



COMMITTEE REPORT: THE MODERN PRACTICE

By **Donna LeBlanc**

Finding the Right Words

Bring clients into alignment with the benefactor's original intent

A significant part of my practice involves helping trustees navigate the unpredictable world of client relationships by identifying and managing critical conversations. In that landscape, language and communication style are key; so is understanding the client's motivations and concerns.

Interpersonal Dynamics

Retaining a long-term client often hinges on a single, high value conversation with the second, third or even fourth generation, over the benefactor's original intent versus the present client's vision of entitlement, which may be inflated and out of touch with reality. Much is at stake for both of you, so having powerful tools in hand at a moment like this is critical.

Benefactors are often self-made men and women who overcame many hardships growing up. As a result, one of the heartfelt rewards for the benefactor is being able to give their children the things they never had.

As one 25 year old stated at a family governance meeting I attended:

How dare you expect me to provide for myself when you have done everything for me my entire life. If I had a school problem, you made it go away, when I didn't get into the cheerleading squad you made that happen. I didn't pass entrance exams and got in anyway. Now you are mad at me because I expect to be taken care of?

Everyone involved in these interpersonal dynamics is

innocent. Parents never intend to create adult dependency or in any way handicap their kids. Those grown-up kids are only fighting for a quality of life they've come to expect. Unwittingly, they can end up opposing each other and/or their family to get their needs met and inevitably, the wealth management professional is in the middle of it.

This context is made immeasurably more complex by the fact that, as attorney Jerry Wolf, fellow, and American College of Trust and Estate Counsel, says:

There is another issue that may impact a trustee's ability to navigate these situations successfully; the beneficiary may have the contractual power to replace the trustee. This can leverage a trustee (other than a corporate or professional trustee) to do whatever it needs to do to keep the client.

For example, the trust document may include a provision that allows a beneficiary to remove and replace the trustee. This authority could give the beneficiary certain leverage in getting the trustee to do things the trustee may otherwise not be willing to do in order to preserve and protect the relationship.

He continues:

Assume the benefactor has provided guidelines to the trustee for how the trust income and principal is to be used to "incentivize" a beneficiary, but the beneficiary says 'I don't care what grandpa provided—I want \$5 million for a house and if you don't give it to me, I will fire you and get it from your successor.' The Trustee could talk about the benefactor's objectives, intentions, reasons, etc.—but if the client says 'fine and good, but if you don't exercise your discretion in my favor,



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you are gone.¹

In my work, I've seen visionary families and trustees make tremendous strides to avoid these problems by educating themselves in high level conflict resolution, negotiation and listening skills. Because it's a relationship manager's demeanor, empathy and above all, his timing and choice of language that's critical for even the best-schooled benefactors and the professionals that help them.

Bottom line: Delivering short-term solutions to a client/beneficiary whose "wants" wildly exceed the benefactor's original intent is a trap. The client's demands will only increase and at some point, management will be transferred to a competitor unafraid to take the current level of largess and promise still more.

Bringing clients gracefully into alignment with the benefactor's original intent is not only a worthy goal, but also the most productive one for you, your firm and the clients you serve. Here's how to do it.

Typical Scenario

Let's go forward two generations. In a fairly typical scenario, you're the trustee for five grown grandchildren of a \$100 million estate. Your job is to carry out the original intent of the benefactor who passed away several years ago, yet the original intent has gotten lost in a tangle of needs, narrow goals, entitlements and irrelevancies.

For example, Jane is the great-grandchild of a \$1 billion empire her grandfather built over 65 years. She feels entitled to her money. She's already spending \$200,000 per month on a staff of 10 and the upkeep on three vacation homes around the world. Her assets are dwindling, and she wants more. If you don't give it to her, she turns her assault on you. She wants her money, and you're the only person stopping the flow of the family's estate to her. Her sense of entitlement can be infuriating, but the problem needs to be solved, and you must do it.

Signature Profile

What often controls behavior and decision making is a complex network of fears, insecurities and the overall

need to avoid pain and receive validation. Everyone has what I call a "signature profile" or a style of relating to the world. It doesn't matter whether you're working with a new prospect, co-trustee or a client you want to retain. What drives your target's desire to cooperate with you is her own style of relating, coupled with language from you that helps her relax and open up.

I've found in my work that the signature profiling

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system allows managers to know right away who's sitting in front of them and the right words, style and tone that will create trust, understanding and bonding with the client. The system also provides the platforms to diffuse any potential conflict that will damage the relationship already in place.

For example, some children from economically privileged families are raised having every need met without having to put forward significant contributions to receive rewards and are constantly affirmed as special for just being there. This creates a client who may seem to demonstrate a sense of entitlement, but what's actually driving that attitude is a child who never fully evolved into an adult.

In this context, the fact that you're looking out for the client's best interest and trying to protect his wealth seems to be lost in translation. Instead you're seen as the cork in the bottle clogging the flow of the fulfillment of his needs.

The secret to staying aligned to original intent while meeting your client's needs is in understanding that the person in this signature profile has a deep-seated, intrinsic need for acceptance. Even philanthropy can be an



attempt to gain love and approval from the environment.

Five Scripting Rules

As a trustee, here's what you can do:

The first thing to realize is that some of this comes with the territory. If you are a people person, a caretaker, this profession can be very fulfilling. This is especially so if you knew the Grantor, helped him or her create their estate plan and feel connected to carrying out the wishes of the Grantor beyond the grave. Ironically, it is staying connected to this original intent of the benefactor,

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whether you knew that person or not that gives you the power to navigate these issues.²

1. Prepare yourself. Spending the time to prepare yourself once the client's underlying needs are visible will drive a reservoir of dialogue that you can use to express both your interest in meeting the client's needs while staying aligned with the benefactor's original intent.

In my work with family governance, I've seen that it's important to take the time to find the right words for these delicate conversations because handled inappropriately, these situations can ignite family feuds, trustee-client issues and millions of dollars in losses.

Sit down and think about your client's point of view. Imagine stepping into her shoes. Be careful not to spend all your time thinking about the rules in "black and white." If you appear like an impenetrable wall, your client will figure out how to get around you. Instead, sit down and write out a script, accounting for the underlying factors.

2. Stop and reflect on the benefactor. To help navi-

gate these treacherous situations, make certain the two of you stop, take a moment and reflect on the benefactor. Somewhere deep inside the beneficiary is a connection to her benefactor, either by love, reputation or desire to emulate him. In drawing your client closer to her benefactor, you awaken her connection to her history.

It's important to speak as the voice of the benefactor because, in fact, it's the benefactor speaking through you. Don't speak as though it's you saying "no," or you'll directly receive the attack.

This approach connects the beneficiary to her family legacy, which was put in place to protect her. You'll help her feel she's upholding the family legacy, and she'll feel good about herself.

In family governance, it's important to keep all family members connected through their lineage as a way of protecting the family's estate to avoid the "shirt-sleeves to shirt-sleeves in three generations" phenomenon. This approach gives family members a sense of being connected to something larger than themselves and being part of the whole, which is a basic human need.

Script: You can strengthen the connection to the benefactor while letting the beneficiary know that you're on her side by saying something like this:

Jane, I can see that this is really important to you. Your grandfather wanted nothing more than for you to be taken care of for the rest of your life. He would say this new request violates his intentions for you. He was very clear about wanting you, and those that come after you to be taken care of forever. I however, understand your position completely and why this must be frustrating for you. Let's just take a look and see if we can work together to cut back some place else so we can help you get what you want.

With this response, you most likely won't be hit with anger, but if you are, continue to express understanding and try to give the client a piece of what she's asking for so she knows her side is being heard and understood. Unfortunately, if you bend completely, you may be setting yourself and your institution up for a beneficiary who's learned to escalate emotionally with you to get her needs met.

It's when the client feels that you're not "listening" to her side and you're rigidly adhering to the rules that



emotions are most likely to escalate. The beneficiary may increase the intensity of her frustration over thinking her hands are tied. You should allow the client to vent her feelings. Take a break, look down and write on a piece of paper so you can give yourself and your client a moment to let the intensity subside.

Script: Then, with an empathetic voice, you might say,

When I put myself in your shoes, I understand how you must be feeling. This is obviously an important need you have. Let's try to look at other areas so that we can keep your grandfather's intention, while we try to get you what you want.

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On occasion, for example, when there's sibling rivalry or the need to punish a benefactor for past discretions, beneficiaries may overspend to express anger. One sibling may overspend so there's nothing left for his siblings or heirs. Another beneficiary might be angry with his parents because he felt overly controlled or neglected growing up. The beneficiary feels entitled to the funds for everything he endured. Again, understanding these needs and then creating good scripting can help professionals avoid getting entangled in these complicated family feuding issues.

3. Know when to get help. If you're hit with a particularly intense barrage of upset or emotion, always communicate with your boss and make him aware of what's going on. Why? Because the secondary line of attack will be to go around you and try to diminish your status and gain power over you, by attacking your ability and functioning on the job.

Script: The client may also threaten to fire you as the trustee. You can say:

You can do that but you may end up in the same circumstance with your next trustee. The challenge here is that a trustee is legally bound to the documents the way they were written. If I or the next trustee you find distributes your monies in any other way than was stated in the document and you get hit by a bus the next day, where would that leave your father's grandchildren? Your kids

would have to sue the trustee for breach of fiduciary duty.³

To avoid this stalemate, keep the ball in your court by turning the conversation to the benefactor and only secondarily to your company. By doing so, you take clients out of themselves and their short-term goals. You also wrap clients in their desire/need to be connected to the person who created this marvelous success; someone you respect and honor—and so can they.

4. Let clients know you “hear” and “consider.” In my years as an advisor on issues with relationship management, family governance and family feuds, it became

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clear that a cornerstone to resolving the potential conflict in these situations is giving the client the sense that she's being “heard” and “considered.”

Most untrained listeners respond reactively with their own point of view first instead of pausing and responding with a statement that lets the other person know she was heard, and her point of view is being considered.

So take a moment and reflect on what you hear the client saying to you.

Script: “So what I'm hearing you say is ...”

5. Drop the need to be right or punitive. The need to be right is a major pitfall that inadvertently causes a breakdown. Professionals in the field are usually detail-oriented, rules-based individuals who follow the written word. Otherwise, they wouldn't be suited for this profession.

Clients, on the other hand, were often raised to be rule breakers like their trailblazing parents or grandparents. So, when you're perceived as standing in the way of meeting their needs, you'll be hit with a wall of human emotion, much like a tsunami that destroys everything in its path.

Trustees must step out from behind the rules and



being “right” and meet the client squarely in the realm of emotion and the force of the human will. Avoid statements like:

You shouldn't feel this way. You are already getting \$200,000 each month from the estate.

If you come across like a punitive parent or a rules-based corporate animal that can't see when the rules need to be altered to meet today's needs, you'll lose the client.

If you coldly recite the rules as set out in the documents, you'll be right, but you'll also lose the client. You must communicate to the client that you're most definitely in the present day but with an understanding of “original intent” as it translates to today.

Script: You can reiterate:

I can really see how this must be frustrating to you. Let's see if there is some other area we can cut back or make some changes in so we stay aligned with what your grandfather wanted and help you get your needs met.

The Takeaway Message

By scripting and taking the time to find the right words, you bind yourself to the power and the aura of being the embodiment of the benefactor, as well as having profound empathy for and connection with the client. You can then create not only protection for yourself and your firm, but also for the client's legacy. Having accomplished this once, the pathway gets stronger and easier, and your relationship will endure and prosper. 

Endnotes:

1. Attorney Jerry Wolf, Fellow, American College of Trust and Estate Counsel, (phone interview on June 3, 2015).
2. Susan Hartley, Director of Fiduciary, BNY Mellon, N.A (in-person interview on June 25, 2015).
3. *Supra* note 1.