

From: Valeria Chomsky <[REDACTED]>
To: J <jeevacation@gmail.com>
Subject: Re: Some suggestions
Date: Thu, 03 Jan 2019 16:50:47 +0000

I just wrote to Vincent.

On Thu, Jan 3, 2019 at 2:36 PM J <jeevacation@gmail.com> wrote:
vincent should be writing not you

On Thu, Jan 3, 2019 at 11:26 AM Valeria Chomsky <[REDACTED]> wrote:

Yesterday, we had the conversation with the mediator. The mediator insisted that it is legally Carol's money. But she seemed to forget that the money is in a **marital** trust. But, even though, I think the situation is very clear and today, I wrote this to Vincent. Please let us know if you have any suggestions. The mediation will be on January 9. Thanks for all your help.
Valeria

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

From: Valeria Chomsky <[REDACTED]>
Date: Thu, Jan 3, 2019 at 10:39 AM
Subject: Some suggestions
To: Vincent Pisegna <[REDACTED]>, Noam Chomsky <[REDACTED]>

There are four possibilities that could explain Noam's children's recent behavior, after Noam remarried. They think:

- 1) Their father is senile and he is married to someone who is not trustable.
- 2) Their father doesn't pay attention to financial matters and he is married to someone who is not trustable to assume this role.
- 3) The children are extremely controlling, and even his father being in his full mental and intellectual capacity, they want to control financial aspects of their father's life.
- 4) A mix of all the items above.

A marital trust by definition is a trust devoted to a married couple. Therefore it is mandatory the presence of two spouses -- one who is providing and one who becomes the beneficiary.

A marital trust is not a children's trust, although the same can be beneficiaries of such. But clearly, by all legal means, the primary purpose of a marital trust is to provide to a spouse.

In the specific case of Carol Chomsky Marital Trust, the terms of the trust leave no questions. The trust is to provide for her husband Noam Chomsky for his lifetime with all the income generated by the trust and principal as considered advisable by the trustees. The remaining of the funds of the trust is to be appointed by her husband. In lack of Noam's appointment, the remaining funds have to be equally distributed among Carol's issues.

In any part of the terms of the trust, it is said that if the spouse remarries, he loses his capacity as beneficiary, that the income should be suppressed and no principal distribution accepted without investigation of the financial situation. It also doesn't say that the spouse's (Noam's) sources of income should be analyzed and if he has other sources of income, the regular distribution of the trust should cease or be adjusted. In

addition, in any part of the trust, it says that financial investigation should be performed before releasing any principal.

It is understandable that the trustees feel zealous to inquire about the purpose of the distribution of principal to exercise their duty in making a decision. But it also seems clear that if the request is unequivocal for a legitimate use, such as taxes that by the way were applied for the whole estate, including the taxes for the trust itself that should had been paying income to Noam although there are no such records, the trustees should be able to judge without any financial investigation.

That was the case. The only request of Noam for principal was to address the high taxes payments that were generated for distributions from his IRA, which at that point had become his only income source from his past of hard and intense work, distributions arranged by his financial adviser to 10 family members between children, spouses and grandchildren to the maximum amount allowed at the time by law for each individual without incurring in extra taxes, in addition to Noam's and his wife's own expenses. No distribution of principal from the marital trust was ever requested except for these tax purposes that were hugely increased with the knowledge of the reasons by his lawyer at the time, Mr. Max Kohlenberg, his financial adviser, Bainco, and his three children who were benefited from the distributions to them and their children (Noam's grandchildren). The taxes ended being withdrew again from his only source of income, his IRA, incurring in extra taxes for over withdrawals.

It seems that a fair decision in this case, necessarily demands a close analysis of what was happening in the trust since 2009, after Carol's death to date:

- 1) in relation to income distribution to Noam who should be the only beneficiary, with the statements showing if any funds were transferred to Noam and if they match the trust's income;
- 2) payment to the trustees along these years;
- 3) if any principal distributions were made from the trusts with the names and respective amounts of who was benefited;
- 4) the policies that were implemented by the trustees for the trust's investment -- that in the best interest of [REDACTED] should maximize the income generated during his lifetime to allow him to obtain the maximum and allow him to enjoy his life that had been of intense work generating funds, providing not only to his children, but also to his grandchildren.

If all these items are not looked into and analyzed, a fair decision for all the parts cannot be achieved. And overlooking them can generate additional problems in the future.

The results of this analysis should be the basis for a complete separation of the financial affairs.

Valéria Chomsky

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Valeria Chomsky