

# SAGE *Solutions*

## Family Memo By Philip Toffel, Sage Hill

### Memorandum To Trustee and Children Expression of My Wishes re Trust Distributions

Dated: \_\_\_\_\_

The purpose of this memorandum is to provide guidance to the Trustee(s) of my trust dated \_\_\_\_\_ to help them in making decisions about discretionary distributions to my wife, \_\_\_\_\_ children, and other beneficiaries. Additionally, my purpose is to provide my beneficiaries with my thoughts on what principles they should follow in deciding how to manage the trust assets that they will receive. By setting forth my thoughts and wishes in writing, I am hopeful that the Trustee will gain confidence that they are complying with my wishes and my children, with whom I will share these wishes, will understand my wishes and be able to manage their budgets and lifestyles with a full understanding of their financial picture.

Here are some baseline thoughts that I have:

- (1) **The Estate.** “It ain’t all the money in the world”. This is a modest estate – but it does represent a lot of luck, a lot of hard work and some sacrifice on behalf of \_\_\_\_\_ and me. So I don’t think it should be wasted. However, we aren’t talking about the beginning of a dynasty!
- (2) **Lifestyle.** “Live within your means”. Given the young ages and long life expectancy of the children, they will need to live within their means --- and, to me, “means” means income after taxes. At \$1MM each and assuming a life expectancy of 50 years (for ease of math) the estate amounts to \$20M a year of principal on a straight line basis – an amount you could easily spend without even noticing.
- (3) **Forthcoming expenses.** “The expected (kids, education, housing, retirement) and the unexpected (health, injury, lawsuit, business failure, uninsured loss, etc etc)”. There are major expenses ahead of you – including some you may not even know about; having the reserves and financial security to be able to weather these events without them getting the better of you is a blessing. Financial problems destroy lots of lives and relationships daily.

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(4) **Fun.** “Carpe Diem”. Life should be fun – it is here to be enjoyed and, as I have found out, good health and the ability to enjoy life shouldn’t be taken for granted. So, the same \$1MM @ 4% yield, say, should provide \$40M annual income which is available for fun – things you wouldn’t otherwise do, or you wouldn’t be able to do until you were older. Lee Ann and I probably didn’t do enough of this for ourselves – and I wish, with the benefit of hindsight, that we had done more.

So, my hope is that each of you finds a lifestyle that you can afford through what you earn, that you have the income from the Trust to enjoy a little play money and that you are able to meet your own “forthcoming expenses” from your budget. If all this works out, you will be able to do for your kids what \_\_\_\_\_ and I have done for you – let you have a good education, travel, enjoy nice things a little earlier in life than you might otherwise be able to and get to a debt free state quicker than otherwise. This will give you reduced stress and a remarkable level of freedom you would not otherwise enjoy. You will then be able to pass on to your children through your estate the same modest financial cushion that we are giving you. If, for whatever reason, you are not able to do this, you can use the estate for your forthcoming expenses until it is gone and your kids will have to start over again – which isn’t the end of the world.

As for housing, which I see as the biggest near term issue, the estate will give you the opportunity to make a significant down payment and afford something you might not otherwise be able to afford. Well that makes me happy. If you are able to use an advance from the estate to live somewhere that makes you smile every day, that is great. In the early years, having a lower mortgage will help your cash flow meaning you won’t be house poor. But over time, I would like to see you increase your savings to replace the advance as you are able to financially. This principle applies to advances for other purposes too --- you may be able to do things earlier in life or to a nicer degree, but the idea would be to replace the funds if you are able so that one day you can write a note like this to your children.

I don’t want this to sound as if I do not trust your judgment or respect your common sense. You are all smart and grounded adults with good values and instincts. However, as my own experiences have shown, this does not make you immune to mistakes of judgment and so applying a principle of 4 eyes are better than 2, I am trying to build in some checks and balances through the discretionary powers of the Trustee, to make doubly sure that everyone is thoughtful about how best to try to achieve the wishes that I have outlined in this memo.

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I have confidence in your respective judgments and I believe you have earned the right to control your own destiny. Having said that, there are some tools available to insulate you from risk – although these will reduce your discretion, which will be in the hands of the Trustee. I have tried to strike a balance by doing the following:

The Trustee (initially your Mother, subsequently my friend \_\_\_\_\_) has absolute discretion to advance at any time whatever they feel you need in general accordance with the guidelines outlined above. They will provide the “second pair of eyes” referred to above.

You will have the right (but not the obligation), whatever the Trustee thinks and at your sole discretion, to withdraw funds from your Trust according to the following schedule: