

# WHY DID I MAKE ALL THIS MONEY?

## Values and Ethics in Family Foundations

*by Rushworth M. Kidder*

**D**onors who create successful family foundations generally begin by addressing three kinds of issues. The first are immediate and worldly — tax consequences, legal relationships, family involvement, public visibility, and so forth. The second are a pair of searching issues that every donor must answer: Why did I make all this money? And, what do I want to do with it?

If the answer to the last question is, To be charitable, a third range of issues arises. Because philanthropy seeks to serve others, it lives within the precincts of some of the deepest moral and metaphysical soul-searching about core values. Successful startup boards can explore those values by asking some of the big questions: Who are we? Why are we here? How do we understand our purpose? What is our obligation to others? What can we do to make a difference?

The act of creating a foundation, then, is the act of translating deeply held values into practical action. Thus, one of the most useful frameworks for a new foundation is a code of values — a statement of the attributes that should characterize the foundation’s work. Such a code is generally brief, sometimes comprising only a few key words. It is aspirational rather than descriptive in nature — a promise of what the donor wants the foundation to be, rather than a declaration of how good he or she thinks it already is. It is also broadly shared, hammered out in discussions with all the relevant participants.

A code of values is not, however, a mission statement which, going back to the Latin meaning of *mission*, tells the foundation board and staff (if one exists) what it has been sent to do. Nor is it a strategic plan, which is a blueprint of the steps needed to fulfill the foundation’s mission. Nor is it just

a motto, a generalized inspirational saying that hints at some popular sentiment without committing to any particulars. A code of values, by contrast, tells *how* staff and board are to accomplish the foundation’s mission, implement strategy, and commit to reaching ideals.

Because shared values underlie the ethical culture of any group, articulating a code of values is important for any organization. For a foundation, having such a code goes beyond important to essential. Why? For two reasons. First, the public holds the nonprofit and charitable sector in high regard, expecting from it a more lofty ethical standard than it expects from the commercial or public sectors. The concern about lapses in ethical conduct touches every part of society, wrote Brian O’Connell, former executive director of Independent Sector, in a seminal 1991 report on ethics for nonprofits. “But, the public expects the highest values and ethics to be practiced habitually in the institutions of our charitable, nonprofit sector. Because these institutions, fundamentally, are dedicated to enhancing basic human values, expectations of them are particularly high. *Those who presume to serve the public good assume a public trust.*” [emphasis in original]<sup>[1]</sup>

Second, foundation executives and trustees generally recognize these moral expectations — and realize that more

needs doing to fulfill them. In a series of interviews by the Institute for Global Ethics staff with 40 foundation executives and trustees in 1998,<sup>[2]</sup> they found that:

- Fully 95 percent believe ethics is very or somewhat important as a topic of public concern these days;
- Nearly 98 percent said ethics is very or somewhat important within the foundation community;
- Only 55 percent, however, felt that ethics played a very extensive role in their organizations; and
- Only 10 percent believed that people are clear about what is meant by the word ethics.

Is ethics important? Without a doubt. Is it being applied? Somewhat. Is it well understood? Hardly. One of the foremost tasks for a new family foundation, then, is to establish with some clarity, foundation values, what they mean, and how they can be applied in practical ways when ethical issues arise.

### Whose Values?

While trustees may agree on the importance of a code of values, they may stumble over an old canard: Whose values will we adopt? The question presupposes that each of us has a different set — that we're all so different that we can't possibly agree on something as basic as our moral values.

In fact, the opposite is true. A decade of research at the Institute for Global Ethics strongly suggests that wherever you ask people to define the core moral values they would most like to see on a code of ethics for the global future, they articulate five things: *honesty, responsibility, respect, fairness, and compassion*. So universal are these five ideas that they appear across nationalities, cultures, races, religions, genders, economic strata, and political alignments. The Institute has verified these findings in survey work, in focus groups, and through a Values Definition Process in seminars around the world.<sup>[3]</sup>

These five values may or may not be the ones your foundation chooses to carve in stone. Even if they are, they'll

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require further work to make them operational and applicable to the foundation's particular circumstances. But they suggest an important point: If foundation board members settle for the notion that arriving at a set of shared values is impossible because we're all so different, they haven't pushed far enough. Individuals differ on huge numbers of things. But on core values there is wide agreement on a few key things. Finding that common ground gives trustees, in the startup as well as the operational phases, the courage to differ from one another over matters of mission, objectives, strategy, and tactics — while still respecting the core values that hold the foundation together.

Once a code of values is in place, one of the clearest ways to understand ethics is to recognize that ethical issues arise in two (and really only two) ways. First, they result from violations of a key value — when, for instance, someone is found being dishonest in an organization that regards honesty as a core value. In that case, ethics becomes (as it is most popularly thought to be) a matter of right versus wrong. Sometimes the wrongdoing rises to the threshold of illegality. The family-office manager who takes home old computers to sell for his or her personal benefit, the executive director who cooks the books to pocket unwarranted compensation, the trustee who fiddles foundation funds to pay for family vacations, are all violating the law.

But some profoundly unethical behaviors may or may not be legal: A personnel officer who advertises widely for a position he or she knows will be filled by someone inside the foundation, a program officer who delays responding to a request for funding until the applicant has gone out of business, or a board chair who tells only some of the trustees about a key meeting and leaves the others in the dark until the last minute. Although there is not always something *illegal* about these actions, ethically, the actions are just plain wrong.

The second way in which ethical issues arise is more complex — and more significant. They can come about from a clash between two core values already on the code — when, for example, we have a choice to make between fairness and compassion. In that case, ethics has nothing to do with right versus wrong. It's a matter of right versus right. Such an issue lies at the heart of the dilemma, based on a real-life example, that faced the hypothetical Francine Michaud Family Foundation (see below). Given the strength of the donor's pro-life views before she passed away two decades ago, and the concern among her descendants on the board about the current need for family planning, what should the foundation do? We can make a powerful case for “right” on both sides. Yet we can't do both. That's where ethics gets tough.

### When Generations Disagree<sup>[4]</sup>

George is a trustee of the Francine Michaud Family Foundation. The foundation was created by George and his siblings as a memorial to George's mother, her values and ethics, and the way she helped people during her lifetime. While the formal grantmaking guidelines are fairly general, the foundation's key criterion boils down to a question: Would Mom have made these grants?

George's mother was Catholic, and had agreed with the church's position on abortion. Among her many volunteer activities, she had put her pro-life beliefs into action by serving as a telephone hotline contact person for young

women with unexpected pregnancies. Since its founding, the foundation has provided funding for similar hotlines and information services for years, and has also provided modest support for other human services programs.

Twenty years after Francine Michaud's death, the grandchildren have begun to join the foundation's board. Several of them, however, are much more comfortable with family planning than their elders, some even favoring legal abortion.

One of George's sisters feels so strongly about pro-life issues that she is proposing that they concentrate virtually all of the foundation's resources in that one area. She is convinced that her mother felt more strongly about this issue than any other, and that the only way to honor her memory is to provide maximum funding to anti-abortion activities, from counseling to advocacy to policy research.

The grandchildren haven't asked to allocate foundation funds directly to pro-choice issues; however, several are balking at putting large amounts into fairly militant pro-life activities. They argue that were she alive today, their grandmother would want the foundation to take a temperate approach to this issue, and also to broaden support of other areas of growing community need such as education and job development.

Which side should George support? Should he support his sister's commitment to spend everything, powerfully, on this one issue? Or should he side with the grandchildren, tempering pro-life grants with expanded funding in other program areas?

### What Is an Ethical Organization?

Ethics is so often thought of as right versus wrong that, for many people, it has come to mean little more than compliance with rules and regulations. And so it is — in part. There is no question that an ethical organization must, at the

most basic level, live by the law. It is imperative that the trustees and staff of family foundations understand the relevant legal frameworks for their activities. They must know the right and avoid the wrong.

But knottier aspects of ethics can arise where *both* sides are right and where the best resolution may lie beyond the guidance of the law. When the Institute's survey of foundations asked respondents to share their principal ethical concerns, they responded with 12 key topics — almost all of which involved an interplay between right-versus-wrong and right-versus-right issues:

- Self-dealing;
- Conflict of interest;
- Transparency;
- Diversity and pluralism;
- Nepotism;
- Ethical investing;
- Abuse of power and privilege;
- What to fund — charity or systemic change;
- Arrogance in dealings with nonprofits;
- Inside information about nonprofits;
- Lack of candor, and how to temper unbounded optimism; and
- Spending — long-term versus short-term.

The first of these, *self-dealing*, is clearly illegal. It involves the deployment of foundation resources for the personal gain of one of its trustees or staff. Not always obvious, it can come in some tricky disguises, as when a trustee is part-owner of the public relations firm the foundation wants to hire, or when a family member leases office space to the foundation in a building he or she owns. No matter how efficient these may appear, they remain illegal.

Three other issues can also have strong legal overtones:

- *Conflict of interest*. Should a foundation trustee sit on the board of a grantee? Doing so can provide great insight into the grantee's activities and, depending on the nature of the

activity, can be a tremendous learning experience for a trustee who may have deep interest in that particular field. But when that trustee begins to argue for the grantee's interests at the expense of the foundation's concerns, there can be real conflict. This issue can have legal ramifications if it skates too close to self-dealing, although in many instances it may be more a matter of ethics than of law.

- *Transparency*. This, too, can be a legal issue, as in the requirement of full disclosure in such documents as Form 990 of the Internal Revenue Service. But what about publishing an annual report: Are scarce foundation resources better spent on shining a light on internal workings or on making more grants?
- *Diversity and pluralism*. Some foundations strive to ensure that trustees, staff, and grantees reflect the multiple cultures of the communities they serve. Others focus on single cultures in particular need of help. When the issue of diversity and pluralism touches on fair hiring and promotion practices, it has legal ramifications. In general, however, decisions to fund within a broader or narrower cultural bandwidth are ethical rather than legal.

But what about these others, where the law allows more latitude?

- *Nepotism*. Is it right to invite family members to serve in key positions within a family foundation, since they have such a strong stake in upholding the legacy and intent of the donor? Or do such family ties create managerial entanglements that impede the smooth functioning of the organization?
- *Ethical investing*. Is it right to invest the corpus with an eye solely for financial considerations, seeking the best return regardless of the nature of the stock to maximize the potential for programmatic giving? Or should trustees invest only in firms that don't operate in sectors they feel are unethical — as tobacco, armaments, and gambling are seen by some to be — even if that restriction lowers the return and limits the charitable impact of the foundation? (Trustees are, of course, also held to the Prudent Investor

and IRS rules that require them to protect the assets of the foundation.)

- *Abuse of power and privilege.* When a trustee steers funding to a certain nonprofit to win a seat on its prestigious board and move in more exalted social circles, that's abusive — though it may not be illegal. But when a foundation uses some of its resources to elevate its public profile and attract better grantees and partnerships, isn't that an acceptable use of power and privilege?
- *What to fund — charity or systemic change.* This question, a variant on the give-a-man-a-fish platitude, poses a tough dilemma. Do you ensure that foundation funds go directly to the worst hunger cases, the most gripping public health situations, and the neediest classrooms? Or, do you use them to build better nonprofits capable of strategically addressing the underlying causes of these ills — even if some of today's sufferers get no relief?

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- *Arrogance in dealings with nonprofits.* Not returning phone calls from potential grantees, brushing off well-meaning inquiries, and spending more time telling charities how to behave than listening to their perspective — these things are not illegal and may not noticeably harm a foundation's early record of success, though they surely speak of arrogance. Yet if a budding foundation is to protect its time and resources to focus on first-intensity issues, must it not find ways to limit the energy spent responding to queries, pleas, and inappropriate proposals?
- *Inside information about nonprofits.* How much information about grantees should a foundation share with other foundations? If a particular grant was unsuccessful, does that

give a family foundation the right to blackball the grantee with a few negative words? Yet if the foundation discovers serious problems in a nonprofit's accounting, honesty, or competence, doesn't it have an obligation to warn other potential funders?

- *Lack of candor, and how to temper unbounded optimism.* Learning to say No nicely is just as difficult in the foundation world as in other walks of life. On some occasions, a delayed No can lead to huge expenditures of time and energy on the nonprofit's part — not to mention a hopefulness that will only be shattered. But on other occasions, a too-quick denial may shut off a promising project that, with coaching and fine-tuning, could become one of the foundation's finest grants.
- *Spending — long-term versus short-term.* One of the Institute's survey respondents put it neatly when he said, "If we look to the long term, we will conserve what we have today for tomorrow's problems. But such are the problems today, that it can be argued that we must spend more of our wealth now." Which is right for a particular foundation?

These issues raise tough moral questions. How does a foundation decide which is the higher right? A framework for decisionmaking, put in place as the foundation is developing, can help trustees and staff recognize ethical issues as they appear. It can help the foundation identify the basic paradigms into which right-versus-right issues tend to fall — truth versus loyalty, individual versus community, short-term versus long-term, and justice versus mercy — where clashes between good values become the drivers of the foundation's toughest ethical challenges. And it can help the foundation to apply some of the key resolution principles from moral philosophy — the ends-based principle of Utilitarianism, the rule-based principle anchored in Immanuel Kant's categorical imperative, and the care-based principle rooted in the Golden Rule.<sup>[5]</sup>

The capacity for this kind of moral decisionmaking referred to by the Institute as Ethical Fitness™ starts with the core

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values of the foundation. Experience suggests that, where such values are embedded at the outset, the ethical issues will be far less problematic. Values won't prevent such issues from arising: Far from it. Having a focus on values tends to highlight moral concerns that, in a less values-driven culture, might slip past unseen. But a focus on values, and a commitment to address ethical issues courageously and robustly as they arise, help ensure that no unethical seedlings are allowed to grow into the kinds of stifling entanglements that can divide families and paralyze good grantmaking.

### *Is the Foundation Doing Things Right? Doing the Right Things?*

In the end, there are two intuitional tests for foundation ethics. Is the foundation doing things right? And, is the foundation doing the right things? The first holds the foundation to the highest standards of ethical behavior and motivation. The second requires that foundation board and staff apply right-versus-right tests to every programmatic decision — separating the merely worthwhile from the absolutely essential, aligning funding with mission, and ensuring that the efforts of the foundation are in the service of its most enduring values which, after all, was why the donor made all that money.

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- [1] Independent Sector, "Obedience to the Unenforceable: Ethics and the Nation's Voluntary and Philanthropic Community," Washington, DC: Independent Sector, 1991, p.5.  
 [2] Graham Phaup, "Navigating the Waters in Today's Philanthropy: An Ethical Compass," Camden, ME: Institute for Global Ethics, 1998, pp. 5-7.  
 [3] Rushworth M. Kidder, "Chapter 8." *Shared Values for a Troubled World: Conversations with Men and Women of Conscience*. Camden, ME: Institute for Global Ethics.  
 [4] Dilemma prepared by Institute for Global Ethics staff for *Foundation News & Commentary* July/August 2001, p. 40. Reprinted by permission of the Council on Foundations.  
 [5] For a full explanation of this decision-making process, see Rushworth M. Kidder, *How Good People Make Tough Choices: Resolving the Dilemmas of Ethical Living*, New York: Simon & Schuster, 1997. For specific application of these concepts to family foundations, see *Ethics for Family Foundations*, a CD-ROM-based interactive ethics module and accompanying workbook (Camden, ME: Institute for Global Ethics, 2001). See [www.foundationethics.org](http://www.foundationethics.org) for more information.

