



# Responsibility and Accountability to the Family: *Teaching Confidentiality to the Next Generation in a Social Media Society*

By Fredda Herz Brown, Founding Partner, Senior Consultant

*The Green family was the owner of the largest company in a small southeast community. At a local summer cocktail party where several of the family members were present, one of the older generation heard one of the youngest (early 20's) generation telling a group of friends the exciting news about the family business plans for expansion. The elders were shocked that such information was a topic of conversation for a party and were also wondering what they could have done to prevent it and, now that it happened, what to do to deal with it.*

It has always been a challenge for families to determine when and what kind of information to provide to the next generation regarding the details of their family holdings. Their worry is exactly the experience of the Green family: having information that is viewed as private become public. Families often seek from a consultant some advice about a specific age that would qualify young people to receive such information. While seeking such information, families and their consultants also know inherently that there is no optimum or specific age that is definable for all family members.

Implied in the age question is the question of when a young person is both psychologically and ethically capable. At the same time, both family members and consultants are aware that it is the responsibility and accountability regarding the reception of such information that is really at the base of such inquiries.

Phrased and thought about in this manner, the question of when to teach becomes a question of when a person is capable of understanding the responsibility implied in hearing about the assets. It is also possible that the learning about the family holdings is a teaching moment, that is, a moment to teach family members, especially young ones, about the mutual obligation or contract that is established when such information is shared.

Families sharing wealth/assets additionally share in a responsibility to one another and for the family well-being as a whole. Disclosure of family information to the wrong people or in the wrong place or setting can increase the family capital risks. In our current social media society where youth seem to have taken transparency to new heights, with continuous conversation with their friends and family (and where adults have quickly followed suit), it is even more important to understand the full impact of the disclosure on the family well-being.

I recently have begun to see this mutual responsibility as being formalized when a family member joins the family forum or assembly. Officially joining the meeting where the family shares in activities and education related to their family holdings is a time when the members on both sides of the equation, both the “already” members and the new members, have heightened awareness of the set of mutual risks and opportunities that they share.

It is a time that most young family members, or members who are marrying into the family, describe as a period when they are a bit intimidated and/or frightened of the responsibility of the entrance, as well as excited about the new role. It is a time when the family and/or the family council has usually reviewed the family requirements for such an entrance and planned an orientation for that member. And therefore it is a time when a model for acknowledging such a mutual process can be quite useful and important to the family.

Having a family governance structure and processes in place to manage decision-making provides a ready-made place for the family to define the importance of mutual responsibility, opportunities, and risks. The family assembly, a time when the total family congregates, provides a place for the family to meet and share ideas, as well as get educated about a variety of subjects, including the assets of the family. The governance document, the constitution, defines the age at which family members join the family assembly/forum as full members. What better time than at this moment for the family and the new member to enter into a mutual contract of responsibility?

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The focus of this article is to present a new method that we have tried with several families to assist them in defining the level of mutual opportunity and responsibility that exists between them. It is our hope that the reader will explore this option, and we end by exploring how it is accomplished in a client situation.

### **The Family Non Disclosure/Confidentiality Agreement**

Over the last year, several families have developed, with our assistance, a nondisclosure/confidentiality document. The families used the document to begin to define what they viewed as the mutual responsibility/accountability between the family and its individual members and how they will use these agreements.

While these documents may be different in their terminology, the elements were similar:

- An educational component which defines family privacy and confidentiality and its relationship to the family's well-being
- A description of the document in the family constitution and bylaws that defines its importance and requirements for signing
- A definition of what is considered to be confidential information
- A definition of who is responsible for monitoring the agreement and the potential consequences for infringements



### The Educational Thrust of the Agreement

For three of the client families, the nondisclosure agreement was defined in the family constitution. In that document it was delineated as part of the entrance of a family member to the family assembly. It was also included as part of the orientation documents attached to the constitution. For these families, signing the family constitution was required and indicated that they had received and reviewed the details of the family organization. Thus when a new member joined the assembly and when he/she signed the constitution, it also indicated their willingness to accept the terms of the document and the confidentiality necessary to participate as a full member of the family body.

Prior to signing the document, the family member would have participated in a day-long orientation to the family governance. This orientation would

include a description of the family mission, values, and requirements for participation in all family activities. Generally for most of the families, orientation also consisted of some basic review of financial knowledge.

For several other families, the document was included as a part of the orientation packet shared with new members prior to their participation in the first family meeting. For these families, the document was signed separate and apart from the constitution but viewed as of no less importance. In several instances, the family council/board chair also signed to indicate of the mutual nature of the agreement.

No matter how the document was introduced and administered by the family, the general notion was the same. It defined the relationship among family members as a mutual sharing of opportunities and risks which required a mutual obligation for the family's well-being. It stated that this well-being hinged on the fact that certain information was considered private/confidential and that sharing such information could be damaging to the family. Signing the document demonstrated the individual's commitment to the family to uphold values and to be respectful of the confidentiality entrusted to him/her. Further education was offered by considering the impact of communications to and through various social media sources as well as by sharing documents through purposeful or unwitting ways.

### Description of the Document in the Family Constitution and/or Bylaws

Family governance is a set of principles, guidelines, and processes that define membership, meetings, and activities of the family. It defines the family as an organization bound together by certain principles and values and ways of operating with one another. Family governance is a not family meeting. Family meetings are only one way in which a family chooses to exercise its connection to one another.

Each of these families described above has a constitution and a set of bylaws for the



functioning of their family organization. One family included the confidentiality/ND agreement as part of the bylaws referring to entrance into the family assembly. Another included it there but also referred to confidentiality as one of the values that the family implemented in their lives along with a focus on family health/well-being. One family used in addition to their business NDA.

Yet another family included the description of the agreement and its purpose in their description of the functions of the family council. They specifically referred to managing the ongoing well-being of the family in terms of its business as the overall function of the council. Managing the voice and view of the family to outside world was seen as one important aspect of their charge.

Clearly noting the document in the family constitution makes the confidentiality and responsibility foundational to the family's life together as an economic and emotional unit.

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#### **A Definition of What is Considered Confidential Among Family**

Any agreement needs to define how it impacts the family's well being and define what confidentiality is considered to be. It must also define the parameters of what is considered to be confidential by the family. For most families any information that addresses the family assets of any kind falls into this category. Thus speaking

*or writing about how much, what kind or where certain assets are held is off limits. In addition families often require confidentiality with regard to information regarding what they might buy or sell or deals they are seeking to make.*

*Family members would prefer that members not discuss or describe personal information about the family of any sort. For one family privacy, was a major security issue: The James family was majority shareholders in a very large public company. Their third generation children, ranging in age from 10 to 21, communicated with one another via the Internet using one of the social websites. Once, two days after freely sharing some personal information with each other and friends regarding how much they thought their family was worth, a reporter doing a story on the family contacted them. Two of the next generation contacted their parents to report the incident and the family began to address how to deal with social media information sharing.*

*For this family, it became imperative to address what they wanted family members to feel free to discuss in more public and impersonal settings. They formulated guidelines for the family confidentiality agreement that aided family members in approaching the situations and later offered a segment of their education program to address this notion. They also established a personal sharing segment to the family website, encouraging the family to use that method as a way to share their personal information.*

*What has become clear to us is that families need to address the issue of what is confidential by educating family members as well as proscribing a code of conduct for them in public settings. Clarity and discussion are hallmarks in this area.*

*Responsibility for Monitoring the Agreement and The Potential Consequences for Infringements Our experience so far is that families have shown the greatest variability in how they approach this area and it partly depends upon how they view consequences. For the James family mentioned above:*

*The family council was asked to be the monitor of infringements. This was because this group was viewed as handling the business of the family between the family assembly meetings. In addition, the family council was responsible for the family education programs, of which confidentiality was a part. Thus if anyone thought they or another had infringed on the guidelines for confidentiality, they were asked to discuss this with a family council member, who would then talk with the council and make suggestions on how to handle the situation to the individual. If they were unable to address the situation then they brought it to the larger family for assistance. The range of consequences was being asked to not attend an assembly to retaking the education course and receiving counseling regarding boundary keeping.*

Taking a different path, the White family asked a council of four senior, wise people in the family to take on this function. This council of elders would meet several times a year and discuss their assessments of how the family was doing regarding confidential information. They would also listen to family members present situations with which they had been struggling in order to explore potential issues and help develop clearer educational plans for the family. The council would report to the family twice a year regarding the kinds of situations family members were encountering. For this family it was decided that repeated infringement (more than three instances in the same number of years) could lead to a loss of some of the

dividends. For another family using a similar model, infringements were met with suspension from meetings. After having used the system for three years, the family discovered that there were significantly less occurrences.

### **Summary**

Sharing assets adds an additional level of complexity to family life. It joins a family's economy to its emotional life, and it is in this nexus of financial and emotional issues that the family experiences the questions of mutual responsibility, opportunity, and risk.

Learning early on how to assist family members to understand the conceptual and practical aspects of their connections is a central concern of the family as well as their advisors. Using a confidentiality/nondisclosure agreement provides a structure and begins a process that sets the framework for this work.

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### **About Relative Solutions**

Families who share assets must successfully manage the joining of their emotional and financial lives. Relative Solutions guides families through the difficult questions that emerge from the shared risks and opportunities that impact their lives together.

We provide a structured space that is neutral, objective, and conflict-free, so a family's best thinking can emerge to solve their most pressing challenges. Leveraging our proven process, families get the sense that change is possible, and are able to embrace tailored, practical solutions that have a substantive and lasting impact.

