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Walking Your Client Through the Philanthropy Maze

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Thanks in part to the work done by capable investment managers, the number of private family foundations is growing at a fast past. Likewise, donor-advised funds at community foundations and charitable foundations of investment companies are mushrooming. Some of this philanthropy is taking place through bequests from large estates. Many wealthy individuals (e.g., Bill Gates and Warren Buffett) are transferring their wealth to private foundations in their own lifetime.

Is it part of your role as an investment manager to advise your clients regarding philanthropy? It can be, if you, yourself, are well informed in this field, or know where to look for expertise for guiding your clients into this terra incognita.

Where Is Philanthropy Today?

While high net worth individuals give at the same rate as the general public – about 70% of people across socio-economic lines give to charity at some level every year – when it comes to the "ultimate gift" of a major bequest to charity or a private foundation, big-time donors just forget about it. According to the 2001 figures of people with estates between $5-$10 million, only 7.57% made charitable bequests. The figures (9.69%) improve only slightly for those with estates between $10-$20 million. It's only the mega-wealthy – persons with estates in excess of $20 million – who make the figure jump into two figures and then just barely (20.64%).

If advisors know that a private foundation is an appropriate route for wealth retention and for satisfying philanthropic impulse, why aren't more wealthy Americans going this route? Is it because advisors – not only investment managers but attorneys and accountants as well – are delinquent in their duties to remind or suggest charitable options? Or perhaps it is that the advisors and the families don't really understand their responsibilities as trustees of wealth.

IF ADVISORS KNOW THAT A PRIVATE FOUNDATION IS AN APPROPRIATE ROUTE FOR WEALTH RETENTION AND FOR SATISFYING PHILANTHROPIC IMPULSE, WHY AREN'T MORE WEALTHY AMERICANS GOING THIS ROUTE?

Aside from a lack of charitable intent or understanding the responsibilities of wealth, there is little excuse for not giving because the options for planned giving are replete. Helping the wealthy to decide between private family foundations, donor-advised funds, lead trusts, charitable remainder unitrusts, etc. calls for trust and coordination between you and your clients' other legal and financial advisors. For the purpose of this discussion, we will look simply down the path to private family foundations.

Understanding the Responsibilities and Ethics of Wealth

To clarify for you and your client just what are those responsibilities are, the Caux Round Table has drafted *Principles for the Ownership of Wealth*. The Caux Round Table is an international organization of top executives of multi-national corporations who are concerned with business ethics. In 1986, they crafted a code of ethical principles for their members and by extension, all businesses. Realizing that top managers in these companies generally benefit greatly in their financial lives due to their positions, the Caux Round Table membership devised a personal code for themselves as trustees of wealth; and equally by extension, this code can be followed by all in similar positions. The following are points covered by *Principles for the Ownership of Wealth:*

Fundamental Principle

The ownership of wealth entails stewardship. The ends of holding wealth encompass more than meeting self-centered desires for dominion and indulgence. There is a fiduciary aspect to the ownership of capital. Wealth is to be consciously devoted to meeting the

needs of society, of others, and the challenges of the future. Wealth should be of benefit to society.

General Principles

1. Wealth should be used to enhance other forms of capital: finance, physical, human, reputational and social. First, wealth should be used to sustain and improve the institutions that permit the creation of wealth. Accumulated over time, wealth can influence the future. Wise use of wealth avoids immediate consumption and invests in the creation of better outcomes for future generations.
2. The desires of owners for self-satisfaction should be balanced against society's need for robust accumulation of new capital in all forms. Philanthropy is incumbent upon those who possess wealth. The social function of wealth is to finance a greater good. Those who are to inherit wealth should be expected to assume the fiduciary responsibilities of stewardship that accompany the possession of wealth.
3. Wealth must support the creation of social capital. Social capital – the reality of the social compact incubating successful wealth creation and permitting the actualization of human dignity – is created over time by governments and civil society. From the rule of law to physical infrastructures, from the quality of a society's moral integrity and transparency of its decision-making to the depth and vitality of its culture, social capital demands investment of time, money, imagination and leadership. Wealth should pay its fair share in taxes to support public programs which enhance social capital and should invest in the private creation of social capital through philanthropy.
4. Wealth should be invested in institutions enhancing human capital. Education and culture can be funded from public budgets on a consumption basis, but wealth should shoulder the principal responsibility in a society of providing permanent endowments for institutions of education and culture.
5. Private wealth should supplement public expenditures for the social safety net. Private charity and philanthropy should respond to the health and human services needs of the less fortunate.
6. No one is morally entitled to the use and enjoyment of wealth procured by fraud, corruption, theft or other abuse of power. Those who control such wealth should make restitution of such wealth to public bodies or civil society. Use of private property rights to shelter such wealth is ethically suspect.

Your clients may or may not agree with all of these points, but you cannot go wrong by sharing them when the time is right. Whether your client chooses to address these principles by making a direct bequest to a charity or by deferring the gift and institutionalizing their philanthropy in a family foundation, these principles are powerful tools to help guide them as stewards of wealth.

WHETHER YOUR CLIENT CHOOSES TO ADDRESS THESE PRINCIPLES BY MAKING A DIRECT BEQUEST TO A CHARITY OR BY DEFERRING THE GIFT AND INSTITUTIONALIZING THEIR PHILANTHROPY IN A FAMILY FOUNDATION, THESE PRINCIPLES ARE POWERFUL TOOLS TO HELP GUIDE THEM AS STEWARDS OF WEALTH

Passing on the values outlined in the *Principles for the Ownership of Wealth* and the family's own values is just as important as passing on a family's wealth. Ensuring that the values live beyond the second generation is difficult. Grandchildren and grandparents seldom live in close proximity in this age of easy mobility. Developing a strong relationship requires tremendous commitment between all generations to give the time needed to forge bonds, not to mention the financial means to travel and communicate across many miles.

Learning from a Case Study

How can a family overcome these difficulties and tie together personal values and financial assets? Wise estate planning is a good part of the answer. Here's the story of one family and its approach to passing on values along with wealth.

Jack and Darlene Wallace are in their early 50s. Jack owns a distribution business, and the business owns the building where it operates. He has a brother-in-law who is an investment manager. Darlene has been an administrator at several area non-profit organizations. Their two sons, Jim and Dennis, are both married; and each has a child. Jim and Dennis are employed in the family distribution business – Jim in sales and Dennis in accounting and administration.

Jack and Darlene have a small amount of money in the retirement plan, which was installed for the benefit of their 22 employees. Jack and Darlene have decided to create a testamentary private foundation and fund it with resources from their qualified plan and their IRA. Why was this a good choice for them? Under current estate tax and income tax law, their qualified plans will be taxed at about 70%. Since this is such a high rate, they feel it is a better decision to give it away wisely to charity rather than attempt to retain the assets within the family. Their only other alternative is to consider a stretch IRA with the qualified plan. However, this might lead a legacy of capital in a tax-free environment for their two sons.

Over the course of their marriage, Jack and Darlene had given to certain charities generously, particularly those that touched their lives closely: their church, their universities, the various organizations where Darlene had worked. Bequests look backward, and they wanted their foundation to look forward while still perpetuating their values. How did the Wallaces create a values-driven agenda for their foundation?

The Wallaces became connected to a philanthropy management consultant through their investment manager. Planning for a family foundation is more than filing legal forms and managing investments. When establishing their

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foundation, the Wallaces wanted to provide their sons and their descendents with guidelines for giving that reflected Jack and Darlene's lives and values. After all, they were the ones who earned the money to make the whole thing possible.

Making grants is not something that most people learn at their parents' knees. Giving for most people is part of church stewardship, responding to a mail or phone appeal, a telethon or participating in a fundraising event. The money goes to the organization, which then decides how it will be used. Making grants is shaping projects to fit with the vision and the mission of the foundation. While philanthropy consultants have hundreds of questions to ask your clients to help them arrive at the right answers for their own families, you, as the initial contact, should be aware of some of the basic issues your clients must address.

Asking the Right Questions

The philanthropy consultant sat down with the Wallaces at their home and conducted a workshop to help them define their purpose for the foundation. This is different from an ethical will since it deals with money as well as values. That mission statement needed to clearly and unmistakably reflect their values and goals, providing guidance for future generations no matter how society changes in the years to come. The Wallaces had to state clearly and unequivocally what they wished to accomplish by establishing this foundation. They stated what they wish never to change. They indicated where future generations have discretion in making additions and changes. This was the hardest part of the process, for everything else dependent on it.

Jack and Darlene were presented with several different issues faced by foundation trustees. They were guided through their discussion by the consultant who presented them with questions and examples to help them make appropriate decisions. The key points of discussion were:

- Who will be and who will choose decision-makers? Issues of succession must be considered in the step regarding selection of trustees. The future cohesiveness of the family can depend on decisions in this area. When done well, as demonstrated by the current generation of the Rockefellers, it can unite the family through bonds of shared positive decisions and experiences. When done poorly, it can have devastating effects. Jessie O'Neill in her book, *The Golden Ghetto: The Psychology of Affluence* (Minnesota: Hazelden, 1977) describes a personal experience of the extreme results of the failure to provide a legacy of ethical and financial planning. The vacuum of planning and teaching wealth management had long-term negative effects on her life that required years of therapy and introspection to remedy.
- Timing: Scheduling decision-making regarding grants relates to the issue of succession. A regular schedule that is flexible can turn grants meetings into family reunions. How often should the trustees meet each year? A balance must be struck that is respectful of people's time and yet is responsive to the needs of the charities. Another option comes with the expansion of electronic communications as grants meetings can be more easily accomplished on a virtual basis.
- How do they want to give grants? The methods of grantmaking that the Wallaces chose helped to define their foundation. Did they want to match others in fund-drives or issue their own challenge grants? Did they want to make only large gifts or were they happy to make smaller gifts and "spread the wealth?" The Kresge Foundation's policy of providing only challenge-grants has allowed it to leverage the effectiveness of its money. Andrew Carnegie's legacy of grants for "bricks and mortar" to build libraries across the country have made the "Carnegie Library" a fixture in small towns and a catchphrase in the American lexicon.

WHILE PHILANTHROPY CONSULTANTS HAVE HUNDREDS OF QUESTIONS TO ASK YOUR CLIENTS TO HELP THEM ARRIVE AT THE RIGHT ANSWERS FOR THEIR OWN FAMILIES, YOU, AS THE INITIAL CONTACT, SHOULD BE AWARE OF SOME OF THE BASIC ISSUES YOUR CLIENTS MUST ADDRESS

- What would be their foundation's dollar limits/goals? Should trustees have the power to reach into the endowment in order to make extraordinary gifts? Should they be able to access the endowment in bad times in order to make good on multi-year pledges?
- On what program areas should the foundation be focused? The Wallaces found this easy since their family had lived in the same area for several generations and had strong ties to several educational and community organizations. This can be difficult, even within the often broad guidelines offered in the mission. Geographic, philosophical, religious and other interests can compete or clash among the current generation, not to mention those to come. Foundations often pre-select grantees and don't accept proposals. Others set limitations on requests in regard to program area, geographic or other criteria that keep grants within the foundation's mission.
- What kind of information should trustees have before making funding decisions? Will a letter from the organization be enough, or do the trustees want to create an application form? The Wallaces knew another family with a foundation and borrowed freely from them in creating a simple, two-page application form.
- How can they be sure that the charity actually does what it says it will do with their grant? Asking charities to provide reports or host site visits will allow trustees to evaluate the effectiveness of a grant. If they are open and honest, trustees can feel confident about making another grant. If not, the charity must explain what happened or risk losing future grants.
- Questions of recognition and anonymity must be addressed from the start. The

Wallace family's name over a door may be a point of pride, or it may signal "open season" for dozens of fundraisers to come asking for similar grants.

- Is it important to review the policies and procedures of the foundation from time to time? Establishing criteria for review are important. Foundations, if they are to be living institutions, change and evolve.

What did the Wallaces accomplish by making a comprehensive plan for their family foundation? In the short term, by instituting policies and procedures, they minimized and simplified the daunting task of screening, reviewing, evaluating and choosing which proposals they will consider for funding. If the foundation's administration stays largely in the hands of Wallace family members through the generations, it saves them time and confusion. If the foundation transfers to the hands of a professional administrator, planning will minimize the administrative fees extracted from the foundation's endowment for that service.

After their initial meeting with the consultant, the Wallaces invited her to return for a brief meeting that included Jim and Dennis. Jack explained how the foundation would work: Jim and Dennis would not own the endowment. It could not be used for their personal benefit. They would, however, control it; and so, they could help it grow and make the decisions about distribution of the interest.

Jim and Dennis were excited with the vision of this legacy. They will receive bequests and annuities that will provide for them generously and securely through Jack and Darlene's estates, in addition to their stakes in the family business. Now the family is looking at additional trust and insurance policies that can be used to increase their planned giving to charities of their choice or the family foundation.

What happened next surprised Jack and Darlene in a very pleasant way: Their sons inquired why they had to wait for their parents to pass away to start giving in this way! They were so excited and so interested in the mission of the foundation that they wanted to get the ball rolling right away. It was clear that the Wallaces made wise choices in stating their mission – their values – in a way that communicated clearly and resonated well with the next generation.

Who Are Philanthropy Consultants?

You, the investment manager, have done your job in establishing the need for a philanthropy advisor by asking these questions. Who, then, are these philanthropy consultants? Philanthropy consultants are concerned with helping clients give money away wisely and well, while sustaining personal values into future generations.

Families who want to set up private foundation or donor-advised funds also have resources beyond the individual philanthropy management consultant. The Association of Small Foundations (www.smallfoundations.org) has information and conferences to help their members; and while the Council on Foundations (www.cof.org) is oriented to larger institutions, itstill has a wealth of information to assist the novice. Some states have local affiliates of these organizations. The Philanthropic Initiative ("TPI," www.tpi.org), a non-profit group that provides philanthropy consulting and other educational and research services reports that as of year 2000 there were some 150 philanthropy consultants across the United States. TPI observes that their own incapacity to address the demand for philanthropy consultants leads them to observe that more professionals are needed in this field.

MOST [PHILANTHROPY CONSULTANTS] SEEM TO OFFER TWO BASIC SERVICES: (1) INITIAL ASSISTANCE IN PLANNING THE PROGRAMMATIC AND ADMINISTRATIVE STRUCTURE OF THE PHILANTHROPIC INSTITUTION; AND (2) LONG-TERM ASSISTANCE IN ADMINISTRATION

So what is it that philanthropy consultants do that attorneys, accountants and investment managers don't? Since the field is still in the stage of defining itself, there is a wide range of services that philanthropy consultants offer. Most seem to offer two basic services:

1. Initial assistance in planning the programmatic and administrative structure of the philanthropic institution.
2. Long-term assistance in administration.

Virtually all help their clients to define the philosophical and administrative structure of their new foundations. They can provide the same service for persons who wish to be true "advisors" to their donor-advised funds at community foundations like American Endowment Foundation (www.aefonline.org).

Planning involves numerous steps that are fairly consistent across philanthropy consultants and family wealth counselors. In addition to guiding persons and families of wealth through this planning process, many philanthropy consultants offer administrative services that complement those offered by the attorney, accountant, financial planner and/or investment manager. Depending on the consulting firm, they will do due diligence on requests, screen proposals, perform evaluations, represent the donors at recognition functions, issue press releases and conduct grants meetings, in addition to handling correspondence between trustees, development officers, other advisors, etc.

Some may argue that accountants or attorneys already do these services, and that is true to a certain extent. Such professionals may offer advice on appropriate administrative procedures regarding that area of foundation administration and provide accounting and tax services for the new charity. Few are prepared, however, to address the programmatic framework or grant decision-making. Others may prefer not to be involved in these issues that are so closely tied to the client's intimate family and personal interests and values.

Investment managers may be involved in the long-term life of the private foundation by managing its assets. Although most investment managers and financial planners have the same reservations as accountants and attorneys about

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becoming involved in programming, a small group has some training in this area.

Many philanthropy consultants come out of fundraising. They have worked in the area of major and planned giving, and are familiar with a variety of charitable vehicles for estate planning. They have worked with foundation trustees and with families with high net worth. Over the years, they have come to recognize the elements required for putting together a rational, philanthropic legacy. Philanthropy consulting is an emerging field, and consultants have yet to form an association. Those who come from a fundraising background often maintain membership in of the Association of Fundraising Professionals (www.afpnet.org) or the National Committee on Planned Giving (www.ncpg.org) and adhere to their ethical standards. Others who come from the field of philanthropy may, after having served as program officers for one or another private or corporate foundation, strike out on their own to share what they know with those who need it.

The majority of philanthropy consultants are home-officers. They operate locally or regionally. They offer the distinct advantage of having in-depth knowledge of and contacts with organizations in their area. For those who provide administration, their proximity to the principal trustees and the other foundation and estate advisors is vital in maintaining strong personal and professional communications.

Finding philanthropy consultants is difficult, especially in smaller towns or very large cities. Due to the newness of the field, they cannot advertise in general interest publications; although some are listed in the *Chronicle of Philanthropy*. Consulting with a local chapter of the National Council on Planned Giving may reveal a contact. Consultants who are aggressive in marketing their services may have spoken before chapter meetings of professional associations of attorneys, CPAs, etc.; and those associations may have information on file. The Council on Foundations lists the philanthropy consultants and other advisors who meet their professional standards.

Fees are generally within the range of other financial and legal advisors ($100-$250/hour), or they may charge a flat fee for the planning program ($5,000-$100,000). The fees can be charged to the private foundation as administrative expenses.

Summary

Persons who can benefit from working with a philanthropy consultant would do well to keep looking until they find one. The expertise these consultants provide can save a family years of fruitless effort and experimentation – time that could have been better spent in effective philanthropy. The philanthropy advisor is another member of the team that high net worth families need when private foundations are part of their comprehensive plan. They offer knowledge and expertise in areas that are outside the usual bailiwick of financial planners, and since they represent no specific charity, their allegiance is to your client. They assure that the estate funds you helped clients to accumulate will be used well and wisely.

Creating a family foundation that is legal, fiscally sound and philosophically coherent is a team effort between your family and responsible professional advisers. The resources are out there for you to guide your clients and to help create that team. If properly done, like the Wallace family, it will build a new institution and unite a family with strong, unifying values forever. ■

About the Author

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