

Seven Secrets of the Purposeful Trust™

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THE PURPOSEFUL MINDSET
Secret #1
of the Purposeful Trust™
The Trust With a Personality and a Voice

Most clients begin the Estate Planning Process with deep and heartfelt purposes, hopes and dreams

KEY POINTS

- We want clients to understand there is much more to Estate Planning than just tax planning, probate avoidance and asset protection planning.
- Clients need to reflect on their opportunity to pass much more than just money to their heirs and understand the difference between a mere transfer of money (devoid of positive emotional currency) and a Purposeful Trust™ or Gift (full of positive and lasting impact on the beneficiaries)
- The three keys to the Purposeful Mindset are helping the client understand that a Purposeful Trust™ should reflect their love (a genuine desire to enhance the life of the beneficiaries), faith (a sincere belief in each beneficiary's GP – Growth Potential) and hope (the trustmaker's dreams and visions for the opportunities the trust will create)

THE WHAT KIND OF TRUST WOULD I WANT? EXERCISE

- The purpose of the What Kind of Trust Would I Want? Exercise is to assist our clients in visualizing the opportunity they have to create a trust that will be “rich” in emotional currency and sustaining in its impact. We want to help the client see they can use the trust as a tool to enhance the lives of their children and grandchildren. This exercise is also useful in helping us move a client out of a control mindset and into the generative mindset.

THE WHAT KIND OF TRUST WOULD I WANT? EXERCISE

- HAS ANYONE EVER MADE A LARGE GIFT TO YOU OR LEFT A TRUST FUND FOR YOUR BENEFIT? IF SO, WHAT DID THAT FEEL LIKE AND WHAT WERE YOU ABLE TO DO WITH THAT GIFT OR WITH THE OPPORTUNITY THE TRUST CREATED FOR YOU?

- HAS THERE EVER BEEN A MOMENT OR MOMENTS IN YOUR LIFE WHEN YOU COULD HAVE REALLY BENEFITTED FROM A LARGE GIFT OR A FAMILY TRUST FUND?
 - WHAT MIGHT YOU HAVE BEEN ABLE TO DO IF THERE HAD BEEN SUCH A GIFT OR TRUST FUND COME INTO YOUR LIFE AT THAT CRITICAL TIME?

- PRETEND FOR A FEW MOMENTS THAT YOU HAVE BEEN GIVEN THE OPPORTUNITY TO DESIGN A TRUST FOR YOURSELF. WHAT WOULD YOU LIKE TO SEE IN THAT TRUST DOCUMENT IN TERMS OF:
 - A STATEMENT FROM YOUR PARENT OR GRANDPARENT ABOUT HOW MUCH THEY LOVED YOU?

 - A STATEMENT FROM YOUR PARENT OR ANCESTOR ABOUT WHAT GREAT POTENTIAL THEY HAVE SEEN IN YOU?

 - A STATEMENT FROM YOUR PARENT OR GRANDPARENT ABOUT WHAT HOPES AND DREAMS THEY HAVE ABOUT HOW THEIR GIFT TO YOU MIGHT ENHANCE YOUR LIFE, ALLOW YOU TO PURSUE YOUR DREAMS OR GOALS, ASSIST YOU IN MAKING THE WORLD A BETTER PLACE?

 - ARE THERE OTHER THINGS YOU WISH YOUR PARENT OR GRANDPARENT MIGHT HAVE SAID IN THEIR TRUST THAT WOULD HAVE ALLAYED YOUR GUILT OR FEARS OVER WHAT THEY MIGHT HAVE EXPECTED YOU WOULD DO WITH THIS GIFT?

- HAVING REFLECTED ON WHAT KIND OF TRUST YOU WOULD LIKE FOR YOURSELF, WHAT THOUGHTS DO YOU HAVE ON WHAT TYPE OF TRUST YOU WANT TO LEAVE FOR THOSE YOU CARE MOST DEEPLY ABOUT?

CAPTURING OUR CLIENT'S VOICE

Secret #2 of the Purposeful Trust™

The Trust With a Personality and a Voice

Our clients' own words are the most eloquent and effective expressions of their deepest purposes, hopes and dreams

KEY POINTS

- If you ripped the first and last pages off of most estate planning documents the clients' children and grandchildren would never know that document was their parent's or grandparent's.
- Documents are much warmer and assume the personality of the Trustmaker when they are written in the first person and contain quotes from the Trustmaker about his/her purposes and intent.
- Beneficiaries develop a genuine emotional attachment to the trust instrument when it speaks to them personally and in the voice of their parent or grandparent. No one likes to think of themselves as an object to be acted upon. By referring to Beneficiaries by their "family name" rather than as a "primary" or "secondary beneficiary" we help beneficiaries understand they play a vital role in the Trust.

I WANT MY CHILDREN (GRANDCHILDREN) TO HEAR MY VOICE EXERCISE

- The purpose of the I Want My Children to Hear My Voice Exercise is to assist our clients in seeing how impactful the trust document can be on their family. We also want the client to understand that what really counts is capturing their voice. We want them to be able to visualize how powerfully this may resonate with their heirs.

I WANT MY CHILDREN TO HEAR MY VOICE EXERCISE

- Who is the deceased ancestor who has had the greatest impact on you? Was it your mother? Father? Grandmother? Grandfather? a Great Grandparent?
 - What are the three most significant quotes or examples you have heard or seen in their life?
 - Did they tell you stories about their parents or ancestors, and if so, which of those stories have been most impactful in your life?
 - How have these quotes or stories made a positive difference in your life?

You remember the story of the West Virginia Miners and the Letter from Grandpa. Will your children and grandchildren hunger for a note or letter from you. Just as it was difficult for the miners to write that note, we have found it much easier to express this orally and preserve it through a digital recording. Here are some suggestions of what you might cover in your Purposeful Conversation that we will record:

- 1. Memories of trips or vacations when we have spent time together**
- 2. Things I admire about you**
- 3. Special talents or gifts I feel you have been given and the great potential I have seen in you**
- 4. Really difficult challenges I have seen you overcome and how I felt about your effort**
- 5. Things you said to me that really made me feel special or loved**
- 6. Gifts you gave me that I have treasured**
- 7. The accomplishments and recognition you have received and how I felt about them**
- 8. Things I wish I could have done with you**
- 9. What I hope you will do with your life**
- 10. What I hope you and the other members of the family will do in terms of continuing your relationship as family members when I'm not around.**

PURPOSE CLAUSES: THE HEART OF THE PURPOSEFUL TRUST™

Secret #3

of the Purposeful Trust™

The Trust With a Personality and a Voice

The clients' vision for how they want their Purposeful Trust™ to benefit their family, friends, favorite charities or causes and community will lead us to powerful purpose clauses.

KEY POINTS

- The purposes of a trust are often not stated in the trust instrument. The failure to clearly state a Trustmaker's intent makes it likely that courts will be called upon to divine what that purpose was.
- Hasty, casual, or rote expressions of trust purposes will most likely be incomplete and can even be seriously misleading. They are thus likely to do more harm than good.
- The most powerful purpose clauses are those which capture our client's vision and values.
- Purposeful Conversations offer a method to avoid "hasty, casual, or rote" expressions of trust objectives, and instead tap into the client's true desires and feelings.
- For those clients interested in creating a perpetual or near perpetual trust the Purpose Clauses becomes extremely important as it is likely there will be few living at the time the trust has to be interpreted who will have any clue what the grantor's intentions were.
- Such clients may also benefit greatly from the concept of a Trust Compass. The Trust Compass consists of core virtues and principles which the grantors consider timeless and which they hope will serve as a beacon to insure the trust will be a positive force in the life of the beneficiaries, no matter what difficult and unforeseeable challenges they run into.

Every trust we have been seen will hopefully fulfill at least one, if not multiple purposes contemplated by the grantor. However, how often do you see those purposes expressly

stated within the trust instrument? We may see a hint of the primary purpose in the name of the trust or in the tax savings clause. For instance, the XXX Life Insurance Trust. Or the ZZZ GST Exempt Trust. Here is an example of a GRAT (grantor retained annuity trust):

JOHN DOE GRANTOR RETAINED ANNUITY TRUST

THIS TRUST AGREEMENT, effective XXX, is among John Doe of XXX, as grantor ("grantor"), and XXX Bank & Trust, of XXX, Delaware, as trustee (the "trustee").

CREATION OF TRUST

The grantor hereby transfers to the trustee the property described in the attached Schedule A and the trustee accepts such property as the initial trust estate.

Such property shall be held by the trustee IN TRUST and shall be administered as a qualified annuity interest, within the meaning of §25.2702-2 of the Regulations under the Internal Revenue Code, for the grantor's benefit during the annuity term, as defined in Article 2, and thereafter all other interests in the GRAT, which constitute qualified remainder interests within the meaning of said Section 2702 and its regulations, shall be administered upon the terms set forth in this agreement for the grantor's children who shall be referred to as the "secondary beneficiaries".

Except for the opening preamble and the signature block of the Trust, you never see the Grantor's name in this trust. In fact, there are more references to tax codes than to the names of family members. This trust really doesn't tell us much at all about the purposes the Grantor had in mind in establishing the trust. The title probably is your best guess: a trust that will create an annuity for a wealthy grantor. Now contrast that with the depth of vision and purpose that is evident in the following Purposeful Trust:

This Trust does not exist as an end unto itself. It is merely the means by which we have chosen to share some of our wealth with our children, and eventually our future descendants. It is a framework to help our family better govern itself, and to encourage our children and their descendants to strive to be the best individuals they can be and to seek joy by living in accordance with the values expressed in this Agreement. We hope that this Trust will remind our children to discover the personal growth and satisfaction that can be realized through sharing our good fortune with those who are less fortunate. We also hope the Trustee will offer positive encouragement and assistance to each beneficiary in their quests, crises and challenges.

After that introduction of the general purpose of this Purposeful Trust, it goes on to enumerate its primary purposes (which are not specifically included below) and then explains the Trust Compass which was attached as a separate exhibit.

The foregoing primary purposes for this Trust are built on the premise that the whole “*** family” is much greater, in terms of our children’s capacity to achieve their dreams and goals and to carry out our family mission statement than what the “separate sum of our family parts” would be. The Trust has been established to provide a platform to allow all members of the ***** family to “grow interdependently.”**

From the primary purposes enumerated above we have distilled certain principles and values which we believe to be so fundamentally important for the long-term best interests of our children and their descendants that we have summarized these bedrock principles and core values in Exhibit “A” of this Trust Agreement. The fact that these principles and core values are set forth in a separate exhibit should not in any way diminish their importance. We have deliberately chosen to place them there to draw attention to them and to make it easier for the trustee and beneficiaries to refer to them.

Our advisors have cautioned us about the difficulties of being able to pinpoint precisely how the Trust should be administered in the next fifty to one hundred years and beyond. What we have agreed upon is that there are certain values which will be enriching and enduring to both our family relationships and to each individual beneficiary. If the Trustee, beneficiaries and their advisors always make sure their judgment and analysis is firmly grounded on these bedrock principles, then this Trust will have the greatest probability of allowing each beneficiary to attain their maximum potential and accomplish our goals of enriching the lives of the beneficiaries as well as the communities in which they live. Going back to bedrock should always begin with a careful review of the Trust Compass set forth in Exhibit “A”.

If You Were a Beneficiary of a Trust, Which Trust Would You Prefer? The Purposeful Trust or the Trust Which Appears to Have the Solitary Goal of Tax Minimization?

If You Were the Grantor of a Trust, Would You Want Your Children and Grandchildren to Remember You Through the Trust That Appears to Be Tax Motivated or to Hear Your Voice Through a Purposeful Trust?

THE SAMPLE PURPOSES CLAUSES MENU EXERCISE

- The purpose of the Sample Purposes Clauses Menu Exercise is to give you an opportunity to reflect on all of the different purposes you have seen clients express when creating Trusts or making large gifts. Since the Purposes Clause is really the Heart of the Purposeful Trust™ what suggestions do you have for how we can best help clients come up with appropriate Purposes Clauses using a Purposeful Mindset?

THE SAMPLE PURPOSES CLAUSES MENU EXERCISE

HERE IS A SAMPLE OF PURPOSES CLAUSES WE HAVE SEEN CLIENTS COME UP WITH. THE FIRST FIVE ARE VERY TRADITIONAL PURPOSES. THE BALANCE ARE DRAWN FROM WHAT WE WOULD REFER TO AS NON-TRADITIONAL PURPOSES. YOU WILL SEE THAT THE PURPOSE CLAUSE MAY START OUT WITH A HEADING BUT THEN IT SEEKS TO CAPTURE, IN THE CLIENT'S VOICE, WHAT THAT DESCRIPTOR REALLY MEANS IN TERMS OF THE CLIENT'S VISION. AT THE VERY END OF THIS EXERCISE WE WOULD ASK YOU TO ADD AS MANY PURPOSE CLAUSES AS YOU CAN IMAGINE OR RECALL CLIENTS EXPRESSING FOR THEIR TRUST OR LARGE GIFT.

- **Completed Gift.** We intend to make a completed gift for the benefit of our children and eventually their descendants, to be held in trust on the terms and conditions in this Agreement.
- **GST Exempt Trust.** We intend that this Trust will be exempt from GST taxes. We also intend that the assets of this Trust may pass at the death of our children without being subject to estate taxes or other similar wealth transfer taxes, whether imposed by the federal government or by any state government.
- **Grantor Trust.** We intend that at its inception this Trust will qualify as a "grantor trust" within the meaning of the Internal Revenue Code, unless those powers which would make this Trust a grantor trust have been released or are no longer exercisable in such a fashion as would make this Trust a "grantor trust." The effect of the Trust being a grantor trust is that I will be treated as the owner of the Trust for federal income tax purposes and hence the income or loss of the Trust will be taxed to me.
- **Asset Protection Trust.** We intend that the interests created hereunder shall be protected, to the greatest extent possible from the claims any beneficiary's creditors or anyone who might attempt to interfere with any beneficiary's enjoyment and use of the Trust assets. We intend that this protection continue so long as the Trust is holding assets for the benefit of either of our children and any of their descendants who may be born after this Trust is established.
- **Probate Avoidance.** We intend that the assets of this Trust will be administered without subjecting them to the jurisdiction or supervision of any probate court.
- **Lifetime Benefit and a Tool to Promote Individual and Family Growth and Happiness.** Affluence affords us the ability to help others and the personal and/or family financial freedom to pursue personal development.

Our children are familiar with and understand our family's financial resources. Our desire is to set aside wealth for the benefit of our children and to let them determine how best to use the assets and if it is appropriate to pass a portion of the assets along to our grandchildren. Our children are successful and largely independent. We have in the past and will continue in the future to demonstrate values by how we lead our daily life, involve our family in making our area of the world a better place, spreading the spirit of Jesus Christ throughout the world, and encouraging our heirs to learn the value of independently making money rather than only managing inherited assets. Consequently, we believe that our children will use the assets of this Trust to promote the values by which we have taught them to live and which are set forth in Article 1.5 for the benefit of future generations of our family.

- **Enhancing Our Family's Human Capital.** One of our financial goals for the last couple of years has been to improve the financial worth and emotional and physical well-being of our family. In considering what the true worth of our family is we subscribe to the four dimensional view of family wealth developed by Jay Hughes in his book, *Family Wealth – Keeping It in the Family*. Thus, we want to enhance our family's human capital through the collaboration and shared experiences contemplated by this Trust. Further, we desire to plan our estate to maximize our financial assets for our children as well as future generations. We want to provide ample opportunities for the beneficiaries to pursue lifetime learning and to dynamically grow our intellectual capital. Finally, we want to encourage family altruism and leadership within our communities. To provide the means to fulfill these goals, we desire to make gifts to our children and their children in a manner which demonstrates great stewardship by avoiding or eliminating unnecessary taxation and providing a platform which will enhance the four dimensions of our family capital. At the foundation of that platform will be the assurance that this Trust will provide our children with a basic lifestyle and a long-term financial safety net while encouraging them to dynamically grow their individual and collective talents and wealth.
- **Tool for Financial Mentoring and Education.** We anticipate that the Trust will provide each of our children, and eventually their descendants, with opportunities to obtain experience and skills in managing financial assets through the Trustee apprenticeship process. We ask the Trustee, the Trust Advisor/Protector and such other family advisors as might contribute dynamically to the mentoring and education processes to join with us in that endeavor. If we are unable to participate in this educational process, we hope the Trustee, Trust Advisor and all others will remember that our financial philosophy stressed the following goals:
 1. to share the abundance we have been blessed with those less fortunate;

2. to prepare family members to achieve and enjoy lifetime financial independence; and
 3. to provide a foundation of financial security for our heirs
- **Value Reinforcement.** All those who either serve or benefit from this Trust should always be mindful of the values set forth in Article 1.5 and should strive to make sure that the uses to which the assets and income of this Trust are put are congruent with these core values, which we feel are fundamental to happiness.
 - **Sharing With Others.** The primary purpose of this Trust is to provide for our family. We have established other means for our children to pursue charitable interests as well. Consequently, we are not primarily concerned that our children and future descendants use their distributions from this Trust to share with others unless it is their desire to do so.
 - **Flexible Trust.** We believe that the evolution of legal systems, investment theory, and administrative models suggest that frequent reviews of the Trust instrument, administrative functions and trust operations be conducted. It may be appropriate to engage in a comprehensive review process every five years, but we will leave it to my children and the Trust Protector to determine how frequently such review should occur. The Compass we have provided in Exhibit “B” should guide this review process. We intend that the Trust Protector shall have the power set forth to modify and adapt the Trust, in a manner which won’t materially interfere with our original intent insofar as benefiting our children and their descendants is concerned. Such amendments shall not only serve to keep the Trust current, vis-à-vis tax law changes, but may also provide greater benefit and/or protection to our children and their descendants.

There are many other purpose clauses we have seen. Here is a brief summary of them:

- **Choosing the Best Possible Trustees to Manage Our Trust’s Assets.**
- **Forgiving Debts Owed to Us By The Beneficiaries at the Survivor’s Death**
- **Creating a Special Needs Trust for...**
- **Make it Clear There Will be No Equalization for Unequal Lifetime Gifts**
- **Avoid Court Proceedings and Insure Mediation is Used to Resolve Contests**
- **Why We Provided for a Larger Gift to Our Youngest Child**
- **Create a Family Bank**
- **Tie Distributions to a Beneficiary’s Demonstrated Progress Towards the Markers of Maturity**

TAKE A FEW MINUTES TO CRAFT A SHORT PARAGRAPH IN THE TEXT BOX BELOW THAT CAPTURES ANY OTHER PURPOSE WHICH YOU OR A CLIENT HAS CONCEIVED FOR A TRUST:

THE SYMBOLIC POWER OF NAMING A PURPOSEFUL TRUST™

Secret #4

of the Purposeful Trust™

The Trust With a Personality and a Voice

The best name for a trust is one chosen by the clients to reflect their deepest purposes, hopes and dreams

KEY POINTS

- The name of a trust is often chosen by the estate planning attorney or his/her legal assistant with no input from the client.
- There is a powerful symbolic opportunity for the client to choose a name for their trust which will connect the gift with the purpose or meaning of the gift.
- A beneficiary may read the trust document once in its entirety. But the beneficiary is likely to receive trust accounting statements and other correspondence regarding the trust which identifies the trust by its name. Each of those statements and letters are an opportunity for the beneficiary to be reminded of the purpose and meaning of the trust gift and to be reconnected with the positive emotional energy of the Trustmaker.

I think that one of the most symbolic and yet almost always overlooked opportunities in the design and creation of a trust is the naming of the Trust. Hence, I often say that a Purposeful Trust™ begins with the name chosen for the trust. But who picks that name? Do you have a blue book of approved names for trusts you share with your clients? My informal survey suggests that less than thirty percent of the lawyers ask the client what name they want to give the trust. Instead, the traditional approach is that the tax purpose will often dictate the name the attorney chooses. For example, the name will

frequently use the grantor's surname and then add a tax acronym such as GRAT, CLAT, or a technique descriptor such as MegaTrust, Incentive Trust, Asset Protection Trust, Perpetual Trust, etc.

Why does the name of a trust matter? First, it may be the most visible demonstration to our client's family of what mattered most to our client. If the trust is titled "The Jones GRAT" or "The Smith Dynasty Trust" the name could be a constant reminder that the primary purpose of the establishment of the trust was grounded in tax savings or a desire to rule from the grave.

Second, the importance of the name can not be overlooked in terms of a link between the beneficiary and the purposes of the trust. Most beneficiaries of a trust make the effort to read the trust document from beginning to end even though but they are not likely to remember much of what they read even though it may be the most important legal document in terms of its potential influence on their life. What they will receive as a visible reminder of the trust is a monthly or quarterly statement from the Trustee.

That trust statement will most likely come in an envelope with a window that will reveal the name of the trust and that name will likely be at the very top of the statement and perhaps on each page of the statement. I've estimated that the average beneficiary of a dynasty trust will probably see almost 300 quarterly trust statements in their adult lifetime, all of which will show the name of the trust. That is 300 opportunities to connect the beneficiary with the purpose of the trust as reflected in the symbolism of its name.

Here is an example of a name that follows the technique or tax acronym method of naming a trust:

THE DOE FAMILY DYNASTY TRUST

THIS TRUST AGREEMENT, effective December 18, 1998, is between John Doe of Summit County, Colorado, as grantor ("grantor"), and XXX Bank & Trust, of Anytown, South Dakota, as trustee (the "trustee").

Contrast that traditional approach with this example from a trust where the grantor was asked to carefully deliberate what the name of the trust should be and what impact that name would have on the beneficiaries.

Smith + Jones Legacy Trust

We have chosen the surnames of both my wife and myself and the word “Legacy” to frame the name of this trust. Each surname should remind the beneficiaries of the powerful heritage they have received from both sides of our family. The “+” between the two surnames emphasizes the synergy we feel our family generates because these two family lines came together with our marriage. The word “Legacy” with a capital “L” signifies something deeper than the legal definition of legacy. A legacy in the eyes of the law is money or property bequeathed to another. To us Legacy not only signifies the wealth transmission side of this trust instrument but it also represents the values that have come to us from previous generations. We hope the name of this trust will cause the beneficiaries to not only appreciate the value passing on to them but that they will always regard the values which were in large part responsible for our family’s financial success as a “Legacy” which they should build on for those who follow them.

THE WHY DOES THE NAME OF A TRUST MATTER EXERCISE

- The purpose of the Why Does the Name of the Trust Matter Exercise is to assist planners to determine how they might spark a client's interest and creativity in choosing a name for the Trust.

WHY DOES THE NAME OF A TRUST MATTER EXERCISE

- HOW MANY BUSINESS ENTERPRISES CAN YOU THINK OF THAT HAVE A SYMBOLIC MEANING IN THEIR NAME THAT CONNECTS WITH THEIR PRINCIPAL PRODUCT OR SERVICE?
- CORPORATIONS PAY BILLIONS OF DOLLARS ANNUALLY TO “NAME” SPORTS ARENAS. WHAT ARE SOME OF THOSE STADIUM NAMES THAT YOU RECALL?
- WHAT SYMBOLIC NAMES CAN YOU THINK OF THAT HAVE BEEN CHOSEN FOR NON-PROFITS?
- WHAT IS THE MEANING BEHIND YOUR NAME? WERE YOU NAMED FOR SOMEONE YOUR PARENTS ADMIRERD? FOR A RELATIVE? WERE YOU GIVEN A NICKNAME THAT HAD SPECIAL SIGNIFICANCE? IS THERE SOMEONE ELSE IN YOUR FAMILY WHO HAS A NAME THAT HAS SPECIAL MEANING?
- IMAGINE FOR A FEW MINUTES WHAT MIGHT BE YOUR MOST IMPORTANT PURPOSE(S) IN CREATING A TRUST. WHAT SYMBOLIC POSSIBILITIES DO YOU SEE FOR A NAME WHICH MIGHT CONNECT THE BENEFICIARIES WITH YOUR PURPOSE(S) FOR THE TRUST?

TAKE A FEW MINUTES TO CRAFT A SHORT PARAGRAPH IN THE TEXT BOX BELOW THAT EXPLAINS THE SYMBOLISM BEHIND THE NAME YOU WOULD CHOOSE FOR YOUR TRUST AND HOW THAT IS CONNECTED WITH YOUR PRINCIPAL PURPOSE(S) FOR THE TRUST.

**REVOLUTIONARY IDEAS AROUND TRANSFORMING
CASH GIFTS AND TANGIBLE PERSONAL PROPERTY
INTO PRICELESS TREASURES AND LASTING LEGACIES**

Secret #5

of the Purposeful Trust™

The Trust With a Personality and a Voice

Heirlooms: When a gift of tangible personal property includes the clients' story and the item's background, or when it is associated with a heartfelt purpose or value, that object is turned into a priceless treasure and a lasting legacy

KEY POINTS

- It seems like that at least 8 times out of 10 that the flash point for family rupture and squabbling siblings are items of great sentimental value.
- Most estate planners deal very superficially with items of tangible personal property. The most common method is to suggest to the client that they can designate who is to get what through a tangible personal property memorandum that will be incorporated by reference into the trust document. In my experience most clients don't ever get around to that task and the few that do are predominantly women.
- George Washington's "revolutionary purposeful will" was handwritten and sixteen pages in length. But in at least three places it dramatically illustrates how we can use the voice of the grantor to transform gifts of objects or cash into lasting legacies. No where is this felt more powerfully than in the charge our Founding Father made to his nephews regarding the swords they were left.
- The story of the West Virginia Miner's note illustrates how we can transform a cash gift into a lasting legacy.
- Scott Farnsworth's father-in-law provided another powerful example of how each object of tangible personal property may have a story associated with it that will make it much more meaningful to the

recipient.

- Purposeful conversations around heirlooms are a great tool to begin this transformational process with.

During the revolutionary war era, a gentlemen would no more leave his home or quarters without his sword then without his pants! It is very difficult for us today to appreciate how important a symbol the sword was in society. A sword was a status symbol for civilians.



One of George Washington's Swords

To a military officer it was an emblem suited to his rank and often worn as a visible reminder of his bravery. Swords often served to connect one generation of a family to another as they would be handed down from the person who had worn them to his posterity.

So it isn't surprising that we would find a gift of swords in Washington's will. What is unusual, however, is the wording of that gift. As you read these words, which are taken exactly from his handwritten sixteen page will, please consider if you hear the voice and vision of General Washington:

To each of my Nephews, William Augustine Washington, George Lewis, George Steptoe Washington, Bushrod Washington and Samuel Washington, I give one of the Swords or Cutteaux of which I may die possessed; and they are to chuse in the order they are named.—*These Swords are accompanied with an injunction not to unsheathe them for the purpose of shedding blood, except it be for self-defence, or in defence of their Country and its rights, and in the latter case, to keep them unsheathed, and prefer falling with them in their hands, to the relinquishment thereof.*

We know George Washington received many swords as tokens of recognition of his courage, service or greatness. He also purchased other

swords which he used for a variety of purposes beyond military service. Washington gave several swords away during his lifetime to recognize another individual's valor. There were at least seven swords left in his estate at his death.

You might be interested to understand the significance of the swords which his nephews were allowed to choose from so I will share some detail about two of those swords and where you can see them today.

The first sword chosen in George Washington's estate is considered to be his most elegant sword. Today it is exhibited at the New York State Library in Albany. It was sent to Washington in 1780 by Frederick the Great of Prussia with this message: "From the oldest General in the World to the Greatest". This sword was chosen by Washington's nephew, William Augustine Washington, passed down to his son and eventually donated by the family to the State of New York for exhibition.

Another of the five swords chosen by Washington's nephews was the '*Spanish dress sword*' or '*Mourning sword*.' It was worn by Washington at funerals and is seen in Gilbert Stuart's full-length portrait of the General. Inscribed on the sword are the words: "*Recte face Ice*" (Do what is right) and on the opposite side "*Nemine Timeas*" (Fear no man). Pursuant to General Washington's will, Judge Bushrod Washington chose this as the fourth sword. It was eventually passed down through the family until it ended up in the hands of the Mount Vernon Ladies Association where it is displayed today.

I have tried to imagine what these swords would have meant to the nephews of George Washington and their families. I envision that the nephews may not have dared wear the swords but instead may have chosen to display them prominently in their homes. When a guest might arrive I suspect they would be shown the sword and told the story of the charge that accompanied it to never use it except for self-defense or to defend the Republic and its rights, and in that latter case to die rather than relinquish the sword.

George Washington may only have intended to instill in his nephews a passionate commitment to defend the country he had fought so hard to

establish. I doubt he envisioned that one day his will would stand as the first and oldest example of a Purposeful Trust™. His handwritten will was truly revolutionary.

Here is another example of how Washington captured his voice and vision in his will which has special meaning to me because from my law school traces its roots to this gift:

George Washington's Charitable Bequest With a Vision Statement

That as it has always been a source of serious regret with me, to see the youth of these United states sent to foreign Countries for the purpose of Education, often before their minds were formed, or they had imbibed any adequate ideas of the happiness of their own;—contracting, too frequently, not only habits of dissipation & extravagance, but principles unfriendly to Republican Governmt. and to the true & genuine liberties of mankind; which thereafter are rarely overcome...*Looking anxiously forward to the accomplishment of so desirable an object as this is (in my estimation) my mind has not been able to contemplate any plan more likely to effect the measure than the establishment of a UNIVERSITY in a central part of the United States, to which the youth of fortune and talents from all parts thereof might be sent for the completion of their Education* in all branches of polite literature;—in arts and Sciences,—in acquiring knowledge in the principles of politics and good Government; —and (as a matter of infinite Importance in my judgment) by associating with each other, and forming friendships in Juvenile years, be enable to free themselves in a proper degree from those local prejudices and habitual jealousies which have been mentioned; and which, when carried to excess, are never failing sources of disquietude to the Public mind, and pregnant of mischievous consequences to this Country:—Under these impressions...I give and bequeath...towards the endowment of a University to be established within the limits of the District of Columbia...

The final example I will share with you from George Washington's will is the finest example I've found in that document of a purpose clause:

George Washington Speaks to the Trustees in Behalf of Beneficiaries

Upon the decease of my wife, it is my Will & desire that all the Slaves which I hold *in my own right* shall receive their freedom. —To emancipate them during her life, would, tho' earnestly wished by me, be attended with such insuperable difficulties...And whereas among those who will receive freedom according to this devise, there may be some, who from old age or bodily infirmities, and others who on account of their infancy, that will be unable to support themselves; it is my Will and desire that all...shall be comfortably cloathed & fed by my heirs while they live; —...And I do expressly forbid the Sale, or transportation out of the said Commonwealth, of any Slave I may die possessed of, under any pretence whatsoever. —*And I do most pointedly, and most solemnly enjoin upon my Executors...to see that this clause respecting Slaves...be religiously fulfilled.* (Washington went on to establish a trust fund with \$4,000 for the establishment of a Free school for educating the orphans and the children of poor and indigent slaves.)

The story about the busy executive and the West Virginia Miner's note is another example of the endless possibilities for transforming cash gifts into priceless and lasting legacies. You should review those materials in the workbook before proceeding to the next exercise.

THE REVOLUTIONARY WAR SWORDS AND THE FAMILY LOVE LETTER EXERCISE

- The purpose of the Revolutionary War Swords and the Family Love Letter Exercise is to assist our clients in seeing how they can transform gifts of tangible personal property or cash into priceless treasures and lasting legacies. We also want the client to understand that it is possible to make deep connections between their heirs and the stories which lie behind the tangible personal property.

THE REVOLUTIONARY WAR SWORDS AND THE FAMILY LOVE LETTER EXERCISE

- Do you have an item or items of tangible personal property that has great symbolic meaning to you or which is associated with a special story in your life?
 - What are those objects and what meaning or story is associated with them?

- What is the most significant object or heirloom that was given to you by a parent, spouse, or ancestor?
 - Did the person who gave this object or heirloom to you tell you a story about that item?

 - Has something special happened along your life path since you received that object or heirloom that is a story you might share to give this object greater meaning to its recipient?

You have received and should have read the story of the West Virginia Miners and the Busy Executive. Did you feel how powerfully the Busy Executive could let his grandchildren know he loved them if he shared with them a Family Love Letter and instructed his trustee to put the check for the cash gift inside of the envelope that contained that letter?

Do you want to create a West Virginia Miner's Note or Family Love Letter for a cash gift you might make to your children, grandchildren or to another family member or friend? If so, please circle or put a check mark next to each of the following topics you would like to make sure you cover in that note or letter:

- 1. Memories of trips or vacations when we have spent time together**
- 2. Things I admire about you**
- 3. Special talents or gifts I feel you have been given and the great potential I have seen in you**
- 4. Really difficult challenges I have seen you overcome and how I felt about your effort**
- 5. Things you said to me that really made me feel special or loved**
- 6. Gifts you gave me that I have treasured**

- 7. The accomplishments and recognition you have received and how I felt about them**
- 8. Things I wish I could have done with you**
- 9. What I hope you will do with your life**
- 10. What I hope you and the other members of the family will do in terms of continuing your relationship as family members when I'm not around.**

Is there something else you have thought of that you might be sure to cover in that note or letter:

When we get together, we will record your Purposeful Conversation around these topics so please bring this to the office for your next appointment.

**PLANTING SEEDS OF GRATITUDE:
WHAT THE NEW SCIENCE OF GRATITUDE CAN TEACH US
ABOUT INSULATING TRUST BENEFICIARIES AGAINST
ENTITLEMENT AND AFFLUENZA**

Secret #6

of the Purposeful Trust™

The Trust With a Personality and a Voice

*Fostering appreciation and gratitude in givers and receivers
enriches families generation after generation.*

KEY POINTS

- Scientific research has demonstrated that a practice of gratitude not only increases our happiness and well-being by 25%, on average, but also allows us to avoid the negative effects of entitlement and affluenza.
- There are three active ingredients necessary to trigger the power of gratitude and appreciation in the life of a trust beneficiary
- If not all three of these active ingredients are present then the potential positive impact of gratitude and appreciation can be lost
- We “plant seeds of gratitude” in trust documents by capturing the Trustmaker’s voice with regard to his/her feelings about the “Why” I am making this gift for your benefit and the “How” I hope this gift can enhance your life.
- A powerful practice we can suggest to trust beneficiaries is that they write in a gratitude journal five things each day for which they have felt profound gratitude or appreciation. These short statements shouldn’t focus on money itself but could focus on opportunities and benefits made possible through their inheritance or trust gift.
- A trust beneficiary might consider starting a distribution gratitude journal. But this idea will be most powerful if it starts with the beneficiary and it shouldn’t be forced on a beneficiary through an “incentive” provision.

Thanks! How the New Science of Gratitude Can Make You Happier by Dr. Robert

Emmons of the University of California at Davis documents the research that has been done over the last eleven years on the twin virtues of gratitude and appreciation. Dr. Emmons has identified three active ingredients that must be present for gratitude to produce its most powerful results in the life of the recipient of a good deed, gift, inheritance, etc.

First, the giver of the gift must be acting in a powerful state of emotional currency. The giver must feel strong desires of generosity and generativity. The giver (in our specific instance this would be the Trustmaker) should not be acting out of a desire to gain a personal tax deduction, to rule from the grave or to impose stipulations on the performance of the recipient of the gift (beneficiary).

Second, it is imperative the beneficiary be aware of these positive feelings of generosity, love and generativity. If the beneficiary isn't aware of the Trustmaker's positive feelings and intentions then this second active ingredient won't be operative. A dramatic example of this was related to me recently by a financial planner whose son decided to take his wife and newborn child back to meet with his grandmother. The son had not been particularly close to the grandmother. But each year, ever since he was a little boy, the grandmother would send him a check for the largest amount which could be given within the gift tax limits and not incur a taxable gift. He didn't understand the reasons behind these gifts or why the amount was calculated to a certain amount each year. After spending a few days at his grandmother's home, he boldly asked her why she made these annual gifts to him. She replied that she did it because she loved him; she

wanted to enhance his opportunities for getting a top rated education and to make his adult life easier. He was shocked by her answer. For years he had assumed that all he was to his grandmother was a tax deduction. When he explained this misunderstanding to her and confirmed that she had made the gift without any reduction in her income taxes, he felt for the first time a powerful sense of gratitude for her gifts of money which were triggered by her desire to give him a boost in life. This is the second active ingredient of gratitude at work.

The third active ingredient of gratitude is the practice of a gratitude journal. Why can't you just think about how grateful you are? Why do you have to sit down and take the time to write out short expressions of the profound gratitude and appreciation you have felt during the last 24 hours? Dr. Emmons shares a few hypothesis for why the gratitude journal works. But what is important for us to understand is that daily written expressions of gratitude are more powerful than weekly or monthly journaling about the good things that have happened in our life.

THE GRATITUDE REFLECTION EXERCISE

- Think of the nicest thing that anyone has ever done for you or the nicest gift that you have ever received.
- What do you know about the “why” behind this gift or good deed? What motivated the person who did this wonderful thing for you or made this significant gift to you?
- Think about Scott's Mr. Varnell story. How did Mr. Varnell's kindness, loving concern, and commitment to assist his student plant a seed of gratitude? How did that seed germinate and sprout when Scott was asked by Steve Lee to assist him with his essay for his medical school application? Can you see in this story how the seeds of gratitude can be powerful motivators to pay back and pay forward?

- What can we do to help clients plant seeds of gratitude in their Purposeful Trust™ so that their beneficiaries will feel the love, generosity and generativity behind their gift?
- Do you see how all three active ingredients for gratitude can come together in a Purposeful Gift or Purposeful Trust™?

GUIDELIGHTS AND GUIDELINES : CAPTURING THE CLIENTS' EXPERIENTIAL REFLECTIONS AND LIFE WISDOM

Secret #7

of the Purposeful Trust™

The Trust With a Personality and a Voice

The clients' wisdom, stories and reflections are the best sources of Guidelights and Guidelines for the Purposeful Trust™.

KEY POINTS

- A Trustmaker can have a much greater positive impact on beneficiaries by sharing his or her life wisdom through Guidelights and Guidelines than by edicts.
- Purposeful Conversations are the ideal tool to mine these nuggets of life wisdom and experiential reflections.
- Guidelights and Guidelines are actually a form of an “owner’s manual” that the beneficiary can refer to whenever they have questions on what is expected of them and how they can make sure the trust is fulfilling all of its intended purposes in terms of enhancing their life.
- Incentive Trusts can actually produce negative and unintended consequences

I often ask trust officers what is the most difficult task they face. It isn't unusual that I'm told it is “trying to figure out what the grantor intended.” Why is it that so often trust document leave a trustee, and the beneficiaries, wondering what the grantor expected? What if we thought of the “form” of a trust as a dialogue between the grantor and the trustee. Having guidelines to assist the trustee in ascertaining how the grantor might have handled a difficult situation that presents itself years after the grantor's death would be extremely positive.

Incentive Trusts are a step in this direction. But too often the Incentive Trust handcuffs the trustee's ability to react to unforeseen circumstances which threaten the assumptions that the grantor's incentives were built on.

What if we didn't just stop at the possibility of a dialogue between grantor and trustee and instead boldly ventured into the opportunity of a three way conversation—one which would also include the beneficiary. Is there a way that the grantor can share reflections, life experiences, and the accumulation of individual and family wisdom with the beneficiary? This approach feels and sounds quite different from the Decalogue of beneficiary do's and don'ts that the trustee is expected to enforce in an Incentive Trust. I'm not going to illustrate the tone of an Incentive Trust. But let me give you an example of what we might typically expect to see in terms of guidelines to the trustee on how to exercise discretion in a trust.

Guidelines to the Trustee: Generally, the trustee should consider (1) the age of the beneficiary, (2) the cost of the beneficiary's support, maintenance, education and health, (3) any income the beneficiary may have from other sources known to the trustee, (4) the effect of any distribution on the beneficiary's and the trust's income and transfer tax liability, (5) the extent to which any distribution will enhance the beneficiary's prospects for becoming or remaining productive and self-sufficient and (6) any other factor the trustee considers relevant.

There isn't anything inherently wrong in the language in the example above. But pause for a moment to reflect on how this "sounds". Notice that in this approach the grantor speaks only to the trustee. Also, notice how many of these guidelines are focusing on financial issues. And then there is the suggestion to the trustee that they consider any other factor which they feel is relevant. But relevant to what?

In this first example we do hear a faint hint of the grantor's wish that the beneficiary will become self-sufficient and productive. Consider how you would feel as the beneficiary of this trust. What does that one-sided dialogue between grantor and trustee do in terms of helping you understand the opportunities the grantor wanted to extend to you?

What would you learn from this about what the grantor intended your role and responsibilities would be with regard to the trust gift you have received?

Now let's contrast that traditional document with one where the grantor speaks to both the trustee and the beneficiaries by sharing more purposeful guidelines.

General Considerations: Generally, the Trustees should consider:

- (a) the best interests of my child, *****, who is the primary beneficiary of the Trust, through the lens of the purposes and goals of this Trust;
- (b) the beneficiary's physical, emotional, and spiritual needs and well-being;
- (c) any income the beneficiary may have from other sources known to the Trustee;
- (d) the effect of any distribution on the beneficiary's income and transfer tax liability and on the Trust's taxable income;
- (e) the extent to which any distribution will enhance the beneficiary's prospects for becoming or remaining productive and self-sufficient;
- (f) the extent to which any distribution or opportunity could contribute to the development of negative attitudes such as entitlement, complacency, and narcissism.
- (g) external factors and circumstances which may threaten the beneficiary's financial security or progress towards financial maturity and independence;
- (h) encouraging the beneficiary to develop a life plan/goals which are both challenging and realistic in terms of intellectual prowess, emotional maturity and career development.
- (i) how the Trustee might utilize the Trust's assets to assist each beneficiary achieve the full measure of her potential; and
- (j) any other factors the Trustee considers relevant to the purposes and intent that I have expressed elsewhere in this document. While each of these general considerations is something the Trustees should monitor, I have sufficient confidence in the trustees to leave it to them to determine how much weight to place on each of these factors, and to balance their analysis with careful analysis of the overriding purposes, goals and guidelines of this Agreement.

Would you agree these guidelines are more helpful than the first example? This second example also illustrates the possibility that guidelines can be significantly boosted as a tool to help a trustee when the trust instrument also contains clear statements of the grantor's intent as well as well defined purpose clauses.

The final example I will share with you has been redacted to protect the privacy of the client who first introduced me to the opportunity to turn a trust document

into a three way conversation between grantor, trustee and beneficiary. The story behind this example was that my client had gone through a divorce. The client was getting ready to leave on a trip to Europe and the client's father was deeply concerned that if the client didn't get his estate plan brought up to date tragic results might occur. So under duress the client called me. It was obvious he didn't want to be doing this and he appeared to lack the planning energy and vision to put together a plan that would work well with the incredible level of wealth we were dealing with.

The client's father was a business tycoon whose fortune was in nine digits and the client's own wealth was quite significant. We had less than five days to get this planning in place. And as we were finishing our first call, I was inspired to ask the client to spend thirty minutes in a "thinking exercise" that would be relevant to the estate planning document I was preparing. I asked the client to pretend that he had just learned that he only had thirty minutes to live. He would have time to place a call to each of his children and to spend 15 minutes with each of them. In addition to telling them how much he loved them, what could he compress into that 15 minute conversation that would be of lasting value to them?

Then I suggested the client think of all of the successes and bumps along the road of life he had encountered. What were the secrets behind those successes? What did he need to know to avoid the mistakes and the heartaches that he ran into? I couldn't tell if the client was really catching on to what I was suggesting but I concluded the call by suggesting he write down a brief note to remind him of each nugget of life wisdom or experience he would share with his children to prepare them for the challenges that lay ahead and then asked that he call me back and permit me to record his voice sharing these reflections with his family.

More than three hours passed and I had almost given up hope that he would call. But when he did and I turned on the tape recorder he proceeded to talk for over an hour and here is the marvelous life wisdom we captured and which I then wove into the trust document as a dialogue between grantor, trustees and beneficiaries:

Specific Guidelines for the Trustees and Beneficiary: I feel it would be valuable to share with the beneficiary as well as the Trustees some principles and core values which have assisted our family in achieving a level of financial success that affords us many opportunities.

Since the assets which have been or will be contributed to this trust have either come directly from my parents or from investments or investment

opportunities with which they have had some significant connection, it is also appropriate to attempt to summarize the values which have guided our family in the successes we have achieved. Here are the nuggets of wisdom which I have mined from my own life experiences and from my parents and which I hope will provide positive direction and encouragement to the beneficiary as she faces the myriad challenges that lie ahead of her:

- 1. Money you have earned is much more satisfying than money you have been given, but you should not feel guilty about the money you inherit or are given by your family. Remember the pleasure it gives us to provide you with certain things. Your obligation is to use it wisely and honorably, and not squander it. My intent is to give you a “leg up” in your pursuits, not to eliminate your obligation to become a productive and self-sufficient person. View the distributions you receive as a “hand up” rather than a handout.**
- 2. Make certain that you can always take care of yourself. Do not depend on someone else to support you. Even if you choose not to work, you should have a set of skills that will enable you to support yourself and your dependents should circumstances make it necessary.**
- 3. Be honest in your business and personal life.**
- 4. Don’t borrow money if you can possibly avoid it. If you must borrow money, make repaying the loan your first priority.**
- 5. Using a credit card is the dumbest form of borrowing money. Pay off your entire balance every month.**
- 6. If you cannot afford to pay cash for a luxury item (vacation, fancy car, jewelry), you cannot afford it. Borrowing money for an item you cannot afford is stupid.**
- 7. Wealth is about relationships and friends. It is not about dollars and cents.**
- 8. Don’t ever try to control anyone with money.**
- 9. Don’t risk what you can’t afford to lose.**

- 10. Take some risks if you can afford to lose your investment. Gamble on someone or something you believe in. If your gamble does not pay off, walk away with what you have learned.**
- 11. Don't try to squeeze the last dollar out of a deal. When you make a deal, neither you nor the person you are dealing with should feel "shafted."**
- 12. Be generous, but do not give money away because you feel guilty about what you have or to garner kudos.**
- 13. When making a charitable contribution, consider doing it anonymously. If you can get a tax benefit from a charitable contribution, that is good, but it should not be the primary motivation for your alms. Also, don't be content to merely be a charitable check-writer. Don't expect or seek to be at the headtable or on the board of directors of the high profile charities in your community. You will get much more than a tax deduction and a name in the program when you roll up your sleeves and serve people rather than burn your time in committee meetings.**
- 14. Our Uncle John is perhaps the finest example I've seen of someone who moves quietly, without any regard for recognition or appreciation, to assist the poorest of the poor. He won't talk about it but he could have been appointed to the U.S. Senate. It would have forced him to give up his privacy as well as the opportunities to teach and to organize like-minded and compassionate people at a grass-roots level. He chose to work in the trenches rather than walks the halls of Congress. There is nothing wrong with public service and if you feel drawn to that pursue it. But never forget our roots and our family's tradition of working hard but sharing generously and quietly.**
- 15. When making investments, keep it simple. Unless you become a professional in that field, you should avoid complicated investment vehicles. You can make money with your money with a few simple principles. Do not get greedy and do not believe you can predict markets – if it was that easy everyone would be rich. Use common sense to adopt a logical long-term investment philosophy and stick to it, making changes as appropriate as circumstances change (e.g., your age, your need for income, market forces, etc.).**

- 16. Don't underestimate the value of objective, professional advice in any phase of life, including investments and financial planning. You know how important my professional relationship and friendship with our family's CPA has been. I would never dream of making a major move without getting Pyles' advice.**
- 17. If you choose a job in a field you love, you won't work a day the rest of your life. So be sure you find a career that you like – maybe even love. Do not be afraid to change your profession if you find yourself dissatisfied. Do a great job at whatever you decide to do – be it waiting tables or brain surgery.**
- 18. Make sure you can always look yourself in the eye. If you do something in your life of which you are ashamed or embarrassed, do not hide – make it right, apologize, make amends. Get up every morning and look in the mirror and see a happy person, without having to avert your eyes, and then set about doing the things you are passionate about.**
- 19. My father always told me never to trust anyone from Dallas or Salt Lake City. He was right!!!**
- 20. Follow your dreams. I do not expect you to follow my dreams – either by entering the drilling business or by living in New Mexico. I do expect you to find a life that is as satisfying to you as mine has been to me.**

If We Adopt a “How Would I Want to Be Treated as a Beneficiary” Mindset, Which Style of Guidelines and Dialogue Would You Prefer?

THE LAST CONVERSATION EXERCISE

- The purpose of the Last Conversation Exercise is to give you an opportunity to reflect on all of your life experiences and the wisdom which has been handed down to you by ancestors or others you admire. If you had only limited time for a final conversation with the beneficiaries of your Purposeful Trust™ before you passed away, what would you say to them in addition to the expressions of how much you love them. What nuggets of life wisdom and your experiential reflections can you share with them.
- After you have reflected and made notes of what you might try to squeeze into such a Last Conversation, please allow your exercise partner to digitally record your statement.
- While you are digitally recording your partner's Last Conversation, please take notes of which of these nuggets of life wisdom you would feel would be of greatest benefit to your partner's heirs and beneficiaries. Then share those thoughts with your partner after he or she has finished this ten minute Last Conversation.