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Family Constitutions and Other Related Matters
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The future harmony of your family and the continuity of your business may well depend on making the effort to have the necessary discussions that lead to preparing a family constitution.

As your family grows and the family business becomes more complicated, one of the most important gifts founders can bequeath to their children and to future generations is a formal, written family constitution. As one moves down the generations, there are more and more family members. Articulation of the ground rules introduces clarity about the interface between family and business and reduces the ambiguity within the system.

Family conflicts are as predictable as markets going up or down. It is not uncommon for the business to be held hostage to family conflicts. Differences are simply part of the territory of being in business. A family constitution helps to more clearly define the family relationship and the interface of family members with the business. It sets down the rules of the game.

Some predictable, even common clashes that occur are over such matters as:

- Who will get what job? Is competence the criteria for selection?
- Who will receive what benefits from the family assets?
- Who will have control of the business? How is control exercised?
- How can I separate myself from the business and still be a family member?
- What am I entitled to as a shareholder who doesn't work in the business?
- How much can I take from the “family pocket” before others complain it is too much, more than my share?

While complicated, if families can anticipate these sorts of issues, and create clear guidelines for dealing with them, guidelines that everyone supports, they increase the odds of avoiding the family trauma, drama and pain of the conflicts over such issues. By creating binding agreements on governance, it sets up the playing field for orderly succession, provides clear criteria for decisions and establishes mechanisms to help resolve conflicts and disagreements before they have painful, damaging effects on the business and on family relationships.

Family constitutions are instruments of governance. They define rights and obligations and provide procedures for important decisions. Turkey recently adopted a new constitution that does the very same thing, defining how the government will govern going forward.

Families need a government that sets up structures to regulate the family members dealings and ensure each member receives predictable and fair treatment. The family constitution expresses the will of the family for future generations, gives family members a sense of security about how matters will be handled, including a method or process for resolution of differences.

The basic structure of a constitution is as follows:

1. Mission and purpose.
2. Values, standards and expectations.
3. Family Council operating principles.
4. Family and business agreements.

Mission Statement – The family mission statement starts by laying out the ground rules of who we are and the expectations we have for each other. This normally includes delineation of the family Values,

standards and expectations. One family called it their “Charter and Mission Statement,” while another calls it the “Family Deal.” This example comes from a large family with extensive real estate holdings and operators of a large hotel chain.

We are a family committed to our members and descendants being responsible, productive, well-educated citizens who practice the work ethic and make constructive contributions in the local community and the world at large. Each member is encouraged to develop and use self-supporting, marketable skills that contribute to the enhancement of their self-esteem and independence. We urge family members to adopt life styles that are healthy, personally satisfying, and at such a profile as to preserve the maximum level of family privacy, given the public nature of our business.

We urge the continuation of the orientation of prudent, careful investing with a long-term view of outcomes so all descendants of the founders may enjoy the benefits of the foundation they built.

We believe clear, constructive communications are at the core of our long-term success as a family. We encourage all efforts to further harmony, develop humor and perspective on life, balance long-term concerns while enjoying the present, and to enhance communications, caring and amicable relationships among family members.

As you study this sample mission statement, you soon recognize that the values and priorities of the family are the foundation of the statement.

Family Council - The family council provides a structure for family communication and some limited decision-making. The council is NOT the place for making operating decisions about the business because it includes family members who are not in operating positions. The council is more of a forum for improving family communication and educating them about general business matters. Families may discuss matters of mutual concern but must assiduously avoid getting into specific business matters. Rules unique to the family are developed in the council for how the family will operate.

Family and Business Agreements – These define the boundary between family and business, and as much as possible, build a foundation for avoiding conflicts between the two entities. There is the “business of the business,” and the “business of the family,” and care must be taken not to confuse the two. While there may be some overlap of members, the family council must not be confused as the board of directors of the company. Some families adopt separate agreements having to do with how the family relates to the business. One such agreement is a family employment policy, to be discussed in a future column. Many families also address guidelines for participation by spouses in family governance and the business, and for protecting the business in the event of divorce. Some families specify that only lineal descendants can own shares in the company.

Compensation as well as division and distribution of profits can become a problem for families if the procedures are not spelled out and understood by everyone.

Discussion, Understanding and Agreement – To arrive at the agreements and structures discussed requires extensive discussion among family members. In fact, extensive discussion is the key to success of these concepts. The process begins with the family talking about the concepts and coming to agreement on their merits and whether the family will benefit from having them in place. These structures work best when the discussion is thorough, extensive and ends with genuine consensus that it is the right thing to do. It is rarely effective for the company/family leader to simply decree that the family will have these agreements. In order of importance, the discussion comes first. It is a mistake for a family to depend on a protocol they get from a magazine or a professional, and adopt that protocol without first having the kind of discussion that leads to real agreement.