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Subject: Comments on petition
Date: Tue, 17 Jul 2018 16:01:52 +0000

Below are the sections of the petition that are of particular concern to me, followed by the gist of the section, and then my comments, within brackets [...]. I hope this is intelligible.

Noam

My specific concerns:

1) The petition:

Concern is Harry's request to appoint a successor trustee without the consent of the beneficiary (Noam)

2) Exhibit A, the Trust, October 1989.

Sec 5.1. After Carol's death, all income from Trust should be paid to Noam.

13.1. Income should be paid at least as often as quarter-annually. Repeated in Exhibit B, 6.

[I have not been able yet to obtain more than limited information about this. I have no record of payments until I finally asked about it, about 2 years ago]

3) Exhibit B

Sec. 9. Noam married a woman more than 30 years younger

[This reference, and Sec 10 that follows, insinuate that the reason for acceleration of expenses is that I married a much younger woman, implying that she is somehow responsible. This is all false, as I point out below, and it is an ugly defamatory innuendo. I do not want to let this disgraceful comment stand]

Sec. 10. Soon after this, spending accelerated rapidly. Noam withdrew more than required amounts from the IRA, requested significant distributions from Marital Trust to cover increased expenses, including purchase of new home and unusually large tax liabilities

[This is all false, and Harry knows that it is false. The true facts, documented, are as follows.

Expenses did increase. I have almost no pension. MIT restructured pensions into investments many years ago. My main source of support, therefore, is an IRA. The IRA has a mandatory withdrawal. Without my knowledge, about half the withdrawal was being distributed to children, spouses of children, and grandchildren. The other half was being used for taxes and management fees for my entire estate, including all the parts that I had no access to. I was paying medical expenses for Harry's son Alex (on the autistic spectrum, with considerable

expenses for therapy, etc.). To do so I had to make extra withdrawals, which have a severe tax penalty. I was paying roughly \$50,000 a year for a summer cottage that I had given to the three children (an LLC), which I was by then barely using. That too required extra withdrawals, with the tax penalty. I needed something to live, which again required extra withdrawals with a tax penalty.

It is, then, correct that I withdrew more than required amounts from the IRA and that there were unusually large tax liabilities, because the IRA was being diverted to my children, in the manner just described. All of this has been explained to Harry over and over, at least a half dozen times, in email correspondence, which I have.

The tax burden was huge. To pay it required more extra withdrawals from the IRA. It took two years to deal with this. Now it is finished, and there are no more extra withdrawals.

I once asked Harry to release some funds from the marital trust to help with the exorbitant taxes. He refused, unless I provided detailed financial information that went far beyond anything that was his business. I never asked for anything for "the purchase of a new home."

The facts about the "new home" are the following. Before I married, and for about a year after I married, I lived, rent free, in the house my first wife (Carol) and I had bought in 1964, the house where the children grew up. In 2006, Carol was diagnosed, out of the blue, with terminal cancer, and had to undergo massive brain radiation, which soon led to rapid cognitive and physical decline. I wanted to keep her at home, not at a nursing home, and cared for her for two years at home, which in later stages required extra nursing care for 20 hours a day in addition to constant care from me as she declined very severely. In July 2008, I apparently agreed to sign our house over to my children. I was not paying much attention, and didn't care. A few months later (Dec. 2008), Carol died, at home. I became trustee of the marital trust, but I did not want to bother and asked Harry to replace me (early 2009).

Turning to the "new home," after our marriage, Valeria and I agreed that it was too difficult for me, in my late 80s, to live in a large house with several floors, many steps, also taking care of snow, driving 12 miles to work (at MIT) with difficult Boston winter weather, etc. We decided therefore to purchase an apartment in Cambridge, with no steps, near Harvard Square so there was only a short subway ride to work. That is what Harry calls the "new home" that we purchased. Contrary to the petition, I never once asked for any assistance for payment of the "new home," apart from a loan from the Marital Trust, to be repaid with interest, following advice from Max and the investment firm that held the estate.]

Sec 11. Over the course of the next several years Max made a series of significant distributions to Noam

[As far as I know, nothing at all was distributed until my financial adviser, Richard Kahn, began looking into the Marital Trust. After that there were some distributions to help with the exorbitant taxes. I have asked many times, but have not yet been able to receive an accounting of what was done with the Trust since 2009, when I appointed Harry to be trustee, replacing me. Information about distributions to me, if any, and other distributions that I do not know about. I have again requested the information from Max, and he wrote that he will be providing me with more than the limited information he has already provided to Richard Kahn. We have no records, so I am simply assuming that what Max informed Richard Kahn is accurate]

Sec. 12. Given the foregoing, the Trustees became seriously concerned that Noam's markedly increased spending habits were not sustainable and would soon leave him without sufficient funds

[This is complete nonsense. The Trustees know the reasons for the “increased spending habits,” described above, and know that I have now finished paying the exorbitant tax burden (over several years), so there is no question at all about “sufficient funds,” though it is true that if I live a few more years, the IRA may be exhausted, and I will have nothing to leave for Valeria

I should add that my children and grandchildren are well taken care of in my estate. Valeria gave up her family in Brazil and a very successful professional career to be with me in my last years. We are very happy together, apart from this dark cloud that is extremely painful.]

Sec. 13. In keeping with his fiduciary obligations, Max repeatedly requested that Noam and/or his advisers...provide to Max an explanation for Noam's increased spending as well as some assurance that Noam was engaged in financial planning so as to avoid Noam finding himself in the untenable situation of having prematurely depleted the trust assets

[As noted, a full explanation was given, repeatedly. See above. Furthermore, they knew very well that I now had a financial adviser, Richard Kahn, who was in contact frequently with Max and Harry. In fact this is conceded, in section 15, below.]

Sec. 14. [These demands were, indeed, an attempt to pry into my financial situation. It was perfectly clear and explicit that I was requesting some help for tax relief, because of the exorbitant tax burden caused by funds being diverted to Harry, also to children, spouses of children, and grandchildren.]

Sec. 15. [Note that the petition recognizes that I had a financial advisor, Richard Kahn, contrary to Sec. 13]

Sec. 26. If the Court determines that Harry must obtain Noam's consent to the appointment of a successor trustee, given Noam's demonstrated unwillingness to cooperate in the appointment process in any meaningful way, Harry will need to file a further petition seeking the assistance of the Court to appoint a successor trustee.

[My “demonstrated unwillingness to cooperate” is my unwillingness to simply accept Harry’s choices, without discussion, after he rejected my proposal to appoint Richard Kahn, who is highly qualified.]