

**From:** Heather Gray <[REDACTED]>  
**To:** "jeffrey E." <jeevacation@gmail.com>  
**Subject:** Re: For our call on Monday  
**Date:** Sun, 02 Nov 2014 14:41:13 +0000

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Sorry, Jeffrey. Ada drafted this with me after a call we had with Alan on Friday. Eileen and Larry also reviewed and added input. Going forward, I'll start with you.

Sent from my iPad

On Nov 2, 2014, at 9:21 AM, "jeffrey E." <jeevacation@gmail.com> wrote:

in the future before you write to the entire group I would suggest you send this to me. many of these things are mistereoted and not fully thought through.

On Sun, Nov 2, 2014 at 9:05 AM, Heather Gray <[REDACTED]> wrote:

Jeffrey,

As you know, Rich J. and I met with Leon last week to discuss which works of art Leon would put in the "new" Narrows. Leon raised two points at the meeting which may alter the focus of the art planning.

First, Leon said he wants to keep the flexibility to withdraw works of art from Narrows without the consent of the Class B Managers. His said that if his non-art assets increase in value so that the kids are well provided for without the art, he may want to create a Black Family Museum with works in Narrows and he doesn't want to have to obtain consent of the Class B Managers regarding which pieces he could withdraw from the LLC for the museum. The draft LLC agreement for the new Narrows provides that a member can only withdraw with the unanimous consent of the Class B Managing Members and they alone decide what property gets distributed to the withdrawing member.

Second, Leon questioned whether he should be completely paying off his Note to the APO1 Trust. He thinks making the annual interest payments on the Note is a great way for him to make tax-free gifts to the kids and he did not seem concerned about the income tax that the trust would have to pay at his death if the note was still outstanding (which would be close to 34%). The tax consequences of not paying off the note are only on the income tax side - either income tax will be due at Leon's death (if he hasn't paid off the note prior to that time) or no income tax will be due (if he has paid it off). The estate tax side is a wash because either he pays off the note during his lifetime, in which case the note and the assets used to pay it off are out of his estate, or he doesn't pay it off prior to his death so the assets are in his estate but so is the debt obligation.

Based on this discussion, there are perhaps 3 ways we could go with the current planning:

1. Keep the plan as is. Leon has to rely on the Class B Managers to allow him to withdraw and to distribute to him art he would want to put in the Black Family Museum. Valuation discounts are obtained for the Narrows membership interests and Leon uses these interests to repay most or all of the Note to APO1. This addresses neither of the above concerns.

2. Give Leon Control-Decide Later whether or when to Pay Down the Note. Revise the draft LLC agreement so that Leon is the sole manager and, to reduce 2036 inclusion, permit all members to withdraw their capital from the LLC at any time without the consent of the manager (as we do with BFP). This addresses Leon's stated wish for control but results in much smaller valuation discounts being applied to the Membership interests. This means that Leon would use fewer Membership interests to repay the Note to APO1—if in fact he decides to pay down the Note. This approach also allows Leon some period of time (before the note pay-off and his death) to decide to create the art museum. If Leon ultimately decides not to pay down the note, the new Narrows will still obtain some (smaller) valuation discounts on the art in Leon's estate and will have provided a vehicle through which Leon can undertake art investing for the trusts. This addresses both of Leon's above concerns.

3. Do not Revise Narrows and Do not Pay Down the Note. If we are certain that Leon does not want to use Narrows membership interests to repay the Note, we may decide to forgo creating the LLC which comingles trust art and Leon's art because the benefits noted in 2 above are outweighed by the administrative complexities and restrictions that arise as a result of the comingling. For example, restrictions arising from revisions to the loan documents with BAC as well as the need for Leon to pay a guaranty fee to the LLC (to avoid a potential gift) if it guaranties his personal liability after the trusts become members. There are simpler ways to achieve the benefits noted in 2.

Thanks,

Heather

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please note

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