

Invisible Snares

by Alfred Adask

As background for the following articles in this issue on “constructive trusts,” note that I’ve explored the idea that government uses trusts to bypass the Constitution for about five years. I’m not going to try to republish all of insights and opinions I’ve previously presented on this subject. If I did, I’d have to fill up this whole issue of *Suspicious* without adding anything new. However, I will provide a brief summary of my earlier “Trust Fever” series of articles:

The essence of all trusts is *divided title to property*. To illustrate, let’s suppose a man owns perfect title (also known as “lawful,” “complete,” or “full” title) to a home and decides to create a trust to shelter that home. He first grants or donates the “perfect” title to his home into the trust. The home thus becomes trust property (also known as the trust “corpus”).

The grantor then divides his “perfect” title to the home into its two sub-components: *legal title and equitable title*. Each “sub-title” contains a different set of rights. Legal title includes the rights of actual control and disposal of trust property. Equitable title includes the right of possession and use of trust property.

The difference between legal and equitable titles is similar to the difference in rights between a landlord and a tenant. The landlord owns the house and has legal right of control and disposal (sale) of the house. The tenant has the equitable right to live in, use, and “possess” the house. Although the tenant lives in the house, he has no legal right to tear down walls, or sell the property.

When an individual has “perfect” title to his house, he has both the legal right of ownership and the equitable right of use. He has the right to both control (own) and live in (use) his house. However, when he creates

a trust, he appoints one or more trustees to hold the legal title to his home, and he appoints one or more beneficiaries to actually live on the property. The trustees effectively manage the home; the beneficiaries get to live in the home.

It's a hard and fast rule that the trustees can't enjoy the benefits of the trust property, nor can beneficiaries exercise any real control (ownership) over trust property. Whenever a single individual holds both the legal title and equitable title to a trust property, the "sub-titles" are once again unified into a single "perfect" title, the trust is said to be "executed" and ceases to exist.

Trusts offer a number of advantages. First, trusts can provide for beneficiaries who are too incompetent to provide for themselves. For example, a wealthy father can create a trust that includes money or property that's to be used exclusively for the benefit of his minor children. As beneficiaries, his children will get to use the father's property (a house, perhaps) or receive the profits from a business or investment—but they don't own legal title to the house or business and thus can't foolishly sell that property. The right of sale and actual control of the trust property is left to the trustees. The advantage of this system is that if the father dies when the children are young and foolish, he needn't worry about his kids selling the house for \$1,000 to buy a new electric guitar or some drugs.

A second, and perhaps more important advantage of trusts, is that they provide limited legal liability for trust property and/or trust members.

For example, suppose the kids who are beneficiaries of the mansion left by their wealthy father, get drunk, and cause an automobile accident in which several people are killed or injured. The survivors and heirs of the victims may see the kids' multi-million-dollar home and sue to gain ownership of that property. But if the mansion is held in trust, their lawsuit will be unsuccessful. As beneficiaries, the kids get to use the mansion, but they don't own it. As a result, you can no more sue the beneficiaries for the property they use, than you can sue the owner of an apartment complex when one of his tenants causes an automobile accident on the street.

Shielded by a network of trusts, it's entirely possible to live like a king and never have personal assets of more than \$500 to your name. Sure, people can still sue you. They can even win massive judgments against you. But insofar as you lack legal title to property, you "own" nothing, and therefore there's nothing that can be taken from you. As a result, you can be virtually litigation proof. Essentially, no one will waste money paying lawyers to sue a beneficiary who has no more personal assets than a homeless bum.

A few years ago, a former governor of a south-western state retired from public office into a life of wealth and leisure. He promoted and personally guaranteed an investment scheme which failed. Based on his personal guarantee and presumed personal wealth, he was ultimately sued by his investors for the millions of dollars they'd lost. On receipt of the suit, the former governor's lawyers replied that everything their client had was in trust, his personal net worth was trivial, and they would therefore not even bother to defend against the investors' suit.

Even though the former governor lived like a king in a mansion, his assets were all held in trust, he was a legal pauper and therefore beyond the reach of lawsuit. If the investors wanted to waste even more of their money paying their lawyers to sue the former governor, they were free to do so, but they'd never collect a dime. Result? The former governor stayed in his mansion and the investors' suit was dropped. You can't squeeze blood out of a turnip—or a legitimate trust.

A third advantage is that trusts can be extremely secretive. The man who places his mansion in trust for the benefit of his children has no obligation to inform the state or his neighbors of the creation of that trust. Your trust might only become public knowledge if it were entangled in a lawsuit.

Although there are "statutory trusts" which are sanctioned by the state and created according to state-approved rules, there is no requirement that trusts be "statutory". You can create a private trust right now, in privacy of your own home, without informing anyone except the trustee you appoint to manage the trust. Unlike corporations, which must be registered with the state, trusts can be established without public or governmental knowledge or approval.

Despite their several advantages—much like the "Force" in the *Star Wars* movies—trusts also have a "dark side". For example, if government creates a trust (like Social Security) and tempts you to accept its "benefits," it can thereafter treat you as a "beneficiary" of a that trust. While being a beneficiary may have certain advantages (limited liability, secrecy) in private relationships, being a beneficiary of a governmental trust can create serious political and legal disabilities: beneficiaries implicitly surrender any claim to legal and/or unalienable Rights with respect to trust property.

The problem with beneficiaries is that they have no legal rights within the context of the trust. The reason for this disability is that—according to *Bouvier's Law Dictionary* (1856)—all rights flow from title. For example, the reason you can drive your car, but you can't drive mine is that you have a title to your car but you have no title to mine. Your right to live in your home or apartment

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ultimately flows from a *title* to that property. Even if you don't personally hold a title to that house or apartment, you are ultimately renting from someone who does.

But it's not only true that your *rights* to property flow from your *title* to a property; it's true that the *kind* of rights you receive depend on the *kind* of title you hold. Virtually everyone assumes that there is only one kind of title: the "perfect" or "complete" title that a grantor must possess to create a trust.

That assumption is wrong. Remember how the essential feature of a trust is *division* of perfect title into its two "sub-titles"—legal and equitable? With legal title, trustees receive one bundle of rights (ownership, control, disposal). With equitable title, beneficiaries receive a different bundle of rights (possession and use). These bundles are mutually exclusive. By definition, being a trustee means you can have no equitable rights in trust property. Likewise, beneficiaries, by definition, have no legal rights to trust property.

This distinction between "kinds" of title becomes particularly important when a beneficiary goes to court as a plaintiff. Although the plaintiff-beneficiary may suppose his case will be heard in a court of law, he'll be wrong. The only purpose for a court of law is to determine legal rights. It follows that if you don't have *legal* title to the subject matter of a lawsuit, you can't have legal rights to that subject matter, and therefore, you have no standing at law. Unless you have legal title to the subject matter of a case, there is nothing for a court of law to decide.

As a result, beneficiaries can't invoke a court of law (which only decides legal rights) when they litigate. Instead, beneficiaries but must always invoke a court of equity wherein the judge rules strictly according to his own alleged "conscience". In equity, the judge is unbound by law and the litigants are virtually helpless to resist almost any decision the judge wishes to impose. If the judge doesn't like the color of your eyes, your political bias or your religious beliefs, he can rule against you. Beneficiaries have virtually no rights or recourse to defend themselves against judicial bias or even overt oppression. Beneficiaries are always at the mercy of the court.

Thus, from government's point of view, degrading a Citizen to the status of beneficiary essentially empowers government to treat the beneficiary as a subject. As subjects, we are obligated to accept without question or constitutional defense virtually any regulation the government wishes to impose.

In other instances, government also tricks us into accepting the role of "trustee" relative to governmental or private trusts. If we unwittingly accept that status of trustee, government can impose a virtually unlimited list of "fiduciary duties" (like paying income tax) upon us. In the capacity of trustee, we must accept whatever burdens and obligations are placed upon us by the trust indenture (rules of the trust)—even if those duties are seemingly unconstitutional.

Although you can't be both trustee and beneficiary of the same trust, you can simultaneously be a trustee of one trust and a beneficiary of another. As a result, government will sometimes treat us as beneficiaries; sometimes as trustees. In either case, our claim on unalienable Rights is

compromised or implicitly denied. This denial is particularly frustrating, mysterious, and seemingly inexplicable because not one man in 10,000 could even imagine that the government might surreptitiously impose these trust relationships and legal personalities on us without our express knowledge. But through these unexpected trust relationships, the government and courts can "secretly" bypass the Constitution and deprive us of our unalienable Rights based on the presumption that we "understood" and voluntarily agreed to surrender those Rights when we became beneficiaries.

At first, the idea that government could use trusts to bypass the Constitution and deprive us of rights or subject us to unexpected duties sounds absurd. But trusts have several major attributes that make this kind of covert oppression possible.

First, anyone—including government—can create a trust without expressly using the words "trust," "trustee," "grant," "grantor," "benefit," "beneficiary" or any other term that is normally associated with trusts. Regardless of words used (and even when no words are used), it is incumbent on every person to recognize their role in a trust by recognizing the nature of their relationship to another person or trust property.

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I doubt that one person in one hundred can even understand what I just wrote. Worse, I doubt that one person in 10,000 can recognize a "trust relationship" whenever he happens to participate in one.

For example, suppose you borrow my pen. Insofar as I expect you to return my pen, we have just entered into an unstated trust relationship wherein I am the beneficiary (the one who trusts you will return my pen) and you are the trustee (the one who temporarily controls the pen). Even though neither of us used the words "trust," "benefit" etc.—even though you did not expressly agree to return my pen, I am *trusting* that you will return my pen, you are trusted with control of my pen, and therefore, we have a "simple" (unexpressed) trust relationship.

Creating trust relationships can be just that simple. As a result, it's easy for government to entangle folks in trust relationships (and thereby compromise whatever rights they might normally expect to have) without folks having any idea of what's happening.

Further, few people realize that whenever the word "Application" is used by an governmental agency, it typically means "Application for Benefits". For example, when you fill out an "Application" for a drivers license, Social Security Card, or bank account, you are probably applying for a "benefit" to be provided by a governmental trust. You can't normally receive a "benefit" without being a "beneficiary"—and "beneficiaries" have no legal rights. Thus, by voluntarily filling out an "application" you may unwittingly forfeit your claim to any legal rights or standing at law relative to the trust property.

If you'd like to see an express trust agreement, read a software license from Microsoft or any other major software provider. The "license" identifies you as the "End-user". Anytime you see the word "use" or "user" beware of the possible presence of a trust relationship. In the case of software, Microsoft makes it clear that you don't own the software product—you merely get to use it on one computer. But at all times real ownership of the product remains with Microsoft; they own legal title to the software. Your "license" merely gives you an equitable title (or interest) to use their software.

If you don't like your limited rights as a beneficiary, your only option is to return the software (trust property). Otherwise, by continuing to "use" the software (accepting the *benefit*) you have virtually no legal rights against Microsoft. If the software crashes your computer, destroys the data base that runs your business, or causes your accounting software to add a zero to the amount of money your computer sends by check to each of your creditors—tough. As a beneficiary you have almost no recourse at law against the grantor, trust or trustee.

Thus, even without any express indication that your "application" can bind you to a trust relationship, a trust relationship and resulting diminished status can be impressed on your life. When you filled out the "application," you probably thought you'd receive some *free* "benefits". Silly you. What you didn't know (and they had no obligation to disclose) was that you'd pay for that beneficial "potage" with the surrender of your unalienable Rights. If you should ever lodge a complaint against the trust or trustees, the courts will silently presume that: 1) you recognized the trust relationship when you "applied" to become a beneficiary, and 2) you knowingly and voluntarily surrendered your unalienable and legal rights when you applied to become beneficiary.

Based on those silent presumptions, you will lose your case. Insofar as the average person can't even imagine that they could be seduced into surrendering their unalienable Rights by filling out a mere "Application," they will never raise an effective defense in court against the imposition of duties (or loss of rights) under an unseen governmental trust.

Do you see the potential power? Even though trusts are virtually invisible to 98% of Americans; even though we have no training in trusts during our grade school, high school or college education—we are expected to "see" trust relationships whenever we encounter them. If we fail to see those trust relationships, we will still be bound by their invisible chains.

But if you can't "see" those invisible chains, how can you complain about them to the court? If you don't expressly complain about those chains, the court will leave them in place (around your neck). Thus, through trusts, you can be effectively enslaved without even knowing how that enslavement occurred.

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Second, unlike contractual relationships, there's no requirement for "full disclosure" when you create a trust and designate someone to be a beneficiary. The best illustration of this attribute is the fact that I can create a trust and designate my six-year old daughter as beneficiary. There is no requirement that I "fully disclose" the terms of the trust to my beneficiary.

Why? Because, as a beneficiary, she is presumed incompetent and unable to understand the operation of a trust. Similar presumptions allow government to impose trusts on adult "beneficiaries" who are also deemed "incompetent" to understand the relevant trust privileges and duties. There is no more need to fully disclose trust rules and regulations to adult beneficiaries than there is to fully disclose trust rules and regulations to children.

Similarly, government can create a trust and designate you as a beneficiary of that trust without expressly informing you of that fact. As a result, whenever you relate to property of that governmental trust, you will have no legal rights and will be treated as a mere beneficiary in a court of equity.

Insofar as we are presumed to have accepted appointment as trustees, we can also be bound by rules which have never been expressly explained to us and even by arbitrary rules that, ordinarily, would be exceed the constitutional limits of government's delegated powers. For example, under the Constitution, government has no authority to penalize a man who has not damaged another person's body or property. However, if that person enters into a trust relationship with government, government can absolutely regulate and even punish that man's acts whenever they violate arbitrary trust rules—even if no other person or person's property has been damaged.

In sum, trusts can be created and imposed without express words, without full (or any) disclosure, and without our express knowledge (in secret). As a result, trusts can be used as invisible snares to trap all of us into relationships and roles which compromise our rights as Citizens, reduce us to the status of subjects, and impose unwanted duties. And insofar as we are totally unaware of trusts and their strange powers, they are virtually invisible to us, and thus virtually impossible for the vast majority of Americans to resist or escape.