**ROLE PLAY BACKGROUND FACTS – SILICON VALLEY (USA) COLLABORATIVE PRACTICE GROUP TRAINING**

**The Hoffman-Sanchez Family: A Trust & Estates Conundrum**

**Case Facts in the Estate Planning Phase:**

Wendi Hoffman is 45 years old. She has a 15-year-old daughter, Sara, from her 17-year marriage to Paul Hoffman. Paul died unexpectedly six years ago, leaving her a $1M in a life insurance policy and superannuation worth $800,000. Paul had been a good provider, but Wendi has also contributed financially in her own right starting and growing her own spa business.

Wendi recently married the man she’s been dating for two years, Hugo Sanchez.

Hugo was previously married to Maria. He is 65-years-old and has two sons from that marriage, Jorge/(George now) and Felipe, who are 47- and 40-years-old respectively. Hugo divorced his wife, Maria, 6 years ago.

George and Felipe are like chalk and cheese.

After college, George married a successful career woman and pursued a banking career. He’s currently a bank manager with a well-known bank. He and his wife have two daughters.

Felipe has always been attracted to the arts, especially music (he plays guitar), although he’s made attempts throughout the years to find a job in which he could succeed, he has either quit them or been fired. His mother gives him money from time to time to help him pay his bills. In between jobs he plays various ‘gigs’ whenever possible, but makes very little money. At times he stays with his mother or ‘crashes’ at a friend’s house since he can’t afford the local rents. He’s optimistic his music career will be launched and it’s just a matter of time until he’s self-sufficient.

George is worried that he will end up having to support Felipe financially after their parents both die.

Hugo himself is quite ambitious and has been involved in various business ventures, most of which have not proved to be monetarily successful. The combination of his divorce and unsuccessful business ventures as well as money tied up in a new real estate venture, have left him somewhat strapped for cash.

Wendi’s success has come from her ownership in a high-end spa, which was recently appraised at a re-sale value of $550K. She’s hoping to expand the business and is looking at opening another location.

Just before Wendi and Hugo started dating, Wendi bought a beautiful home in San Francisco that is worth $2 million. Wendi made a $500K down payment on the SF home from her life insurance proceeds. After Hugo and Wendi got married, Hugo moved in to their new “family” home. The couple considers their home to be a “community property” asset, other than Wendi’s $500K down payment because both share in the mortgage obligation and the appreciation from the date of their marriage.

Hugo has about $100K in liquid investments and $500,000 tied up in an illiquid real estate venture with future promise. Hugo has been approached by a colleague wanting him to be a partner in an up and coming start-up “cheque cashing” business requiring an initial investment of $500K. Wendi offered the remaining money from her life insurance proceeds to support this exciting business venture expecting it to be worth $3-4M within the next 7 years. Hugo graciously accepted Wendi’s offer with an understanding they would be partners in this venture – so that the business would also form part of their “community property” save for Wendi’s initial investment.

Hugo and Wendi have discussed their mutual understanding that the spa is Wendi’s separate property both because she owned it prior to their marriage and because Wendi plans to pass this business to her 15-year-old daughter once she’s old enough to manage the business successfully.

Hugo and Wendi agree that Wendi contributed the vast majority of the couple’s assets and they want to take that into account in their estate plan. They want to create an estates trust with a distribution plan that reflects a significantly larger distribution of trust assets to Wendi’s daughter than Hugo’s children because of the differences in their respective contributions. The distribution plan gives 80% of the estate trust assets to Wendi’s daughter, Sara, (80%) and 20% to Hugo’s two children (10% each).

Wendi and Hugo plan to make an estate trust amendment after 5 years to take into account the expected growth in Hugo’s investments and the expected grown in the “community property” pool. They expect the amendment to include a modified distribution plan that will gift approximately 60% of the Hoffman-Sanchez estate to Wendi’s daughter, Sara, and 40% to Hugo's two children (20% each).

Hugo and Wendi are working with a collaborative estate-planning lawyer who suggests holding a family meeting to inform Hugo’s sons George and Felipe about the differences in contributions and to explain the plan and to seek their input regarding the plan.

After that meeting Hugo agrees to put into place a life insurance policy in the sum of $1 Million that would be paid to George and Filipe on his death as a way of “equalising” the distributions to them.

**Case Facts in the Post-Mortem Phase (Hugo has died):**

Fast-forward 10 years. Hugo just died of an unexpected heart attack.

Wendi is now 55 years old with a 25-year-old daughter. Hugo’s two sons are 50 and 57 years old.

Wendi and Hugo never did the estate trust amendment they planned to, nor did Hugo set up the life insurance policy he promised for his sons.

Hugo’s investments grew only modestly from $600K to $800K and their joint check-cashing venture that Wendi contributed $500,000 to, grew to $1 Million (but not to the expected $3-4 Million).

Wendi’s business has flourished – she now owns two spas worth $1.5 million. She considers those ‘her business’ and one that Sara will inherit because Sara has been working in those businesses with her mother as soon as she was old enough to work.

The estate trust was written in such a way that Wendi has unlimited power to make any changes to the trust that she wishes after Hugo’s death.

Hugo’s son Felipe is now penniless and has more financial need than George or Sara.

George and Felipe don’t get along although they’ve banded together against Wendi and Sara. Both are angry that Sara will have her mother’s business because they believe that their father gave Wendi business and marketing advice that helped her grow it. They also think that Sara is influencing Wendi to not make changes to the estate trust.