Trustee Companies: Their Role in Australian Philanthropy

By

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A thesis submitted in fulfilment of the requirements for the degree of Doctor of Philosophy in the Business School

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Certificate of
Authorship/Originality

I, Elizabeth Cham, certify that the work in this thesis has not previously been submitted for a degree nor has it been submitted as part of requirements for a degree except as fully acknowledged within the text.

I also certify that the thesis has been written by me. Any help that I have received in my research work and the preparation of the thesis itself has been acknowledged. In addition, I certify that all information sources and literature used are indicated in the thesis.

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‘Compassion may itself be a substitute for justice...compassion always already signifies inequality. The Compassionate intend no justice, for justice might disrupt current power relationships.’

Arendt, Hannah (1963, pp.74-75)
DEDICATION

FOR MY FATHER
JOZEF CHAM

Who had no educational opportunity

&

For Nicholas, Leon and Sean
who taught me much
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Abstract

Trustee companies play an important role in Australia’s philanthropic sector as they administer approximately 40% of all charitable trusts and foundations. Today, these companies also manage the largest amount of philanthropic monies about $3.2 billion and annually distribute $180-$200 million to the community in grants. Despite this pivotal position, this thesis is the first research study of this segment of Australian philanthropy and therefore it can only be exploratory.

The focus is on only one structural form of philanthropy – organised, institutional, charitable, perpetual, grant-making trusts and foundations. This research asks the question: Should Australian philanthropic foundations be publicly accountable? This is addressed by examining the governance practices of trustee companies in their role as trustees of trusts and foundations.

The only legal obligation upon philanthropic entities in Australia is to provide an audited annual report to the Taxation Office. This information is treated as private and confidential. As a consequence, there is almost a complete lack of publicly available information on Australian philanthropy. This situation exists despite foundations receiving favoured legislative status with government policy exempting them from most forms of taxation and also providing significant taxation benefits to their founders.

This lack of empirically verifiable information means it is almost impossible to say anything meaningful about Australian philanthropy, from the most straightforward question (how many philanthropic foundations are there in Australia) to more complex ones, such as how one assesses the impact of this important sector.

Three research methodologies were employed for the thesis. Thirty-two trust deeds and probate documents were analysed using a case study method. Prosopography was used to interrogate interviews with seven relevant individuals including chairmen of foundations. Historical document analysis was used to examine government documents relating to the establishment of the Australian Charities and Not-for-Profits Commission, and for submissions to a government inquiry into the administration of charitable trusts administered by trustee companies.

The research confirmed the culture of privacy in Australian philanthropy and examined the implication of this for the not-for-profit sector for whom these philanthropic monies are intended. The notion of the need for public accountability
was not generally accepted in any of the research material examined.

The thesis concludes that the question needs to be asked: Is there a clash of purposes for an ASX-listed company between its legal role of making profits for its shareholders and its role as sole trustee or co-trustee of a perpetual charitable foundation established to benefit the community? The thesis recommends that this question and others, particularly the need for public accountability of philanthropic trusts and foundations, be examined by policy makers.