When a Trust Divides

How a corporate trustee acts as a referee.

A million dollar windfall does not land quietly, especially when it lands on a family in strife.

So was the case for a family whom a colleague of mine counseled. When the father received a million dollar settlement, he was initially poor and then suddenly wealthy. But the money was not placed under his control. Diagnosed with early onset dementia, he had been declared mentally incompetent for over a decade. His two adult children (a son and a daughter) were named his guardians, and made all his health decisions. With the settlement, they were also entrusted with his financial decisions.

A million dollars in many ways was a blessing for the client, who is now cared for at a nursing home. The money could cover years of skyrocketing health care costs. But it also created headaches and heartache. Individually, the siblings had ideas of how to spend the money to care for their father. They rarely agreed on decisions and often questioned each other's motives.

My colleague says that to this day brother and sister bicker about how to manage the trust. They both want what's best for dad, but not if it benefits one sibling over the other. A decision to buy a car outfitted for their wheelchair-bound father, for instance, became a point of contention. Carrying the burden of driving dad around to family events, the daughter wanted the vehicle, even though to get it outfitted would drain their father's trust of tens of thousands of dollars. The son weighed that expense against the future. "That money could pay for another year of care for dad," he reasoned.

In more honest moments, he admitted that he felt it was unfair that his sister would benefit from a new vehicle, and he wouldn't. Often, existing sibling rivalry is amplified by a new surge of money.

Objective One: Objectivity and Trust

This story is illustrative of one of the many conflicts that play out in families when a trust is in play.

What to do? Here's where a trusted fiduciary like the Trust Company can help. In the case of the siblings above, a fiduciary takes charge of the money, pays the bills, and ensures that the parent benefits from wise financial decisions. If the benefactor has passed away, the fiduciary ensures that the trust's purpose is carried out responsibly. Trust Company provides objectivity and looks after the best interest of those we are serving when family members have a lot of emotional freight riding on their decisions.

I like to compare professional fiduciaries who serve as trustees to referees. Like referees, trustees are impartial and objective. The benefactor's estate planning document grants them the authority to help make the right calls to benefit the named beneficiaries. The goal is impartiality.

Being a trustee is not a misnomer; every relationship with a trustee is built on trust. Family members entrust Trust Company with the power to overrule when we believe that emotion or bias is clouding judgment, or tempting individuals to step over a line. It's too easy for family members to make self-serving decisions. Some yield to the temptation of taking money from a trust fund with the intent of paying it back. Because there is no legal accountability—no checks and balances—embezzlement can occur. When it is noticed by family members, the accusations often create an unpassable chasm of conflict in the family.

Ronald Reagan coined the phrase, "Trust, but verify." Corporate trustees bring verification and accountability to the trust management. When a fiduciary is hired as a corporate trustee, they are held accountable by the law and disburse the money accordingly.

The Best Interest of All

A grandparent set up a trust for her five grandchildren, all in the same family. She hired a fiduciary to ensure each grandchild would benefit equally from the inheritance. The oldest sibling is a star saxophone player, a music celebrity in his town. He wishes to attend Julliard School to study music. At this point, his two younger sisters and two younger brothers don't have his natural abilities, so the money gravitates to the brightest star. The parents have been concentrating on their eldest son's endeavors, which disproportionately influences family decisions.

When the parents asked the trustee for money to cover an all-expense paid family trip to New York City to coincide with their son's participation in a national jazz festival (the estimated cost was several thousand dollars), the fiduciary, as a financial referee, said, "No." In making the decision, the trustee considered, "There are four other people in the family to benefit from this trust; what are their future needs?" Perhaps one day his brothers and sisters will develop an aptitude that will demand an equal share of trust assets.

Parents may love all their children the same, but sometimes one child's particular needs demand the lion's share of their attention. Professional trustees step in to establish fairness for all involved, and to look out for future needs when a present and compelling need might drain the trust.

The Benefits of a Trustee in Times of Transition

Family financial transactions become especially important during times of transition. Trust Company takes pride in caring for our clients through these times. An especially difficult transition is the physical or mental decline of a parent who has always been the provider and caregiver. Now the tables are turned, and the children have to consider their roles in caring for the parent. One of the more vexing questions is, “Who is going to manage the money?” The one who steps up takes on the unenviable burden of having to explain financial decisions to their siblings, and often lives under a cloud of suspicion. Transparency is crucial, but difficult to maintain.

A fiduciary such as Trust Company provides an inexpensive financial solution that works for everybody, and where no one family member has the upper hand. A professional trustee ensures a parent’s financial care with complete transparency, so that the children are free to focus on loving their parent. As a parent’s life fades, they can draw closer together.

Money changes family dynamics, and not always for the better. Money is an intensifier. It can polarize families, and accentuate a person’s financial tendencies. A saver becomes a miser, and a spender a spendthrift. Loved ones can become myopic, focusing on an immediate need and ignoring the long view and the ramifications for others in the family. Emotionally charged financial decisions are rarely productive in the long run.

A trusted fiduciary has the time and the expertise to take on the finances, and help remove the stressors so that wealth can draw a family together and increase their well-being.