



Money and Meaning

By David Lansky

Estate Planning Under Stress

In my previous column, I introduced the concept of “Psychologically Informed Planning,” which involves sorting clients’ emotional or relationship issues into three general categories: those that can and should be benignly ignored; those that can be managed in a financial advisor’s office; and those that would benefit from referral to a psychologist or counselor team member. I thought about this concept as I attended the meeting of an estate planning networking group. An accomplished group of about 75 people were in attendance to hear legal updates and to network. After lunch, a case was presented to the group that involved a business-owning family confronting terminal illness:

Martha and Glen (both pseudonyms) are in their early 70s and have been married for over 50 years. They have four adult children, two of whom work in the business. They founded their business when they were first married, and they struggled and sacrificed together to build it to its current value of over \$10 million. Martha was recently diagnosed with lung cancer and given less than a year to live. Glen, who has always been in poorer health than Martha, is a gambler and an alcoholic; thus, it was a surprise for the family to learn that Glen might outlive Martha. Martha and Glen had dutifully done their estate planning, using pour-over wills, second-to-die insurance and living trusts. Each holds 35 percent of the company stock; they recently transferred 15 percent of the stock to the two children who work in the business.

The dilemma facing the family became clearer as the story unfolded. As Martha was forced to confront her own mortality and the fact that she was likely to die before Glen, she had a change of heart regarding her estate plan. As described by the case presenter, “Martha hates her husband because he has been so abusive to her. She also fears that he might gamble her assets away. She has decided that what she really

wants is for the assets she owns to pass directly to her children and grandchildren, bypassing Glen.”

During a discussion period, participants at each table deliberated over how to bring Martha’s new vision to reality. At the end of this period, a member from each table successively presented the table’s ideas to the group. The ideas were intelligent and creative, but as I listened, I became increasingly surprised—not one table questioned whether it was indeed appropriate to pursue Martha’s new vision. I raised this issue to the group in the following way: “Martha is making this decision while in an extreme emotional state. Shouldn’t we be concerned about this?” This precipitated a lively round of further discussion.

Decisions about money are often made under circumstances of emotional duress. Estate planning requires that clients face their own mortality, deal with long-term decisions about their children and families, evaluate how successful they have been during their lifetimes and reveal private information to relative strangers. So it would seem important for the psychologically informed financial advisor to understand how stress affects decision-making. And, given what we know about the effect of stress on decision-making, what should advisors do when their clients are faced with critical decisions that are made during periods of significant emotional upheaval?

There is an “inverted-U” curve that relates stress and performance. Under conditions of very low stress, performance is hampered by a lack of motivation; under conditions of moderate stress, people perform best; under conditions of very high stress,

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performance is hindered because of the disruptive impact on thought processes and behavior—people have difficulty making complex decisions when they are under high levels of stress. So to begin, when people are engaged in estate planning—when they are making some of the most important decisions of their lives—a moderate degree of anxiety may facilitate the process, whereas anxiety levels too low or too high may impair motivation or judgment.

Under stress, people evaluate threats as more extreme than they do under more relaxed conditions; so external circumstances seem more dire in states of emotional upheaval. In other words, what seems critical during a crisis may seem less important at other times. As a result, plans that are created during stressful periods may be more defensive in nature (as was Martha's) and may seem extreme when the crisis has passed. When they are under stress, people are likely to make choices that permit immediate escape from unpleasant feelings. That is why clients often avoid dealing with estate planning issues—avoidance is the quickest way of escaping emotional turmoil. In addition, during emotional distress, people are more focused on short-term rather than on long-term solutions. Thus, we might expect that estate plans that are created in periods of high anxiety might not take into consideration long-term consequences. This is exactly the shortcoming in Martha's thinking—has she thought about the long-term consequences to her family of bypassing Glen in her estate plan? Or is she responding impulsively to an uncomfortable and ambiguous situation? In fact, other studies have concluded that under stress, people do not tolerate ambiguity well and they are impulsive in selecting a course of action. In short, they tend not to think through their plans. Isn't this exactly the opposite of what we want from our estate planning clients?

Martha was facing a very specific form of emotional distress—grief associated with terminal illness. It is widely accepted that people progress through five stages of grief in reaction to, or in anticipation of loss:

- *Denial*, during which the threat of the loss is minimized
- *Anger*, wherein the loss is acknowledged, but the overwhelming feeling is rage
- *Bargaining*, which involves futile attempts to bargain with life, with God or with other people to delay or to prevent the loss

- *Depression*, the beginning of truly coming to terms with the loss
- *Acceptance*, which brings peace and an ability to move forward

When Martha changed her mind regarding her estate plan, was she in the anger stage? If so, both she and her advisors should be aware that her feelings may change over time as she progresses through other stages of grief, and that she may not feel then as she does today.

What are the implications for psychologically informed planning? Imagine a scale of 0 to 10, where 0 represents "no stress at all" and 10 represents "as much stress as a client has ever experienced." A low level of stress (under 2) may render clients unmotivated to engage in estate planning (we will address this scenario in more detail in a subsequent column).

Clients who experience a moderate degree of stress (2 to 7) are more likely to be motivated and to demonstrate sound judgment. However, because higher levels of stress may be disruptive, you can help prevent increased stress by speaking quietly and slowing the pace of the conversation. Emotions are contagious. If you remain calm, you will help your clients to stay calm and to think clearly. If a client's anxiety increases during a meeting or from one meeting to another, do not ignore the change. Share your observation and ask your client about it. If necessary, focus on less distressing material, or take a break from your planning while reassuring the client that you can safely return to the subject at hand at a later time.

Clients should be cautioned that impulsive decisions occur during periods of emotional upheaval, and they should be encouraged to take their time and to think through choices carefully. Anxiety results from catastrophic thinking—perceiving threats as exaggerated in intensity and duration. It's helpful to remind clients that all crises pass—a dire emergency today will seem less critical from tomorrow's perspective—and that we learn and grow most from life's greatest challenges. As Nietzsche said, "What does not kill me only makes me stronger." Finally, those clients with high levels of anxiety (over 8) will certainly experience an impact on their decision-making due to stress. They will benefit from referral to a counselor. If you are going to make such a referral, keep several points in mind: (1) the best

referral is to someone with whom you are familiar; (2) it is important to explain that the referral is intended to manage stress and to assist in getting through a crisis; and (3) you must assure the client

that you do not think that he or she is crazy but that he or she will be in a better position to plan for the future if they understand the role that stress is playing in their decision-making.

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