



Aspen Family Business Group

Empowering family businesses of all sizes



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Why an estate plan?



Why an estate plan?

Estate Planning provides an important structure for a wealth transition - it is the ongoing process of designing, expressing, adopting and refining the documents, structures and programs needed for the achievement of your family business continuity objectives.

For many families it also guides how non-business family assets will be used.

An Estate Plan will include many documents including wills, trusts, buy-sell agreements, family limited partnerships, etc.



Why an estate plan?

Estate planning is NOT simply doing a new will, adopting a trust, buying life insurance, taking care of the 'Mrs.' or a project, although all of these may be aspects involved in estate planning.

As you may already know, much of the estate planning process is focused on taxes. The tax focus has two fronts 1) to add value to this process by minimizing tax on a deal, and 2) to help to optimize the tax aspects of the family's wealth.



Why an estate plan?

It is the implementation and continual refinement of the structures, documents, etc. that are necessary for the efficient closure of one's affairs and the transfer of assets to the designated heirs.

Estate planning is, most importantly, the communication of those plans to stakeholders often including family, partners, key personnel, and vendors who will be affected by the death of the owner.



Estate Plan Misconceptions

- A will ALONE is not an estate plan
- Joint ownership is not enough
- Not adequately using life insurance
- Failure to plan for long-term care and other lifetime catastrophes
- Not providing enough liquidity to pay estate expenses
- Not having a coordinated estate plan
- Not keeping adequate records
- Not taking advantage of family annual gift strategies
- Not knowing what the IRS 'counts' in your gross estate



When should I communicate my plan to my heirs?

- Talking about it will make it real
 - My mortality
 - Their optionality
- I do not want to burden my kids
- Opening up might disincentive work

Reality

- Your kids are already “cooked”
- It is impossible to do estate planning and financial planning as an adult if you do not know what you are working with

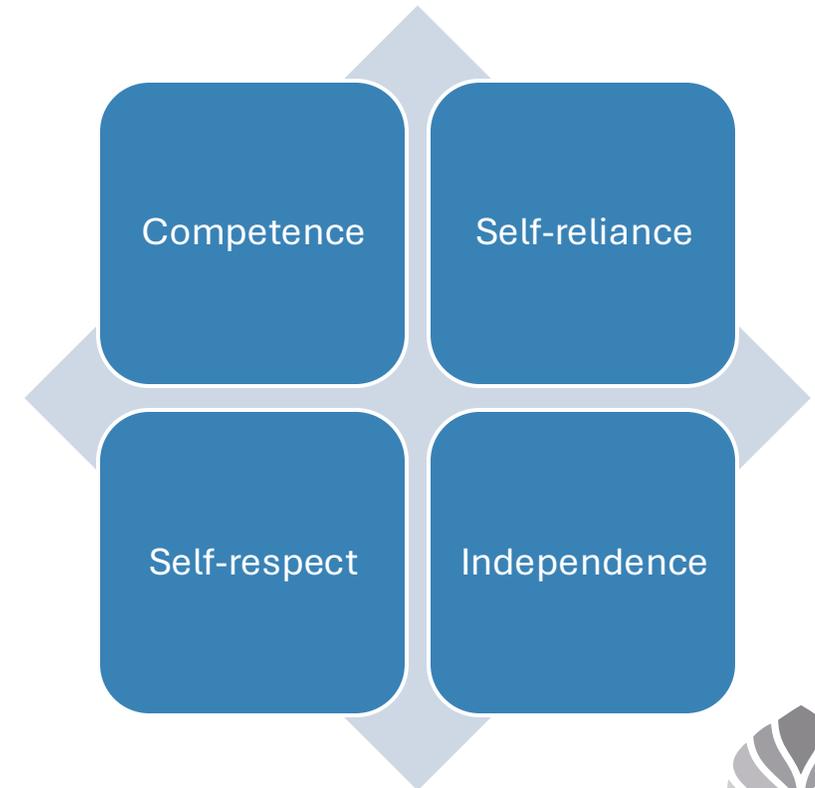


What does a prepared heir look like?

Holistic and about more than financial wealth

- Purpose
- Competence
- Confidence
- Reciprocity in Relationships
- Understand and identify own gifts, talents and passions

Financial Wealth Competence



Disbursement of Assets

May be the most difficult part of the estate as these tangible items sometimes (often) are encoded with emotional components.

Also, many founder/entrepreneurs are collectors – so finding what we have is the first step of ever dispersing the assets.

- Houses
- Artwork
- Jewelry
- Companies
- Minority ownership positions
- etc.



Estate Planning Roles

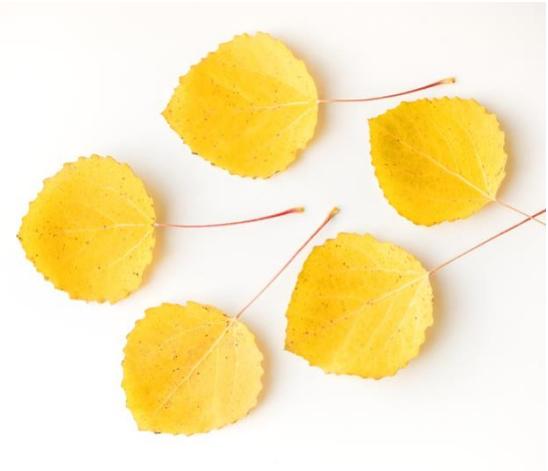
- Estate/Trust Attorney
- Business attorney
- Estate/Trust Accountant
- Business Accountant
- Financial Planner
- Executor
- Trustee



Family Dynamic Lens on Trusts

- A trust is properly viewed as a relationship among trust creators, trustees, and beneficiaries
- A trustee manages the property on behalf of the beneficiary
- The relationship between trustee and beneficiary is a fiduciary relationships i.e. one that imposes on the trustee the duties of undivided loyalty and prudence





What is a Trust?

- What is a trust?
- Why do we care?



What is a Trust?

A trust is an artificial entity...
Just like a corporation or partnership

Corporation

Partnership

Trust



What is a Trust?

These entities are all set up to hold assets and follow a set of rules

Corporation
Assets
Set of Rules

Partnership
Assets
Set of Rules

Trust
Assets
Set of Rules



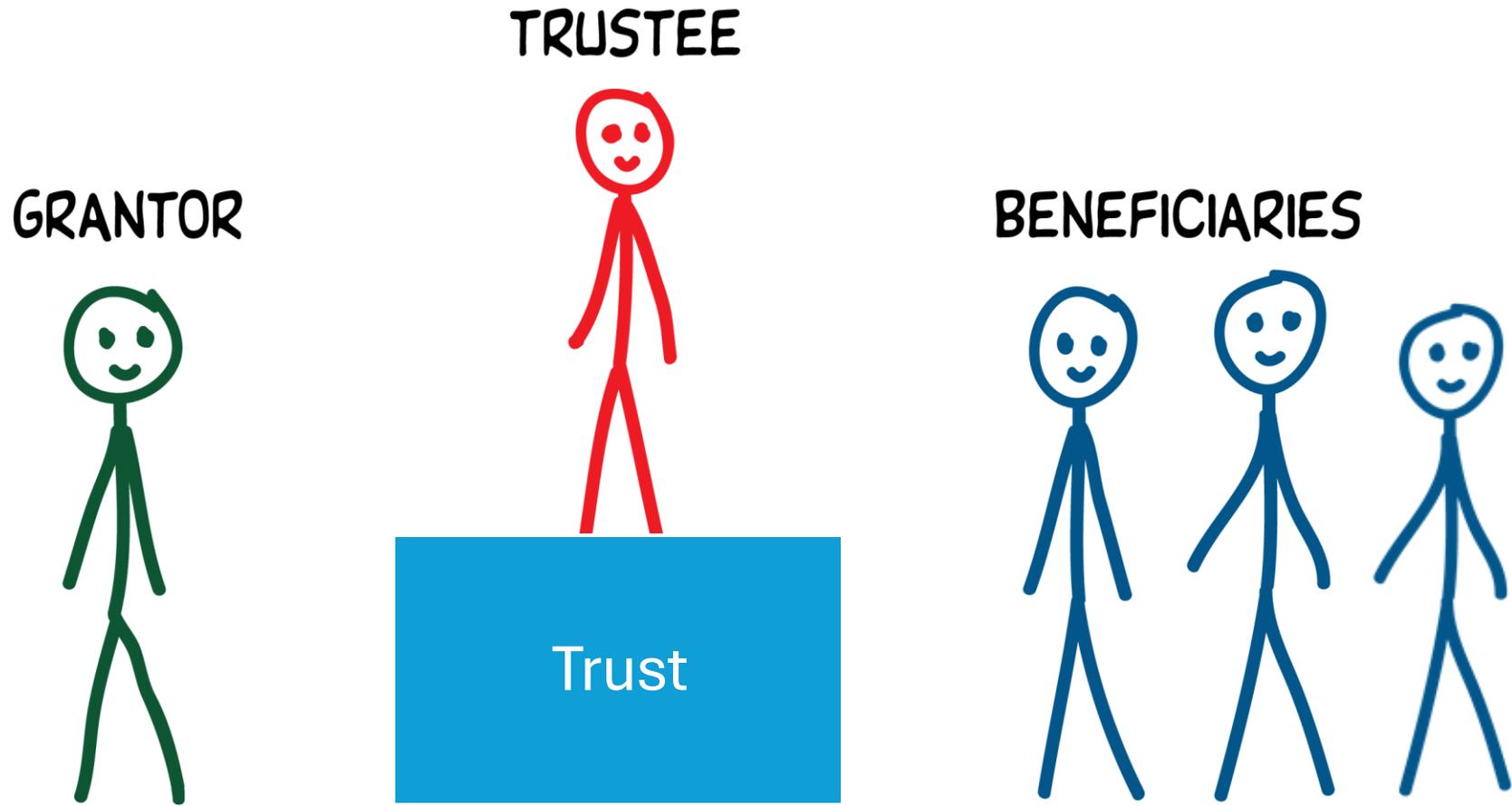
What is a Trust?

Trusts are all set up and controlled by people.
In the case of corporations and partnerships, the entities are controlled by shareholders and partners



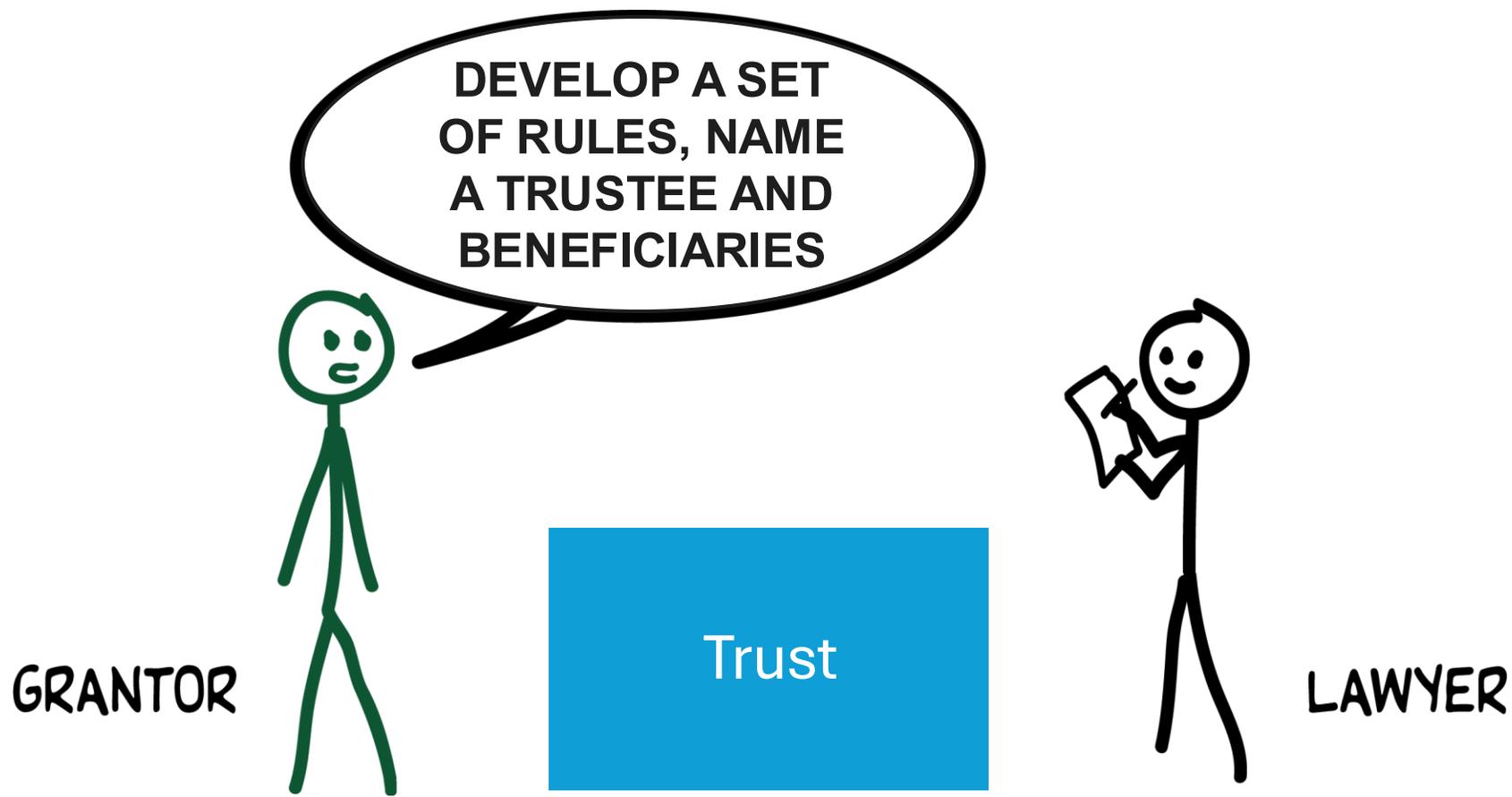
What is a Trust?

Trusts have the following interactions with people...



What is a Trust?

At the beginning, a grantor sets up the trust with a lawyer...



Common Types of Trust Rules

Many trust have very specific rules that set out how/when funds can be used and for what. A constant in most trust are the standard exemptions are the following:

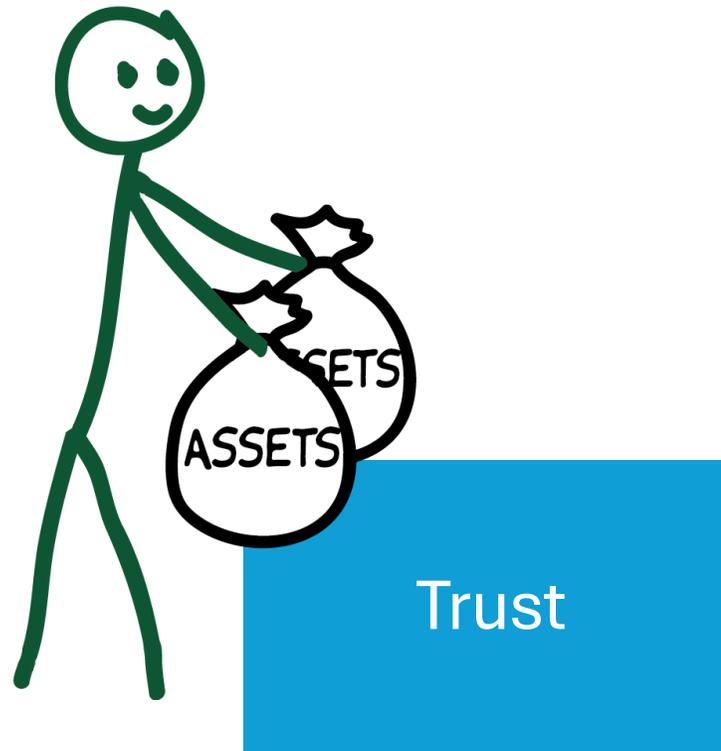
- Health
- Education
- Maintenance
- Support



What is a Trust?

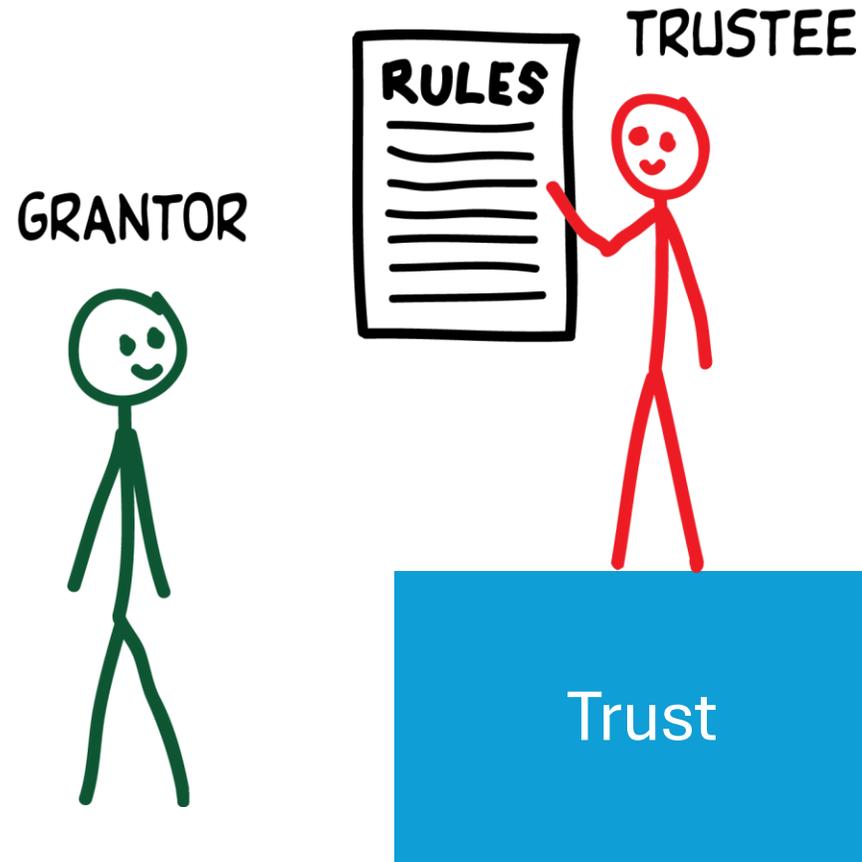
Once established, the grantor puts assets into the trust...

GRANTOR



What is a Trust?

Once established, the trustee makes sure the rules are followed.



What are Trustee duties?

The Trustee has some enumerated duties:

- Administration
- Distributive
- Investment
- Duty to account
- Duty of care
- Duty of impartiality



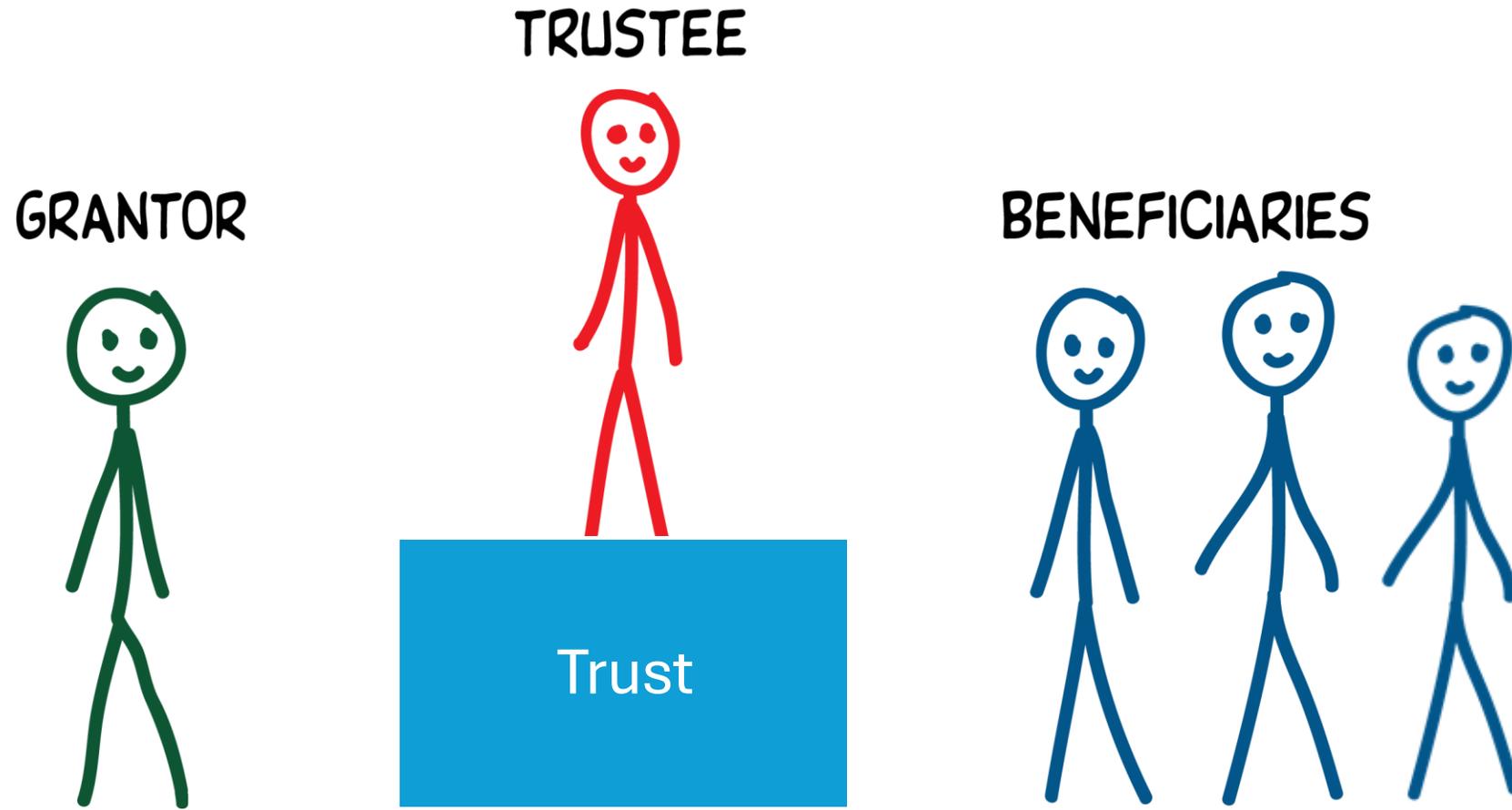
Common client choices about trustees

	Individual	Institution
Connection		
Knowledge		
Process		
Liability		
Cost		



What is a Trust?

In the meantime, beneficiaries wait for time to pass



What are Beneficiary duties?

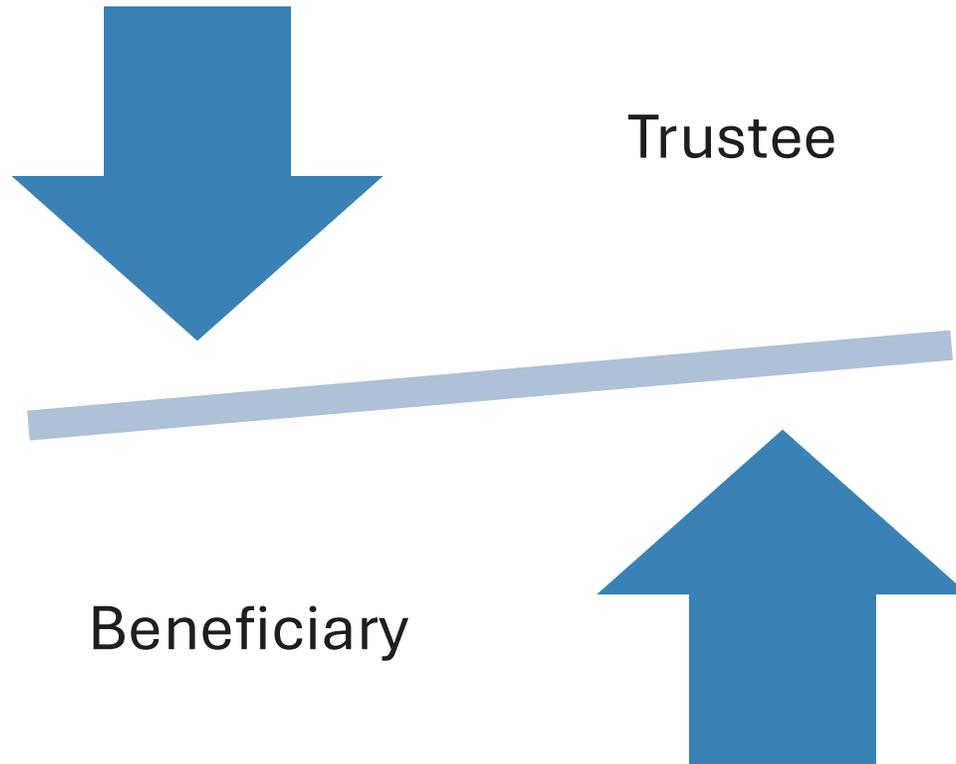
The beneficiary has some duties. Often when we hear complaints about trusts, it is because beneficiaries are not as informed as they could be:

- Clear comprehension of each trust where they have an interest and the mission/intent of the various trusts
- To educate self about trustee duties
- Understanding of modern portfolio theory, investments
- To meet with trustee regularly to explain goals and desires from the trust
- To become knowledgeable about the governance structures for the trust
- Attend family meetings and education
- Keep an open line of communication – to initiate



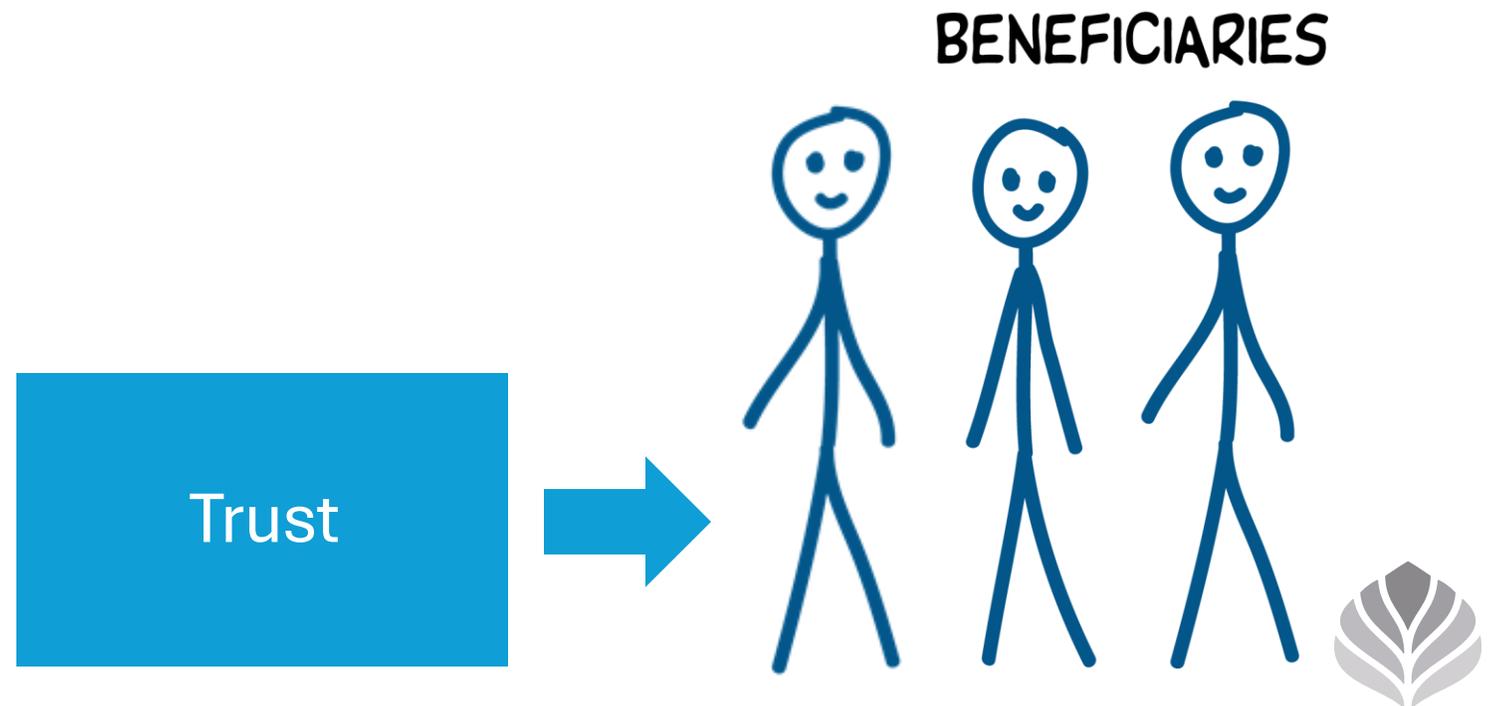
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Relationship through Trusts



What is a Trust?

At some point, the beneficiaries take possession of the assets



Special Provisions

- **Co-trustee:** sometimes a family member and beneficiary can be a trustee or co-trustee along with an institution
 - Advantage: more direct influence control, more thought partners
 - Disadvantage: more viewpoints to take into account
 - Fact: Co-Trustees must make decisions jointly
- **Trust protector:** this role is to intervene with the trustee(s) on behalf of the beneficiaries
- **Decanting provisions:** these provide the ability to roll the trust to another institution or jurisdiction, if need be



Different Types of Trusts

- **Special Needs Trusts:** can manage wealth more directly for an heir who has mental health, disability, and/or addition issues.
- **Dynastic Trusts:** states vary from life + 21, to 99, to 300 years. Dynastic trust allow for wealth to go on in perpetuity
- **Generation Skipping Trust:** a legally binding agreement in which assets are passed down to the grantor's grandchildren—or anyone at least 37½ years younger—bypassing the next generation of the grantor's children.
- **Revocable Trusts:** a trust where provisions can be altered or canceled dependent on the grantor or the originator of the trust. During the life of the trust, income earned is distributed to the grantor, and only after death does property transfer to the beneficiaries of the trust.
- **Irrevocable Trusts:** a type of trust where its terms cannot be modified, amended or terminated without the permission of the grantor's named beneficiary or beneficiaries.





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Why do we care?

Because family assets are held directly and by trusts





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