

## **Hull on Estate and Succession Planning Podcast #29**

### **Full Disclosure at the Family Conference**

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Suzana Popovic-Montag: Hi, and welcome to Hull on Estate and Succession Planning. You are listening to Episode #29 of our podcast on Tuesday, October 10<sup>th</sup>, 2006.

*Welcome to Hull on Estate and Succession Planning, a series of podcasts hosted by Ian Hull and Suzana Popovic-Montag, that will provide information and insights into estate planning in Canada, from the offices of Hull Estate Mediation in Toronto, Ontario, Canada. Here are Ian and Suzana.*

Ian Hull: Hi Suzana.

Suzana Popovic-Montag: Hi there Ian.

Ian Hull: How are you doing today?

Suzana Popovic-Montag: Good thanks how are you?

Ian Hull: Just great, we've just come off as many of our efforts over the months on this new social media binge that we've been working on though we've recently launched a new web page at Hull & Hull, we're excited about. We've got a whole media center there and just having come off a breakfast series last week, we're really excited about where things are turning in terms of what we're providing on the media side.

Suzana Popovic-Montag: That's for sure, and to those people who have had an opportunity to look at that, if you have any comments or any feedback, please feel free to let us know what you're thinking.

Ian Hull: Yeah, the website is [www.hullandhull.com](http://www.hullandhull.com) and as I say, check out our podcasts and our media center and also some of the streaming videos that we've got there. We've tried to match the [www.hullestatemediation.com](http://www.hullestatemediation.com) website in the sense that what we're trying to get at really is some interactive media and also, quite frankly, some innovative technology like the streaming media that has been a great help and we certainly love doing it and it's been helpful for people who are interested in this area. So on that note, we have really been working through what are some fun issues relating to this novel approach to dealing with estates and that is, talking about things before they blow up, and we've been working through some of the details pretty carefully. One of the points that I just wanted to make again is really that we've tried to stay focused in our efforts in these last series of podcasts and we're going to eventually be moving away from this and into some other branches on the book that we've written advising families on "Succession Planning – The High Price Of Not Talking". And so, if there are details or questions that arise out of some of the things we're saying, I encourage you to take a look at the book. I think it's twenty bucks Canadian and you can get it online at [www.amazon.com](http://www.amazon.com), but

some of the feedback we've been getting is that we're giving a lot of detail and a lot of content in these podcasts and it's hard to sort of work through it. So I encourage you to look to the written text and hopefully that will be helpful too.

Suzana Popovic-Montag: And there is some pretty good precedents in there as well, that's for sure.

Ian Hull: We've been spending a lot of time, I think properly, to make sure that the family conference works and what are some of the steps you'll want to take along the way, and maybe Suzana we can take a minute and just go through what we talked about in the last podcast just briefly.

Suzana Popovic-Montag: Well we really focused, Ian, on the rules for the family conference and the fact that basically all of the information that was exchanged during a family conference is privileged, can't be used outside the confines of the conference of the meeting and the need for basically mutual respect and understanding by all the participants during the course of the meeting as well.

Ian Hull: So a natural progression from what are, sort of, black letter rules, is a consideration of the need for full disclosure.

Suzana Popovic-Montag: And there really is one rule for the family conference that applies primarily to you and your spouse, and that is that you need to fully disclose the details of your estate plan to your family members.

Ian Hull: And we've been more or less preaching this message for now what, 29 podcasts, and it's easier said than done for sure.

Suzana Popovic-Montag: And that's because while it's extremely difficult, you do have to provide full disclosure in order to have a successful family conference process and certainly in our experience.

Ian Hull: So if you don't, it seems to me that what you do is you create an atmosphere of mistrust that will ultimately poison the process. So if you keep any secrets, if you're going to get into this, it's sort of, it's all or nothing for the full disclosure and if you keep secrets and decide that you're not going to talk about the offshore account that you have in the Bahamas, which is substantial and may affect the whole balance of what your estate plan is, it's going to come back to, coin a phrase, haunt you.

Suzana Popovic-Montag: And I think even more importantly, Ian, the goal in holding a family conference is to get the agreement of your family members to your estate plan so that they don't challenge it when you're no longer around.

Ian Hull: For sure, and really after your death, if they discover that you did not fully disclose the details of your estate plan, it's even more toxic in my view.

Suzana Popovic-Montag: In some cases, though, it may be harder to actually openly discuss emotional issues than perhaps financial issues, especially in families that are hesitant to air their personal feelings.

Ian Hull: But still, you know, coming back to my concern, you know, their feelings of betrayal will increase in all likelihood if they aren't told about what is going to happen and what was involved in the estate plan and that full disclosure wasn't given. For example, say you had a son who didn't know that Mom and Dad had lent a substantial amount of money to the daughter in their lifetime. And then all of a sudden it's found out after death, you've gone through some disclosure, you've had a family meeting, but you were too embarrassed to mention the concept of the loan and sure enough, that it becomes a lightning rod and makes it very difficult to, you know, work through the estate plan later and may cause some litigation.

Suzana Popovic-Montag: And the fact is that during the course of the family conference meeting, you'll more often than not have to tackle some of these tough issues.

Ian Hull: And I think really it comes back to these tough issues, and the need for disclosure is a personal one, that's one that you have to get your head around before you get into the family meeting because, and I know what we like to do with our clients that we get into this is that we like to sit down with them at the beginning before the family there and make sure that we have canvassed these tough financial disclosure issues. It's not just the emotional issues that you want to cover, you want to make sure that you haven't missed something that you surprisingly becomes a real issue, and I mean certainly there are some good examples and maybe in our next podcast we can work through some of those examples to put some description to the process, but I don't like to underestimate the need to both deal with the emotional issues but also deal with the financial issues, because after all, this is a business meeting.

Suzana Popovic-Montag: Well I look forward to our next podcast, Ian. I think that's a great suggestion for it. We'll flush out some of those tough issues that tend to show up and have some suggestions perhaps on how to deal them.

Ian Hull: Because really, I mean, and we'll just give a quick highlight on where we're going to go with some of these issues, because it's both the emotional and the financial. I mean, you know, obviously the flash point and we'll talk more about it next week, is the extra-marital relationships or unequal treatment of children, those are obvious ones that sort of are spicy and, you know, get media attention even.

Suzana Popovic-Montag: And we've also got typically situations where there might be spendthrift beneficiaries, or perhaps even special needs beneficiaries, people who need special considerations in dealing with their entitlement under an estate.

Ian Hull: Also, another broadly litigated over issue are the family law issues that can get considered and of course the ownership if there is a family business or something of that nature.

Suzana Popovic-Montag: And then I guess lastly, we might just touch upon the concept of incentive trusts as well.

Ian Hull: Sure. I think that would be helpful, so that's, I know Suzana and I are off next week, going to be traveling, we'll be podcasting remotely. And we're looking forward to that, we'll have an opportunity to speak to some financial advisors, lawyers and accountants out in Calgary and Edmonton and then we'll be reporting back on some of that, and how that went over, all about the family succession planning and talking about these sorts of issues.

Suzana Popovic-Montag: Thanks very much, Ian.

Ian Hull: Thanks Suzana.

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