07:10.6] BB: It would be a limited partner.

[0:07:12.4] WS: Okay.

[0:07:13.1] BB: Yeah, the reason, especially for real estate investors that you don't' want to have a corporation like an S corp or a C corp is because you have ownership shares. Those ownership shares can have a judgment collected on to it. The LLC came about as a reason to fix that issue with shares and that's why you see most successful real estate investors using LLCs.

You know, you generally would start out and this is the misconception and the misconceptions people start this corporations as an S corp because they go to their CPA for tax reasons and the CPA is going to say hey, yeah, it's better for taxes to create an S corp. That's just great for taxes but it's bad for lawsuits and asset protection.

That's generally the pattern that we see and then when people call in and talk to us, we have to – we either keep that base layer and put it into the mid layer limited partnership, which is fine, or if you contact your attorney or you contact an asset protection attorney, will tell you, start with an LLC, we can always declare to have you file your taxes and be classified as an S corp for taxes but you don't want shares, ownership shares.

Just realize for real estate, you want to have LLCs holding your risky assets, the problem with LLCs generally is that most clients come to me with 15 LLCs and they're all single member

LLCs, you know, but they're all in that client's personal name. The problem is that courts have a tendency to fully disregard single member LLCs so they're basically worthless. What you want is that single member LLC that's holding your real estate to then be held and owned by a multi-member limited partnership, you know, like I just said, not by you though.

But by doing this, what you're now doing is properly laying your protection. And then people really get a lot of confusion on where to set LLCs up and you know, do you go to Delaware, Wyoming, Texas, Nevada. You hear about these states and you hear that they have really good charging order protection and so you're like, "Hey, I'm going to go do that, my CPA recommended that or I heard about it on the internet." I'm going to break down the LLC with more here since this part of LLC is not discussed very much. I think people just hear this stuff and then do it and they don't understand what they're actually doing. What really matters in these situations is what is it that you're actually holding when you're creating an LLC.

Let's say for example, it's California and I'm going to pick on California a lot just because they have no asset protection laws and they don't really care much about investors. Let's say you own a piece of California real estate that you're holding and you set it up on a Wyoming LLC because somebody on the internet or your CPA told you it was better. Then you go and hold a key piece of California real estate and you put it into that Wyoming LLC and you're paying California franchise tax.

What you've done is just convert the Wyoming LLC to a California LLC because you're doing business in the state of California, you're paying taxes and franchise taxes in the state of California. If you're ever going to be sued in that state from that asset, you're going to be sued in California because that's where the asset's at, that's where the injury's at, that's where jurisdiction lies, you're not going to be taking Wyoming law with you to California and in a California lawsuit.

Legal system doesn't work like. So a judge in California or any other state that that asset is in, doesn't care that your LLC is in Wyoming or Delaware or wherever, if that asset's not in that same state. What they care about is, are you doing business in that state, did the injury occur in that state? Is the asset invest state and that's the state, then that's going to be controlling in that jurisdiction with those laws.

For assets that are real estate, we recommend using the state that the real estate is located in because you're not gaining anything by using another state LLC, you're just doubling your maintenance cost. Now you also then have to maintain the LLC in two states to state that the assets in the state that the LLC is actually created in. We just say keep it simple. And then, series LLCs, you know, we have another big misconception when it comes to series LLCs and the issue is that you know, they're very young and there's no case law to rely on them and only few states that actually have series LLC statutes are limited.

What this means is that if you live in a state that doesn't recognize series LLCs, like California, you won't get the benefit that's intended from creating it. So, you just created a false sense of security. And the really big misconception that I see with LLCs is about the allure of anonymity and the thought that you can just create an anonymous LLC and that you just disappear and can never be found and the basic thought is that you can just create an anonymous LLC where you're the LLC member's name where your name is not going to become available to the public. And you can just completely avoid lawsuits and this just is false.

When your LLC is sued, you're going to be legally required to appear undefended. If you don't, you're going to have a default judgment entered against you. Then the complain is simply going to be amended once you do show up to a deposition, they're going to simply place your name on to that lawsuit. In the US, we have an ability to amend complaints. Also, the simple reality is that, like I said, once the lawsuit is filed, discovery process begins and you're going to be subpoenaed and forced to show up into court, someone is going to have to show up and that's going to be you.

[0:12:52.8] WS: Just because they look up ABC LLC and they see some other attorney or some other person's name, they're not going to stop right there if they really want to see you.

[0:13:02.4] BB: Exactly, they're going to have to – the managing member, the person who is in the control of that LLC which is going to be the owner of it, is going to have to show up and defend themselves and defend the LLC. Someone's going to have to speak on behalf of the company. And it's going to be the managing member. What's even worse is that if you want secrecy to even work, anonymity to even work, this is also known as lying under oath, and that's one way ticket to jail.

An example of this is very shortly after a judgment is entered against you, you know, the debtor, the creditors, the person who is suing you have the legal right to demand information about the assets that you own and the course enforced this right very broadly and very seriously. At this point in litigation, the only way to keep an asset anonymous or a secret is to lie about them and commit perjury.

We don't advocate for hiding, we just prefer to have full disclosure and a proper asset protection plan and just set it to properly to work. Part of that is just using the right combination of LLCs, and the right jurisdictions with a second-tier limited partnership and a really strong asset protection trust like the hybrid bridge trust. The bridge trusts, you know, the strength is that even though it's classified as a domestic trust, is actually a foreign asset protection trust in the Cook Islands and fully registered offshore from day one. You get that benefit of statutory, nonrecognition.

And so it is cheaper to start, it is more it. It is flexible, you don't have any of those annoying IRS compliance and disclosures that you'd have to make from fully offshore asset protection trusts. There is really no IRS tax filings at all, since it is classified as a domestic renter's trust but you get the power of that offshore component that you really want and need in your back pocket if and when you ever need it but unless you have assets and a net worth that are a million dollars or more, even the bridge trust can cost a lot.

You know with the full set with an LLC and AMLP and a bridge trust, you are talking about $29,000, which is cheaper than fully offshore. But for a lot of people just starting out that is still an expensive pill to swallow. So let's say you're growing and you are investing but you have less than one million in assets. You know, aren't you also going to be concerned about the crazy legal system and all of the stuff we talked about in the other show.

You know, out of control politics, law suits, taxes, something like that, yeah absolutely but the offshore component of that time is just out of your financial reach but you are the person who needs it the most because you are either starting out and you are going to make the most errors or you don't have enough net worth to take a glancing update and, you know, floating rib shot to knock you out. You won't be able to recover from that. So that is where the quantum living trust comes into play.

[0:15:55.1] WS: How is that different from the bridge trust and let's dive into that, what is that exactly?

[0:15:59.8] BB: Yeah, so the quantum living trust, so let's say you're not at one million net worth yet but you want to have that offshore component for stronger asset protection than just having a standard LLC or anything that is just going to be purely domestic. We just believe that this segment of investors shouldn't be left out of the dark. You know that is the quantum living trust and it is opening up the doors to who can afford strong asset protection with an offshore component.

And I guess it is easy for these high net worth clients, you know also my clients are high net worth families to have access to these sophisticated tools like the bridge trust. But this level of protection with the offshore component shouldn't just be left for them. You know really my concern has always been about that mid-tier investor starting out at 500,000 to one million and the quantum living trust gets you into an offshore component at an affordable entry spot.

To put your mind around the cost of it, for the cost of a traditional living trust, you know plus I live in a partnership, you can actually have access to an offshore component at half the cost of the bridge trust. It would be like $14,200. The quantum living trust was designed specifically for this under one million net worth asset, and it is just like its big brother, the bridge trust, it is a discretionary irrevocable trust, with a very strong creditor protection it was spent through provisions and their self-settle spend thrift trust.

The difference is unlike the bridge trust that is fully registered offshore, the quantum living trust is not individually registered offshore. You know that is its limitations. That is what sets it back from the bridge trust. What this means is that the quantum living trust can't by itself be triggered to cross the bridge since it is not registered offshore at all. It has to rely on its primary trust you know for its defense and so it is because of this limitation that once a client hits that one million net worth really is in their best interest to upgrade to the bridge trust at that point.

And have it individually registered offshore. And so for families with less than one million in net worth, the law suit can be like I said even more devastating to you and the expense of just defending that lawsuit either way and wipe out a significant portion. If not all of what you built up in your wealth and your investment and so, a large part of the mistakes and errors happen in this beginning stage.

So now these profile of clients have a way to get very strong asset protection. Add that missing offshore component that you generally only hear with high net worth families and then with us specifically, what we do is we will replace the quantum living trust down the road when you qualify for the bridge trust and just forward that cost of the quantum living trust to upgrade to the bridge trust. But this gives you the offshore component that you're needing.

[0:19:01.9] WS: Nice, so what is that cost difference or can you share that as well since you shared about the bridge trust?

[0:19:07.6] BB: Yeah, so the bridge trust is if you were to do the full package is $29,000 and that is a limited partnership plus the bridge trust. It's just half the cost. So you still the limited partnership, the AMLP, which is $6,000. The quantum living trust is $8,200, combined $14,200. So it is just half the cost of the bridge trust and then we forwards that cost amount forward to upgrade you to the Bentley bridge trust later on when you qualify for it. Because there is no point of having to pay something you have already paid half of.

[0:19:44.1] WS: Sure, that is awesome and I can hear one question a listener probably has to Brian and I have just wondered like okay, you do something like this. You do the quantum living trust or the bridge, either one, and we are sued, what happens then? You know I think most people probably listening hasn't been – have not been through a lawsuit but we have something like this set up and then we have hired you all to do that. Are you our first call? What happens?

[0:20:06.8] BB: Yeah, so you would make two calls like first you would call either us or your person or your spouse. So three calls, call your spouse like, shit, I'm not going to even say that, "Beep, we're being sued. What do we do?" So you would call us and tell us about the lawsuit, what's going on with it and then you are going to hire whoever is going to defend you. At that point, you are going to be panicking, most likely because you are not used to it. You are used to flipping houses.

So when you flip a house or doing your real estate stuff, you see a mess. When we see a mess, you see money. When you guys see a lawsuit, you see a panic, losing everything. For us, it may not be as bad as you think. So our first goal is always calm you down I guess not as bad as you think. You know nine times out of 10 we don't have to pull the trigger and cross the bridge but let's just say you're that one percenter and it is bad and we do agree that you have to cross the bridge and migrate.

You know the system is pretty quick. So me or my partner Doug or whatever company or firm you go and create these types of trusts with will declare a level of duress, which means we are being sued but we would be the ones, the trust protectors declaring it, not you and it is just for legal reasons for that, almost out of your control. And so that will take about, you know it is just literally drawing up a document that says, "We're declaring a state of duress."

And then you would just sign acknowledging that we're declaring a state of duress. We would send that acknowledgement off to the offshore trustee. They would get it, you know within a day or two, the trust is not purely foreign. At that standpoint, you know we would just be telling the other party, "Hey, FYI we have the offshore component. We are going to migrate and we are going to take the assets and the equity and take them offshore."

So either go away or you get nothing and we are very open about this just because its a system so strong and we are not trying to hide anything. We are just trying to let them know we have the nuclear option in our back pocket, even if you got the $10 million judgment against us, you will never collect on it. So go away or here is a penny on the dollar. Most of the time they just go away and most good firms will realize that beforehand because we would be talking to them right when you get a demand letter and they'll just go away because of their business, they realize there is no money in it for them.

And so businesses have to make money. They can't spend a lot of money without money coming in. Money for these firms are billable hours and commission rates. If they don't go away from there, we pull the trigger. At that point, the assets control go over to the Cook Islands and then we'd be talking about setting up the offshore bank account and connecting that to the Cook Islands trust account, because the money has to go somewhere. And so at that point, we would either put you in like Uzbekistan or a European bank with strong jurisdictional friendliness or Switzerland and we would go from there.

[0:23:00.0] WS: Nice. Okay that is interesting just to think through some of that and so for say sued in California or whatever, we have all these set up but then personally I would say, "Okay, well you know we transferred all of this a week later or two weeks after we're sued." Or whatever, can they not say, "That is not after the fact you got to bring all of that back."

[0:23:19.0] BB: Yeah and also great question though because the trust itself was set up years in advance, hopefully years in advance before you're ever sued. So it is all one trust. It is not a matter of transferring, you are not transferring it. It is just what it's called, it is called a transfer but you are not transferring it to another trust. The trust itself is just one trust, a quantum living trust or a bridge trust. All the assets are in that trust. All we're doing is dropping the domestic component compliance of it.

The trust is already an offshore asset protection trust. It just has built in domestic compliance so the IRS classifies it domestically. All we do is drop those domestic compliance, declare a state of duress and now it is a purely foreign asset protection trust. Then you are going to have to file those IRS foreign trust documents, the extra ones that you don't want to do and declare all of your assets but at that point, who cares? It doesn't matter, you have a strongest asset protection trust in the world.

[0:24:12.7] WS: Nice, I appreciate that explanation Brian. I know the listeners are having that same question. Unfortunately we're about out of time but just a few more questions quickly. What is a way you've recently improved your business Brian that we can apply to ours?

[0:24:25.5] BB: So I am really into technology and taking hats off and so I hired a new marketing firm to take that hat off of myself. And you know I was doing a horrible SEO campaign, which didn't do anything for my business and so now I have hired a pay per click marketing campaign company that sort of seems to understand my specific industry, my niche in the asset protection world.

[0:24:52.6] WS: Has that been beneficial?

[0:24:53.8] BB: We'll find out. But it is really I am excited for it though because I was wasting a lot of money on an SEO campaign that didn't do anything and then talking to a lot of marketing firms, I just didn't understand my business. You know it's like you can't market at a law firm the same way. I am not a criminal law attorney. So I am not a personal injury law attorney and I had so many marketers trying to say, "It is all the same, it is all the same." I'm like well, my clients generally aren't being sued. So it is not the same, this is preventative planning.

[0:25:24.4] WS: Got to know who your customer is, right? What's the number one thing that's contributed to your success?

[0:25:29.4] BB: I think it is my grit. You know life is hard, business is hard, owning a business is hard and you know you're going to fail a lot. You know, waste a lot of money on SEO campaigns that you don't need to do and you know if you just take those failures or those losses personal or let it get you down, you know you are not going to be able to get through. So you just take what you do right and be happy. You take what you do wrong and learn from it and be happy and keep going through.

And you know it is just like what do they say, the position on the football field that has to have the shortest memory is the quarterback because they are getting burned and touchdowns dropped on them all the time and they just got to forget about it and line up and stop the net, the wide receiver next play.

[0:26:09.1] WS: Nice, great advice by the way and tell us how you like to give back.

[0:26:13.1] BB: Yeah, I give back a lot of different ways like I do a lot of pro bono work, not a lot. I used to do a lot of pro bono work but I cherry pick the pro bono cases that I want to do for free. I also do a lot of teaching seminars on personal growth and business growth and I generally don't even charge for those. I just go in and talking to people and inspiring them. I was also in the process of setting up with Dave Ramsey's group, the school sponsorships but then COVID put a hold on that.

So hopefully we can pick that up next year when everything hopefully settles down again, going into teach kids in middle school and high school about financial freedom and raising their financial IQ.

[0:26:58.7] WS: Nice. Brian, thank you again for your time. I am always grateful to talk about asset protection. It is so important. I know the listeners need to be thinking about this as well and just going into the quantum living trust, grateful for that. Tell the listeners how they can get in touch with you and learn more about you?

[0:27:13.1] BB: Yeah, they can jump on my website, www.btblegal.com. They can email me at brian@btblegal.com. I've got tons of educational information on my website, videos, brochures, frequently asked questions, so it is a great educational website just to go on and educate yourself is the whole reason why I made it so interactive as well as LinkedIn. I really like LinkedIn so it is a great platform for building professional networks and I feel as strong and good your network is, is how much you're going to succeed.

[0:27:48.4] WS: Awesome, that's a wrap Brian. Thank you very much.

[END OF INTERVIEW]

[0:27:51.2] WS: Don't go yet, thank you for listening to today's episode. I would love it if you would go to iTunes right now and leave a rating and written review. I want to hear your feedback. It makes a big difference in getting the podcast out there. You can also go to the Real Estate Syndication Show on Facebook so you can connect with me and we can also receive feedback and your questions there that you want me to answer on the show.

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[OUTRO]

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