WEALTH STRATEGY & CHARITABLE GIVING

CAF America is thrilled to announce our new initiative, *Wealth Strategy and Charitable Giving*, a deep-dive into how and to what extent the world of philanthropy and wealth services intersect. Our interview series will feature leaders in this industry dedicated to bringing philanthropy into the conversation and providing an insider's perspective on wealth strategy..

Jane Peebles is a partner in the law firm of Karlin & Peebles, LLP, in Los Angeles, California. Before starting her own firm, she practiced at Morgan Lewis & Bockius, Freeman Freeman & Smiley, and Bingham McCutchen.

A frequent lecturer on sophisticated estate and charitable planning, Jane has also published several articles on domestic and international estate and charitable planning and is the author of The Handbook on International Philanthropy, "Implications of the Anti-Terrorist Financing Rules for U.S. Charities making Grants Abroad","Emerging Legal Issues in International Philanthropy", and "Here There Be Dragons: Navigating the Waters of Cross-Border Philanthropy." Her areas of legal practice are U.S. and international estate and charitable planning. She counsels high net worth individuals, family owned businesses, nonprofit organizations and philanthropists and has helped form, fund and operate many charitable foundations and facilitate numerous gifts for charitable projects abroad.

Jane is a Fellow of The American College of Trust and Estate Counsel, a member of STEP and a California State Bar certified specialist in Estate Planning, Trust and Probate Law. Her peers have ranked her a Southern California Super Lawyer every year since 2005.

WEALTH STRATEGY AND CHARITABLE GIVING:

A Conversation with Jane Peebles | Partner, Karlin & Peebles, LLP

CAF America: Jane, you have extensive experience in advising individuals and families in the context of charitable giving. Could we start by sharing some of the highlights of your professional background?

Jane Peebles: I've been helping clients with charitable planning since 1984, and strategies for philanthropic giving have been a main focus of my practice over the years. I've also published content on this topic, and as such maybe I get more philanthropically minded clients than other estate planning attorneys. I've always loved working with my philanthropic clients because they're very passionate and it's a pleasure help them achieve the impact they want through their giving.

CAFA: Since you have worked with so many philanthropically minded clients, what do you think are the best ways that advisors can engage their clients in this topic?

Jane: More often than not, philanthropy is a common topic with my clients, with the exception of some younger clients who are still building net worth. Regardless, starting the conversation isn't always easy. I rely on clues in the early stages of a client relationship, such as when I review their Will or recent tax return. These can show some pretty good indications about someone's charitable intentions and activity. Another strong sign for me is when clients do not have children or when they are worried that their children will receive too much. I also make sure to ask clients whether they serve on nonprofit boards or whether they intend to do so in the future, as this is a good indicator of their own philanthropic tendencies. Lastly, I listen for any mention of any religious giving activity such as tithing to their church or synagogue.

One of my favorite ways to help clients understand their options is to present them with a pie chart showing three separate blocks representing where their money can go: their children, the government in the form of taxes, or to charity. Very often, there's suddenly a very strong focus on philanthropy after they see this.

CAFA: Do these clues differ based on the client? What if someone has never pursued charitable giving before?

Jane: Of course, you can get clients who have never given any thought towards charitable giving. Maybe they are too busy with their business or raising children. You can also confront what I call "irrational fears" -- for example if they are concerned that they won't have enough money for themselves or their children. This fear is common in the depression-era clients whose life experience has led them to think this way.

CAFA: That's really interesting, and seems like an aspect that isn't talked about enough. There is so much buzz about the new wave of millennial wealth and how to work with millennials but not so much about these older generations.

Jane: It's remarkable how much mindsets can vary, and often these older clients grew up in poverty so I have to talk to them about how their life experiences have shaped their values. Often I'll speak to them about how they worked their way out of that situation and discuss whether that makes them inclined to give back now that they're financially stable. However, that can be a tough conversation -- especially if the advisor lacks a solid understanding of the relevant vehicles for giving.

Conversations and solutions are always going to be specific to the client. For instance, you can have an older couple who is worried about market returns or you can have a physician who has maxed out on his retirement contributions. I hear a lot from other advisors, "why would you do charitable planning? Isn't 60% of something after the 40% estate tax still better than nothing?" Many times, clients are actually worried their children will get too much and would rather support charitable causes instead.

Another thing I see, which really spans generations, are the clients who want control. Often, they're former CEOs who are used to control and want to control every aspect of their investments or charitable giving. At first, they often reject something like a donor advised fund and opt instead for a private foundation. Five to ten years later, that same client comes in and says "you know this is far more work than I expected. Let's look at that donor advised fund again."

CAFA: What are the most common questions your clients ask regarding philanthropy?

Jane: In general, a lot of people don't know the rules of charitable giving or all of the legal considerations of having a private foundation. I'll get questions like, "if I make a gift to my child's school, that can pay his tuition right?". Clients eventually understand that things like this aren't allowed, but it takes a conversation and walking them through the different scenarios.

Lately, I'm getting more and more questions of a generational nature, in which the matriarch and patriarch have a private foundation and have been making the same grants each year. A lot of those were status or social grants, in which donors who know each other give to each other's charities or foundations, and some were just tradition, for example "we give to cancer research and that's what we're going to do every year." Then the kids come in and they ask "how can we have more meaningful impact?", which typically happens once the older generation is deceased or incapacitated, and suddenly the kids who were on the foundation's board in name only start to get involved and look at it quite differently. As you know, millennials often ask a lot of questions about metrics and impact measurement, which is important, but I think they might also be losing part of the joy and process of philanthropy. Not everything is measurable the next day (although tax benefits often can be). While tax benefits may drive the giving, I always tell them not to let the "tax tail wag the dog" – they have to have some philanthropic intent as well.

CAFA: Often, parents can find it difficult to discuss philanthropy with their children because they don't want the children to feel like their giving is taking money away from their inheritance. But the opposite can happen when they have this discussion and the children actually become more involved and it strengthens family ties. Can you speak to these two aspects? Do they make use of your expertise for having this conversation?

Jane: I don't know if you remember the "Dear Abby" advice column, but a child wrote-in and said "my 80-year-old dad's new wife is using all my inheritance", and Dear Abby would respond with a column that would basically say "you're not entitled to anything". A larger question that is very difficult in estate planning is to encourage wealthy clients to be transparent with their children. They (the children) should know what to expect, know what they'll receive, and what the parents' philosophy is. We see so many children of wealthy families emotionally destroyed because they were expecting to receive a substantial inheritance and never did.

Often, this prevents them from becoming independent and self-reliant, something so many parents want for their children. When considering philanthropy, I try to get clients to involve their children from an early stage. That may mean that the children each have a right to grant a certain amount each year from the foundation, or they may both be advisors to the donor advised fund. Sometimes that works well, but sometimes it's a complete flop because the children aren't interested. I always encourage transparency, but family dynamics can be quite complicated.

Of course, sometimes after the parents are deceased the dynamics between the children become more intense and they can't agree on what to do with the foundation, in which case we can always split the foundation into different donor advised funds for each child. It's the advisor's job to tread carefully within these situations, but also to tease out the details so that they can provide a solution that meets the needs of the clients.

CAFA: Stepping away from the family dynamics a bit, what other concerns come up regarding philanthropy?

Jane: Probably one of the most common logistical questions is the role that donors can have in creating or funding scholarships. For instance, many of my clients give to higher education institutions and want to have a role in creating the criteria for the scholarships and the right to choose who gets those scholarships. Of course, they're limited in these rights but I encourage them to get to know the recipients and remind them they can take a personal interest in the students that's beyond their financial contribution. Many of my clients get very excited about scholarships, so I always want them to see the "payout" and watch these kids succeed because of their work or even become mentors to them. When clients want to give back to their alma mater, I always ask what they studied or what they were involved in because sometimes this can ignite a passion and lead them to be more specific with their gift.

CAFA: Scholarships are indeed a common issue in terms of donor control. How often does this larger issue of donor control come up and in what contexts?

Jane: I've been speaking a lot this past year about how to solve private foundation issues with donor advised funds and explaining to clients about how donor advised funds operate. A lot of my clients will have a very cautious reaction to the idea that they do not have full control over their gifts to a donor advised fund, but I explain that these are often trusted institutions who are in business because they are receptive of the advice of their donors. This being said, I still have a few clients who just can't make that leap of faith and will opt for a private foundation instead because they want to control everything.

CAFA: What kind of trends are you seeing in philanthropy right now?

Jane: I mentioned this earlier, but several clients are terminating private foundations and converting them into donor advised funds, and really DAFs are becoming more and more common. Sometimes it's the burden of running a foundation, sometimes it's deceased parents and children splitting a foundation into two DAFs, or sometimes it could be a divorce where the foundation gets split into two DAFs.

Another trend is the increasing role of millennials in philanthropy and the example of children getting involved in parents' philanthropy and wanting to change the way it works. The whole topic of how much impact should matter, a trend driven by millennials, is a completely separate conversation.

I’m also seeing more partnerships forming between foundations. For instance, a client wants to go in and fund pediatric AIDS treatment in Sub-Saharan Africa. I always ask them if they have any idea how many groups are already doing that? Why do they need to form their own foundation or program? Why not work with an organization already doing that? Clients often don’t want to hear that, but I encourage them to be in touch with other foundations with similar missions so that they can share their knowledge and share site visits. In general, these foundations want to learn from each others’ mistakes because it’s so useful. I call it “ego versus impact.”

CAFA: Is there any toolkit you recommend to other advisors or any set of materials you use to help your clients?

Jane: I’ve spent quite a bit of time developing diagrams and bullet points that are great for starting a more in-depth conversation. Jumping into a conversation with a bunch of technicalities tends to be an ineffective way for working with clients. It’s also really important to have good charitable consultants or organizations ready to step in where I leave off who can recommend charities or further facilitate the charitable giving process.

Lastly, look for the clues and hints in the conversations and documents. If your client is worried about their children getting too much inheritance then that’s an obvious opening for an advisor to bring up philanthropy. You always have to know the tools and vehicles, and match them to the needs of your client. Listen to the subtleties and develop solutions. In the end, it always comes back to the pie chart: taxes, kids, or charity.