PacificCPE

Family Trust Part 3:

Model for a Human Trustscape

Course #4123A

Business

2 Credit Hours

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FAMILY TRUST PART 3: MODEL FOR A HUMAN TRUSTSCAPE

This course provides a hands-on primer for trustees, trust protectors, and trust creators in creating trusts that are designed to promote beneficiary growth and independence. It coveres the principal functions of a trustee, the highest responsibility of a beneficiary, and the trusts that are best suited for a humane trustscape.

LEARNING ASSIGNMENTS AND OBJECTIVES

As a result of studying each assignment, you should be able to meet the objectives listed below each individual assignment.

SUBJECTS

A Promise and a Challenge for Trust Creators
The Highest Duty of the Trustee and the Corresponding Responsibility of the Beneficiary
The Distribution Committee and the Office of the Beneficiary
The Trustee and the Trust Protector Revisited

Study the course materials from pages 1 to 28

Complete the review questions at the end of each chapter

Answer the exam questions 1 to 10

Objectives:

- To identify the principal functions of a trustee
- To recognize the highest responsibility of a beneficiary
- To identify the trusts that are best suited for a humane trustscape

NOTICE

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EXAM OUTLINE

- **TEST FORMAT:** The final exam for this course consists of 10 multiple-choice questions and is based specifically on the information covered in the course materials.

- **ACCESS FINAL EXAM:** Log in to your account and click Take Exam. A copy of the final exam is provided at the end of these course materials for your convenience, however you must submit your answers online to receive credit for the course.

- **LICENSE RENEWAL INFORMATION:** This course qualifies for **2** CPE hours.

- **PROCESSING:** You will receive the score for your final exam immediately after it is submitted. A score of 70% or better is required to pass.

- **CERTIFICATE OF COMPLETION:** Will be available in your account to view online or print. If you do not pass an exam, it can be retaken free of charge.

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CHAPTER 1: A PROMISE AND A CHALLENGE FOR TRUST CREATORS

In the preceding chapters, we've taken you through a tour of the trustscape and its different roles and relationships. We've introduced those roles and defined them to varying degrees. We have also laid out specific practices for strengthening the relationships across the trustscape and for dealing with particular challenges around addictions, marriage, and transitions.

In the final part of this book, we want to move from this tour of structures and relationships that, in most cases, already exist, to a *prospective* journey into what could be. The practices and arrangements that we discuss here are being tested by a number of forward-thinking families. They are not yet widespread, but they are based on sound principles.

This vision of a humane trustscape is, we believe, best suited for trusts holding assets over $10 million. When the level is much lower, the envisioned structures might be too expensive and cumbersome. As the family's wealth approaches or exceeds $100 million or more, the family may want to consider a private trust company that in turn embodies these structures and functions within it or around it. (For more on private trust companies, see Appendix 4.)

Of course, whatever the range of a family's assets, our model of a humane trustscape is not going to be right for all trusts and all families under all circumstances. Please consider what you read in the following chapters as food for thought, to adapt and apply as best suits your family's or your clients' circumstances.

A TRUST CREATOR'S CHALLENGE

Before beginning to paint this picture of a model trustscape in the next chapter, we first want to return for a moment to the fundamental challenge that trust creators face in selecting a trustee.

It's tempting to wish for a trustee who embodies the wisdom of Solomon, Buddha, and Nasrudin all rolled into one. If you know that person and he (or she) is available to serve your family—by all means, sign them up.

The closest you'll find to anyone who has pulled that off is an elderly Jewish grandfather who lived in New York City many years ago.[1] He scoured the country for just the right trustee for his grandson, who at that point was only eight years old and living in the Midwest. This grandfather's search ended when he met a 30-something Mormon attorney in Utah.

Following the grandfather's death, the trustee regularly visited the young man's mother (who was co-trustee). Each visit, this "friend of your grandfather's" spent time getting to know the beneficiary—long before the youth was told of the existence of his trust. This routine created the foundation for a lifelong relationship.

"The little things that my trustee as an adult did to reach out to me as a child were critical in the development of a rapport between the two of us," the beneficiary later reported. That beneficiary—today

1. Adapted with permission from "My Grandfather's Gift," in TrustWorthy. © Trustscape LLC.

in his 50s—is grateful for the care his grandfather took in selecting a trustee who by now has been a mentor and friend for 40-plus years.

For the rest of us, the choice of a trustee usually comes down to a family member or maybe a friend, attorney, accountant, or professional trustee of one stripe or another (or some combination) who can adequately perform the trustee's three principal functions:

1. Performing administrative tasks like paying taxes and preparing statements.
2. Investing the trust's assets.
3. Distributing funds and generally relating to beneficiaries.

If a trustee needs a hand preparing a tax return? No problem—hire a certified public accountant (CPA). Lack investment expertise? There's a world of talented investment advisers ready to help.

But what if a trustee doesn't have the skill or interest that that young attorney had to relate well with beneficiaries?

We'll address that question and more.

FIRST, AN EXERCISE FOR TRUST CREATORS

Before you meet with your attorney, your accountant, or your financial adviser to talk about trust structures, there's a weighty question for you to contemplate—one that's more important than any other trust-related question. For some of our readers, this will be your most difficult task when putting together an estate plan. Ask yourself: "Who are the people that I can count on to advocate for my trust's highest purpose, especially if that highest purpose is to promote the beneficiary's true freedom?"

A good place to start is to search your mental "my contacts" database for someone who's successfully navigated a really good midlife crisis. That's not to say someone much younger couldn't be just the right fit. Good judgment and compassion are what you're looking for.

But over the course of several days keep coming back to this question: who can you count on to advocate for your trust's highest purpose? Be on the lookout for candidates to fill a position that has this job description: someone having the wisdom, the strength, the compassion, and the time to take on the advocacy task.

Would it help to brainstorm with a family member, a friend, or a trusted professional adviser?

When you're ready, list the names that you come up with.

To some of our readers, thinking about people before thinking about documents, jurisdictions, and taxes will seem very different from what's usually expected or what's usually done.

Here's another surprise. The people that you listed are *not* necessarily candidates to fill the trustee's role. In fact, it may be wise to find places for such individuals in roles other than the trustee, and, for a trustee, to use an institution rather than an individual. What we have in mind for the trusted people on

your list and why we think it may make sense to use an institutional trustee will become clear over the next three chapters, especially in Chapter 4.