

Hull on Estate and Succession Planning Podcast #30

Calgary STEP Seminar and 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 #30 of our podcast on Tuesday, October 17th, 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: Well we are doing our first remote podcast and we are in Calgary, Alberta, having just spoken to the STEP. Chapter of the Calgary STEP. Chapter. STEP is an association, The Society of Trusts and Estate Planners, and a really great group that we have been involved with over the years, both in Toronto and across Canada. It was an interesting morning, we spent a fair amount of time talking about the family meeting and the process. We're pretty excited because we've managed to put together a video which we're going to eventually get on our web page at www.hullandhull.com and at www.hullestatemediation.com, which is going to illustrate the family conference. And we were able to go public today with it and it seemed to be well received.

Suzana Popovic-Montag: It was very exciting, Ian to see a lot of people who, you know, just not necessarily familiar with concept, but certainly receptive to it or so it seemed.

Ian Hull: So it's starting to make some headway across Canada, so to speak, and what I thought we might do today Suzana is talk a little bit about what we presented at the STEP conference and give everyone an idea of the kinds of things that we were working on. We obviously started off with the emphasis, that being the traditional estate plan, and what kind of bells and whistles we can add to the process, what added value can we bring to the process? I know that when we developed the concept of the family conference, we were very concerned that it was, it's certainly an innovative in Canada but it has been a tried and true process in the US. And we wanted to make sure that we added a Canadian spin, and I think one of the neat parts of the Canadian spin is, is that we truly stay focused on trying to achieve an estate plan and not getting distracted by the other issues that can creep in. We obviously will see emotional issues, we'll see financial issues, but our goal is to develop the estate plan. So we talked a lot about how to protect the Will from legal challenge and how to ensure your last wishes are followed and we highlighted, certainly I mentioned my book "*Advising Families On Succession Planning – The High Price Of Not Talking*" and also mentioned Jordan Atin's new book which is just a tremendous resource. It's called "*The Family War*" and it can be purchased online at

www.thefamilywar.com, and I wanted to spend a couple of minutes today talking about that book as well. Alright, before we get turned to “*The Family War*” which, as I say, I want to spend a couple minutes today just talking a little bit about it, it’s just come off the presses, so to speak. I wanted to talk a little bit about some of the things that seemed to us, anyway, today in Calgary that were well received and Suzana, you called it, one of the points that you made was the eyeball effect, and what did you mean by that?

Suzana Popovic-Montag: Well, Ian, it really is a matter of sitting across the table from your family, looking them in the eye and saying look, this is what I want and here’s why. And that really is the key and we talked a lot about the concept of disclosure, full and frank disclosure and how important that is to the process, because the traditional estate plan doesn’t necessarily have that component. There’s that, you know, top down kind of dictatorial approach to the plan that’s being made by the head of the family traditionally, but if you take that to this conference level, this, you know, where we’re trying to take it, it’s more a bottom up approach and so you’re involving the family members in the process, you’re sitting across from the table as I said and your looking them in the eye and it’s really going to make it a lot more difficult for people to say at the end of the day, that that’s not what you intended, because you’ve made your point quite clearly.

Ian Hull: And it’s interesting, after the conference, we were approached by some of the people that were listening and that concept really resonated and the feedback we got on that was excellent. And this is a group of allied professionals, lawyers, accountants, financial planners, who all have sort of varied practices and varied perspectives and that was one thing that seemed to resonate with them. The other thing that seemed to resonate with them was the approach that we were focusing, that when we’ve talked about in previous podcasts, is that we keep it businesslike and we focus on closing the deal with the family constitution and I certainly know, just from talking to a few people after the conference, that that also seems to resonate when, you know, people are starting to approach and considering approaching their clients with this concept.

Suzana Popovic-Montag: That’s right, Ian, because, you know, you’re walking away essentially with a contract at the end of a business meeting and people can relate to that because that’s more of what their used to and I think that’s where it really helps to lock in the whole deal, as you said, during our presentation. We had one question I thought was really interesting, and that was as to how valid and how binding this constitution actually is at the end of the day? And I think that that’s, you know, it’s an important point because we, and basically we even said, that it’s still an untested thing at law, we haven’t had, you know, the challenge to a family constitution and whether or not it upheld it, but certainly on a moral level and certainly from, you know, the family binding obligation that was sort of the idea, and I think that resonates with a lot of people.

Ian Hull: And I think really we also made the point that we don’t care if it’s binding or not, that’s not the purpose of the constitution, because if we’re going to work through this process in a cooperative collaborative way, we can’t hold the stick of the legal burden over peoples’ heads. They have to want to buy in.

Suzana Popovic-Montag: And you know the other point that comes from that too is that even if it's not necessarily binding, it's certainly going to resonate with the court who's going to see that a process was undertaken, that someone, you know, the testator or the testatrix, was there with counsel, counsel has, you know, obviously taken notes throughout the process. It's going to be very hard for someone at the end of the day to say, you know, that the testator or the testatrix didn't have capacity or that they were unduly influenced or that they didn't know what they were doing or that they didn't intend what they actually said in this agreement that they intended to do.

Ian Hull: Okay, well now, as we said at the outset, I mean it was a great experience, great group of really bright professionals who were giving us direct feedback on the conference process and the other thing that we learned was that obviously getting resources on this topic is vital and as I said, we talked about my book but we also talked about this new book "*The Family War*" and it's been written by Jordan Atin, Barry Fish and Les Kotzer. They were actually last week in the Toronto Star, and in the National Post there was a write up on the book, and it's literally called "*The Family War – Winning The Inheritance Battle*" and we sort of compared our books, the succession planning book that we've worked with to their book, and in large part really its, I mean I think it is over simplifying it, but I really recommend this book, it's an excellent resource, but the comparison between the two, it was interesting after we'd had a chance to read this actually before we actually spoke about it. And "*The Family War*" is a war story book, and it certainly gives great illustrations of the kinds of problems. In comparison to that and in contrast to that, really is, is that the book advises families on "*Succession Planning – The High Price of Not Talking*" is more a solutions book. Much more of our book is focused on the solution. But I do highly recommend "*The Family War*". We really, I was sort of intrigued by some of the areas that they get into.

Suzana Popovic-Montag: And they work quite well together, Ian, because, you know, you get the scary, the war stories as you called them and then you see how do you deal with those situations, and there's your solution, the family conference solution, to prevent those very things that are written about in this book.

Ian Hull: And the book, I'll just talk about some highlights of the book because it, you know, there's an opening chapter is called "*Real Life Family War Stories*" so you're thrown right into the process of what we can expect and it was fun to read because they actually, they certainly had some other examples of the kind of battles that they've seen over time, but near the end of the book, they do start to focus on prevention, focus on strategies preventing estate litigation and improving your chances in an estate dispute. But it was well received as was, you know, sort of the general concept of looking and finding good resources in what is the added value area and that is, talking about trying to avoid a fight in the future. Okay, so we're on our way from Calgary now, off to Edmonton and we're going to be speaking to the STEP group in Edmonton and then we're off to Vancouver to speak to an Elder Law Group. So we've got a busy week ahead of us and no doubt our next podcast we're going to talk a little bit about our next two gigs that we're going to be speaking at. And I think in large part, just so that we can really have some dialogue on the feedback and get a sense of how people are receiving

this, because up till now, in many respects, we only get our feedback from our clients. And its fun to get the feedback from the professionals, like today, we were asked about the costing and pricing. Well those are the sorts of things that we are typically working through with families that get involved with this, so that's a logical question. But then it was nice to get the feedback on what they thought would resonate and would make sense to them instantly in terms of the process. So, we'll look forward to our next podcast and thanks very much Suzana, we'll no doubt be doing the next one remotely too.

Suzana Popovic-Montag: Thanks very much Ian.

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