

Fiduciary Challenges & Resolutions: Case Studies  
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Fiduciary Challenges & Resolutions: The Wyoming Perspective

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## **I. Introduction**

Families of wealth are increasingly confronted with the question of where, as well as how, to structure their financial management, wealth transfer, and asset protection planning strategies. Both domestic and international families are increasingly amenable to locating entities and assets in jurisdictions other than their residence or “natural” situs in furtherance of financial and family objectives. As U.S. states continue to innovate in trust, estate, tax, and business laws and regulations in order to attract and maintain meaningful financial services industries and the families they serve, advisors are compelled to consider multiple divergent and evolving factors when selecting an appropriate jurisdiction for a particular entity or asset.

The primary purpose of this paper is to argue that family governance should be considered as a critical factor in the choice-of-situs analysis, with particular emphasis on Wyoming structures and entities. While families expect their advisors to analyze the technical factors informing choice of jurisdiction, the question of family governance is often an afterthought, shoehorned into the discussion after the fact or with cursory treatment at best. This paper argues that the family governance conversation should be given equal weight to other factors.

Much has been devoted to analyzing the various regulatory, tax, and legal factors which inform the question of situs. Several states offer favorable tax environments, modern trust laws, long-duration perpetuities periods, and favorable business and asset protection statutes, and permit private family trust companies in one form or another. Typically, clients defer to their advisors when analyzing these factors and selecting jurisdictions. Therefore, it is incumbent upon advisors to balance the necessary factors in light of the circumstances. And advisors, naturally, are prone to their own biases, in particular to certain tax, legal, or administrative rules which are deemed dispositive to the circumstances.

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Factors which are important in the context of family governance dictate the faithful adherence to and implementation of process, which underpins effective family governance. Structures which are located in favorable jurisdictions for tax or legal purposes may nevertheless fail to achieve intergenerational family unity and harmony if they are not efficient, flexible, engaging, and desirable. The remainder of this paper discusses the impact of tax and legal structures as they apply to family governance with an emphasis on Wyoming law and opportunities therein. Section II describes in greater detail the factors identified above. Section III focuses specifically on opportunities for customized fiduciary services in Wyoming. Section IV reviews selected Wyoming laws which facilitate family dispute mitigation, and by extension, family governance. Section V discusses Wyoming tax, trust, and business law. Section VI concludes.

## II. Family Governance Considerations

When advisors evaluate jurisdictions, many properly focus on tax and legal factors such as state income tax, perpetuities periods, decanting statutes, nonjudicial settlement rules, and myriad other considerations. Many also consider the responsiveness of the legislature and regulators, availability of quality professional services, and fiscal stability of the jurisdiction. While all of material import, these threshold questions should further be informed by consideration of factors important to families, which tend to focus less on the technical structures and more on their “user experience” – the way they interface with the family wealth and the structures which govern it.

These four factors include the following:

- **Efficient.** Efficiency and ease of use are paramount. Simply put, if a structure is efficient and easy to use, it is more likely to be used. All too often, well-designed structures are administratively tedious, which incentivizes foregoing good governance in favor of time or cost savings.
- **Flexible.** Just as families grow, evolve, and change, so must their legal structures and governance mechanisms. Structures designed by one generation are likely to be evaluated and adjusted by subsequent generations to meet their tax, legal, and governance objectives. The ability to efficiently and privately modify structures at minimum cost to the family, both in terms of time and money, greatly increases the probability of good outcomes.
- **Engaging.** Families that succeed are engaged in the process, with “buy-in” from concerned parties across family and generational lines. Structures that provide ample opportunity for family and beneficiary engagement succeed in educating beneficiaries, building and maintaining trust among the family, and involving the family’s human capital in meaningful capacities.
- **Desirable.** At a basic level, family members and beneficiaries should perceive a value-add from wealth management strategies. At a deeper level, family members and their advisors should derive a sense of belonging, enjoyment, and productivity from family governance. Of non-trivial consideration, family meetings should provide opportunities for family growth, engagement, and reunion. Often, the location of family meetings is as important as topics discussed and time for family recreating and bonding is essential. Desirability is also the result of the confluence of the previously-identified factors.

These considerations, in conjunction with the technical legal and tax planning factors, should be weighed when evaluating jurisdictions for suitability.

### III. Wyoming Fiduciary Solutions

A primary motivating factor for advisors who consider Wyoming as a jurisdiction for their clients of wealth is the availability of efficient, flexible structures for fiduciary relationships. As discussed in greater detail below, Wyoming law authorizes directed trusts<sup>2</sup> along with chartered family trust companies<sup>3</sup> and unregulated family trust companies<sup>4</sup> (collectively, “PTCs”). Of course, Wyoming is not the only state which provides for either directed trusts or unregulated PTCs. Ultimately, the fiduciary relationship succeeds or fails based on the relationships of the parties involved – families, beneficiaries, advisors, and service providers must communicate and execute through shared trust, respect, professionalism, and commitment to the family goals and values. Directed trust and PTC structures create an ideal framework to advance family governance through efficiency, flexibility, engagement, and desirability.

#### a. Directed Trusts

In Wyoming, a properly-drafted directed trust unbundles the traditional trustee activities of investing, distributing, and administering by allowing each individual trust activity to be performed by a separate fiduciary. The trustee (often referred to as an “Administrative Trustee”) is relieved of any duty to select, monitor, or supervise accruing to the fiduciaries performing the remaining functions<sup>5</sup> or liability therefore<sup>6</sup>. In the directed trust model, individuals, committees, or entities may serve as Trust Advisor/Committee, Investment Advisor/Committee, Distribution/Committee, and the like as authorized by the relevant trust instrument. In the absence of such authorizing language, the Qualified Beneficiaries<sup>7</sup> of a trust may unanimously agree to designate a trust advisor to the same effect.<sup>8</sup> The investment and distribution functions of the trustee may be performed by an individual or committee comprised of family members,<sup>9</sup> trusted advisors, or both, and with or without the assistance of external investment advisory. Although Wyoming law also authorizes delegated trustee relationships,<sup>10</sup> the administrative trustee is not relieved of the duty to exercise reasonable care, skill, and caution in the selection, delegation, and review of the selected agent’s activities and therefore most advisors and fiduciaries prefer the directed trust model.

Regardless of mechanism, the directed trustee model is appealing from a governance perspective. The parties providing directed trustee services are, by definition, bespoke to each client and their particular circumstances and chosen by the settlor, beneficiaries, or both. Directed

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<sup>2</sup> Wyo. Stat. § 4-10-718

<sup>3</sup> Wyo. Stat. § 13-5-201 *et seq.*

<sup>4</sup> Wyo. Stat. § 13-5-204(a)(vii), see generally Wyo. Stat. §§ 13-5-201 *et seq.*, Wyoming Chartered Family Trust Company Act

<sup>5</sup> Wyo. Stat. § 4-10-715

<sup>6</sup> Wyo. Stat. § 4-10-717

<sup>7</sup> Wyo. Stat. § 4-10-103(a)(xv) limits Qualified Beneficiaries to the class of beneficiaries currently entitled to mandatory distributions of income or principal or has vested remainder interest not subject to divestment; if none, to the beneficiaries having a vested remainder interest subject to divestment only by death; if none, to the beneficiaries currently eligible to receive discretionary distributions and who have actually received at least one distribution during lifetime; and, if none, the beneficiaries eligible to receive discretionary distributions.

<sup>8</sup> Wyo. Stat. § 4-10-718(e)

<sup>9</sup> Consistent with tax objectives.

<sup>10</sup> Wyo. Stat. § 4-10-807

trusts tend to be more cost-efficient than the traditional “unified” trustee model as they allow for decreased and compartmentalized fiduciary liability, which often transfers into cost savings. Moreover, utilizing a “low-cost” administrative trustee in conjunction with family members and trusted advisors in the investment and distribution functions often results in substantial cost savings. Investment Committees often execute an agency agreement with a broker or custodian, allowing the Investment Committee to directly authorize financial transactions without the need to obtain signatures from the administrative trustee.

When drafted appropriately, directed trusts are also substantially more flexible than a traditional trustee model. Investment Advisors/Committees, properly relieved of the duties of prudent investment,<sup>11</sup> may hold investments a traditional institutional trustee would deem imprudent – a highly useful feature for families with concentrated positions of securities, operating companies, or other unique assets. Distribution Advisors/Committees, comprised of family members, trusted advisors, or both, with more context in terms of family circumstance and culture, may be more creative and responsive to the particular needs of a beneficiary than an institutional trustee. Also noteworthy is that directed trusts tend to disaggregate family institutional knowledge among committee members rather than one person, easing transition burdens so often created by fiduciary succession.

Directed trusts facilitate family and beneficiary engagement by creating additional roles, particularly when committees are utilized. Certain family members may be well-suited to sit on an investment committee, which provides the ancillary opportunity for beneficiary education through meeting attendance. Other family members may be more suited to distribution committee work – an opportunity for family members lacking the appropriate training, aptitude, or interest in investment to none-the-less be involved in the management of the family wealth. This may be of particular interest for philanthropically-inclined family members in the event of split-interest charitable trusts.

Although committee work can be tedious, it provides the opportunity to revisit the core family values, communicate through respectful and spirited discussion, and implement decisions regarding family wealth in an informed, thoughtful manner. Committee meetings are often held in conjunction with larger family meetings, promoting participation, unity, and engagement. Properly structured and faithfully implemented, directed trusts provide a structure which transcends fiduciary consultation – rather than mere consultation, families and advisors play an active role in the fiduciary structures that manage the family wealth.

The success of any self-governing fiduciary structure requires trust, communication, good faith commitment to process, and effective advice to succeed. For families seeking increased efficiency, flexibility, and control over their trust assets, a Wyoming directed trust is a powerful tool – both from a financial and family governance perspective – for proactive, ongoing values-driven family engagement.

## **b. Wyoming Private Trust Companies**

A properly drafted and implemented Wyoming PTC provides tremendous opportunity for family governance through fiduciary service. Both chartered (regulated) and unregulated PTCs are authorized under Wyoming law to provide fiduciary services to family trusts, broadly defined.<sup>12</sup>

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<sup>11</sup> Wyo. Stat. § 4-10-105 and Wyo. Stat. § 4-10-901 *et seq.*

<sup>12</sup> Wyo. Stat. § 13-5-204(a)(iv) defines a “designated relative” as a common ancestor of the family, living or deceased, as defined in the charter application, if any, other in relevant governing documents otherwise. Wyo. Stat. § 13-5-

Just as the directed trust model unbundles fiduciary activities for an individual trust, the PTC unbundles fiduciary activities for families and their trusts at the trustee, rather than the trust, level. PTCs are managed by committees consisting of family members and trusted advisors<sup>13</sup> who in turn manage the fiduciary activities of the PTC on behalf of family trust clients. These committees, often consisting of an Investment Committee, a Distribution Committee, an Administrative Committee, and others, control the activities and operations of the PTC as informed by the settlor's intent, family values and governance, and the best judgment of the members of the respective committee. PTCs may work in conjunction with external investment advisors, the family office, and administrative services providers to delegate duties and streamline the effective delivery of fiduciary services.

The decision to transition from a traditional trustee structure to a PTC is often motivated by a precipitating circumstance – generational wealth transfer, a liquidity event, or dissatisfaction with current fiduciary relationships. PTCs, as with directed trusts, are customized to the needs and goals of the family involved. Inherent in the drafting of PTC governing documents and assembly of management and committees is the opportunity to engage in proactive family governance planning.

From an efficiency perspective, the PTC is frequently a cost-effective solution for families of wealth. Transitioning from a for-profit third-party trustee, often charging on a percentage of assets under management, to a cost-based PTC run at *de minimis* profit allows families of means to capitalize on economies of scale and efficiencies associated with involving trusted legal, accounting, and investment advisors directly in fiduciary decision-making. In practice, the assembly of an advisory team supplemented by meaningful family participation typically results in substantial cost savings. Wyoming does not specify a minimum capitalization requirement for unregulated PTCs.

In addition to cost savings, PTCs are often more efficient from an administrative perspective. PTCs bypass entirely the “black box” of corporate trust committee action, resulting in increased transparency and temporal efficiencies. And, unregulated Wyoming PTCs in particular are administratively efficient as they are not subject to initial or ongoing supervision of any state banking authority, decreasing the regulatory burden with family privacy as an ancillary benefit.

Just as with directed trusts above, PTCs are more flexible and responsive than their traditional fiduciary counterparts. Committees may take actions that are reasonable and desirable in the family context and which could otherwise be difficult or impossible in the context of a traditional fiduciary; for example, holding concentrated positions, managing closely held operating entities or unique assets, or authorizing distributions. Moreover, as family structures evolve, the PTC committee composition may change to reflect new circumstances.

PTCs, perhaps more than any other structure, allow for family and beneficiary engagement. Although directed trusts allow for participation at the individual trust level, PTC committee involvement provides meaningful roles for family engagement across family entities. Appropriate delegation and performance of committee duties provides opportunities for intrafamily communication and collaboration, paying dividends in engagement, trust-building, and

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204(a)(iv) defines “family member” to include, *inter alia*, any person within the tenth degree of lineal kinship of the designated relative; within the ninth degree of collateral kinship; spouses and former spouses; relatives of spouses and former spouses within the fifth degree of lateral kinship; a family affiliate; and, trusts established individually or jointly if funded by one or more family members.

<sup>13</sup> Committee composition and participation is often limited by tax compliance considerations.

distribution of family intellectual and human capital. Moreover, the PTC provides meaningful opportunities for rising generations – be it through investment, distribution, philanthropic, or other participation. Just as with directed trusts, beneficiaries may initially be present and eventually participate as voting members on committees, providing an invaluable framework for beneficiary education and training.

Ultimately, the PTC structure builds desirability among participants. Meetings of directors and committees are often conducted at the situs of the PTC – a decision driven in conjunction with legal advisory as to adequacy of nexus. Meetings conducted in desirable locations with ample opportunity for family reunion, recreation, and relaxation along with the conduct of business, is often a trivial consideration to the advisor but of paramount “user experience” import to the family members involved. PTCs also demonstrate value and desirability through structured succession planning, an emphasis on process, and enhanced transparency and control.

Of course, a PTC, just as with all legal structures, require good-faith implementation and management on the part of the family. A PTC alone is not a substitute for and cannot create good family governance, structured beneficiary education, positive family culture and trust, or participant “buy-in.” For a family seeking a fiduciary solution with simultaneous family governance benefit and opportunity, however, the PTC is an effective tool.

#### **IV. An Ounce of Prevention . . .**

Discussions of long-term risk management in the family wealth context often focus on external threats to the family – “creditors and predators.” Accordingly, asset protection, fiduciary mismanagement, and marital dissolution are common themes. A focus on family governance certainly mitigates the risk from inside the family – unified, values-driven families properly incentivized towards cooperation and collaborative problem-solving decrease the risk of internal family disputes. Nevertheless, prudent risk management dictates that, to the extent practicable, families and their advisors evaluate mechanisms to proactively deter disputes where possible and incentivize prompt and amicable resolution when not. Wyoming law provides opportunities, some of which are available in other jurisdictions, to inoculate against future disputes which may arise in the context of family wealth.

##### **a. *In Terrorem* Clauses**

*In terrorem* clauses alter or eliminate benefits available to a beneficiary in the event that beneficiary challenges the validity or terms of a trust or the actions of a trustee. The general purpose of an *in terrorem* clause is to deter trust litigation and protect the intentions of the settlor of the trust and the interests of other beneficiaries. From a family governance perspective, *in terrorem* clauses are a powerful deterrent against trust litigation and should provide settlors and family members additional comfort when contemplating interfamilial risk in subsequent generations.

In Wyoming, *in terrorem* clauses are broadly enforceable, most recently in *EGW and AW v. First Federal Savings Bank of Sheridan* (2018 WY 25),<sup>14</sup> upholding and expanding a previous decision, *Dainton v. Watson*, 658 P.2d 79, 81 (Wyo. 1983). In both instances, the Wyoming Supreme Court held that *in terrorem* clauses are enforceable as a matter of public policy and should

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<sup>14</sup> Publication pending, available online at: <https://services.courts.state.wy.us/Documents/Opinions/2018WY25.pdf>

be broadly applied without exception for good faith, validity of the underlying action, or otherwise. In *EGW*, the Court held that trust litigation brought by a third party on behalf of minor beneficiaries forfeited the property rights of the minor beneficiaries pursuant to the *in terrorem* clause. In contrast, many leading trust jurisdictions, including Delaware,<sup>15</sup> Nevada,<sup>16</sup> New Hampshire,<sup>17</sup> and South Dakota,<sup>18</sup> substantially curtail the enforceability of *in terrorem* clauses and provide substantial space for beneficiary challenge and resultant litigation.

From both a governance and a risk management perspective, advisors should strongly consider the enforceability of *in terrorem* clauses as a material, if not dispositive, factor in choice of situs. Anecdotally, family disputes and litigation are a substantial risk to effective family wealth transfer and governance. Appropriately drafted *in terrorem* provisions are a powerful tool to deter intrafamily litigation in jurisdictions which favor their strong enforcement. This deterrent has a second-order effect as well – when beneficiaries understand that intrafamily litigation carries a strong consequence, it limits the opportunities for family dissolution. Families are thereby incited to work collaboratively to resolve disputes, and in the event of irreconcilable differences, dissolve amicably without litigation and the costs associated therewith.

## **b. Nonjudicial Settlement Agreements and Virtual Representation**

Wyoming, along with several other leading trust jurisdictions, allows for private settlement of trust matters via Nonjudicial Settlement Agreement (NJSA).<sup>19</sup> NJSAs may be utilized by families and their advisors to privately resolve issues which commonly arise, including without limitation: interpret or modify existing trusts; consent to and ratify trust decanting; approve trustee reports and accountings; direct the actions of the trustee; manage fiduciary succession; and, resituate trusts. NJSAs may be subsequently submitted to a court of competent jurisdiction for judicial ratification in the event such approval is necessary or desirable. NJSAs require the consent of the settlor (if living), the then-serving trustee, the trust protector (if serving), and the Qualified Beneficiaries<sup>20</sup> of the trust.

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<sup>15</sup> 12 DE C. § 3329 provides exceptions for action brought by a Personal Representative or Trustee; actions where the beneficiary prevails substantially; actions brought in agreement among beneficiaries in settlement of dispute; actions to determine whether a contest is in violation of an *in terrorem* clause; and, actions brought for construction or interpretation.

<sup>16</sup> NRS § 163.00195(1) provides that *in terrorem* clauses may be enforced but must be strictly construed with the express provisions of the trust. NRS § 163.00195(4) provides that “a beneficiary’s share must not be reduced or eliminated under a no-contest clause in a trust because the beneficiary institutes legal action seeking to invalidate a trust, any document referenced in or affected by the trust, or any other trust-related instrument if the legal action is instituted and maintained in good faith and based on probable cause that would have led a reasonable person, properly informed and advised, to conclude that the trust, any document referenced in or affected by the trust, or other trust-related instrument is invalid.”

<sup>17</sup> N.H. RSA § 564-B:10-1014(b) provides that “a no-contest provision shall be unenforceable to the extent that the trust is invalid because of fraud, duress, undue influence, lack of testamentary capacity, or any other reason. In the case of an action solely to challenge the acts of the trustee or other fiduciary of the trust, a no-contest provision shall be unenforceable to the extent that the trustee or other fiduciary has committed a breach of fiduciary duties or breach of trust.” See also N.H. RSA § 564-B:10-1014 generally.

<sup>18</sup> SDCL § 55-1-46 provides that *in terrorem* clauses shall be enforced unless probable cause of fraud, duress, revocation, lack of capacity, undue influence, mistake, forgery, or irregularity in execution is shown. SDCL §§ 55-1-47-49 provide additional circumstances for non-enforcement.

<sup>19</sup> Wyo. Stat. § 4-10-111

<sup>20</sup> See note 8.

Wyoming provides for virtual representation,<sup>21</sup> where parents or guardians of minor children may represent and bind children and descendants, born or unborn, to the extent no conflict of interest exists between the parent and the class represented.<sup>22</sup> When practicable, a disinterested parent or guardian may sign on behalf of the represented class in order to mitigate any perceived or actual conflict of interest.

NJSAs, in concert with virtual representation, provide a powerful tool for families and their advisors to engage in proactive family governance. NJSAs, utilizing virtual representation when applicable, provide an efficient and flexible solution for trust reformation, resitus, decanting, and dispute resolution. Often, these modifications are initially driven by tax or legal considerations, for example, to resitus a trust to a more tax efficient jurisdiction. At the same time, such decisions present advisors with the opportunity to proactively anticipate challenges and implement solutions. For instance, an NJSA with the primary purpose of resituating a trust may also implement administrative changes, such as an election to treat the trust as a directed trust, appoint and Investment or Distribution Committee, modify or waive accounting and notice requirements, and so forth. In many jurisdictions, such modifications to an irrevocable trust would be costly and time consuming due to required judicial review and approval, if not altogether prohibited. Wyoming NJSAs may substantially modify the terms of a trust so long as such modification could properly be approved by a court and do not violate a material purpose of the trust.<sup>23</sup>

## V. Why Wyoming? Revisiting Wyoming Situs in The Governance Context

Wyoming is among the leading destinations for families of wealth. Wyoming does not impose a state-level tax on income, capital gains, gifts, or estates and has preempted counties and municipalities from doing so.<sup>24</sup> The legislature, regulators, and judiciary are among the most accessible in the country and are promptly responsive to trust industry concerns. In addition to factors discussed previously, Wyoming offers a one thousand (1,000) year perpetuities period for electing trusts<sup>25</sup> and modern trust laws,<sup>26</sup> including statutory decanting,<sup>27</sup> self-settled trusts,<sup>28</sup> and robust spendthrift clauses,<sup>29</sup> among many others. Some of these factors are discussed in greater detail above – the key point is that Wyoming, as a jurisdiction, offers similar or better tax, legal, and regulatory benefits to other leading jurisdictions in the U.S.

The aim of this section is not to dissect the minutiae of one jurisdiction versus another. Rather, it is to posit that, in most instances, many of the leading jurisdictions are of sufficient quality that the differences do not merit distinction. Of course, there are specific instances where a matter of law is dispositive. Elsewhere, advisors should be conscious of the effects choice of situs has on family governance and incorporate governance considerations into their situs calculus.

Wyoming is an efficient and flexible jurisdiction for families of wealth. In addition to the factors previously discussed, Wyoming remains an excellent place to conduct business and provide fiduciary services. The judiciary is efficient and responsive; typically, uncontested pleadings are

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<sup>21</sup> Wyo. Stat. § 4-10-303

<sup>22</sup> Wyo. Stat. § 4-10-303(a)(vi)

<sup>23</sup> Wyo. Stat. § 4-10-111(b)

<sup>24</sup> Wyo. Stat. § 39-12-101

<sup>25</sup> Wyo. Stat. § 34-1-139(b)

<sup>26</sup> See generally Wyoming Uniform Trust Code, Wyo. Stat. §§ 4-10-101 *et seq.*

<sup>27</sup> Wyo. Stat. § 4-10-816(a)(xxviii)

<sup>28</sup> Wyo. Stat. § 4-10-510

<sup>29</sup> Wyo. Stat. §§ 4-10-501-509



processed within a week. The legislature is innovative and forward-thinking and has consistently updated Wyoming statutes to maintain Wyoming as a leading jurisdiction for families of wealth. From the advent of the limited liability company in 1977 through the most recent modifications to the Wyoming Uniform Trust Code and Limited Liability Act, the legislature has consistently demonstrated a commitment to modern, efficient, and utilitarian trust and business rules. The Commissioner and staff at the Wyoming Division of Banking, tasked with supervising fiduciary activities among regulated institutions within the state, are accessible, responsive, and knowledgeable. Trusts are not required to register with any state agency and filing fees for business entities are reasonable. Limited liability companies are not required to disclose beneficial ownership as a matter of public record, affording enhanced privacy protection to families who require discretion. In sum, Wyoming is an efficient and friendly place to do business, of benefit both to advisors and the family experience.

In addition, Wyoming is unique among leading trust jurisdictions in natural beauty and opportunities for family reunion. Yellowstone National Park, Grand Teton National Park, and millions of acres of public lands provide opportunities for hiking, cycling, equestrian adventures, snow skiing, fly fishing, wildlife viewing, and more. Jackson Hole offers many amenities, including excellent restaurants, luxury accommodations, and a local airport accommodating both private air travel as well as direct commercial service to both coasts. PTC meetings in Wyoming are often held in conjunction with family meetings, where the family capitalizes on recreation opportunities to reconnect, bond, and build relationships.

## **VI. Conclusions**

Advisors, and the families they serve, should incorporate family governance considerations when evaluating potential jurisdictions for wealth preservation and transfer planning. Typically driven by advisors, this discussion often focuses on tax and legal considerations at the expense of family governance planning and client experience. Jurisdictions and structures should be evaluated both in terms of technical function as well as efficiency, flexibility, engagement, and desirability, and therefore, family governance. Wyoming, along with other leading jurisdictions, provides meaningful opportunities for structures and opportunities to promote family involvement, engagement, and “buy-in.”

Directed trusts, chartered family trust companies, and unregulated family trust companies each provide meaningful opportunities for families to actively engage through fiduciary service. More importantly than saving time or money, PTCs in particular provide framework and process for family communication, collaboration, and action based on trust and collective “buy-in.”

Despite the best intentions of all involved, family disputes may arise. Wyoming is particularly well-suited as a situs for dispute resolution. *In terrorem* clauses are strongly enforced as a matter of public policy, which, in concert with NJSAs and virtual representation, incentivizes amicable dispute resolution and strongly discourages trust litigation among family members. Strong asset protection courtesy of favorable trust and business laws provides enhanced protection against disputes arising outside of the family.

Wyoming, along with other leading jurisdictions, offer similar benefits in terms of tax and legal advantages. In limited instances, a particular point of law or regulation may determine appropriate situs. More generally, situs suitability should be evaluated in totality, with due attention given to issues of family governance.

Ultimately, the success or failure of any family legal structure is driven by the people

involved. Family values and mission, positive culture, trust, and engagement are likely to succeed in any situation, but careful selection of jurisdiction may aide the family and their advisory team in achieving family and financial objectives.