

Date: August 14, 2012

To: Leon D. Black

From: Elyse G. Kirschner

Re: The Amendment and Restatement of the Black Family 1997 Trust Agreement

Following is an explanation of the principal provisions of the Amendment and Restatement of the Black Family 1997 Trust Agreement and the anticipated tax consequences of certain of its provisions.

I. The Black Family 1997 Trust

A. Trust Fund

The Black Family 1997 Trust holds an interest in Black Family Partners and a significant amount of other investments. On December 28, 2009, you divided the Black Family 1997 Trust into two shares, one of which continues to be known as the Black Family 1997 Trust (the "Family Trust") and the other of which is known as the Black Family 1997 GST Exempt Trust (the "GST Exempt Trust"). The trustees of the Black Family 1997 Trust allocated property worth \$2,952,085 to the GST Exempt Trust in order to fully utilize the generation-skipping transfer ("GST") tax exempt amount that was available to you in 2009.¹

This Amendment and Restatement of the Trust Agreement pertains only to the Family Trust, and not to the GST Exempt Trust.

B. Governing Law

The trustees will move the situs of administration and governing law of the Family Trust from New York to Delaware. It is intended that while at least one of you and Debra is alive and competent, the Family Trust will be a so-called "directed trust." This means that U.S. Trust Company of Delaware ("U.S. Trust"), which will be the initial "administrative trustee," will be responsible for all administrative activity relating to the Family trust (for example, maintaining accounts, maintaining trust records and preparing tax returns). The administrative trustee will not have any involvement in investment decisions or distribution decisions, or in decisions to amend the trust agreement.

¹ For 2009, each individual was permitted to transfer up to \$3.5 million to persons two or more generations below his or her own, or to trusts that ultimately benefit such persons, without incurring a GST tax. Under current law, the GST exemption is \$5.12 million. The GST tax is further discussed in II.B, below.

C. Dispositive Provisions

1. Distributions

The trust agreement provides that the trustees of the Family Trust must distribute as much of the trust fund to or for the benefit of your wife Debra and your issue² as the independent trustees determine for any reason.

2. After Death of Survivor

Upon the death of the survivor of you and Debra, the trust will terminate. The remaining assets of the trust will be paid to your issue then living.³ Each issue's share shall be divided as follows: 75% of such share shall be held in a separate trust for such issue under article III of the trust agreement and the remaining 25% of such share shall be held in a separate trust for such issue under article IV of the trust agreement.

3. Remote Takers

In the unlikely event that none of your issue is living after the death of the survivor of you and Debra, any remaining property will be paid to your heirs-at-law.

4. Separate Trusts for Issue

Assets directed to be held as "Portion A" in a separate trust for an issue of yours will be held in a trust under article III of the trust agreement. Such issue is referred to as the "Primary Beneficiary." The trustees will pay as much of the trust fund of each trust to the Primary Beneficiary as the trustees, in their sole discretion, determine is necessary for the Primary Beneficiary's health, education, support, and maintenance, taking into consideration the Primary Beneficiary's financial resources apart from the Trust. In addition, the trustees will pay as much of the trust fund of each trust to the Primary Beneficiary as the independent trustees, in their sole discretion, determine. The trustees are directed to approve distributions from the trust, by way of example, to cover any of the Primary Beneficiary's medical expenditures, or to help the Primary Beneficiary purchase or finance a home, pay for a wedding or start a business, provided, however, that such business has a solid business plan that has been approved by the trustees.

Assets directed to be held as "Portion B" in a separate trust for an issue of yours will be held in a trust under article IV of the trust agreement. Such issue is referred to as the "Primary Beneficiary." The trustees will pay as much of the trust fund of each trust to the Primary Beneficiary as the trustees, in their sole discretion, determine is necessary for the Primary Beneficiary's health, education, support, and maintenance, taking into consideration the Primary Beneficiary's financial resources apart from the Trust. In addition, the trustees will pay

² For all purposes of the trust agreement, your issue are deemed to be Benjamin, Joshua, Alexander, Victoria, any future children, and their descendants.

³ Except as otherwise provided, whenever property is payable to the issue of an individual under your trust agreement, it will be distributed in equal shares to such individual's children who are then living. If a child of the individual is not then living, such child's share of such property will be paid to his or her children then living, in equal shares.

as much of the trust fund of each trust to the Primary Beneficiary as the independent trustees, in their sole discretion, determine. The trustees are directed to approve distributions from the trust, by way of example, to cover any of the Primary Beneficiary's medical expenditures, or to help the Primary Beneficiary purchase or finance a home, pay for a wedding or start a business, provided, however, that such business has a solid business plan that has been approved by the trustees. If the Primary Beneficiary is competent and at least 35 years old, he or she will have the right to direct payment to himself or herself of the lesser of five million (\$5,000,000) Dollars, adjusted for inflation, and 3% of the value of the trust fund, taking into account sums already paid to him or her during that calendar year. If the Primary Beneficiary has a similar power to direct payment to himself or herself under other trust instruments, the Primary Beneficiary's withdrawal power under this Trust Agreement and any other such trust instruments shall be limited for each calendar year to five million (\$5,000,000) dollars in total, adjusted for inflation. At age 35, the Primary Beneficiary will also have the power to appoint the trust fund to or for the benefit of any of Leon's issue (other than himself or herself) at his or her death. These powers may be suspended, terminated or postponed by the independent trustees for good cause, such as serious illness, creditor issues, a pending divorce or the like.

Each trust held under article III and article IV will end on the Primary Beneficiary's death. The remaining trust assets will be paid to the Primary Beneficiary's issue then living, or if the Primary Beneficiary has no issue then living, to his or her siblings then living, or if no such siblings are then living, to his or her cousins then living, or, if none, to Leon's issue then living, in each case in a separate trust for each of them upon the same terms as the terminated trust.

D. Trustees

The initial trustees of the Family Trust will be Debra, Barry Cohen, John Hannan and Richard Ressler. Barry, John and Richard will qualify as independent trustees. U.S. Trust will be the initial administrative trustee.

At any time that you and Debra are either not living or are under a disability, U.S. Trust will be the corporate trustee of the trusts under article III and article IV. As corporate trustee, U.S. Trust will have all of the powers granted to an independent trustee under the trust agreement. In other words, the trusts will no longer be directed trusts.

During your lifetime, you may designate additional and/or successor trustees and may remove trustees. After your death or disability, Debra will have these powers. After the death or disability of both of you, the trustees of any trust may designate additional and/or successor trustees, unless the Primary Beneficiary of such trust has the power to designate trustees.

After the death or disability of the survivor of you and Debra, when the Primary Beneficiary of a trust held under article III or article IV turns 35 years old, he or she may designate additional and/or successor trustees of such trust, including himself or herself, and may remove trustees of such trust. In each case where a removed trustee was an independent trustee, the person removing the trustee must concurrently designate a new independent trustee. In addition, each trust under article III must have a corporate trustee at all times. However, the

Primary Beneficiary of a trust held under article IV could remove the corporate trustee if he or she believed it was appropriate. In that case, the Primary Beneficiary or the remaining trustees would be required to designate an administrative trustee, and the trust would become a directed trust once again.

The trustees who are individuals have the power at all times to remove and replace the administrative trustee.

U.S. Trust will be entitled to compensation in accordance with its regularly published schedule of rates. All other trustees will be entitled to such compensation as set forth in an agreement between you and such trustee, or, if you are not living or are under a disability, between Debra and such trustee, or, if neither of you are living and competent, in the instrument designating such person as trustee. If no compensation has been specified in such instrument, no compensation will be paid. Each trustee, however, will be entitled to reimbursement out of the trust fund for all expenses associated with the administration of the trust.

E. Administration and Amendments

The trust agreement gives the trustees (other than the administrative trustee) broad investment and administrative powers. In addition, the independent trustees may amend the trust agreement while either of you or Debra is competent, but only after giving you (or Debra if you are not alive or are under a disability) 30 days' written notice. No amendment will be effective if it would confer a beneficial interest on any person other than Debra or one of your issue while any of them is living. The amendment powers have been included to give your independent trustees the flexibility to deal with future circumstances.

II. Tax Consequences

A. Gift Tax

Any gift you make to the trust will be a taxable gift and will need to be reported to the Internal Revenue Service on a gift tax return. .

B. Generation-Skipping Transfer Tax

The generation-skipping transfer ("GST") tax generally is imposed, in addition to any gift or estate tax, on transfers to persons two or more generations below the transferor's own generation, at the highest estate and gift tax rate. Under current law, each individual may transfer up to \$5.12 million to such persons without incurring a GST tax (the "GST exemption"). Unless Congress acts to change the law, this amount will be reduced in 2013 to about \$1.39 million.

The assets that are held in the Family Trust are not exempt from the GST tax.

C. Estate Tax

The trust agreement does not give you an interest in or control over the disposition of trust assets after you have contributed them to the trust. As a result, the balance of trust property should not be included in your estate for estate tax purposes.

D. Income Tax

During your lifetime, the Family Trust will be a so-called “grantor trust” for income tax purposes. As a result, during your lifetime, all of the Family Trust’s income, deductions, and credits will be taken into account by you when you file your income tax returns. All gifts to the trust should be made from an account in your own name to ensure that the trust is a grantor trust as to only you for income tax purposes.

After your death, the Family Trust will be a separate taxpayer for income tax purposes and will be required to file annual federal, and may be required to file annual state, income tax returns.⁴ The Family Trust will pay income tax on its income except to the extent distributed to beneficiaries. Each beneficiary will pay income tax on distributions received from the Family Trust to the extent of his or her share of the distributed income.

As part of its effort to curb tax shelters, the Internal Revenue Service recently issued regulations that impose sanctions on attorneys who provide informal written tax advice without prominently disclosing that the advice cannot be relied upon by the taxpayer for the purpose of avoiding penalties. Because this memorandum contains a discussion of tax issues that we do not believe warrants the significant additional time or expense that would be involved in the preparation of a formal opinion that complies with the IRS rules, we include the relevant IRS disclosure, below. If you would like us to prepare a formal tax opinion on which you may rely for penalty relief, please let us know, and we can discuss the cost of preparing one.

Internal Revenue Service Circular 230 Notice: To ensure compliance with requirements imposed by the Internal Revenue Service, we inform you that any U.S. tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

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⁴ Under current law, it may be possible for a trust to avoid New York income taxes if it has no New York source income and no trustee who is a New York resident.