



Trustee Times

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Pictured from left to right Dave Killins and Bonnie Yagar from STAS's Board of Directors receiving the grant from the 'Pendle Fund at the Community Foundation of Mississauga', presented by Ray Lessard, President of the Board, Community Foundation of Mississauga at their Annual General Meeting May 28, 2008.

Support & Trustee Advisory Services is pleased to announce the receipt of a generous grant from the Pendle Fund at the Community Foundation of Mississauga in recognition of our work with and for families with a family member who has a disability. This grant will help STAS to continue and expand upon the work started over the last three years. Thank you, Pendle Fund at the Community Foundation of Mississauga for this honour. We salute your vision and look forward to reaching new heights in the year to come.

One of the resources that we have made available to parents is a copy of the brochure below, Questions and Answers about Inheritance and the Ontario Disability Support Program (ODSP). A portion of this brochure has been copied and appears below:

Questions & Answers about Inheritances and the Ontario Disability Support Program
(ODSP)

Written May 2007
by Harry Beatty, Ph.D., LL.B

NOTE: THIS CAN PROVIDE ONLY GENERAL ANSWERS TO YOUR QUESTIONS, AND DOES NOT DISCUSS ALL DETAILS OF THE ODSP PROGRAM. IN ADDITION, THE INFORMATION IS ONLY CURRENT AS TO THE DATE OF PUBLICATION. IF YOU HAVE A SPECIFIC ISSUE WITH RESPECT TO THE LAWS GOVERNING ODSP AND INHERITANCES, YOU SHOULD CONSULT A LAWYER OR LEGAL CLINIC

“What is the most important decision to be made in planning a Henson Trust?”

There are a number of important decisions to be made by family members or friends in planning a Henson Trust. These include the funds and property to be placed in the trust, income tax implications, and what will happen to these funds and property after the ODSP recipient dies.

But the most important decision is the choice of the trustee or trustees. Recall that the Henson Trust is an “absolute discretionary trust”, and the ODSP recipient has little, if any, control, over the decisions of the trustee or trustees. Even the Court has very limited control over their decisions. The trustee or trustees are not permitted to appropriate the trust funds or property for themselves, of course, but provided that they have a reasonable basis for their decisions, the Court will not interfere with their “absolute discretion”. So it is essential that the trustee or trustees be carefully chosen, to ensure that they will act in the best interests of the ODSP recipient.

The trustee or trustees require two kinds of expertise - financial expertise and personal expertise. Financial expertise is required to ensure that the trust funds and property are properly invested and managed. It is also required to ensure that the ODSP rules are complied with, and that the required annual reports are made to ODSP. The personal expertise that is required involves the relationship with the ODSP recipient who is the beneficiary of the trust. The trustee or trustees must be able to make informed decisions which will respect the wishes and meet the needs of the beneficiary, while also ensuring that the funds and property in the trust are available lifelong for the beneficiary, and are not spent unwisely. Because these two kinds of expertise are needed, it is often advisable to have more than one trustee, as one

trustee may be stronger in the financial area than another, while the other has a stronger personal relationship with the beneficiary.

Another important reason for having more than one trustee is to avoid decisions being influenced by conflicts of interest. A common arrangement which has the potential for conflict of interest is where the trustee of a Henson Trust is a sibling of the beneficiary, and is also a "residual beneficiary" of the trust (that is, a person who will receive some or all of the trust funds or property on the death of the ODSP recipient who is the "primary beneficiary"). The potential conflict occurs because the trustee can try to keep the funds in the trust rather than spending them for the benefit of the ODSP recipient. This is not to say that all siblings would do this, but it is something that each family has to consider. In many cases, it makes sense to have more than one trustee, so there is some oversight of the decisions that are being made regarding the Henson Trust.

Yet another important reason for having more than one trustee is continuity. The Henson Trust will often continue during the entire lifetime of the ODSP recipient, which may span several decades. If only one trustee is appointed, that person may well be unavailable to act throughout the beneficiary's lifetime, because of death, poor health, or because the trustee has moved far away. So, more than one trustee should be appointed, with at least one being a person of roughly the same age as the ODSP recipient who is the beneficiary, if at all possible...."



Notes and Newsworthy!

- ✓ **SUPPORT & TRUSTEE ADVISORY SERVICES WILL BE HOLDING ITS ANNUAL GENERAL MEETING ON SEPTEMBER 30 AT 6:00 P.M. AT 19 RUTHERFORD ROAD SOUTH, BRAMPTON**
- ✓ Information about upcoming seminars will be available in the September edition of the "Trustee Times"!

*Is there a question you have about future planning?
If so, please contact Sue at 905-542-2694 (ext. 2312)
and she would be happy to help!*

Planning is bringing the future into the present so that you can do something about it now."

~Alan Lakein (an expert on personal time management and a Harvard MBA)

Have you moved? Do you need to update your contact information with us? If so, please call Sue at 905-542-2694 ext. 2312 to update your information!

IS IT TIME TO RENEW YOUR MEMBERSHIP?

If so, please contact Sue!

I want to learn more about STAS!

Name: _____

Address: _____

email: _____

telephone: _____ home

_____ work

- I want to be a member! My registration form and \$10.00 membership fee are included!
- I want to purchase a print - please contact me!
- I want to meet with the coordinator regarding future planning!
- I want to know when there will be a wills and estates seminar

Have a safe, healthy and happy summer!

