SQUIRE PATTON BOGGS

Family Office Insights
Forgiveness – The Missing Piece of the Family Puzzle

Among moral or spiritual values that families would consider most important, many would agree that forgiveness should be ranked high on the list if not at the very top.

For ultra-high-net-worth (UHNW) families where family processes could be managed professionally and systematically, are moral or spiritual virtues more encouraged through the use of family trusts and family offices compared to other families?

Typical family constitutions would contain a list of family virtues and qualities the leaders of the family want to instil in the generations to come, but we rarely see forgiveness included.

Traditionally, trust arrangements might even point to the other direction. In trust deeds, there are often provisions to exclude a family member irrevocably, or by revocable means, from taking benefit from the trust either by removal as a beneficiary or being named an "excluded person" if he or she acts in ways against the family's value, abuses a family member, commits a crime or simply becomes a "black sheep".

Another example is the no-contest clause in a trust where any beneficiary objecting or bringing action with respect to the trust arrangement would be banned from benefiting. Some families might have rules to remove certain "deviant" family members from important offices such as protectorship of a family trust or directorship of the family office or other committee membership.

Unconscious Messages

It is understandable that a UHNW family wants to protect its assets from being taken away by a deviant family member and does not want the stability of the family to be upset and the family's name besmirched. But if we pause and think, the question we should ask is: what kind of message are these documents or arrangements conveying to the family members?

Key succession planning documents such as trust documents and internal policies for the family office do not only make clear how the family should be run, how family assets should be invested and distribution, and how family members should behave around one another.

They are also sending unconscious yet clear messages. What does the family truly value? What kind of family is this really? Does the family encourage competition or cooperation or a mix of both? Is control an implied or explicit theme?

As advisers to UHNW families, we should ask if the family office is equipped to assist and facilitate, besides the economic and administrative processes, the family processes, which include the personal growth path of family members.

Particularly, we have to consider whether the concept of discipline is appropriately expressed in the family documents. Are the consequences optimal? Are we disciplining or punishing? Would the family give an impression of being overly defensive by excluding the misbehaving family member totally from the family system? Would the "good" kids who have not done anything "wrong" be affected by witnessing the consequences on others?

Overcoming Failures

Then we come back to the concept of "forgiveness". We all make mistakes. By overcoming failures, we get back on our feet and become stronger and hopefully wiser. To be at peace with the past, forgiveness by others and of oneself is essential in the process.

People learn from their mistakes but rarely do they improve due to the feeling of shame. If the current arrangements inflict pain, economic loss, and a sense of isolation, they create all sorts of unwanted impacts. Improvement happens at fundamental levels when we are accepted and we acknowledge the past.

The family office could assist the family in formulating a mechanism to bring the relevant family members back at an appropriate time. The family should consider if it wants to be positioned as being inclusive. Does it want to encourage a forgiving culture? Is it willing to give the family member a chance and believe in him or her again? How should the family encourage forgiveness without become too forgiving?

It is a good opportunity for the family office to play a key role as a fair observer.

Through the lens of the family office, which offers a higher perspective, we can consider whether we have made it clear that forgiveness is important in the family.

Have we made it clear in the family constitutions? Are the trust arrangements in alignment with this particular family value? Have we assigned sufficient resources to help identify potential problem areas in the behaviour of the family members? Have specific family members and experts been designated to take on the responsibility?

Alertness, Awareness and Compassion

The family office should be the ultimate meta-communicator which is armed with alertness, awareness and compassion to help family members communicate consciously and constructively.

Rather than simply expelling the misbehavers from the system, could there be an observation period?

Is it possible to find out the reasons and events that lead to the situation?

How can we help the other family members understand and make sense of the onset of consequences?

Under what circumstances and conditions should a family member be allowed to come back?

Meaningful answers would come from a family office displaying the qualities of understanding, compassion and awareness.

This article originally appeared in *Offshore Investment Magazine*, December 2017/January 2018.

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