

# **Ensuring Client Legacy by Rethinking the Estate Planning Process**

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# Ensuring Client Legacy by Rethinking the Estate Planning Process



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# Ensuring Client Legacy by Rethinking the Estate Planning Process

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MEMBER OF THE M&T FAMILY

April 2024

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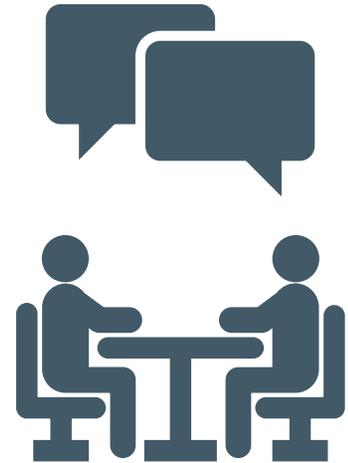
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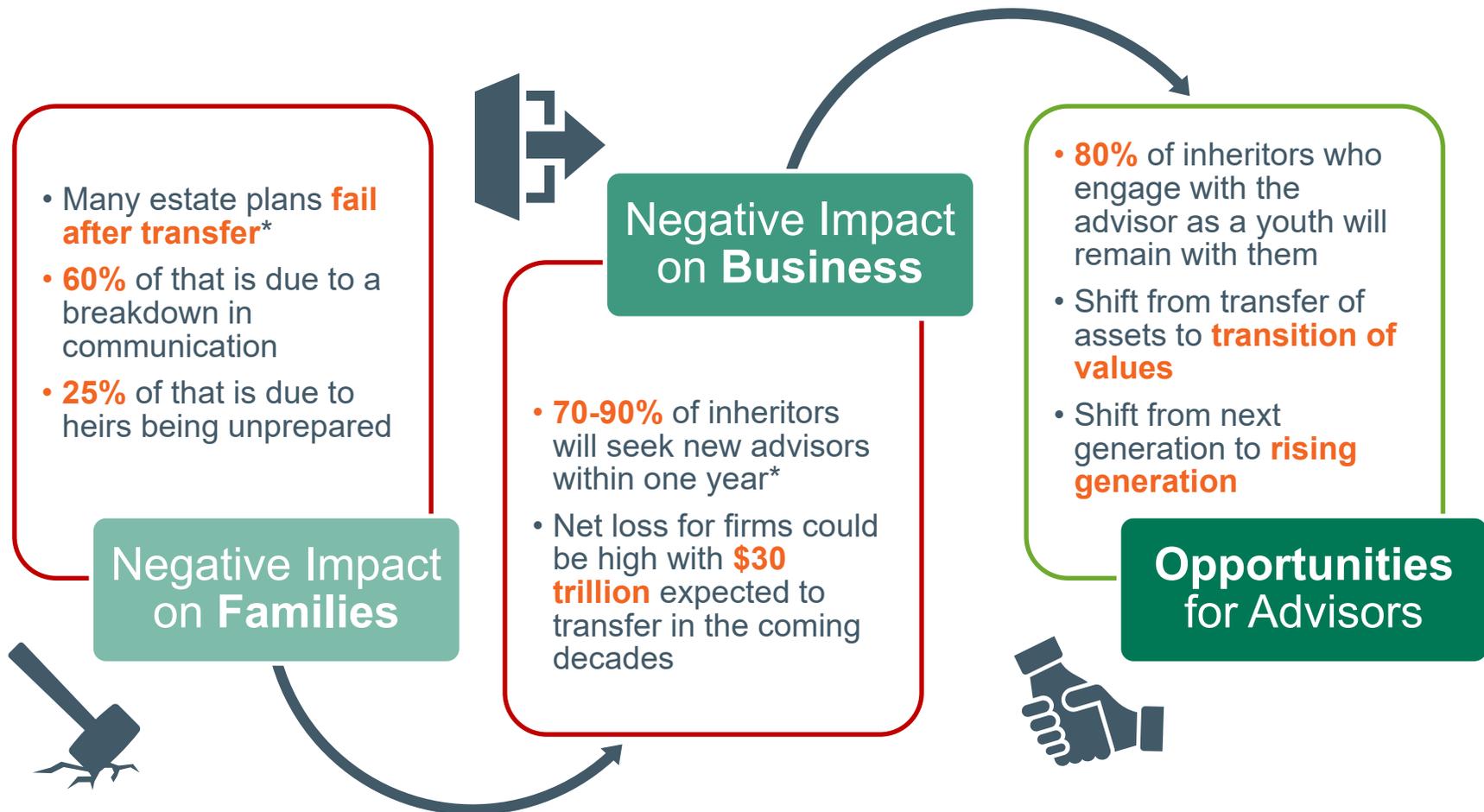


## **Introduction**

Why engage families in the estate planning process alongside the wealth creator?

# Issue Overview

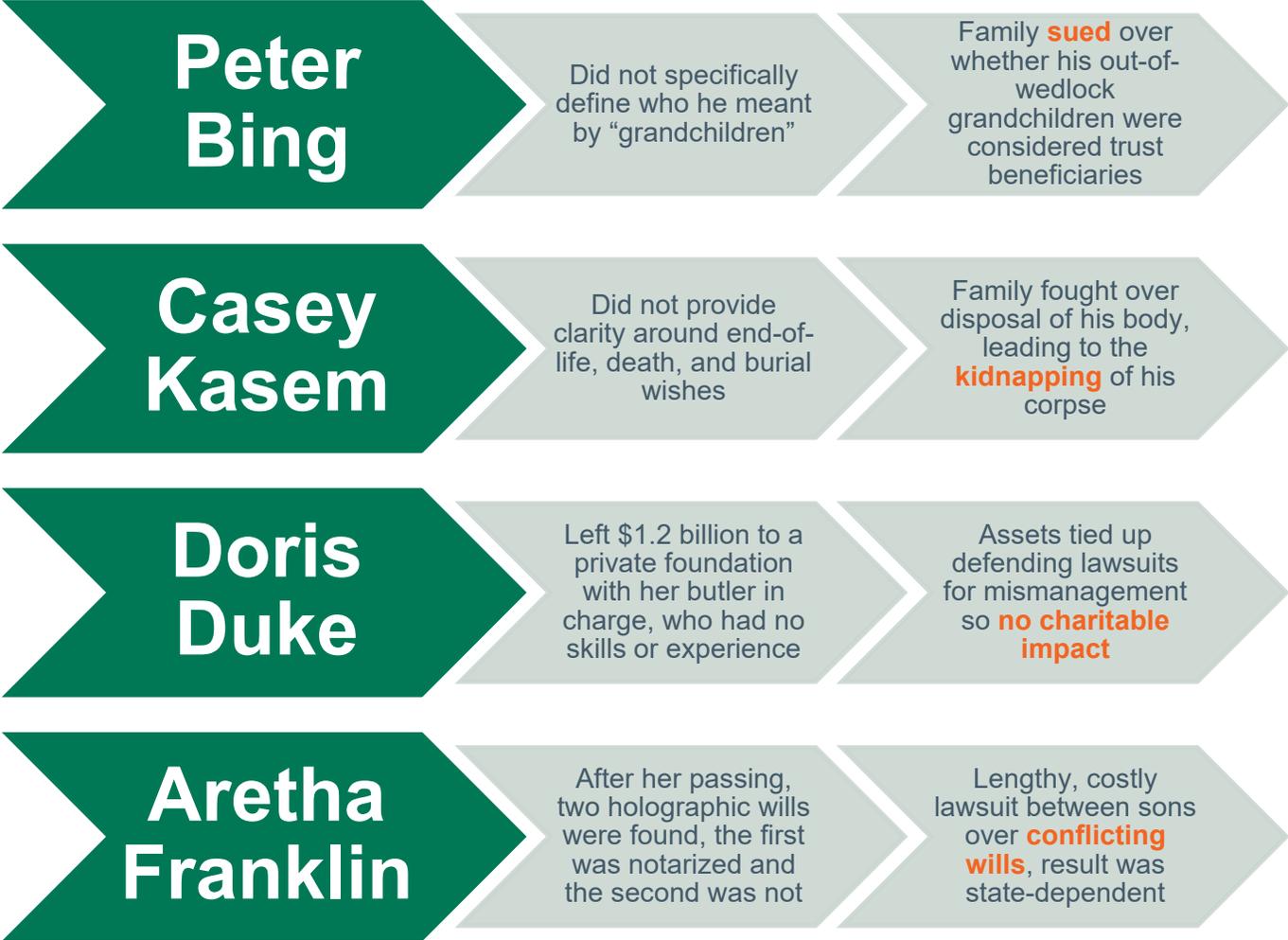
“When heirs aren’t prepared, wealth often disappears.” (Carlson)



\*Statistics vary depending on source; failure is considered when there is no substantial wealth for the third generation to inherit  
Carlson (2020), Cubeta (2021), Keffeler (2022), Preisser & Williams (2010), Nuveen (2022)

# Famous Estate Planning Flops

“When you have a hammer, everything looks like a nail.” (Maslow)



Klein (2021), Erskin (2021), Fox (2023)

# Success Stories

Most importantly, clients want this. Shifting advisor roles is meeting clients where they are:

- **86%** of adults believe that **family stories are the most important component of legacy planning**, compared to only 9% who believe that it's financial inheritance
- **74%** of adults say that **values and life lessons are the most important assets to pass along**, compared to only 32% who believe it's financial assets



Jedinak (2022), Gorman (2018)

# Evolution of Industry's Take on Wealth

- Primary focus typically on family's **financial assets**, not dynamics or behavior
- Wealth typically managed by a **single advisor**
- Goal typically solely preservation and growth of **financial assets**

- Wealth focus expanded to other forms of the **family's capital**
- Management typically taken on by **larger teams**
- Goals often driven by fear of **negative impact of wealth** on heirs

- Field embraces idea that family longevity depends on **values and skills**
- Management approaches rooted in cognitive and behavioral **science**
- **Communication** and **education** are crucial

**Wealth 1.0**  
Study of the field  
pre-1980s

**Wealth 2.0**  
Study of the field  
in 1980s-2020s

**Wealth 3.0**  
Study of the field  
emerging now

# **Top 10 Communication Mistakes**

What can go wrong – or right –  
from rethinking estate planning?

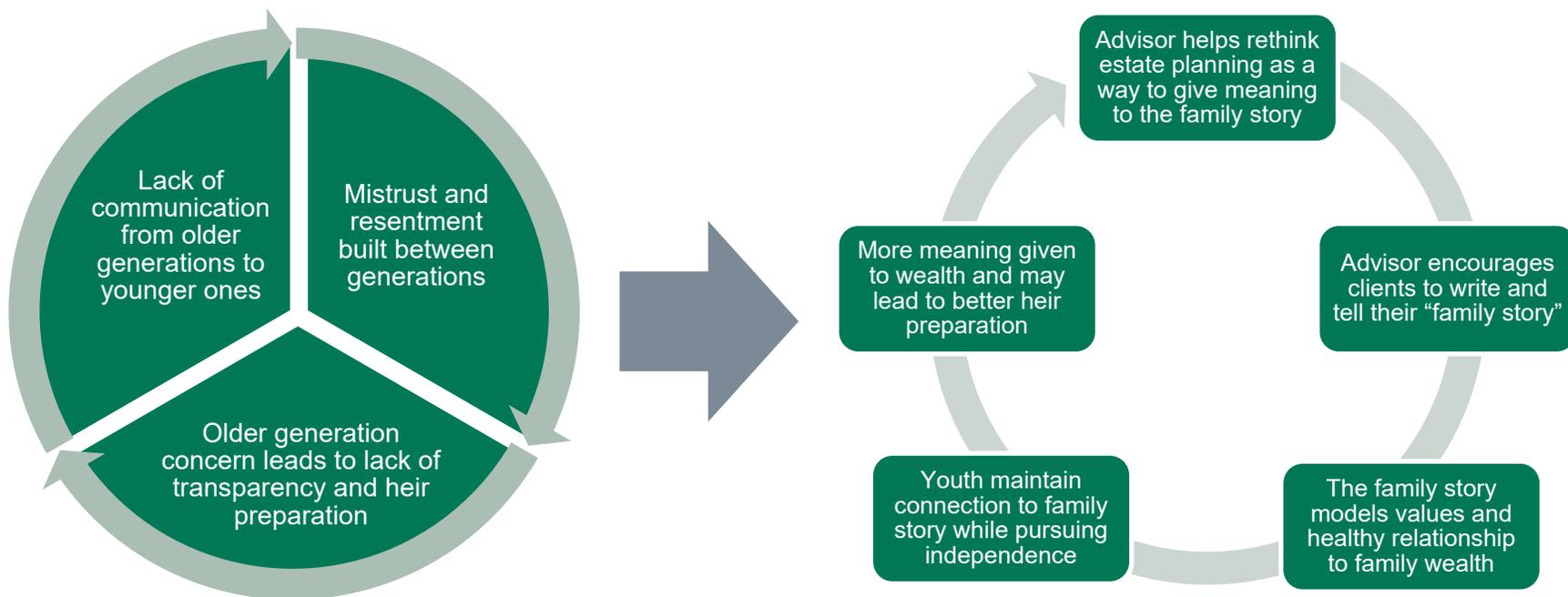
# #1: Focusing Solely on Technical Components

Only 2-3% of failed estate plans are due to professional oversight.

## Common technical provisions utilized in the trust and estate planning process:

- ✓ Will and living will
- ✓ Trust
- ✓ Durable power of attorney
- ✓ Medical power of attorney
- ✓ Advance healthcare directive
- ✓ Beneficiary designations
- ✓ Guardianship

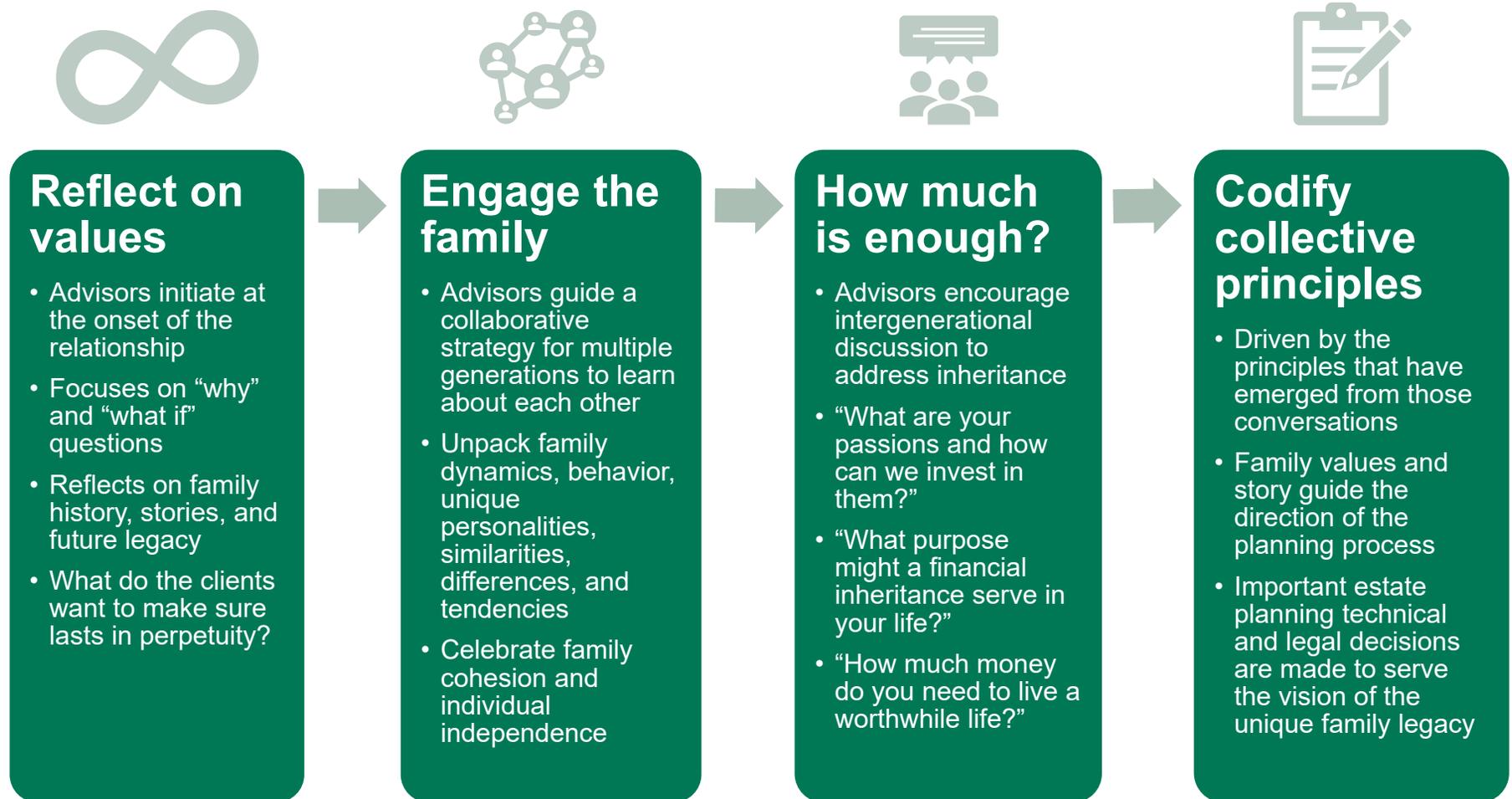
## How advisors can resolve the cycle of mistrust through non-technical guidance:



Preisser & Williams (2010)

## #2: Not Taking Time to Understand the Purpose of Wealth

“The meaning that is given to wealth makes a statement about what that family stands for.” (Collier)



Collier (2012)

# #3: Wrong Choice of Trustee and Fiduciary

Grantors should address the following when **considering who to ask to serve as trustees:**

- Prospective implications on future family dynamics
- Unique challenges in execution of a trust that may be “fair but not equal”
- Considering preferences or insight from beneficiaries

Grantors should plan on **discussing details with prospective trustees:**

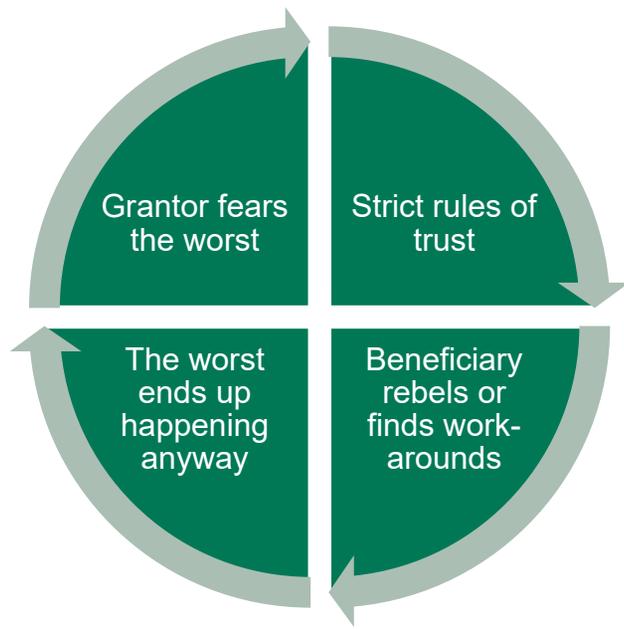
- Intent and principle behind the trust
- Prospective burdens or conflicts, personally and professionally, that may arise
- Time, experience, and willingness to take on the responsibility
- Finally, facilitating open communication and meetings between grantor, trustee, and fiduciary together

	Family or Individual	Corporate or Professional
<b>Potential Benefits</b> from a Family Engagement Perspective	<ul style="list-style-type: none"> <li>• Good understanding family dynamics and history</li> <li>• Personal investment in family legacy continuity</li> <li>• Can model clear and ongoing communication with grantor to be implemented with beneficiary</li> <li>• Builds in a structure for family support for the beneficiary to guide future decisions</li> </ul>	<ul style="list-style-type: none"> <li>• Have access to detailed historical wealth strategy</li> <li>• More likely to exist in perpetuity</li> <li>• Access to a wide range of technical and legal professionals</li> <li>• Time commitment is likely built into their professional portfolio</li> </ul>
<b>Potential Pitfalls</b> from a Family Engagement Perspective	<ul style="list-style-type: none"> <li>• Heavy responsibility for one person to bear</li> <li>• Beneficiary may feel infantilized as though they are asking for an allowance</li> <li>• Relationship with beneficiary subject to family dynamics or potential breakdowns</li> <li>• May not have the time to dedicate to trusteeship</li> <li>• Areas of expertise may or may not be relevant</li> </ul>	<ul style="list-style-type: none"> <li>• Beneficiary may feel they still work for the grantor almost as surrogate parents</li> <li>• Inheritor may feel that strategies are outdated or biased toward grantor</li> <li>• Relationship may become complicated if inheritor chooses to change firms</li> </ul>

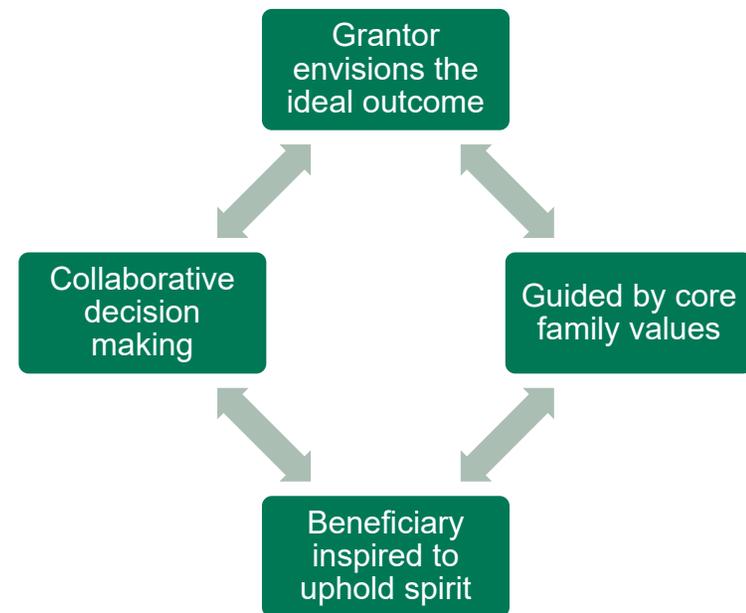
Goldstone, Hughes, and Whitaker (2016), Fitzgerald (2020)

# #4: Assuming Technical Trust Provisions Will Teach Values

Prevention focused mindset



Promotion focused mindset



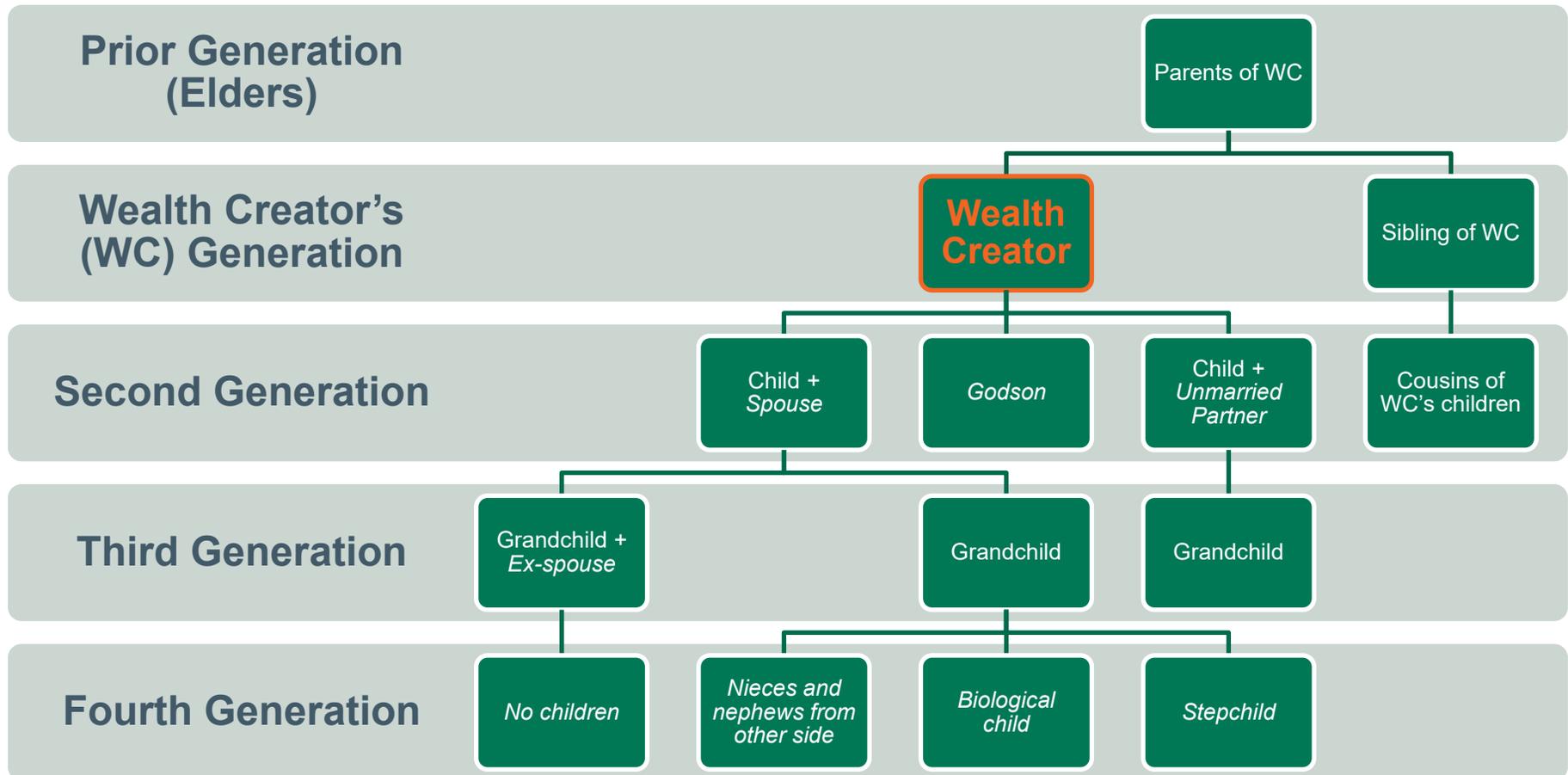
## Paul Newman – A Cautionary Tale

- Modeled values of charity and giving back and institutionalized these values with a foundation
- Engaged his daughters in his philanthropic efforts to prepare them to take over
- After his passing, his estate plan shocked his daughters by cutting them out

Advisors can help grantors understand that the process of engaging family in estate planning and heir preparation will only be as successful as they are willing to have it be implemented upon their passing.

Goldstone, Hughes, and Whitaker (2016), Keffeler (2022), Weber (2017)

## #5: Not Clarifying Their Unique Definition of “Family”



When defining who the wealth creator determines family for the purposes of engaging in the estate *planning* process, advisors can encourage them to consider:

- **Who is most directly affected by the decisions being made in planning discussions?**
- *Not*, at this point, who will be, most directly *affected by an inheritance*.

Cubeta (2021), Collier (2012)

## #6: Not Choosing the Right Timing

When and How in the Grantor's Planning Process	When and How in the Life Stage of the Beneficiaries
<b>Inform</b> <ul style="list-style-type: none"><li>• After a decision has been made</li><li>• Communicate directly</li><li>• Solidify in writing</li></ul>	<b>Elementary and Middle School</b> <ul style="list-style-type: none"><li>• Budgeting through allowance</li><li>• Earning income by selling lemonade</li></ul>
<b>Invite</b> <ul style="list-style-type: none"><li>• After general principles have been determined, but before details have been solidified</li><li>• Share vision and context</li><li>• Invite feedback and discussion</li></ul>	<b>High School and College</b> <ul style="list-style-type: none"><li>• Financial administration by opening a bank account or credit card</li><li>• Establishing credit by paying off credit cards on time</li></ul>
<b>Imagine</b> <ul style="list-style-type: none"><li>• At the genesis of the process</li><li>• Collaborate on planning and build consensus about decisions</li><li>• Co-create document to memorialize</li></ul>	<b>Young Adulthood and Beyond</b> <ul style="list-style-type: none"><li>• Financial decision making through involvement in family purchases</li><li>• Long term planning through learning about investments and portfolio allocations</li></ul>

# #7: Not Preparing for Potentially Uncomfortable Situations



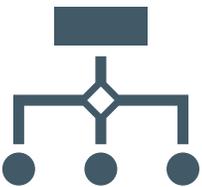
## Division of Estate Disagreements

- Fair vs. equal division of estate
- Giving away sentimental artifacts or real estate
- All or greater percentage of estate to charity, particularly if unexpected by would-be heirs



## Varying Needs of Heirs

- Variance in earned income of beneficiaries
- Heirs demonstrate lack of motivation or work ethic
- Disinheritance of a particular family member
- Special or circumstantial needs of some heirs



## Challenging Family Dynamics

- Differing definitions of family
- Strong opinions on who should be included in the estate plan and/or planning process
- Dislike of heir's spouses

Advisors may help prevent or mitigate effects by facilitating workshops for families to meaningfully **engage with the estate planning process**, with topics such as:

- Unifying a Purpose of Money for Families
- Family Communication Assessment
- Shared Money Motto and Family Mission Statement
- Developing a Family Charter and Family Governance
- Crafting a Family Money Genogram

Inglet (2023), Pursley (2020), Fitzgerald (2020)

# #8: Not Considering Key Differences

## Age and Generation

	Baby Boomers	Gen X	Millennials	Gen Z
<b>Years Born</b>	1946-1964	1965-1980	1981-1996	1997-2012
<b>Critical Historical Events</b>	<ul style="list-style-type: none"> <li>• Civil rights movement</li> <li>• Multiple wars</li> <li>• Woodstock</li> <li>• Moon landing</li> <li>• JFK assassination</li> </ul>	<ul style="list-style-type: none"> <li>• Fall of Berlin Wall</li> <li>• Challenger disaster</li> <li>• Personal computer</li> <li>• Watergate</li> <li>• Rodney King riots</li> </ul>	<ul style="list-style-type: none"> <li>• Rise of internet and social media</li> <li>• September 11<sup>th</sup></li> <li>• Recessions</li> <li>• First black president</li> <li>• First mass shootings</li> </ul>	<ul style="list-style-type: none"> <li>• Smartphones</li> <li>• Recession</li> <li>• COVID-19</li> <li>• School shootings become common</li> <li>• Donald Trump</li> </ul>
<b>Typical Personal Characteristics</b>	<ul style="list-style-type: none"> <li>• Deepening wisdom</li> <li>• Values evolving</li> <li>• Looking back on the life story and legacy</li> </ul>	<ul style="list-style-type: none"> <li>• Asking deeper questions about life</li> <li>• Reevaluating definitions of success</li> <li>• Reinventing oneself</li> </ul>	<ul style="list-style-type: none"> <li>• Searching for identity</li> <li>• Pursuing career and life partnerships</li> <li>• Individuals vs. family belonging</li> </ul>	<ul style="list-style-type: none"> <li>• Dependence to independence</li> <li>• Shifting social system from family to friends</li> <li>• Self discovery</li> </ul>
<b>Key Cultural Characteristics</b>	<ul style="list-style-type: none"> <li>• Pursued traditional American dream</li> <li>• Value strong interpersonal skills</li> <li>• Careers are lifelong</li> </ul>	<ul style="list-style-type: none"> <li>• Work/life balance</li> <li>• Belief in a clear line from life decisions to success in achieving milestones</li> </ul>	<ul style="list-style-type: none"> <li>• Technology and entrepreneurship</li> <li>• Pressure to achieve milestones that are out of reach</li> </ul>	<ul style="list-style-type: none"> <li>• Digital natives</li> <li>• Value social justice</li> <li>• Want to improve</li> <li>• Value hard work</li> </ul>
<b>Wealth and Implications on Estate Plan</b>	<ul style="list-style-type: none"> <li>• Most charitable</li> <li>• Majority of wealth</li> <li>• Prefer maintaining control of finances</li> <li>• Likely to work those they found through their own networks</li> </ul>	<ul style="list-style-type: none"> <li>• Power of attorney</li> <li>• Beginning their own estate planning</li> <li>• Likely to use technology to find reputable advisors</li> </ul>	<ul style="list-style-type: none"> <li>• Economic challenges building own wealth</li> <li>• Isolation or confusion about inherited wealth</li> <li>• Most likely to use digital financial planning platforms</li> </ul>	<ul style="list-style-type: none"> <li>• Building financial literacy</li> <li>• Understand impact of economic climate</li> <li>• Likely to want to leverage wealth for social good</li> </ul>

Lyons (2022), Ryback (2016), Oxford, Keffeler (2022)

# #8: Not Considering Key Differences

## Relationship to Wealth

	Pioneers	Transplants	Natives
<b>Source of wealth</b>	<ul style="list-style-type: none"> <li>• Directly, through personal earnings</li> <li>• Likely hard work and ultimately success</li> </ul>	<ul style="list-style-type: none"> <li>• Indirectly, not related to personal financial efforts or success</li> <li>• Marriage, windfall, etc</li> </ul>	<ul style="list-style-type: none"> <li>• Born into wealth</li> <li>• Wealth has been organized for them, often before birth</li> </ul>
<b>Reactions to personal wealth</b>	<ul style="list-style-type: none"> <li>• Balance original middle-class values with new privilege of wealth</li> <li>• Attempting to learn the culture and society of the wealthy</li> </ul>	<ul style="list-style-type: none"> <li>• Discomfort with new social status</li> <li>• Isolation from friends and family in “old” life</li> <li>• Act entitled in order to “prove” themselves</li> </ul>	<ul style="list-style-type: none"> <li>• Frustration around lack of autonomy over finances</li> <li>• Underdeveloped or overshadowed sense of self identity</li> </ul>
<b>Considerations to be aware of</b>	<ul style="list-style-type: none"> <li>• Concern about heirs learning middle-class values</li> <li>• Want heirs to have opportunities</li> </ul>	<ul style="list-style-type: none"> <li>• Potential mis-management of newfound wealth</li> <li>• Learn wealth literacy as well as culture</li> </ul>	<ul style="list-style-type: none"> <li>• Under intense pressure from family</li> <li>• Question authenticity of friendships or relationships</li> </ul>
<b>Opportunities for advisors</b>	<ul style="list-style-type: none"> <li>• Allow grantor to speak freely, thoughtfully, and reflectively about their road to wealth</li> <li>• Encourage values-based family discussions early and often</li> <li>• Incorporate provisions into trusts or estate plans in the spirit of the values the grantor wants to impart</li> </ul>	<ul style="list-style-type: none"> <li>• Financial and wealth literacy and education</li> <li>• Understand dynamics of transplant’s relationship to the wealth creator (if the pioneer or the native)</li> <li>• Build individual relationship to best serve the family unit as a whole</li> <li>• Understand their role in financial decision-making</li> </ul>	<ul style="list-style-type: none"> <li>• Guide parents in age-appropriate financial literacy and exposure to family wealth</li> <li>• Facilitate family discussions around how much is enough with regards to inheritance</li> <li>• Develop individual relationship and trust with next generation</li> </ul>

Cubeta (2021), Grubman (2013), Keffeler (2022)

# #8: Not Considering Key Differences

## Cultural Norms



### Definition of family

- United State law treats immediate and extended family differently
- Other cultures assume the nuclear family is more extensive
- Need to ensure there is clarity around who the client considers family



### Head of household

- Cultural expectations about who speaks on behalf of who
- Possible tension between attorney-client privilege and respect of cultures
- Potential for misunderstanding who the client actually is and ultimately wants



### Language

- Lack of shared definition of terms across countries or languages
- If a non-English speaking family member needs someone else to translate, possible jeopardy of attorney-client privilege or of contesting a will
- Possibility of ulterior motive, intentional misrepresentation, or other coercion



### Default laws

- Legal rights to estates may differ from a client's country of origin
- Possible difference in who defaults to executor, heir, or power of attorney in the absence of clear documentation
- Ensure overt clarity around implications of having or not having estate plans



### Death conversation

- Cultures speak about death in different ways, with different languages and tones, expectation about what happens after death, and mourning and burial rituals
- Possible unexpected reaction when discussing estate planning in that context
- Clearly discuss United States laws around healthcare directives or end-of-life care

Rao (2021), Nguyen (2021)

# #8: Not Considering Key Differences

Gender



Myth	Truth	Outcome
Women are not as financially literate as men	<ul style="list-style-type: none"> <li>35% of women can pass a basic financial literacy test</li> <li>39% of men can pass the same test</li> </ul>	<ul style="list-style-type: none"> <li>Socialized to be less confident and therefore less likely to work with a financial advisor</li> </ul>
Women are not interested in finance	<ul style="list-style-type: none"> <li>93% of women want to learn more about financial planning</li> </ul>	<ul style="list-style-type: none"> <li>Financial advisors are less likely to offer financial education for women</li> <li>Women are less likely to work with an advisor</li> </ul>
Women are emotional investors	<ul style="list-style-type: none"> <li>Women are more deliberate with decisions</li> <li>Portfolios are more balanced and match or exceed men's average long-term rate of return</li> </ul>	<ul style="list-style-type: none"> <li>Industry suffers financial loss from not having more female investors</li> </ul>
Women defer to male family members	<ul style="list-style-type: none"> <li>~1,000,000 women are widowed each year</li> <li>Women are 4x more likely to outlive spouses</li> <li>80% of women die single; only 20% of men do</li> </ul>	<ul style="list-style-type: none"> <li>Women have greater longevity and thus more likely to make the ultimate decisions in how wealth is passed down</li> </ul>



Myth	Truth	Outcome
Men are financially savvy	<ul style="list-style-type: none"> <li>Many women end up taking the lead on household finances</li> </ul>	<ul style="list-style-type: none"> <li>Men make more mistakes because they are more reluctant to admit lack of knowledge</li> <li>Men don't maximize their financial advisors</li> </ul>
Men are confident investors	<ul style="list-style-type: none"> <li>Male investors are more likely to attempt to outwit the market with more frequent trades</li> </ul>	<ul style="list-style-type: none"> <li>Men's overconfidence negatively impacts the financial performance of their portfolios</li> </ul>
Men love to discuss finances	<ul style="list-style-type: none"> <li>Outside of financial service professionals, men do not typically discuss finances amongst one another</li> </ul>	<ul style="list-style-type: none"> <li>Men may wait until they are deep in financial trouble before opening up</li> <li>Recovery is more difficult and complex</li> </ul>
Men enjoy controlling family finances	<ul style="list-style-type: none"> <li>Millennials delay marriage in favor of careers</li> <li>Partners have more financial independence</li> <li>Partners are more likely to co-manage</li> </ul>	<ul style="list-style-type: none"> <li>Men may portray an inaccurate picture of the household finances and decision-making</li> <li>Lack of transparency with financial advisors</li> </ul>

Weber (2017), Kingsbury (2017)

# #9: Not Codifying the Plan



## Existing plans

- To be included in legal documents that are already prepared
- Foreword from trust creator
- Annotated with context of each decision
- Personal letters to each beneficiary
- Personal letters to trustees and principles



## Video message

- Not legally binding
- Provide color to the legal documents
- Share advice, personal philosophy, family history
- Speak to each descendent
- Created over weeks, months, or even years



## Letters of intent

- Nonbinding statement of guidance for trustees and beneficiaries
- Guides efficient administration of the estate plan
- Adds practical details and action items for the days following death
- Logins, passwords, burial wishes, contact numbers for those to be notified

# #10: Lacking the Key Components of Intentional Inheritance Planning



## Communicate

- Share knowledge and make decisions
- Avoid stockpiling tension or disagreements
- Schedule organized, regular group discussions



## Build the Toolbox

- Arm heirs with knowledge of financial and wealth literacy, estate planning and trusts
- Create a formal (with advisors) and informal (family culture) that encourages questions



## Legacy

- Establish and reinforce values to model the aspirations of the family's legacy
- Create a family mission statement



## Family Philanthropy

- Build on financial and wealth education, communication, and shared legacy goals
- Volunteer together and making collaborative charitable giving choices



## Business of Being a Family

- Create structure, succession planning, and practices to provide the basis for the family to be a cohesive unit in perpetuity
- Write a family charter to memorialize plans

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