



Money and Meaning

By David Lansky

Why Be Fair?

fairness

1. *having or exhibiting a disposition that is free of favoritism or bias; impartial: a fair mediator.*

2. *just to all parties; equitable: a compromise that is fair to both factions.*

justice

1. *is rendering to every one that which is his due. It has been distinguished from equity in this respect, that while justice means merely the doing what positive law demands, equity means the doing of what is fair and right in every separate case.*

—WEBSTER'S REVISED UNABRIDGED DICTIONARY

When engaged in estate or succession planning, entrepreneurs, wealth creators, family members and their advisors are inevitably faced with the question, “What is fair?” As the definitions above suggest, *justice* refers to the act of treating people in a consistent manner; *fairness*, on the other hand, suggests that one is inclined to do what is *best* for each party. What makes a “fair” decision so much more difficult than a “just” decision is that the criteria for deciding the former are so much more imprecise and subjective than the latter. Nevertheless, people usually strive to formulate estate and succession plans that are fundamentally fair to their beneficiaries. Why?

Mary Ann, the youngest of five children, is 44 years old. For 17 years, Mary Ann worked as her mother's executive assistant. Together, they ran two companies: a commercial real estate holding company and a property management company. When her mother, a widow, became sick, Mary Ann took care of her mother's physical needs as well as her personal financial matters. Eventually, one sister assisted with some of the personal care required by their mother, and

two of her brothers assumed some responsibility for the holding company. As their mother became sicker and less able to manage her own affairs, she moved forward deliberately with her estate plan.

The family was initially impressed with Mother's estate plan because there were minimal estate taxes to be paid. Because Mary Ann had developed an expertise in property management, Mother transferred ownership of the property management company exclusively to Mary Ann; and because most of her wealth was invested in the real estate company, Mother transferred ownership of this company to all five children. The siblings worked together for two years after Mother passed away until serious conflict erupted: Mary Ann's management company had been improperly charging the holding company enormous fees, and her siblings were incensed. The conflict set off a series of events that threatened the integrity of the family and the viability of both businesses.

I was engaged by this family to help them resolve their conflict. When I met with Mary Ann to assess the situation from her point of view, I learned that she had dedicated much of her adult life to assisting her widowed mother, while her siblings benefited (in her eyes) from the wealth that Mary Ann had helped to create. As her mother's estate plan was executed, with the majority of her wealth distributed equally to all the siblings, Mary Ann felt that her loyalty to her mother had been betrayed—she felt violated and abused. Eventually, when Mother passed away, Mary Ann felt entitled to charge exorbitant fees to her siblings, to compensate for the injury she perceived

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herself to have suffered by her mother's estate plan.

Mary Ann's mother made every effort to create a plan that was fair to all of her children. Nevertheless, the plan was perceived as unfair by Mary Ann, and this had significant implications for both the family and the businesses.

This scenario illustrates a dynamic that Ivan Boszormenyi-Nagy, the founder of Contextual Family Therapy, called "destructive entitlement." According to Nagy, family members evolve "psychological ledgers of give and take" within the family system. When a family member feels fundamentally victimized or betrayed in a relationship, he or she may later feel entitled to victimize others, even though the others are not directly responsible for the betrayal in the first place. This is "destructive entitlement."

Whether we like them or would have chosen them or not, it is from the bedrock of our inherited legacies—and a fair understanding of them—that we translate our lives into mandates for posterity.

—IVAN BOSZORMENYI-NAGY, *BETWEEN GIVE AND TAKE: A CLINICAL GUIDE TO CONTEXTUAL THERAPY* (1986)

With this statement, Nagy sets the stage for understanding three key implications that the concepts of psychological ledgers of give and take, and destructive entitlement have for estate and succession planning: First, perceptions of fairness in the present are determined by our experience of how we have been treated in the past, even though these perceptions may not have a basis in the present reality. With regard to estate or business succession planning, this

means that perceptions of fairness in the present are not simply a function of equal assets—what may appear logically fair may not be fair in the historical context. Exploring past experiences of unfair treatment may help to understand what appear to be irrational perceptions in the present.

Second, when victims of unfair treatment in the past feel entitled to abuse others in the present, they are essentially creating a new class of victims who will then feel entitled to victimize others. Thus, people who are engaged in estate or succession planning should be encouraged to understand the significance of their actions: The potential for hurting others is multiplied by the resulting ongoing victimization.

Finally, legacies of unfair treatment are passed on through the stories we tell from one generation to the next. These stories are the source of what Shakespeare, in *Romeo and Juliet*, called an "ancient grudge."

In summary, our treatment of others as fair or unfair is vulnerable to distortions due to past experience, a lack of perceived fairness may create cycles of abuse and victimization, and fairness or unfairness are among the few qualities that we pass from one generation to the next.

With regard to Mary Ann and her family, a discussion of destructive entitlement and efforts by the family to understand that Mary Ann was taking out on her siblings feelings that were meant—rightly or wrongly—for her mother, helped to defuse a situation that was teetering on the edge of implosion.

So, why be fair? Because at some level we must understand that in the family context the consequences of decisions that are perceived to be fair or unfair are severe, sustained and significant.

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