

UNIVERSITY OF TECHNOLOGY, SYDNEY
AUSTRALIA

**Trustee Companies:
Their Role in Australian
Philanthropy**

By

Elizabeth Cham

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for the degree of Doctor of Philosophy*

in the

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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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Contents

Certificate of Authorship/Originality	i
Acknowledgements	iv
Contents	vi
List of Figures	xii
List of Tables	xiii
Abstract	xiv

1 Introduction, research questions and literature review	1
1.1 Introduction	1
1.2 Thesis Overview	3
1.3 Research Questions	4
1.4 The Research Purpose	5
1.5 The Theoretical Framework	6
1.5.1 Hegemony (Gramsci, 1971)	6
1.5.2 Soft Power (Nye, 2004)	7
1.6 Literature Review	8
1.6.1 Background to Current Scholarship and its Inhibitors	8
1.6.2 21st Century Scholarship	11
1.6.3 Philanthropic Foundation Scholarship in Australia	12
1.6.4 United Kingdom Scholarship on Philanthropy	16
1.6.5 European Scholarship on Philanthropy	16
1.6.6 Philanthropic Foundation Scholarship in the U.S.A.	17
1.6.7 Hegemony and Philanthropic Foundations	20
1.6.8 Social Science Scholarship and Philanthropy	23
1.6.9 Economic Scholarly Literature	24
1.6.10 Political Science Scholarly Literature	25
1.6.11 Historical Scholarly Literature	26
1.6.12 Business Scholarly Literature	28
1.6.13 Scholarship on Accountability	29

2	Philanthropic Foundations:	
	Private Wealth For Public Purposes	32
2.1	Definition	32
2.2	Overview	33
2.3	Historical Roots and Development	34
2.4	History and Development of Australian Foundations	35
2.5	Structural Forms of Philanthropic Trusts/Foundation in Australia .	37
2.6	Variations in Administration and Trusteeship of Australian Foundations	39
2.6.1	Family Administrators and Trustees – The Sidney Myer Fund and the Myer Foundation	39
2.6.2	Independent Administrators and Trusteeship – Ian Potter Foundation	40
2.6.3	Community Foundations – The Australian Community Foundation	41
2.6.4	Corporate Foundations – The Macquarie Foundation	41
2.6.5	Government-Initiated Foundations – Australian Multicultural Foundation	42
2.6.6	Non-Perpetual Foundations: ‘Give While You Live’ – The Stegley Foundation	42
2.7	Purposes of Foundations	44
2.8	Private Monies for Public Purposes: The Impact of Two Australian foundations	46
2.8.1	The Myer Foundation	47
2.8.2	The Ian Potter Foundation	48
2.9	Unique Features of Privately Endowed Australian Philanthropic Foundations	49
2.9.1	A Perpetual Timeline	49
2.9.2	A Perpetual Endowment	49
2.9.3	Self-Appointed Board of Trustees	50
2.9.4	No Public Accountability	50
2.10	Public Accountability and Philanthropy: The Debate	51
2.10.1	The Public Policy Paradigm Shift in the U.S.A.	51
2.10.2	Public Accountability and Philanthropy: The Scholarly Debate	53
2.10.3	Why foundations should have ‘Glass Pockets’	54
2.11	Governance and Accountability – the scholarship	55
2.12	Governance and Philanthropy	59
2.12.1	Philanthropy in the Accountability Governance Debate . . .	59
2.12.2	Australian Foundations – Governance and Accountability . .	60
2.13	Discussion	61
3	Research Methodology	62
3.1	Epistemological Position	62
3.1.1	Social Constructivism	62
3.1.2	Positivism	64
3.2	Methodological Framework	66

3.2.1	Triangulation	66
3.2.2	Framework Artifact	66
3.3	Research Methodologies	67
3.3.1	Case Study Research (Yin, 2013)	68
3.3.2	Prosopography (Stone, 1971)	69
3.3.3	Historical Document Analysis	71
4	Australian Trustee Companies: Guardians of Perpetual Philanthropic Monies	73
4.1	Background	73
4.2	Genesis	74
4.2.1	Origins	74
4.2.2	Changes	76
4.2.3	Legal Framework	77
4.3	Trustee Companies 2012	78
4.4	Trustee Companies and Philanthropy	80
4.4.1	Philanthropy in Trustee Marketing	82
4.4.2	Lack of portability of charitable trusts	84
4.5	Exodus	85
4.6	The Recipients of Trustee Companies' Grant-making	88
4.6.1	Legal Definition of Recipients	89
4.6.2	Australia's Charitable and Not-for-Profit Sector	90
4.6.3	The Not-for-Profit Philosophy	92
4.7	The Impact of Grants from Trustee Companies	93
4.8	Discussion	93
5	Case Studies: Thirty-two Trust Deeds and Their Accompanying Probate Documents	97
5.1	Introduction	97
5.2	Data Collection	98
5.2.1	This Research Sample	99
5.3	Monetary Value of the Case Study Trusts and Foundations	101
5.4	Models of Trusteeship/Trusteeship Structure of the Sample	102
5.5	Who Established These Trusts and Foundations?	109
5.5.1	Gender & Occupation of Benefactors	109
5.5.2	Parental Status	110
5.5.3	Location	110
5.5.4	Geographic Scope	110
5.5.5	Religion	111
5.6	Purpose of the Trust/Foundation	111
5.7	Trustees' Powers	112
5.7.1	Definitions	112
5.8	Trustee Company Changes	115
5.9	Types of Trusteeship by Trustee Company as at 2012	117
5.9.1	A Unique Trusteeship – The Felton Bequest	118
5.10	Public Information 2012	119
5.10.1	Published Annual Reports by Trusteeships	119

5.11	Key Findings of the Case Studies	123
5.12	Discussion	123
6	In Their Own Voice: Contemporary Australian Philanthropists Speak About Public Accountability	128
6.1	Background to this Research	128
6.2	What is a Prescribed Private Fund?	130
6.3	The Impetus for the Inquiry	131
6.3.1	Breaches of Guidelines	132
6.3.2	Higher than Forecast Level of Tax Foregone	132
6.3.3	Low Levels of Distribution	133
6.4	The Inquiry	134
6.5	Overview of Submissions	136
6.6	The Philanthropic Voice	136
6.6.1	The NGO Voice	138
6.6.2	The Professional Advisers' Voice	139
6.6.3	The Individuals' Voice	141
6.6.4	The Union Voice	141
6.6.5	The Trustee Company Voice	142
6.7	Overall Response about Public Accountability	143
6.7.1	Discouragement of Philanthropy	144
6.7.2	Application Deluge	144
6.7.3	Waste of Resources	146
6.7.4	Retrospectivity Concerns	146
6.8	The United Voice of Philanthropy and the Not-for-Profit Sector	148
6.9	Discussion	149
7	Trustees and Their Trusteeship	151
7.1	Background	151
7.2	Trusteeship and its Responsibilities	152
7.2.1	Trusteeship	152
7.2.2	Responsibilities	152
7.3	The Research Process	153
7.3.1	Trusteeship in Foundations without Independent Trustees	155
7.4	Appointment and Succession	156
7.5	Relationship with Trustee Company	160
7.6	Grant Administration	161
7.7	Public Accountability	162
7.8	Policy Making	165
7.8.1	Grant-making	168
7.9	Discussion	170
8	Philanthropy and Regulation: Root and Branch Reform or Busi- ness as Usual?	173
8.1	Introduction	173
8.2	Background to the Reforms leading to the ACNC	174

8.3	The Australian Charities and Not-for-Profits Commission (ACNC)	177
8.3.1	The Aims of the ACNC	177
8.4	Philanthropy Regulation and the ACNC	178
8.5	Background to the CAMAC Report	180
8.5.1	The Review Process	181
8.6	Submissions to the CAMAC Inquiry	181
8.6.1	The Charitable Alliance Submission	182
8.6.2	Fees	182
8.6.3	Financial Services Council (FSC) Submission	184
8.6.3.1	Introduction	184
8.6.3.2	Existing Compliance Requirements	184
8.6.3.3	Services Provided in Context of Fees	185
8.6.3.4	Removal of Trustee – Portability	187
8.6.3.5	Response to Charitable Alliance Concerns	187
8.6.4	Philanthropy Australia Submission	189
8.6.4.1	Fees	190
8.6.4.2	Portability	190
8.7	The CAMAC Report	191
8.7.1	Report Summary	192
8.7.1.1	Lack of Information	192
8.7.1.2	Recommendation – Stewardship Audits	192
8.7.2	Trustee Fees	193
8.7.2.1	Recommendations	194
8.7.3	Portability & Governance	195
8.8	Discussion	196
9	Findings, Discussion and Recommendations	199
9.1	Context	199
9.2	Research Findings	200
9.2.1	Chapter 1: Introduction, research questions and literature review	200
9.2.2	Chapter 2: Philanthropic Foundations	201
9.2.3	Chapter 3: Research Methodology	201
9.2.4	Chapter 4: Australian Trustee Companies	202
9.2.5	Chapter 5: Case Studies	202
9.2.6	Chapter 6: In Their Own Voice	203
9.2.7	Chapter 7: Trustees and Their Trusteeship	203
9.2.8	Chapter 8: Philanthropy and Regulation	203
9.2.9	Overall Finding	204
9.3	Discussion	204
9.4	Policy Recommendations	207
9.5	Conclusion	207
A	Ethics Approval	209
A.1	Letter of Approval from Ethics Committee	209
A.2	Proforma Interview Consent Form	211

B	Extract of Wills	212
B.1	BASAN, Ernest - 27 September 1957	214
B.2	BAXTER, Hilda Gertrude - 21 March 1969	215
B.3	BAXTER, John Percy H. - 25 August 1949	216
B.4	BELL, Mary Kathleen - 28 July 1975	217
B.5	BROWN, Isobel Hill - 2 May 1962	218
B.6	BUCKLAND, William - 17 February 1961	219
B.7	CURRIE, Ian Rollo - 15 April 1971	220
B.8	DANKS, Aaron Turner - 27 August 1928	221
B.9	DAVIES, Edward - 5 May 1905	222
B.10	DODD, Ian William - 23 June 1989	223
B.11	EWART, Nancy - 21 April 1995	224
B.12	FELTON, Alfred - 20 August 1900	225
B.13	FLEMING, John William - 18 October 1973	226
B.14	HECHT, Hans Henri - 17 March 1959	227
B.15	HERMAN, Ethel - 10 November 1976	228
B.16	HOWE, Edward John - 31 October 1975	229
B.17	HUTCHINGS, Blanch - 24 July 1958	230
B.18	IRWIN, Enid Campbell - 10 August 1994	231
B.19	KNELL, Hope - 10 March 1978	232
B.20	LASCELLES, Walter George - 2 March 1990	233
B.21	LAWRENCE, Margaret - 17 September 2002	234
B.22	McGAUREN, Rose Lucy - 4 April 1974	235
B.23	MYER, Elkon Baevski - 28 October 1937	236
B.24	OGG, Charles - 30 June 1940	237
B.25	PIPKORN, Percival - 12 March 1958	238
B.26	QUAIL, Cecil Gordon - 18 September 1990	239
B.27	REID, Irene Emma - 8 September 1972	240
B.28	SCOTT, Daniel - 10 November 1954	241
B.29	TENNANT, Edith - 2 September 2000	242
B.30	WARDELL, Teresa - 28 September 1983	243
B.31	WHITE, Anna Maria - 28 May 1938	244
B.32	WILLIAMSON, Hugh - 4 November 1985	245
C	Submissions to Treasury Inquiry into Improving the Integrity of Prescribed Private Funds (PPFs)	246
C.1	List of submissions	246
D	Members of The Charitable Alliance	250
D.1	The Charitable Alliance	250
D.2	The Community Council of Australia (CCA) Board	251
D.3	CCA Membership as at August 2012	252
	Bibliography	254

List of Figures

4.1	Distribution by size of charitable trusts 2011.	82
5.1	Source: Will of A.M. White: The first page of the Will of A.M. White, 26 May 1938.	104
5.2	Trusteeship Structures for the Sample Wills	105
5.3	Purpose of Grant-Making Charitable Trusts	112
5.4	Discretionary Powers of Trustees (n= 32)	113
5.5	History of Trust Administrators in this Sample	117
5.6	Public Information about Grants Distributed	120
5.7	Publicly Available Annual Reports	120

List of Tables

2.1	Structural Forms of Philanthropic Trusts / Foundations and their administrators in Australia in 2010	38
4.1	Foundations administered by four trustee companies - September 2012	82
5.1	The Case Studies – Trust and Foundations Examined	100
5.2	Value of Estate at Probate and Estimated 2014 Value of Capital of Foundation / Trust	103
5.3	History of Trusteeship of This Sample of Wills	115
6.1	PPF donations, distributions, closing value and approvals 2001-2008	131
6.2	Forecast Tax Expenditure	133
6.3	Tax Expenditure Foregone	134

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.