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the advantage

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In the Public Eye

Robin Williams's death was a shock to everyone. For a man who made so many people laugh, to have died in those circumstances was all the more tragic. Many details of Robin Williams's personal life emerged after his death, including some of his financial affairs that had made the gossip columns after earlier being in the public domain in a rather unusual way.

Robin Williams had established a trust in 1989 where each of his three children would receive funds at certain ages: one third at age 21, half at 25 and the remainder at 30. Before turning 21, they could be helped for health reasons, education, support and maintenance at the discretion of the trustees.

It was a responsible approach to transferring the wealth of one generation to another but not something that would normally have been made public. Stars live in the public eye all the time but it was unusual for this kind of information to be out here.

It happened unintentionally because of an oversight in the drafting of the trust deed. The deed required two trustees but didn't make provision about what to do if one died. One of the two did die in 2008 and the other had to ask the Court to appoint a successor. When that happened, details of the trust were revealed.

Could the details have been kept under wraps? What effect did knowing all about that have on the Williams children? Was it a disincentive for them to make their own way in life? When is a good time to let beneficiaries know about their entitlements? These are vexing questions for some families and their trustees.

Blind Trusts and Politicians' Obligations

A possible way to avoid the public getting hold of this kind of information is by using a blind trust. John Key has mentioned his on many occasions; they're popular with well-healed politicians. The trustees are different people from the settlor(s) and beneficiary(ies) and they have absolute discretion over the assets. Hence, it's "blind". The choice of trustees is crucial because there's no way of knowing exactly what assets there'll be or how they'll be managed. You'd want to have given some general direction to the trustees in the Investment Policy Statement but, after that, you'll have to leave the rest to them. Blind Trusts are one way for politicians to remove some conflicts of interest. If the trustees happen to have bought some asset the politician has to deal with at work, there's an obvious defence against an accusation of bias.

In the US and many other places, politicians have to abide by legislation or protocols that require trustees to be totally independent, in the case of trusts, or to make full disclosure of their assets. Transparency International says "the US approach to asset declarations is often considered a model because it is both comprehensive and transparent. Although there is no requirement to audit declarations in the United States, they are available to civil society on request." Visit transparency.org for more information about how other countries' policies stack up.

Barack Obama has to toe the line just like everyone else. His declaration of assets can be found by using this link

http://tinyurl.com/ocbybn8

In New Zealand, Parliament's Standing Orders have required members of Parliament to register their financial interests since 2006. The Registrar of Pecuniary and Other Specified Interests of Members of Parliament publishes the information each year. Here's the link (where you can see all the right information give or take the odd race horse, perhaps.)

http://tinyurl.com/lfz2cou

Two Perspectives on "The Williams Problem"

Getting the documents right

The Robin Williams case highlights the need for trust deeds to deal appropriately with the power to remove and appoint trustees. Often, the settlor(s) hold that power and, if there are joint settlors, for each to transfer their power to someone else on death. Alternatively, there can be a deed of conditional appointment of trustees to take effect on death. The power should be revocable in case the settlor has a change of mind.

Trustee companies are another option for continuity of trusteeship. The shareholders and directors can change as circumstances dictate. Many law and accounting firms operate trustee companies. A non-family shareholder / director can provide helpful perspective and experience to their co-trustees.

The Robin Williams problem might have arisen through mental incapacity. Again, the drafting of the trust deed is pivotal to provide for someone to exercise the power to remove and appoint another trustee. Ideally, the court's involvement shouldn't be required and private details won't fall into the public domain.

Keeping trust information from beneficiaries is not so easily achieved. New Zealand law is moving in the direction of more disclosure. Proposed law changes will impose an obligation on trustees to disclose information to beneficiaries. Issues also arise with discretionary beneficiaries perceiving they have an entitlement to trust funds. In fact, that's' not true.

Discretionary beneficiaries merely have a right to be considered.

The message is clear. Ensure your documentation is right.

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Not limited to celebs

The Robin Williams problem is unfortunate but not limited to celebrities. A person of my own profession who held himself out to be an expert in trust administration was recently on the receiving end of a very public process which resulted in him being pilloried in a New Zealand court. The trust practitioner was co-trustee with a male client who was in a relationship with a woman. This led to her developing an expectation she would share in profits on the trustees' property. When she didn't, it went to Court.

The proceedings recorded how the expert invited the Court to examine the internal administration of the trust, the practitioner contending the processes were faultless. Indeed, the court did examine the administration processes but came to a very different conclusion. What's more, all the names and other details of the trust were revealed along with poor administration, back-firing on the lawyer concerned.

The "expectation" of sharing profits was actually a judicial euphemism because no promise was actually made. One would think, if the expectation of gain was enough to give rise to an obligation, the trustees would have been ordered to meet it and, having fostered or somehow allowed the expectation to become enforceable against them, they would have to look to the trust assets to meet the obligation.

Keeping information out of the public domain is easier in the Family Court where wills are contested for family protection reasons. Details are kept private and names are suppressed from the judgements. When a Family Trust is contested, the case is in open court. Anyone can attend and the judgement may be freely distributed.

Privacy is a potential side benefit for those who use blind trusts, at least until the day when beneficiaries claim entitlement. Where a politician, say, settles property in such a trust, there will always be the suspicion that, while control may have been divested on paper, some influence may have been retained. Politicians set up blind trusts not to dodge or cheat anyone but to enable them to make decisions without them being clouded by personal conflict in the businesses and industry sectors in which their work has effect.

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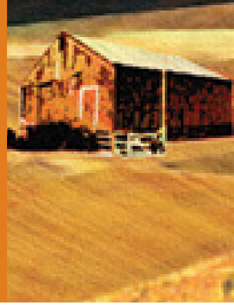
Money can't make you happy

That's true, most would say; in fact, it probably can't buy happiness or health. Having enough really helps but, without reference to anything else, money's pretty meaningless. Whether you've a lot or a little, these suggestions might help you gain a greater sense of direction when it comes to spending your money.

- Experiences can make for more lasting memories than things. Going on a trip instead of buying a new car might be a better use of your resources, if you have to choose. There's the anticipation, the experience itself, the new people you might meet, the memories and, perhaps, even a fresh perspective on how you think about home.
- Volunteering can sometimes do more for you than it does for those you're trying to help. Using your time to help others is very beneficial for you. The sense of achievement in making a difference to others is affirming. It can make you realise your lot in life is better than you perhaps thought.
- More regular, small treats are often better than infrequent, really big ones. Feeling happy more often is better than feeling good only every now and then. Setting milestones that mean something to you then rewarding yourself is a good way to reach a goal.
- Take time to think carefully about what you really want rather than acting on the spur of the moment. A well-considered purchase is all the more satisfying than a hasty one that lacks consideration of the long term benefits.
- Look at the good and the not-so-good. You might be dreaming about an overseas trip but have you forgotten about "Delhi Belly", jet lag, the lost suitcases and noisy hotel rooms? If the unpleasant details don't put you off, the purchase stacks up.
- When contemplating a really big purchase, think about the attributes you need for the long term. Sometimes, quality might cost more but ends up being cheaper than the shoddy alternative at the lower price.



Our Points of Difference

Advisers all do some things the same but there are a few areas where Accordia may be a bit different. The points in blue should be common to all advisers (though you should check). The ones in red could be where we're different.

1. Advisers are supported by others in the team so they can provide the very best services possible to you. (There's a range of separate, specialist roles within Accordia. Some Adviser businesses don't have those structures.)
2. We'll listen carefully to what you tell us about yourself and what's important to you. We'll help you to define your most important long-term financial goal and the other things you want to achieve along the way.
3. We'll make a careful assessment of how much risk is appropriate for you and create a plan that explains how you can invest to achieve your major goal and objectives.
4. We'll help you to get your plan started then meet with you regularly to check you're on track. You'll have written reports and lots of opportunities to gain additional information and advice.
5. When you invest, your funds are handled by an independent trustee. They also hold your investments to ensure they're protected from fraud or embezzlement. Government authorities maintain oversight over all our activities and those of the parties we're associated with.
6. You'll have the peace of mind that comes from knowing your investments are selected very carefully and expertly by specialists whose full-time focus is the management of your money. (Some advisers carry out that work themselves. Accordia believes it requires specialised full-time attention.)
7. You'll own enough investments so you don't get nasty surprises due to holding only one type of investment or where any one company's shares or bonds fail to deliver a return. (Some advisers don't or can't diversify to the extent of Accordia. The Underlying Pools used by Accordia allow for highly effective diversification to reduce risk.)
8. Managing your tax returns will be simple. Your accountant will find it easy, if you have one and, because your portfolio is a PIE, you might pay less tax compared to other options. (Some portfolio approaches involve more complex tax structures.)
9. You can put extra funds into your portfolio at any time. You can make withdrawals if you need to whether regular monthly amounts or ad hoc payments. Your portfolio will always stay correctly structured at any level. (Other approaches can be more "clunky" and less flexible.)
10. We'll always be honest and open with you whether your investments are going up or down. We can't influence any investment market but we'll explain what's happening and how Accordia's responding. We'll try to keep you on track during challenging times so you don't make poor decisions.

Christmas Break

The offices will close at midday on Tuesday December 23rd and re-open on Monday January 12th.
Emails and phone messages will still be checked so you can still contact us if it's urgent.

Best wishes for a relaxing break over Christmas from the whole Accordia team and our investment managers at Caliber.

Andrew, Deana, Jason, Katrina, Kim, Mark, Rodney, Peter, Sarah, Selwyn and Sian.

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