



# **Family Policies and the Elephants in the Room**

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The Miami Estate Planning Council  
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# The Sustainability Question

One of the fundamental questions wealthy families struggle with is:

Can our wealth be a resource that grows consistently and is not depleted over time *while* having a positive impact on those that use it?



# The Proverbs Say “Not Likely”

“Shirt sleeves to shirt sleeves in three generations”

*USA*

“Father – merchant; son – playboy; grandson – beggar”

*Mexico*

“From peasant shoes to peasant shoes in 3 generations”

*China*

“The 1<sup>st</sup> generation creates, the 2<sup>nd</sup> inherits, the 3<sup>rd</sup> destroys”

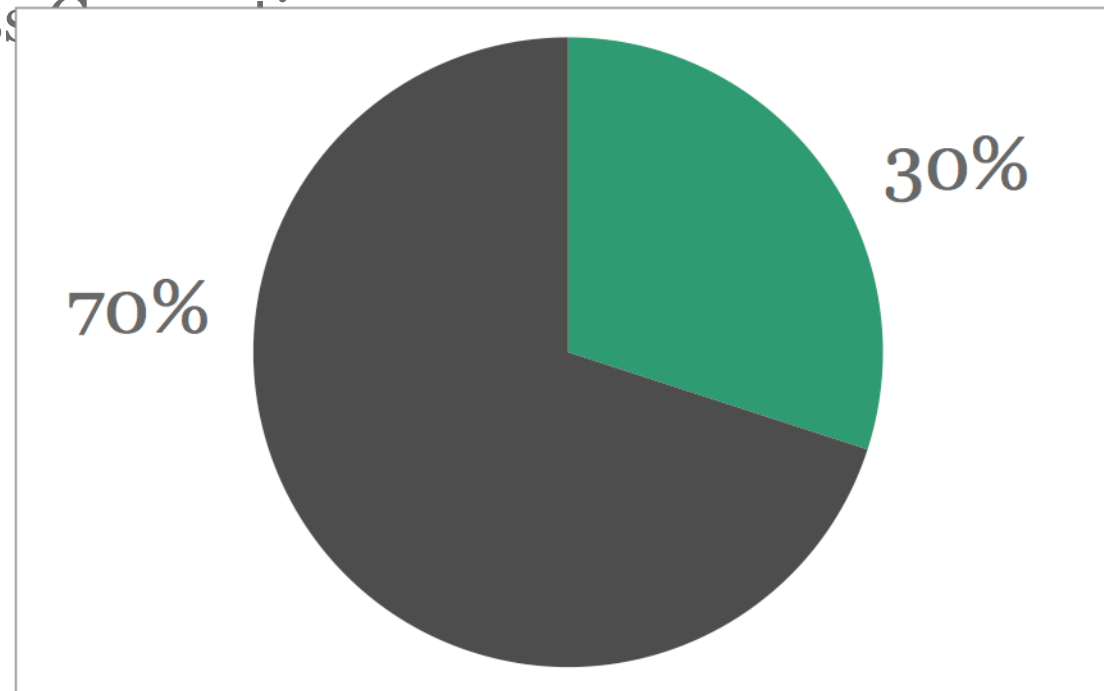
*Germany*

“From the stable to the stars and back again”

*Italy*

# The Statistics Say “Not Likely”

Probability That A Family  
Will Fail To Sustain Wealth  
Across Generations

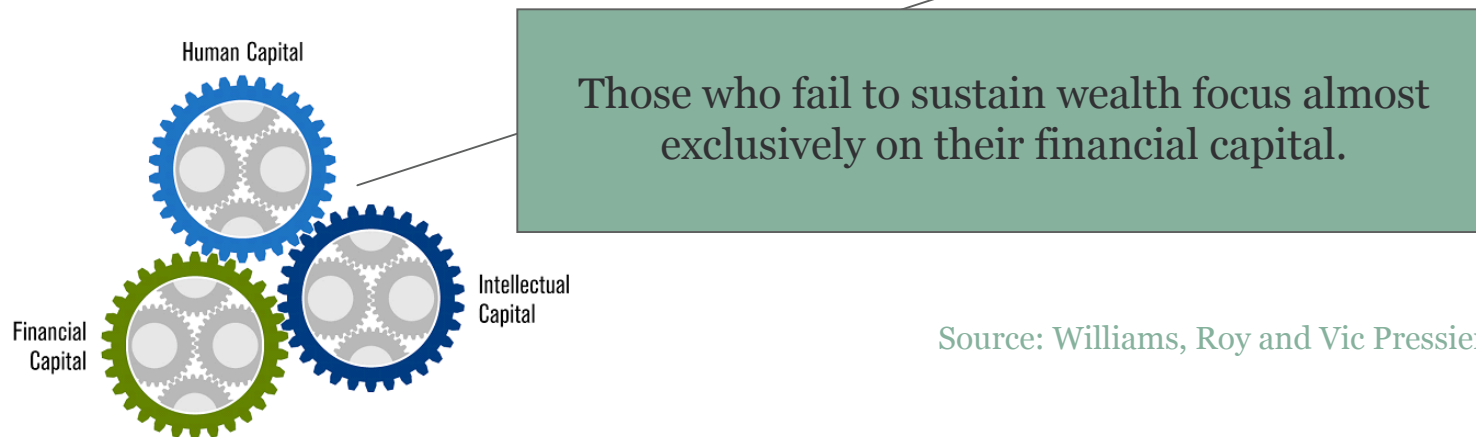


Sources: Williams, Roy & Vic Preisser, *Preparing Heirs*. “Managing Continuity in the Family-Owned Business”, [Forbes](#), October 11 2004, citing data from study conducted by JP Morgan.

# So What Happens?

Surprising to some, less than 3% of all failures stem from:

- Poor estate planning  
(estate taxes)
- Poor investment returns  
(asset allocation)



Source: Williams, Roy and Vic Pressier, *Preparing Heirs*.

# The “Real” Culprits are not Financial

- 60% of failures result from a breakdown of communication and trust in the family
- 25% of failures result from inadequately prepared heirs
- 15% of failures result from “other” factors

Source: Williams, Roy and Vic Pressier, *Preparing Heirs*.

# 25 Best Practices of Multi-Generational Families

- **Family Cohesiveness**

- Family History & Culture
- Shared Values
- Family Mission Statement
- Teamwork & Communication
- Family Member Well-Being

- **Governance**

- Family Governance
- Family Meetings
- Family Policies
- Conflict Resolution
- Succession Planning

- **Strategic Planning**

- Understanding of Economics
- Wealth Objectives
- Planning for Major Life Events

- **Mentoring**

- Financial Education
- Parenting Skills
- Support for Entrepreneurship
- Family Support Network
- Money Smarts

- **Trusts & Estates**

- Communicating Intentions
- Grantor & Beneficiary Mentoring
- Selection of Trustees & Advisors
- Trustee & Beneficiary Relationships

- **Philanthropy**

- Support for Philanthropy
- Shared Philanthropy
- Strategic Philanthropy

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# Why Policies in Family Governance?

- Provide guidelines for “living” the family’s mission
- Decrease uncertainties about what practices are permitted
- Improve the quality of communication within the family
  - Reduce stress
  - Reduce conflict
- Decrease ad hoc procedures and arbitrary decisions
- Increase the involvement of family members
- Increase the likelihood of long-term success

# Common Areas of Family Policy Development

- Decision-making
- Confidentiality
- Code of conduct
- Conflict resolution
- Education
- Employment
- Family risk management
- Medical
- Philanthropy
- Travel
- Trust distribution
- Vacation properties



# Family Policies - Drafting Process

- Examine family's values and determine how they apply to the policy
- Agree on general principles
- Make good use of sample policies
- Delegate the policy writing to a subcommittee
- Circulate the first draft for review
- Iterate until agreement is reached



# Anatomy of a Policy

- Purpose
  - What is the intention?
- Principle
  - Why is this important?
- Procedure
  - What is the process?



The overall goal for any policy is for the design to be simple, consistent, and easy to use.



Source: <http://tennisofficials.blogspot.com/2010/10/elephant-in-room.html>



# All the Appropriate Sizes ...



Source: [http://www.mediabistro.com/agencyspy/mark-wnek-the-elephant-in-the-room-at-lowes-new-york\\_b2057](http://www.mediabistro.com/agencyspy/mark-wnek-the-elephant-in-the-room-at-lowes-new-york_b2057)

# Sometimes They Even Hide ...



Source: <http://blogs.eciad.ca/rcutler/2009/10/23/252/>

# Factors that Influence Successful Policy Development



- Size of the family
- Interest
- Willingness to participate
- Capacity for communication
- Open
- Secretive
- Cultural background



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# Decision-Making Policy

**Purpose:**

We believe that having a family decision-making policy is critical to enabling our family to make considered, well-thought out decisions.

**Principle:**

We will make every effort to come to decision by consensus. Votes may be taken and will be taken at the request of a voting member.

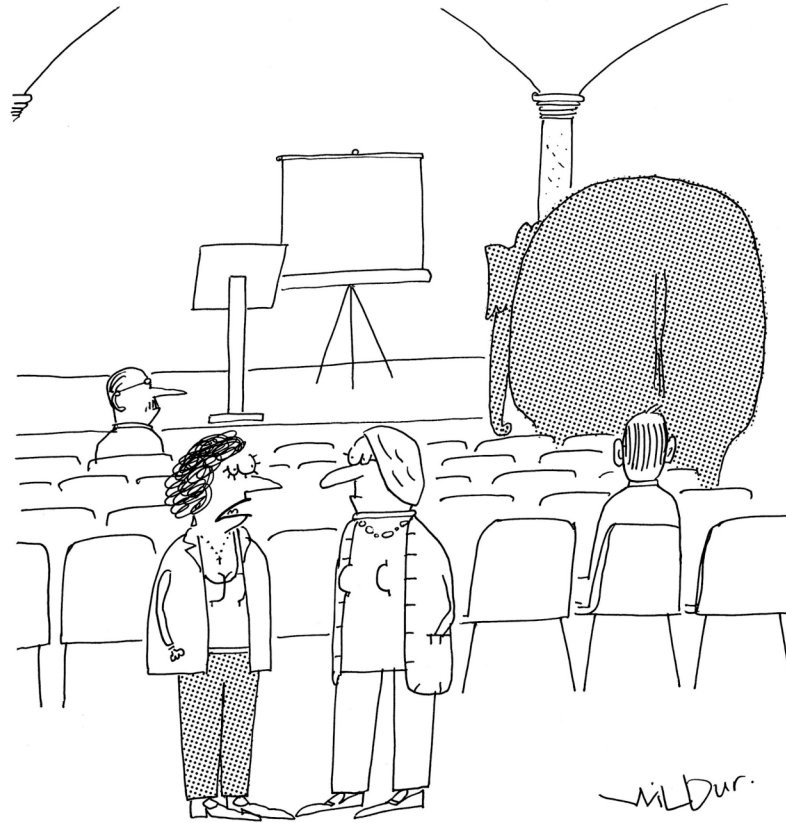
**Procedure:****1. Voting**

- a) Bill and Jenny Mystery and their direct descendants are eligible to vote.
- b) Each voting member in G1 will have one vote.
- c) Each family unit of G2 has one vote. A family unit is defined as the Suzie Mystery branch, the William Mystery branch and the Mary Mystery branch. The family's vote will be prorated among the eligible voting members of that family unit.
- d) Direct descendants are eligible to participate in the FC without voting rights at age 25.
- e) Direct descendants are eligible to vote in the FC after 5 years of active participation.
- f) If a legally married direct descendant of G2 should decease, voting rights may pass to the remaining spouse at the discretion of the voting members.
- g) A 2/3 vote decides.
- h) A majority of voting members constitutes a quorum.
- i) The method of voting will be determined by the current leadership.

**2. Voting by Proxy:**

- a) When voting telephonically, a 2/3 vote decides.
- b) Voting via technologies such as email, facsimile, posted letter, etc. require unanimous approval.

# What are some of the “Elephants” in the room when discussing a Decision-making Policy?



WE HAD TO HIRE A BIGGER VENUE TO ACCOMMODATE  
THE ELEPHANT 'IN THE ROOM'

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# Code of Conduct Policy

**Purpose:**

A code of conduct will help to maintain the respect and caring that we all feel for each other. It will allow us to create an environment for successful decision-making and ensure all members of the family the opportunity to be heard.

**Principle:**

We believe if the Mystery Family members treat each other with respect and dignity, family members will feel valued and remain interested. Our goal is to encourage everyone's involvement.

**Procedure:**Internal:

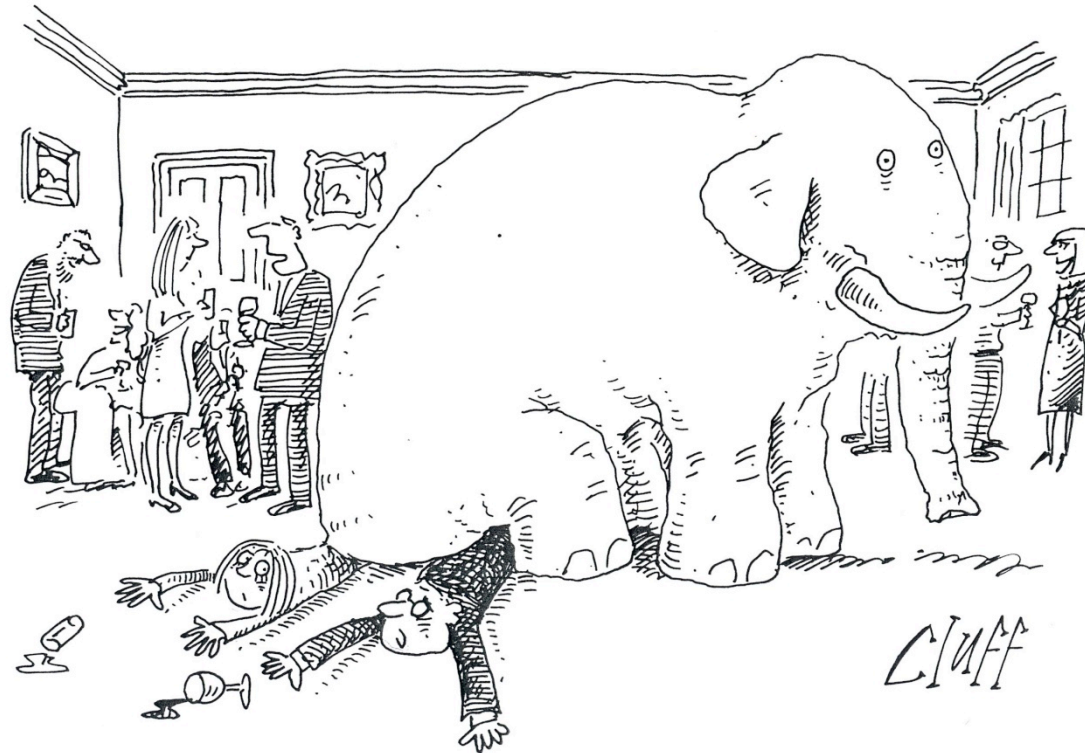
The Mystery Family promises to treat one another with respect, dignity, care and kindness. In the event that family members have differing opinions, ideas or perspectives, each Mystery Family member promises to listen intently to the views and opinions of other family members without interrupting.

External:

Individual family members must respect and comply with the following core tenets:

- To be respectful and speak supportively of family members
- Regarding sensitive and/or confidential matters pertaining to the family and/or the business, to hold that information as private
- To provide no commentary to the press, using the term “No Comment!”
- To conduct oneself in an upstanding and presentable manner at all public gatherings

# What are some of the “Elephants” in the room when discussing a Code of Conduct Policy?



"HAVE YOU NOTICED IT, TOO?"

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# Confidentiality Policy

## **Purpose:**

Information about the family and the family's business is part of the intellectual capital of the family and should be protected. Family information is, by its very nature, private.

## **Principle:**

Confidentiality benefits the wellbeing of our family both individually and as a whole. Information may be disseminated, but only after reflection, appropriate consideration and, when appropriate, the approval of the Family Council.

## **Procedure:**

- All family members are expected to maintain confidentiality at all times, whether dealing with information about the family or the family's business.
- Critical family information includes, but is not limited to:
  - Private information about family members and their families, including but not limited to medical, educational and career information
  - Any financial or investment information
  - Family business strategy or plans
  - Family business performance information
  - Information about family holdings or tangible assets
- Family members will not engage in gossip about other family members
- Family members will not provide access to family information to non-family members without the expressed permission of the Family Council.
- All family members are expected to protect the security of family documents. Documents no longer needed, which incorporate family information, are to be shredded
- In the event a family crisis should attract media attention, family members should consult first as a family group.

# What are some of the “Elephants” in the room when discussing a Confidentiality Policy?

~ UTOPIA THEORY ~



"Yeah, I see him too...But nobody wants to talk about it!"

Source: <http://www.utopiatheory.com>



# Risk Management Policy

**Purpose:**

The purpose of the risk management policy is to reduce risk for family members, both individually and as a whole. Adherence to this policy would go far to protect our human and financial assets and greatly minimize potential liability.

**Principle:**

We believe that forewarned is forearmed. It's our responsibility to identify areas of potential risk and to do whatever is possible to mitigate that risk.

**Procedure:**

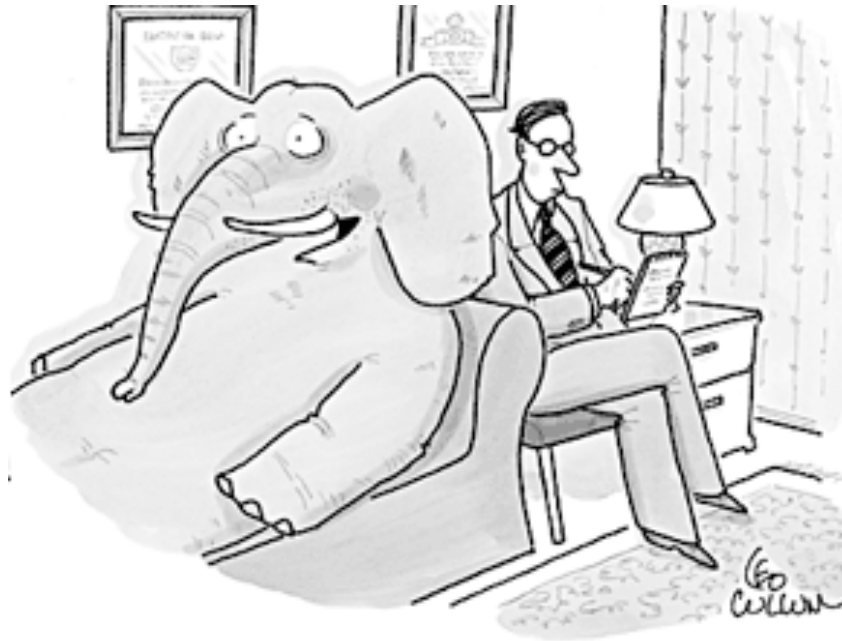
Each family member is expected to:

1. Achieve financial literacy with regard to their own wealth as well as the wealth of the family enterprise
2. Draft and have both parties sign a pre-nuptial agreement
3. Contact their insurance providers annually to review their insurance coverage to ensure they are current and adequate
4. Have in place the following basic estate planning documents: a Will, revocable living trust, health care power of attorney and a power of attorney for financial assets
5. Participate in the development of an investment policy that is aligned with the family's shared values
6. Protect the family's reputation by learning how each individual's behavior, both positive and negative, can impact the family's reputation.



# Family Risk Management Policy

**What Else?** Are there other areas families are putting themselves at risk ... that could be included here?



*"I'm right there in the room, and no  
one even acknowledges me."*

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# Questions?





## Daisy Medici

### Director of Family Governance

Daisy is the Director of Family Governance within GenSpring's Wealth Advisory Center. Daisy focuses much of her time on coaching and mentoring GenSpring Family Offices professionals in the non-financial components of the process, and working alongside them as they work with their client families to identify wealth objectives and develop long range strategies critical to sustaining wealth over generations. Daisy's forte lies in helping families develop and implement effective systems of governance that will allow families to preserve their wealth and plan for the successful transition of leadership.

Daisy brings to GenSpring Family Offices extensive experience in the family business space. Prior to joining GenSpring Family Offices, Daisy was a partner with Roseview Capital Partners, an investment banking firm that works primarily with family enterprises, where she advised client families and focused on new business development and marketing. Prior to Roseview, she was Managing Director of Genus Resources, LLC, a business consultancy that catered exclusively to the needs of family owned businesses. Daisy is also a contributing author for Families in Business Magazine.

Daisy earned her graduate degree in Communications Management at Simmons College in Boston, MA. She has been an active member of The Family Firm Institute for many years, was co-chairperson of the Family Firm Institute's Annual Conference in October 2005, and serves on the Board of Directors of the Family Firm Institute's New England Chapter.