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Delaware Valley Grantmakers

March 7, 2013- SGP Series: Legal Issues for Grantmakers

Case Study

A Pennsylvania-based private foundation known as the "Trusting Foundation" maintains investment assets of $100,000,000 and gives grants for broad charitable purposes with a focus on arts and culture.

The Trusting Foundation Board of Directors consists of three family members and four non-family members. The non-family member Directors are long-time friends of the family members.

One Director and member of the Investment Committee is a NY-based hedge fund manager and well-known (celebrity) financial commentator/analyst ("Mr. Money").

Mr. Money suggests that Trusting Foundation invest $5,000,000 in a hedge fund that Mr. Money formed and currently manages (the "Moneybags Fund"). Mr. Money also invests in the Moneybags Fund himself. The Moneybags Fund is a U.S.-based partnership (it was formed in 2012); it is in the process of forming an off-shore entity.

Currently, Trusting Foundation invests its funds at Vanguard (60% equity; 40% bonds). It has not, to date, invested in hedge funds or any "alternative" investments like venture capital funds or REITSs (with the exception of one small investment).

Mr. Money has expressed a willingness to resign from the Board and Investment Committee should Trusting Foundation decide to invest in the Moneybags Fund

<u>Question</u>: Should Trusting Foundation invest in Moneybags Fund?

<u>Issues</u>:

1. Conflict of interest (real and the appearance of impropriety)
2. Unrelated business taxable income
3. Jeopardy investment
4. Self-dealing (private inurement)
5. Excess business holding