

# A Kinder, Gentler Approach

## The Key to Keeping Trust Clients Content

by  
Theresa L. Hughes  
Professional Individual Trustee, Pinion in affiliation with Santora CPA Group



**T**he story of the adversarial relationship between trustees and beneficiaries has some basis in reality. Probably no relationship carries more angst than when money is involved. Beneficiaries often feel like supplicants, beseeching trustees to bestow what they feel is rightfully theirs. Trustees can find themselves thrust into the role of strict parent, withholding privileges from a child who reaches into the cookie jar too many times. If not resolved, the beneficiary may opt for a new trustee. But it doesn't have to be that way.

Kindness and empathy are words not frequently used in business yet can be winning ingredients in cementing long-standing trustee/beneficiary relationships. They can make all the difference between the smooth execution of a grantor's wishes versus an heir feeling resentful when a trustee denies a distribution request. It behooves trustees to seek a kinder, gentler approach.

### The Trustee Relationship—An Overview

The trustee relationship, undergirded by loyalty to the beneficiaries, is governed by the fiduciary principle: A beneficiary, in a position of vulnerability, places their faith in and reliance on the trustee. The trustee, bound by the grantor's wishes, must exercise prudent judgment when making distribution decisions. Nevertheless, a beneficiary may disagree, and when sufficiently unhappy, seek a new trustee. The result: client attrition.

Trustees who appreciate this delicate balance can affect beneficiaries in a positive way, standing in stark contrast

with other life challenges confronting them. Though policies and procedures dictate the trustee's actions, rigidity in their implementation can be a roadblock. Trustees must ask themselves: Are we doing the best job for the grantor and, at the same time, for their beneficiaries? We all recognize the key role service plays—it is imperative to maintaining happy clients. But what exactly constitutes good service?

### Components of the Trustee Relationship

The answer is to take a step back to examine the essence of the trustee relationship. The trust document spells out the grantor's desires and the terms to which the trustee must adhere while acting in the best interests of the beneficiaries. That means treating each one impartially and fairly, which can be complicated when confronting complex family relationships, especially blended ones.

Trustees also can serve in another capacity: that of *in loco parentis*, operating in place of the parents, which may encompass being an expert in family governance, counselor to the family, mentor, and even a servant leader. It's a heavy load, and the trustee must remember that despite the grantor's wishes, the law of unintended consequences may thwart them. For example, a grantor wants to make life easier for heirs. However, heirs may make poor choices and fail to achieve success or happiness. They may impose unreasonable demands on the trustee for distributions beyond the grantor's intentions, and the trustee must walk a tightrope to satisfy both. How can the trustee navigate a path forward?

## Adopt an Empathic Approach—It's the Right Thing to Do

Merriam-Webster defines empathy as being aware of and sensitive to the feelings, thoughts, and experiences of another. In your trustee/beneficiary relationship, the client holds the primary position. Empathy is the vital ingredient in the difference between strife and contentment, and it requires a relationship grounded in kindness and trust. Here are some basics:

- Start by taking the time to understand the beneficiary—their concerns, feelings, and perspectives—and meet them where they are. Then develop a plan together to move forward.
- Build a caring relationship to make the beneficiary feel supported. When difficult discussions around distributions occur, they will be made easier when buttressed by your caring attitude.
- Follow best practices to forestall potential conflicts. Assemble a team of advisors that includes attorney, accountant, investment advisor, financial advisor, and administrator. A team approach helps to ensure a happy beneficiary and benefits each team member.
- Take down the wall between you and your client. Be open and accessible. Successful trustee relationships place the onus on the trustee to do a deliberate, soul-searching deep dive into conveying a clear message of openness with and acceptance of the beneficiary. Sit on their side while respecting the terms and provisions of the trust document.

- Pay attention to family dynamics. These can often affect beneficiaries' emotions. Be prepared to be flexible, when practical, to address both personal and financial needs. Acknowledge aging, illness, or other life events. Revisit the beneficiary's needs and make adjustments when required.

- Use tact when responding to a beneficiary's unusual distribution request. Listen carefully and be courteous in your reply. Although it may be impossible to grant it, you can use diplomacy to explain why you are saying no.

## Some Practical Applications

One of my clients was surprised to learn she was a trust's beneficiary. Her requests for medical and living expenses were overwhelming initially. Having already forged a relationship, we outlined a plan to accommodate her needs, which included a life coach to address both her mental and physical health. She is now happy and thriving.

Not every situation works out that way. Bonnie Hunt, a trust and estate planning consultant in Holderness, New Hampshire, served as an administratrix in a situation in which the parent had died without a will. The children, kept in the dark about his business affairs, were angry, distraught, and distrustful. They became irate when they were hit with high legal fees to sort through the mess. It took a lot of handholding to resolve the issues, exacting a toll on everyone. "In retrospect, the best gift the grantor(s) can give to beneficiaries is to talk to them and introduce them to the team players. That way you are not a stranger walking in the door

*(continued on p. 22)*

# GF&M GORDON, FOURNARIS & MAMMARELLA, P.A.

Attorneys concentrating in Delaware Trust Law, Fiduciary Litigation, Taxation, Estate Planning, Estate Administration, Business Law and Counseling, Entity Formation, Succession Planning, Mergers and Acquisitions, Commercial Litigation, Real Estate and Zoning, Land Development

Peter S. Gordon  
Thomas Mammarella  
Emmanuel G. Fournaris  
Michael M. Gordon  
William M. Kelleher  
Neil R. Lapinski

Charles P. O'Brien  
Robert V.A. Harra III  
Shannon L. Post  
Joseph Bosik IV  
Phillip A. Giordano  
Mark P. Gordon  
Patrick J. Rohrbach

Christopher P. Clemson  
Constantine E. Fournaris  
Geoffrey A. Boylston  
Madeline Silverman  
Michele M. Subers  
Michael G. Galbraith  
Emily A. Biffen  
Andrea L. Filbeck

*GF&M is excited to announce that  
Mark P. Gordon and Patrick J. Rohrbach have been named Directors  
and to welcome four new associates  
Michele M. Subers, Michael G. Galbraith, Emily A. Biffen and Andrea L. Filbeck*

(continued from p. 21)

in the position of authority explaining to the kids what mom’s and dad’s intentions were,” Bonnie notes. “Before accepting a successor trustee appointment, make sure you understand the issues and whether they are insurmountable,” she adds.

Resolving a distribution request can be challenging. Donna LaCour is an independent trustee and owner of Shreveport, Louisiana-based Axion Financials, LLC, a family office and estate administration company. She recounts a special needs trust beneficiary who requested a distribution to cover unexpected incidentals. Donna suggested a True Link card—the only debit card approved by the Social Security Administration—that allowed her to track and monitor her client’s spending. Incensed because it carried a monthly fee, the client refused the card and stormed out of the office. Donna wisely waited a couple of days to allow her client to cool down, and then patiently explained that using the card was the only option to approve the request. The beneficiary, faced with receiving no extra funds, quickly acquiesced.

### **Lay the Groundwork, Balancing Expectations With Compassion**

Setting expectations at the outset of the relationship can avoid a host of problems down the line. Begin with a detailed explanation of the trust’s terms and limits and how they are designed to avoid conflicts or misuse of funds that could avoid expensive legal consequences in the future.

Most trusts provide for health, education, maintenance, and support (HEMS). Make it clear to the beneficiary how these are interpreted. For example, a college student may be entitled to reimbursement for incidentals, but not for a new iPhone. Be transparent about the timing of distributions: Are they made quarterly or whenever a need arises? What about emergencies? Being compassionate means understanding and bolstering the beneficiary so distributions can align with their unique circumstances.

For example, a beneficiary with a \$1 million trust may request a \$100,000 annual distribution. You explain why that amount isn’t realistic, as it would deplete the trust and compromise the beneficiary’s long-term income needs. However, you can discuss the beneficiary’s spending patterns and goals to devise an acceptable outcome.

### **Offer More Than Money**

Your client may be at a crossroads, unsure about the future, and require direction. Offer guidance and education for career building. Refer them to a career counselor or coach if needed. More extreme cases may require professional services such as a counselor or therapist. Be compassionate—recognize when a situation merits these additional resources and guide your client toward them.

Emphasize how the trust’s purpose dictates realistic and responsible use of funds. Educate them to achieve personal financial well-being by helping them create a budget to monitor

spending, plan for future outlays, and build a smoother cashflow. Suggest apps that help track spending, manage debt and credit, and encourage them to live within their means.

### **Operate With the Highest Standards of Integrity**

When following the trust’s legal terms and guidelines, you can be sensitive to beneficiaries’ cultural, religious, and personal values while upholding your fiduciary duties to them. And be responsive to their emotions, which can be raw, especially if the trust became effective immediately following a loved one’s recent demise.

Your own attitudes and opinions can overshadow the best of intentions. For example, it’s natural to view the wealthy as being insulated from life’s problems. But that’s not necessarily true: They often face problems similar to those of the less well-heeled. Appreciate what they are going through. Empathy is an important equalizer.

Be mindful of subliminal messaging. One trust officer at an elite trust company referred to beneficiaries as “the idle rich,” which occasionally colored his communications. His disparagement was underscored by his stringent consideration (and frequent denial) of their distribution requests. Clients are intuitive, and a trustee’s dismissive attitude can have unsatisfactory consequences. Your client deserves grace—grant it to them with dignity.

### **Communicate Clearly**

Clear communication can avert a host of problems. During onboarding, explain what the trust provisions entail. Beyond HEMS, let them know what constitutes prudent exceptions and the rationale you will apply when weighing them. Help them understand what is (or is not) acceptable.

Schedule regular updates to discuss portfolio performance and how it can affect distributions, especially during periods of market volatility. For example, when the stock market imploded in 2022 and suffered a 20% loss, percentage-based distributions plummeted. Prepare beneficiaries for how they can make necessary adjustments to combat a similar situation should it arise. Engage them in helping to develop acceptable solutions.

Listen to the beneficiary’s requests and be respectful when imparting the trust’s constraints. Negotiate to seek a workable pathway. For example, could an early distribution be offset by a lower amount next quarter?

Denying a distribution request entails being kind and respectful. Should your client disagree with your decision, recognize it as an opportunity to demonstrate fairness by adhering to the trust’s provisions. In the long run, that stance will earn your client’s respect and inure loyalty to your relationship.

In extreme cases, if it’s not possible to achieve a suitable resolution, you may need to resign the relationship. Bonnie Hunt did that when she could no longer countenance a client’s profligate spending. She was firm, but tactful, when she conveyed her decision.

## Summary

The trust relationship comprises legal and fiduciary responsibilities, both to the grantor and heirs. In a perfect world, the grantor's wishes are not only clear but have been clearly communicated to the beneficiaries by the grantor, the trustee executes them, and the beneficiaries are happy. But it doesn't always work out that way—the trustee is oftentimes perceived to be a strict parent withholding the beneficiary's funds and making them feel infantilized.

Try a better tactic. Harkening back to the song Glen Campbell recorded in 1969, try a little kindness—and employ an approach imbued with empathy to recognize the human aspects of beneficiaries' lives and challenges. Yes, the trust document is specific about permitted distributions, and you must be prudent when applying those standards. But you can develop strategies to satisfy the beneficiary's needs and still uphold the terms of the trust.

Communicate clearly and manage expectations by explaining to the beneficiary what is allowed. If personal difficulties arise, offer guidance and appropriate resources to help.

An empathetic approach builds trust to honor the trust creator's wishes while reducing potential conflicts with their heirs. Putting yourself in a beneficiary's shoes to understand them, how they feel, and where they are coming from can counter some of life's harsher curveballs. Remember, beneficiaries can always

find another trustee. The key to ensuring they stay is to model a kinder, gentler approach, make them feel heard, and foster a long-term, mutually beneficial relationship.



*Theresa L. Hughes, MBA, CTFA, AEP®, is an Individual Delaware Trustee with 40 years of experience in the personal trust business. Over the last 25 years, Theresa has led several teams of trust administrators and currently leads the Pinion Individual Trustee team in administering Delaware trusts. As an individual trustee, Theresa is uniquely positioned to provide trustee services to clients who may not meet the requirements of banks and trust companies for various reasons such as specialized assets, unusual trust language, or a desire to partner with a non-bank trustee. For more information about Pinion Individual Trustee services go to [www.piniondelaware.com](http://www.piniondelaware.com). You can view Theresa's LinkedIn profile at [www.linkedin.com/in/thughes-indivttee](http://www.linkedin.com/in/thughes-indivttee).*

# EMPLOYEE BENEFITS & RETIREMENT SPECIALISTS

Your Company Is Unique—Your Benefits Should Be Too

# WBG

Weiner Benefits Group

## Providing Innovative Solutions from Hire to Retire

Personal attention. Straight answers.  
Strong partnerships. When you succeed,  
We succeed. It's that simple.

**Call Today (302) 658-0218**



Michael D. Reckner, GBA, GBDS, VBS  
Louis D. Memmolo, AIF, GBA, CPFA, NQPA

## Weiner Benefits Group Your Trusted Partner Since 1938

Our full-service firm offers a wide range of financial\* products and services, including group medical insurance, HR consulting, medigap, retirement planning, and long-term care solutions.



2711 Centerville Road, Suite 205  
Wilmington, DE 19808  
[www.weinerbenefitsgroup.com](http://www.weinerbenefitsgroup.com)  
[info@weinerbenefitsgroup.com](mailto:info@weinerbenefitsgroup.com)  
(302) 658-0218

\*Louis D. Memmolo, Investment Adviser Representative. Securities are offered through Osaic Wealth, Inc. member FINRA/SIPC. Osaic Wealth is separately owned and other entities and/or marketing names, products or services referenced here are independent of Osaic Wealth. Insurance services are offered through Weiner Benefits Group, LLC, which is not affiliated with Osaic Wealth, Inc.