

On Becoming an Excellent Trust Beneficiary*

By Hartley Goldstone

Are you an excellent beneficiary?¹
James E. Hughes, Jr.

A family's wealth consists primarily of its human capital (defined as all the members who make up the family) and its intellectual capital (defined as everything that each individual family member knows), and secondarily of its financial capital.
Ibid

A family's financial capital is a tool to support the growth of the family's human and intellectual capital.
Ibid

I. Introduction: Purpose and Scope

In many families, the further a generation is removed from the sale of the family business or other major liquidity event, the more likely it is that an increasingly higher percentage of that generation's financial capital is held in trust. While much has been written addressing the potential pitfalls to be confronted by children of wealth, fewer authors have tackled the question of how a beneficiary is to flourish in the trust environment throughout her lifecycle.

This paper will define the hallmarks of the excellent (i.e. flourishing) trust beneficiary and suggest one pathway for embarking on a personal journey toward excellence.

II. What are the hallmarks of the excellent trust beneficiary?

The answer lies in two domains: intellectual capital and human capital. The excellent trust beneficiary will address the fact of her trust's existence and its implications for her life at increasing levels of understanding, moving from assimilating fundamental information, to successfully attending to relationships, to seeking personal well-being and fulfillment. Each level of understanding will present its own tasks for the excellent trust beneficiary to master. As she integrates her learning, the excellent

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¹ Quotes are reprinted with the permission of James E. Hughes, Jr. "Are you an..." Hughes (2004) p. 104. "A family's wealth consists..." Hughes (2004) p. XV. "A family's financial capital is a tool..." Hughes (2004) p. 4.

trust beneficiary will reframe her trust from a focal point of her life to a supporting role as financial capital in service of her journey toward excellence.

At the most concrete level, the task of the excellent trust beneficiary will be to understand the roles and responsibilities of the beneficiary² and the trustee³ as well as the rules that govern the trust relationship. She will become familiar with the language of the trust agreement, the relevant law, and, if a professional trustee is involved, the trustee's policies and procedures. The beneficiary will understand the trust statements that are prepared by the trustee, which will require general knowledge of investments and trust accounting.

At the next level of understanding, the excellent trust beneficiary will recognize her trust to be a relationship among the grantor, the trustee, the beneficiary and perhaps others. The task of the excellent trust beneficiary shifts from assimilating information to attending to these relationships well. She will become proficient at understanding, nurturing and taking full advantage of the relationships.

If the relationships are not well tended a beneficiary may get stuck here,⁴ struggling with her relationship with the (often deceased) grantor, with the trustee, or indeed with the trust itself. The trust may come to be experienced as a burden diminishing her life.

At the highest level of understanding, the excellent trust beneficiary views her trust as a gift; that is, as financial capital to be deployed in the service of her journey toward a fulfilling, productive, meaningful life. The important nuance here is that the focus is no longer on the trust and its attendant relationships. The trust is properly positioned as a resource contributing to a satisfying life.

The journey will not be linear. The path will fold back upon itself. The excellent trust beneficiary will move in and out of the three levels of understanding described above. Tasks related to the different levels will be undertaken simultaneously with varying degrees of overlap and varying degrees of success. The excellent trust beneficiary will find it useful to be aware at any given time of the tasks in which she is engaged, where the tasks fit within the process, and where to seek assistance when needed.

III. Assimilating Facts

The trust agreement

A careful reading of the trust agreement will reveal:

Who are the players? Who are the grantor, the trustee, the successor trustee, the trust protector (not present in all trust arrangements), the current beneficiary(ies) and the remainder beneficiary(ies)?

² For a discussion of the roles and responsibilities of the beneficiary, see Hughes (2004) Chapter Ten: Beneficiaries, pp. 103 – 109. See also Angus (2003).

³ For a discussion of the roles and responsibilities of the trustee see Hughes (2004) Chapter Eleven: Trustees, pp. 111-124; Chapter Nineteen: The Trustee as Mentor, pp. 181-188; Chapter Twenty: The Trustee as Regent (jointly written with Patricia Angus) pp. 189-194.

⁴ See, e.g., Willis (2005); O'Neill (1997)

What property will be governed by the trust agreement? The excellent trust beneficiary understands that her trust agreement only governs property that is owned by the trust. Often, only nominal assets are named in the trust agreement. The current assets owned by the trust may be found on the trust statement prepared by the trustee.

How is the property to be managed? Are any of the trustee's duties, such as investment authority or the authority to make distributions from the trust, delegated to someone else? Are there restrictions placed on how the trust assets may be invested? Is the trustee directed to make mandatory distributions of income and principal at certain times or under certain circumstances? What are the standards for distributions that may be made at the discretion of the trustee? Does the beneficiary have the power to direct distributions? If so, to whom and how is the power exercised? Who has a right to occupy residences owned by the trust, if any?

When will the trust come to an end? When the beneficiary reaches a certain age? After the passage of a defined period of years? When the beneficiary dies?

What happens to the property when the trust terminates? Do the trust assets remain in trust? If so, what are the terms of the new trust(s)? Are trust assets distributed outright? If so, to whom? Does the beneficiary have the power to direct where the trust assets go when the trust terminates? If so, how shall the beneficiary exercise that power?

The trust statement

The excellent trust beneficiary will learn how to read the statement prepared by the trustee.

What is the nature of the trust property? Is further education required about stocks, bonds, mutual funds, partnerships, investment real estate, closely held businesses, oil and gas interests or other types of assets? Are all the trust assets listed on the statements? What is the investment plan for the trust? Are the current investments consistent with the investment plan? This will require a general knowledge of modern portfolio theory, the prudent investor rule and trust accounting. If there was an agreement that the trustee would make changes to the investment portfolio following the last meeting, have the changes been made? Is there sufficient liquidity in the investment portfolio? If the beneficiary is entitled to income, has income been distributed? Have fees been calculated correctly?

The professional trustee

If the trust document names a professional trustee, the excellent trust beneficiary will be acquainted with the trustee's policies and procedures. Who are the members of the team other than the trust administrator? For example, is there an investment manager assigned to the trust? How often are statements sent to the beneficiary? Who else receives statements? How often will regularly scheduled meetings occur? Are there defined office hours when the trustee is available to speak? How far in advance must a request for a distribution be made? Is there a particular form to be completed by the beneficiary when requesting distributions? Will the trustee require a budget from the beneficiary? If so, how often?

IV. Attending to Relationships

The excellent trust beneficiary and the grantor

Although frequently overlooked, the paramount relationship is often between the grantor and the beneficiary, even (and perhaps especially) under circumstances where the grantor is deceased. The excellent trust beneficiary will want to be acquainted with the grantor's intent in creating her trust. This is often difficult to ascertain from reading the trust agreement. Most trusts do not include a purpose clause, although a small but growing number of attorneys have begun doing so.⁵ Trust agreements most often consist of boilerplate language in large part designed to effect tax planning and insure smooth administration of the transfer of wealth. If her trust agreement does not overtly state the purpose, the excellent trust beneficiary may nevertheless be able to determine what was in the grantor's mind by speaking with family or others who knew the grantor.

Why is an understanding of the purpose of the trust important? Feelings of love, hopes that the trust will contribute to flourishing lives, the desire to create a legacy and similar generative motives that may have been part of the grantor's underlying drive in creating the trust will otherwise be lost. If these or like motives were, in fact, an unspoken part of the trust's history and become known to the beneficiary, she may find it easier to see her trust as a loving gift rather than simply a transfer of assets. If she is able to reframe her experience of her trust in this way, she may find it easier to feel connection with, and gratitude toward the grantor.⁶ This, in turn, may be to her benefit, helping her to properly position her trust as she designs her life.

Many grantors create trusts for motives other than altruism.⁷ If that is the case, the excellent trust beneficiary may be able to summon feelings of gratitude for the opportunities that her trust provides — if not to the grantor, perhaps she will feel gratitude to God or to the universe.

The excellent trust beneficiary and the trustee

The most visible relationship is that between the trustee and the beneficiary. While the frequency of communication will vary, the excellent trust beneficiary and the trustee will meet formally at least annually, sometimes quarterly. The meeting itself is best structured to get work accomplished, but the excellent trust beneficiary will not lose sight of the fact that the beneficiary/trustee relationship has broader implications and will prepare for the meeting accordingly.

At least once a year, before thinking about the details of the upcoming meeting, the excellent trust beneficiary will take time to reflect upon the big picture. To the extent she is comfortable doing so, she will do all or some of the following. She will reflect upon what her trust has made possible during the

⁵ See, e.g., Warnick (2008).

⁶ See Emmons (2007) for an empirically based look at the positive impact of gratitude on one's health, mental state and life in general.

⁷ Hughes (2004) pp. 183 – 184.

past year. She will identify one or more positive experiences, large or small, and will relive and savor⁸ those experiences. What occurred? How did she feel? The more detail the better. She will look ahead to the coming year or years and envision what the trust will make possible. Again, the more detail the better. She will reflect upon how she may positively affect others in the coming year

Now the excellent trust beneficiary will begin to focus on the upcoming meeting with her trustee. If she is comfortable doing so, she will contemplate questions such as, when our meetings (or portions of our meetings) have been successful, what was going on? What told me that the meeting was successful? How was the successful meeting structured? How did I prepare? How did the trustee prepare? If meetings with my trustee are something less than excellent, what would need to be changed for the meetings to improve 10%? How about 25%? What would the agenda be? How would I prepare? What questions would I have for the trustee? What would I be prepared to address? Who would be present? How long would the meeting last? Where would the meeting be held? Aside from the agenda, what would be happening during the meeting? Following the meeting, what would tell me that we had achieved my goal of making our meeting more successful? If I have done this exercise, what have I learned that could make future meetings more successful?

Now she will write a first draft of an agenda for her best of all worlds meeting with her trustee. She will begin by writing down what her goals are for the meeting, what outcomes she desires, and what she thinks the action plan might be following the meeting. She will use this for her guide as she composes the agenda.

As she goes through the exercise of drafting her proposed agenda, the excellent trust beneficiary is, in effect, also preparing for the meeting. The excellent trust beneficiary will review her trust agreement and trust statements, noting any questions. She will review her notes from the last meeting. What was our action plan from that meeting? Have we accomplished our action plan? She will list changes in her life to be brought to the attention of the trustee—births, deaths, marriages, changes in financial circumstances, and so forth. What are her personal goals for the coming year and beyond? She will prepare an annual budget consistent with her goals. She will prepare a schedule of requests for trust distributions anticipated during the coming year, to the extent known. She will be prepared to answer questions such as: Are the requests permitted under the trust agreement? How does this request support my goals? Is the request consistent with my prior requests? If not, why the change? Is the size of my requests appropriate given the size of the trust? If granted, what effect would the distributions to me have on the other beneficiaries of this trust?

Each agenda item will be phrased as a question or questions to be addressed during that portion of the meeting. For example, the investment review might include: Does the investment policy for the trust continue to address the purpose of the trust? Are the investments consistent with the investment policy? Are the investments consistent with anticipated disbursements (e.g., current liquidity needs, future growth)?

⁸ See Bryant and Veroff (2007) for research based discussion of savoring .

The portion of the meeting when the beneficiary updates the trustee with life changes that have occurred since the last meeting might include: What changes have occurred in my life during the past year that will impact our work together? Has this led to modifications of my goals? What adjustments do we need to make as a result (modify investments, modify distributions)? Questions such as these will direct the conversation in a meaningful way, leading to a more productive and efficient meeting.

When the agenda is completed, the excellent trust beneficiary will ask, do I require any additional preparation for the meeting that I have described? If I need assistance with aspects of my preparation, where is the best place to turn? To a mentor or other advisor? To my trustee? To a book, the internet or other written resources?

The excellent trust beneficiary will send the proposed agenda, along with any additional questions and concerns, to the trustee several weeks before the scheduled meeting.

The final agenda will be decided upon jointly by the beneficiary and the trustee.

V. Seeking Meaning and Fulfillment

I can see that for some beneficiaries the answer to that question might be a quest which lies primarily in the social/spiritual capital; for another beneficiary it is possible that her calling might be predominantly the pursuit of human and intellectual capital. The first beneficiary may become the family's greatest philanthropist; the second may become the greatest "next generation family leader."

John Warnick⁹

Assimilating fundamental facts and attending to relationships will help the excellent trust beneficiary reach a new level of maturity with respect to her trust. She will be able to reframe the trust assets as financial capital available to serve her as she designs her life.

Here the pathways vary with the uniqueness of each excellent trust beneficiary. As she contemplates her next steps, the excellent trust beneficiary is prepared to challenge herself, commit time, and maintain a sense of purpose. The rewards are well worth the effort for many who undertake to design a life lived with authenticity.

The sections that follow are intended to stimulate thinking only. The excellent trust beneficiary will explore the topics that interest her in greater depth as she creates her own journey.

Contemplate Overarching Questions

Our excellent trust beneficiary primes her thinking by reflecting upon the various domains of her life: home, work, family, friends, spirituality, philanthropy, community, love, recreation, education,

⁹ From private correspondence dated 11/2008. Reprinted with the permission of John A. Warnick.

finances.¹⁰ She considers factors that may help enrich her life such as positive emotion, engagement with what she is doing, a sense of accomplishment, and good relationships.¹¹

She asks big questions. Have I reached a point in my life where I would like to live with more meaning and purpose? What would living my life with authenticity look like? What are my dreams, passions, ambitions? What would I like to accomplish? Do I have a vision for the next phase of my life, or beyond?

A visualization exercise may be helpful: Perched on a cloud, I'm peering down upon my life several years from now, watching myself living a flourishing life. What does my life look like? What am I am doing? Saying? Feeling? Experiencing? Where am I living? What relationships are important to me at home? At work? At play? What am I grateful for? What have I accomplished? How did I get to this wonderful time in my life? What am I looking forward to?

Involve someone else

The excellent beneficiary will ask, do I want someone to walk with me? Shall I enlist someone to serve as my sounding board and to help me remain accountable? If the answer is yes, whom shall I invite to join my journey? Whom do I trust to be a very good listener, someone who has the time, interest and skills to assist me? Is that a friend (perhaps a friend going through a similar process), family member, trustee, minister, life coach, therapist, or mentor? Our excellent trust beneficiary and her counterpart agree to have periodic conversations. Each recognizes that the excellent trust beneficiary's needs shall change over time, that they will reach a point where the meetings have diminishing returns. They will cease meeting when that occurs.

Playing to strengths vs. shoring up weaknesses

The excellent trust beneficiary focuses on engaging her strengths rather than improving her weaknesses. Research has shown that playing to our strengths as opposed to shoring up our weaknesses leads to greater success and life satisfaction.¹² Identifying our strengths can be challenging as, in general, we lack a vocabulary of strengths. So we look for clues. Strengths are often at play when we experience a heightened energy level while doing something that we are good at. Another clue—when in a state of flow, that is, so absorbed in what we are doing that time seems to stand still, one or more of our highest strengths are likely engaged.¹³ Another way to spot strengths is to think about things we loved to do as a child. Or to ask, when do I feel most alive? The excellent trust beneficiary may decide to use an empirically validated assessment to help her identify her strengths.¹⁴

10 See Frisch (2006) for a list of life domains and research based methodology for enhancing satisfaction in each.

11 Seligman (2011 in press)

12 See Linley (2008) and Linley et al (2010) for a discussion of identifying, understanding and using strengths to enhance life satisfaction.

13 Being in flow has been shown to have psychological benefits and to be a component of an engaged and satisfying life. Csikszentmihalyi (1997)

14 Two that I like to use in my coaching practice are Realise 2 (<http://www.cappeu.com/realise2.htm>)and VIA Survey of Character (<https://www.viacharacter.org/HOME/tabid/40/language/en-US/Default.aspx>)

Setting the “Right” Goals with the “Right” Motivation

The excellent trust beneficiary decides which domains of her life she would like to focus on. She creates a written list of goals for each of those domains.

Setting the “right” goals and working toward achieving them with the “right” kind of motivation has been shown to have positive effects on psychological well being.¹⁵ Pursuing and achieving goals that are grounded in personal values and interests generally lead to more satisfaction than pursuing goals that have been imposed by sources outside oneself.¹⁶

The excellent trust beneficiary reflects upon her list of goals through this lens. Which of my goals are grounded in my personal values and interests? What tells me so? Which of my values, strengths and interests are supported by my goals? Has family, peers, or other influential people in my life imposed any of my goals on me? Have I been influenced by societal pressures or by advertising? Will pursuing these goals bring me a sense of deep fulfillment and life satisfaction?

Research shows that the excellent trust beneficiary is more likely to succeed when her motivation stems from her own volition and is internalized, that is, her motivation is autonomous.¹⁷ What is my motivation for pursuing my goals? Is my motivation to please myself or am I driven to please others? Do my own values, strengths, interests, and enjoyment motivate me? Can I reframe any of my goals to make them more my own?

Action plan

The excellent trust beneficiary’s task now is to develop an action plan. As she does so, the excellent trust beneficiary will ask herself questions such as: Which goal shall I work on? What is a small step that I can take toward accomplishing my goal? By when will I complete the small step? How will I know that I have completed it? What is the next action step after that?

The excellent trust beneficiary may enlist the assistance of someone to introduce accountability to the process. She will tell her accountability partner when she intends to complete an action step and will notify her accountability partner upon the step’s completion.

Conclusion

As our excellent trust beneficiary successfully pursues and completes her goals, she increases her confidence, gains life satisfaction, and builds momentum. She will come to understand that the journey is as important as the destination. She will be leading the life that she was meant to live.

What could be more rewarding?

15 Lyubomirsky (2007) pp. 206-208.

16 Sheldon (2008) pp. 33-36; Sheldon (2004) pp. 103-104; Lyubomirsky (2007) pp.210-212.

17 Sheldon (2008) pp. 24-25, 27-31; Ryan and Deci (2000) discuss classification of motivations.

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