

**From:** "jeffrey E." <jeevacation@gmail.com>  
**To:** Richard Kahn <[REDACTED]>  
**Subject:** Re: Max  
**Date:** Mon, 16 Apr 2018 15:19:20 +0000

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Time to speak?

On Mon, Apr 16, 2018 at 11:04 AM Richard Kahn <[REDACTED]> wrote:

Richard Kahn  
HBRK Associates Inc.

[REDACTED]  
[New York, NY 10022](#)

Begin forwarded message:

**From:** Max Kohlenberg <[REDACTED]>  
**Subject:** Re: Working to resolution  
**Date:** April 16, 2018 at 11:03:54 AM EDT  
**To:** Richard Kahn <[REDACTED]>

I am in court now and then in a meeting outside the office. This is the first time you have said anything about taxes. I had no idea that Noam is seeking funds for tax payments nor has anything been said by his accountants.

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Richard Kahn <[REDACTED]>  
Date: 4/16/18 10:51 AM (GMT-05:00)  
To: Max Kohlenberg <[REDACTED]>  
Subject: Re: Working to resolution

what time can we speak today?

also can you please tell me the exact details of what you need to make a distribution as tomorrow is the tax deadline..

thank you

Richard Kahn  
HBRK Associates Inc.

[REDACTED]  
[New York, NY 10022](#)

On Apr 15, 2018, at 9:37 AM, Max Kohlenberg <[REDACTED]> wrote:

Rich –

The account reports that we delivered to Deborah Pechet Quinan last October (and that were copied by her to you, Noam and Valeria, I believe) showed that all trust accounting income (and more) was paid to Noam in each year from 2010 through 2016. I have not compiled a report for 2017 yet, but I will get to work on that this week.

I have a call scheduled for this afternoon with Noam's daughters. I hope to make some progress in that call and have some useful information for you tomorrow.

Max

A. Max Kohlenberg  
Howland Evangelista Kohlenberg Burnett, LLP  
[REDACTED]  
Providence, Rhode Island 02903  
[REDACTED]  
[REDACTED]  
[REDACTED]

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**From:** Richard Kahn [[mailto:\[REDACTED\]](mailto:[REDACTED])]  
**Sent:** Friday, April 13, 2018 4:25 PM  
**To:** Max Kohlenberg  
**Subject:** Re: Working to resolution

can you please document for me that all income received by the trust was paid out to noam in the previous 4 years...  
thank you

Richard Kahn  
HBRK Associates Inc.

[REDACTED]  
[New York, NY 10022](#)  
[REDACTED]

On Apr 13, 2018, at 8:09 AM, Richard Kahn <[REDACTED]> wrote:

it is not my eagerness for resolution that is the driver , it is my true desire not to have this blow up and see little justification for the delay . you and i agreed ,we could choose from clear alternatives that met and alleviated the purported concerns of harry and the girls. I have taken you at your word..

Richard Kahn  
HBRK Associates Inc.

[REDACTED]  
[New York, NY 10022](#)  
[REDACTED]

On Apr 13, 2018, at 7:54 AM, Max Kohlenberg <[REDACTED]> wrote:

Good morning Rich –

I've had several further exchanges with Harry and have reached out to Avi and Diane in hopes that I can set up a call with them on Sunday (or early next week at the latest). I appreciate your eagerness (and Noam's) to get this resolved. I can assure you that your eagerness cannot be any greater than mine. As soon as I speak with Avi and Diane I will get back to you.

Thanks,

Max

A. Max Kohlenberg  
Howland Evangelista Kohlenberg Burnett, LLP

[REDACTED]  
[Providence, Rhode Island 02903](#)  
[REDACTED]  
[REDACTED]  
[REDACTED]

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-----Original Message-----

From: Richard Kahn [mailto: [REDACTED]]  
Sent: Thursday, April 12, 2018 3:57 PM  
To: Max Kohlenberg  
Subject: Re: Working to resolution

tomorrow?  
I am sincerely trying to be understanding of the time delay..

Richard Kahn  
HBRK Associates Inc.

[REDACTED]  
[New York, NY 10022](#)  
[REDACTED]

On Apr 11, 2018, at 10:51 AM, Richard Kahn < [REDACTED] > wrote:

As im sure you realize. I took you at your word that the concern was for Noam not depleting the trust in his lifetime. and NOT a money grab by the children. As you and I can now craft a bullet proof solution to the former . i am very concerned that my fears are coming to fruition in the latter.

Richard Kahn  
HBRK Associates Inc.

[REDACTED]  
[New York, NY 10022](#)  
[REDACTED]

On Apr 11, 2018, at 9:23 AM, Richard Kahn <[REDACTED]> wrote:

should we have an all hands conference..

Richard Kahn  
HBRK Associates Inc.

[REDACTED]  
[New York, NY 10022](#)

On Apr 11, 2018, at 9:09 AM, Max Kohlenberg <[REDACTED]> wrote:

I'd love to Rich, but Harry is in the process of discussing the options with others and as of last night (when I exchanged emails with him) there was still discussion going on. I'll keep pushing things forward today.

Thanks,

Max

A. Max Kohlenberg  
Howland Evangelista Kohlenberg Burnett, LLP [REDACTED]  
[REDACTED] Providence, Rhode Island 02903

[REDACTED]  
[REDACTED]

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-----Original Message-----

From: Richard Kahn [mailto:[REDACTED]]

Sent: Wednesday, April 11, 2018 8:49 AM

To: Max Kohlenberg

Subject: Re: Working to resolution

can we resolve this today?

Richard Kahn

HBRK Associates Inc.

[REDACTED]  
[New York, NY 10022](#)

[REDACTED]

On Apr 6, 2018, at 1:54 PM, Max Kohlenberg <[REDACTED]> wrote:

Thanks Rich.

-----Original Message-----

From: Richard Kahn [mailto: [REDACTED]]

Sent: Friday, April 06, 2018 12:40 PM

To: Max Kohlenberg

Subject: Re: Working to resolution

max,

if preferred noam can pay the 500k back to the trust, take the full 3 million distribution and gift the children 500k, same day. for exmple.

Richard Kahn

HBRK Associates Inc.

[REDACTED]

[New York, NY 10022](#)

[REDACTED]

On Apr 6, 2018, at 9:05 AM, Max Kohlenberg < [REDACTED] > wrote:

Rich -

I'm afraid I don't agree that negotiating the amount the children will receive needs to be gotten out of the way first. I think the first step is to figure out which of the three alternatives that we've discussed are actually viable. I am not concerned about Mass. law, but if a "carve off" for the children can't be accomplished without triggering a retroactive estate tax (with interest and penalties) then it may be that the unitrust (at some agreed rate) will be the only alternative worth considering. I am looking into that (as I said) and I will also calculate the tax cost if we do follow a course that results in loss of the marital deduction, in case that cost turns out to be little enough not to dissuade us from an approach that triggers it. If my concerns turn out to be unfounded that will be great, of course, but some review of this issue at your end (whether by Beth Tractenberg or some other attorney trusted by Noam) would be helpful.

As noted, given the children's concern that the money doesn't run out during Noam's lifetime, I'd really like to see what the annuity figures might be for a life annuity (as opposed to a fixed term annuity). That could be run assuming funding with \$2M. The result would provide us with a baseline which we could scale from depending on what amount might actually end up being allocated to the children.

I am also following up with Noam's daughters, as noted.

Max

A. Max Kohlenberg

Howland Evangelista Kohlenberg Burnett, LLP [REDACTED]

[REDACTED] Providence, Rhode Island 02903

[REDACTED]

[REDACTED]

[REDACTED]

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-----Original Message-----

From: Richard Kahn [mailto:[REDACTED]]

Sent: Thursday, April 05, 2018 12:34 PM

To: Max Kohlenberg

Subject:

the first issue is the amount that the children will claim belongs to them. . lets get that out the way. I have taken you at your word as you said that was definitely not the hold up as they only wanted to make sure the assets were there for noams lifetime. the annuity can be custom structured for a guaranteed 5 year 8 or 10 year payout, for noam and his estate. the trust could buy the policy, no violation of mass law. I expect noam to receive 2 million dollars of the 2.5 and the children can have the balance. we will need to deal with the 500k note. Beth will join the litigation if need be, so no advice for the moment.

Richard Kahn

EFTA00833457

HBRK Associates Inc.

  
[New York, NY 10022](#)

On Apr 5, 2018, at 10:28 AM, Max Kohlenberg < > wrote:

Rich -

I will definitely be in touch with any questions (today if I can).  
But a resolution today will not be possible. Harry is considering the alternatives you've suggested, as am I. I will also want to review the alternatives with Noam's daughters. (As I have noted, although they are not trustees they remain essential parties to any settlement.)

In addition to the substantive pros and cons of each approach, I will also need to consider the tax implications of the various alternatives that have been suggested (annuity, unitrust or division/distribution), since we don't want any resolution to constitute an impermissible disposition of a marital trust, as that would trigger very substantial Massachusetts and federal estate taxes, interest and penalties, based on the retroactive disallowance of the marital deduction taken at the time of Carol Chomsky's death. With respect to this aspect, if Beth Tractenberg is already familiar with this case, perhaps we could have the benefit of her insight on these issues? I would be grateful for that.

With respect to the annuity alternative, I'm not entirely sure I understand the materials provided by Jarad Minsky. In particular it's not clear to me whether the annuity illustration shows a five year payout, with no further payments even if Noam is still living in 2023, or whether it illustrates a minimum five year payout (even if Noam dies during that time period). Would you have any objection to my speaking with Jarad directly to clear up that question (and perhaps others)?

Thanks,

Max

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please note

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