

DOCUMENT SUMMARY

To: Leon D. Black
From: Ada Clapp
Date: April 12, 2013
cc: Eileen Alexanderson, Jeffrey Epstein
Re: Gandalf Trust

Following is a summary of the agreement dated December 20, 2012 (the "Trust Agreement") creating the Gandalf Trust (the "Trust"). Carlyn McCaffrey and Elyse Kirschner of McDermott Will & Emery, LLP prepare the Trust Agreement. Your son Alexander is the Settlor of the Trust.

I. Trust During Alex's Lifetime.

- A. While Alex is living, the trust property will be held in a single trust for the benefit of Alex's descendants and Debra. The Independent Trustees have broad discretion to distribute income and principal to any one or more of them for any purpose. Any income not distributed will be accumulated in a separate income account and not added to principal.
- B. The Independent Trustees may grant Alex a power exercisable at his death to appoint the Trust principal (but not accumulated income) to anyone other than himself, his creditors, his estate or its creditors.
- C. Upon Alex's death, the single trust will terminate and be distributed as Alex appoints, if the power referred to in B above is granted to him. Any property he fails to appoint will be divided into *per stirpal* shares for his descendants (that is, in equal shares for his children with the share for any predeceased child being further subdivided for such deceased child's descendants) and each such share will be held in a Beneficiary's Trust, described below.

II. Beneficiary's Trust. Each *per stirpal* share set apart for a descendant of Alex (each a "Beneficiary") will be held in a separate trust for the benefit of the Beneficiary (the "Beneficiary's Trust"),¹ as follows:

¹ Each Beneficiary may, in fact, have two Beneficiary's Trusts: one that will hold property exempt from the generation-skipping transfer tax and a second to hold property not so exempt.

- A. The Independent Trustees have broad discretion to distribute income and principal of the Beneficiary's Trust to the Beneficiary for any purpose but they must do so for the Beneficiary's health, education, support and maintenance.
 - B. After age 35, the Beneficiary has power to appoint income and principal of the Beneficiary's Trust to Alex's then living descendants (other than the Beneficiary). The Independent Trustees may, postpone, suspend or terminate this power for good cause (*e.g.*, creditor issues, pending divorce, *etc.*).
 - C. The Beneficiary's Trust will terminate upon the Beneficiary's death and will be distributed as the Beneficiary appoints. Any property the Beneficiary fails to appoint will be distributed to his or her descendants, or if none, to the descendants of the Beneficiary's nearest ancestor who was descended from Alex, or if none, to Alex's descendants, subject in each case to a Beneficiary's Trust.
- III. Remote Takers. Any property not effectively disposed of upon the termination of any trust under the Trust Agreement will be distributed to Alex's intestate heirs under New York law (determined as if Alex were unmarried).
- IV. Trustees.
- A. You are the initial Trustee. Alex may appoint additional and successor Trustees and may remove Trustees. After Alex's death or incapacity, the Trustees may designate additional and successor Trustees.
 - B. After age 35, each Beneficiary may designate additional or successor Trustees, including himself or herself and may remove Trustees. The Independent Trustees can postpone these powers.
 - C. Any removed Independent Trustee must be replaced with another Independent Trustee.
 - D. Because the Trust Agreement is silent regarding compensation, unless otherwise agreed, Trustees are entitled to the compensation provided by New York law.²

² Under current New York law, an individual Trustee is entitled to an annual commission of approximately 30 basis points on the value of the trust principal, plus 1% of any principal distributions made that year.

- V. Grantor Trust. During Alex's lifetime the sprinkling Trust will be a "grantor" trust for income tax purposes as to Alex. This means that Alex will be taxed on all income, including capital gains, generated in the trust. The grantor trust status flows from Alex's ability to reacquire trust property by substituting property of equivalent value.
- VI. Governing Law. New York law governs the trusts under the Trust Agreement.

IRS Circular 230 Disclosure: Pursuant to IRS Regulations, I inform you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used by any person or entity for the purpose of (i) avoiding tax related penalties imposed by any governmental tax authority or agency, or (ii) promoting, marketing or recommending to another party any transaction or matter discussed herein. I advise you to consult with an independent tax advisor on your particular tax circumstances.