

**From:** "jeffrey E." <jeevacation@gmail.com>

**To:** Valeria Chomsky <[REDACTED]>

**Subject:** Re: Fwd: Marital Trusts

**Date:** Sun, 17 Dec 2017 12:22:22 +0000

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I know this is painful. but we must deal with the reality of the situation. lets see what deborahs response is. I assume she will say no. . the children are attempting to rationalize their reasons for wanting noams money, its no more than that

On Sun, Dec 17, 2017 at 2:00 AM, Valeria Chomsky <[REDACTED]> wrote:  
Important.

----- Forwarded message -----

**From:** Noam Chomsky <[REDACTED]>

**Date:** Sun, Dec 17, 2017 at 12:17 AM

**Subject:** Fwd: Fwd: Marital Trusts

**To:** Diana Chomsky <[REDACTED]>

**Cc:** Avi Chomsky <[REDACTED]> Harry Chomsky <[REDACTED]>

I'm sorry, but this is surreal.

I have repeatedly spelled out the circumstances in extensive detail. Your sole response has been that you disagree, without once saying what you disagree with or why. I have never denied anything you have tried to say, for the simple reason that you have never said anything that could either be affirmed or denied, only that you disagree with what I've spelled out but without any indication of what or why.

In this letter, for the first time, you specifically address something I have written. You write: "We can tell from your tax requests that you have been spending many hundreds of thousands of dollars every year on personal expenses, even after having successfully eliminated the extra costs that you have mentioned as a drain on your resources (the Cape house, the gifts, Anthony's salary, etc)." What I wrote you however is quite different. To repeat: there is a mandatory withdrawal from the IRA. Half of that was distributed to children, grandchildren, and spouses. The other half was spent in taxes and management fees for the entire estate. Cape house, Alex's medical expenses and other gifts, Anthony's salary, etc., were from necessary withdrawals over and above the mandatory withdrawal, hence subject to exorbitant taxes, requiring additional withdrawal. That is before we even get to ordinary living expenses. The request had nothing at all to do with personal expenses, as you can see by just looking at my letters and running through the arithmetic. So the one case you now mention is flatly incorrect.

But this tells us how to proceed: tell me explicitly what you have in mind, and then we can proceed in a reasonable fashion.

There's a simple way out of this impasse -- not by setting up an adversary proceeding with a mediator, as you suggest, but by you telling me what you disagree with in what i have outlined to you and what your reasons are. You have not yet done that in a single letter. So, simply, why not do it right now, and then we can proceed.

Again, I've repeatedly spelled out the circumstances in extensive detail. So, simply, tell me what you disagree with and why. No mediators are necessary, just a direct response. Or if you feel that you have already done

so, then re-send the letter in which you responded to my detailed account, telling me what you disagree with and why.

Meanwhile, while the impasse continues, I'm compelled to face constant aggravating and painful circumstances, not to speak of humiliating demands and by now significant costs. That can end if we simply resolve these matters quickly in a straightforward and simple way.

I haven't responded to the last part of your letter because it doesn't relate to the matter at hand. I was referring to Max's radical shift in stand, not to how affairs were managed in the past. To repeat, when distributions were made to family from the IRA, and taxes and management fees for the entire estate were drawn from the IRA -- exhausting the mandatory withdrawal -- Max, my lawyer, raised no question about the financial circumstances of the beneficiaries, nor should he have done so. But when i am requesting tax payments from the marital trust that was set up for M and me and the survivor for our lifetimes, all of a sudden he is making exorbitant and humiliating demands. What you describe below has nothing to do with this simple matter.

D

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From: **Diana Chomsky** <[REDACTED]>  
Date: Sat, Dec 16, 2017 at 8:37 PM  
Subject: Re: Fwd: Marital Trusts  
To: Noam Chomsky <[REDACTED]>  
Cc: Avi Chomsky <[REDACTED]>, Harry Chomsky <[REDACTED]>

Dear Doddooy,

We've tried to talk to you about your financial situation several times over the past couple of years, in person, by phone, and by e-mail. The process has been extremely unpleasant for us, and we presume for you as well. More importantly, it has not led to any enlightenment on any of our parts. Much of what we've tried to say you have flatly denied; some of it we think you simply haven't understood. You seem absolutely convinced that your beliefs are correct and absolutely uninterested in trying to look at the situation in other ways, to the extent that you can't even remember these exchanges. Much of what you've said to us conflicts directly with our personal knowledge of your history and with legal and financial advice from every source we've heard from. So the conversations lead only to more stress and heartache.

We are not willing to continue trying to discuss this with you unless something changes. One change would be to include a professional in the conversation who can resolve our differences in belief about basic facts. However, you have apparently decided that because you disapprove of some of the suggestions made by your former lawyer and financial managers -- many of which were based on choices you and Mommoy had made previously -- you will now not believe anything they tell you. That leaves us with no recourse to determine the truth about anything that happened between 2007 and 2016.

We have suggested a mediator as a last resort. Perhaps with a mediator we can at least listen to each other's beliefs and perspectives, even if we can't come to agreement on key points. Perhaps a mediator could even help us find a way to investigate the questions of fact and come to some conclusions that we could all accept.

Short of being able to talk to you openly, it's very important to the three of us to protect you from future financial catastrophe. We have been trying our best to do this, and will continue to try, regardless of what happens with our communication. We believe that Eric Menoyo designed your estate plan properly to protect the interests of all parties, and we will continue to work to ensure that the plan is administered in a faithful and professional way.

We also wanted to say that we have a different interpretation of how we have balanced respect, privacy, and autonomy, versus questions and interference, in our family history. You tell us that you deeply resent being asked questions when you request financial withdrawals, and you deeply resent our questions about your financial situation. You say that you are the only one being questioned in this way. But we don't believe that's the case. Historically, as a family we have been open with each other about our individual financial situations; we have watched out for each other and stepped in if we felt it was needed; and on the most concrete level, any request to access funds from any of the trusts has always required an explanation to go along with it.

In Avi's case, you and Mommoy interfered to tell her that something was going very wrong with Sandi and that she had to get professional help; to practically force her to go meet with a lawyer Mommoy found for her when she became convinced

that Avi's marriage to Jon was causing harm; and to order Avi [REDACTED] when she confessed that she couldn't handle things. That is: when Mommy saw Avi doing fine, she didn't pry or interfere. When she saw her falling apart, she stepped in to help.

In Diane's case, she discussed her financial situation with Mommy in a very open way on many, many occasions, leading Mommy to offer her things like washing machines (we all know how that turned out) and more significantly, help with rent payments during a few years in Mexico, during a period when: Oxfam had stopped paying the rent, Gmo had stopped receiving his stipend as a grad student, and Diane was still suffering from a considerable salary cut imposed by Oxfam after the move to Mexico. Diane accepted her offer, which was a huge temporary help while she got herself back on her feet.

Furthermore, on the occasions when Diane has asked Bainco for money from the trust that is in her name, she is always asked to explain exactly what it is for. This happens even though the amounts have never been very large. If anything looks odd, the trustees come back to her with questions. Harry once even phoned her because what she was asking for seemed so strange and he was concerned that something was wrong (in case you are wondering what was indeed going on, it was a small Mexican peso loan to a friend in trouble, which Diane couldn't do by other means because she was traveling at the time, and it couldn't wait until she got back home). Diane has not found this questioning to be humiliating or prying - she assumes it is the terms of the trust and the trustees are just doing their jobs.

In Harry's case, at one point in the mid-1990s he unexpectedly owed \$60,000 due to the Alternative Minimum Tax as a result of receiving stock options. He discussed this with Mommy and her accountant, and they decided she would lend him the money to pay the taxes and he would pay her back once he had a chance to exercise and liquidate the stock options, several months later.

In the current situation, the reason we are asking you questions now (and never before) is that now we are hearing from you repeatedly that your financial situation is dire. We decided to ask you about your financial circumstances - not lightly, as we said in one of our many emails, but after much thought, given that we could see that your concern about it was causing you a great deal of stress and was leading to you taking important and possibly unnecessarily radical decisions. We continue to feel that you are misinterpreting your financial situation, and that this is causing you considerable anguish. It pains us greatly to see this, as we've said before.

We can tell from your tax requests that you have been spending many hundreds of thousands of dollars every year on personal expenses, even after having successfully eliminated the extra costs that you have mentioned as a drain on your resources (the Cape house, the gifts, Anthony's salary, etc). This is far out of alignment with what we know about your lifestyle. You and Valeria should live in comfort together -- no need to adhere to your old, fairly austere living conditions -- but your expenditures seem to go far beyond that, and seem to keep rising. This makes us worry and makes us want to intervene to try to help. It also makes the trustees worry that you are not managing your finances with attention to your possible lifelong needs. Nothing in the long and detailed letters you've sent us can begin to explain why your personal spending has shot up the way it has. We can see only little pieces of your situation, because of the secretive posture you've adopted in recent years, but the pieces we do see suggest a set of problems very different from the ones you've described.

We hope this helps to explain our position and our real concern. You are right that in our last emails (and in this one) we haven't gone point by point through your affirmations, explaining our different understanding of the basic facts, but as we said at the beginning of this email, we tried to do that in the past and it didn't work. We truly hope we can find a way to talk openly about the situation.

Love, Avi, Diane and Harry

From: Noam Chomsky <[REDACTED]>  
To: Diana Chomsky [REDACTED]  
Cc: Avi Chomsky [REDACTED]; Harry Chomsky [REDACTED]  
Date: 14/12/2017 18:03  
Subject: Re: Fwd: Marital Trusts

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I just don't understand this. I've explained the facts in detail, repeatedly, with no response. You've told me that you have a different understanding of the basic facts, but haven't told me what it is, or what are the questions to which you want answers other than what I have told you. That is why communication cannot proceed. So, yes, frustrating.

Evidently you regard this as an adversarial proceeding, requiring a mediator. I don't understand this either. I

thought we were a family discussing matters relating to us. I have no idea what a mediator would be for. Mediating what? Another reason for my frustration.

As for Bainco and Max, I have explained in part what they have been doing, causing me plenty of harm. In part. As I've told you, there is a lot more. But what I have told you is more than enough to explain that they are not reliable sources who can be trusted.

If you want them to answer your questions, OK, but it would seem rather strange if I were to ask them about your financial affairs -- a matter into which I've of course never inquired, except by asking you questions if they came up. So I find all of this quite strange. If I have questions about your lives and circumstances, I would ask you, not some investment firm or lawyer, and I wouldn't request a mediator. I don't understand why it is different in my case, and this is something else I'd like to know the explanation for.

So, yes, frustrating. For these reasons.

D

On Thu, Dec 14, 2017 at 4:27 PM, Diana Chomsky <[REDACTED]> wrote:

Dear Doddo,

We have tried to discuss this with you but we have been frustrated—and even frightened—by the results. That's why we've asked you if we could meet with a mediator who could facilitate the discussion and make sure that we are able to actually hear each other. We would still like to do this if you are willing. Because some of the disagreements seem to be about basic facts—which could be clarified by outside sources—we have also asked if these outside sources (Bainco, Max) could be part of the conversation, or could be available to give us clear answers to some of the questions. We would still like to do this, too!

Love, Avi, Diane and Harry

From: Noam Chomsky <[REDACTED]>  
To: Diana Chomsky <[REDACTED]>  
Cc: Avi Chomsky <[REDACTED]>, Harry Chomsky <[REDACTED]>  
Date: 14/12/2017 11:22  
Subject: Re: Fwd: Marital Trusts

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One way to communicate better would be to know our respective points of view. I've written to you three long and detailed letters explaining my understanding of the situation. You have only told me that your understanding is quite different, but you haven't told me anything about what your understanding is, or what its source is. What do you see differently from what I have described in detail? Without knowing that, there's no way to communicate. I have no idea what your understanding is, except that it is quite different, for reasons that I do not know.

I do not like to leave matters to lawyers, not just because of the expense, but far more importantly because the differences in understanding are matters we ought to work out among ourselves. And again, that is not possible until you let me know what you think the situation is, and why.

To clarify, the lawyers are discussing certain technical matters, but not the issues I brought up in my last letter to you, or the earlier ones. That's personal, not for lawyers.

D

On Thu, Dec 14, 2017 at 8:51 AM, Diana Chomsky [REDACTED] wrote:

Thank you for your detailed email. As we said before, our understanding of many of the specific points you make is quite different from yours, but we certainly are in agreement that you should be able to live in comfort and financial security. We wish that we could sit down together to try to work this out and communicate better as a family, but since it seems that we can't right now, we'll have to resort to working through the lawyers. As you know, their discussions are underway on the issues you've brought up.

From: Noam Chomsky <[REDACTED]>  
To: Diana Chomsky [REDACTED], Avi Chomsky [REDACTED], Harry Chomsky [REDACTED]  
Date: 13/12/2017 15:19  
Subject: Fwd: Marital Trusts

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I would like to renew my request that you arrange for Max to resign as trustee for the marital trusts, and expeditiously, for reasons I will explain below.

I have already spelled out some of the reasons why I cannot trust Max. I hope you have read those detailed letters, which only tell part of the story, though it was more than enough. By now the situation has become completely intolerable.

During the years when Max was serving as my lawyer, he saw no problem when the IRA that is my source of income was being depleted by distributions to 10 family members -- which alone amounted to half of the mandatory withdrawals -- along with payment of taxes and management fees for the entire estate. All of that exhausted the annual withdrawal, and the IRA was exhausted further by payments for the Wellfleet house, Alex's medical expenses, and others that you know about, compelling me to make further withdrawals just for ordinary daily expenses, and imposing the exorbitant taxes charged for such withdrawals. Max saw no problem with that. He never suggested any financial accounting from any of the beneficiaries. I trusted him, mistakenly, as in the case of the purchase of the apartment and the outlandish loan from the marital trust, which I assumed would be for a few weeks until the Lexington house was sold, not realizing -- though he surely did -- that I would receive nothing for that and would be stuck with an expensive apartment I could not possibly afford and a loan that I never would have agreed to had I understood.

Now, all of a sudden, everything has changed. Suddenly, Max has all sorts of scruples and legalistic demands. What caused the sudden change? It is because now I am requesting that taxes be paid by the marital trust. For the first time, Max insists on extensive (and of course outrageous) financial surveillance, claiming that as trustee, he is concerned with life expectancy (I might live too long) and with the long-term effect on the trust -- matters that never concerned him while he watched my IRA being depleted with payment of taxes and management fees for the entire estate, in addition to distributions to family. No scruples, no concerns, all fine as long as it was rapidly depleting my source of income.

To make this even more outrageous, the marital trust is, of course, intended for the use of the married couple who established it, to be their main resource during their lifetimes, and the lifetime of the surviving spouse. That is the obvious intention of a marital trust, and that should end the matter, within a family. But it is even true of the wording, if we have to descend to legalities. Not just for taxes, which is what I am requesting, but for daily life.

As you know, the trusts were in Carol's name for two reasons: one, we assumed that she would be the survivor, and two, for estate tax reasons, to assure that the three children would receive the maximum benefits after we both died.

In addition, Max has apparently been allowing distributions from the marital trust to children and

grandchildren without consulting me -- and, of course, without calling for investigation of their financial circumstances. That concern is reserved for my request for tax payments from a trust to which, by rights, I should have full access.

I can think of only one explanation: Max, as your lawyer, is seeking to ensure that you receive every penny possible: not just the trusts and educational trusts of which you are the sole beneficiaries, along with the two houses, and almost all of my pension, but even the marital trusts that M and I established for ourselves. I can think of no other reason for his radical change of attitude from the time that the IRA was being exhausted before his eyes to today, with sudden concern about long-term potential problems with the marital trust and possible excessive life expectancy. No doubt he can contrive various legalisms, but I hope it is clear enough why these should not even be considered in matters such as this.

Plainly, this situation -- which I have only partially described -- is unacceptable. And it would be even apart from what I have already written to you, and you know without my spelling it out.

To repeat, I've worked hard all my life and have been very careful to provide for the needs of my children and grandchildren, and to ensure that they will be well cared for after my death, even abandoning my pension and main material possessions (the two houses), in addition to trusts of which they are beneficiaries. After M died, I assumed that I would spend my last days alone. I was lucky to meet a wonderful woman, who has given up her life, her family, and her successful professional career to be with me. We are very happy together, and have been looking forward to a new life in Tucson, in peace and tranquillity, where we can be together and pursue our work and lives. I think I have that right. Instead, I am spending exorbitant amounts of time, energy, and even lawyer's fees to obtain what should be available to me with barely a word. Alone among the people I know, I am compelled to suffer serious aggravation, and to spend time and energy away from life and work, without simple financial security. I hope you can see how unfair this is.

I would therefore like to renew my request that you inform Max that he should resign. I would then like to replace him with my financial adviser, Richard Kahn, who is experienced, highly qualified, and trustworthy. That seems simple enough.

Furthermore, it is urgent. Within the next few days, money has to be available for taxes, and Max's repeated delays and sudden scruples are going to again cost a lot of money that I should not have to spend. I hope it is also clear that I should not have to be facing this kind of situation at this stage of my life.

D

----- Forwarded message -----

From: **Diana Chomsky** [redacted]

Date: Wed, Nov 22, 2017 at 6:33 PM

Subject: Re: Marital Trusts

To: Noam Chomsky <[redacted]>

Cc: Avi Chomsky [redacted] Harry Chomsky [redacted]

Dear Doddo,

We were so saddened to hear about Ed Herman. What a terrible loss.

We understand that you want to live with comfort and financial security. We want that for you as well.

If you want to discuss Max stepping down as Trustee, Harry would need to meet with you to discuss that. From our past experience, it's clear that a professional mediator would be needed at this meeting.

At this point we don't feel comfortable approving Richard Kahn to replace Max as Trustee.

Love, Avi, Diane and Harry

From: Noam Chomsky <[REDACTED]>  
To: Avi Chomsky [REDACTED] Diana Chomsky [REDACTED] Harry Chomsky [REDACTED]  
Date: 20/11/2017  
Subject: Marital Trusts

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Back from Mexico, and there's some business I'd like to take care of.

I would like to arrange for Max to step down as trustee of the marital trusts. All that this requires is that each of you authorize him to do so. I've explained some of the reasons. There are others. In general, I want to make a clean break from what has been happening for the past few years. I would then like to appoint Richard Kahn as Trustee. As you know, he is the financial advisor/accountant I have been working with, extremely competent and trustworthy.

I hope this can be done quickly and expeditiously.

In brief, I've worked hard all my life and have managed to set aside funds to ensure your security and the security of your children -- the two houses, trusts, in substantial sums. Valeria and I are very happy together. I think I now have the right to live the rest of my life in peace and tranquility, without constant financial concerns, in fact like everyone else I know

Those who remain. You have perhaps heard that my old friend Ed Herman died a few days ago.

D

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