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Subject: Fwd: draft of letter about Trust

Date: Sun, 14 Oct 2018 19:37:46 +0000

Rewrote your wording slightly. I want to make sure I keep to matters where I can provide direct and unequivocal evidence. I thought it was important to make clear that I have virtually no pension -- it was restructured into investments. So the IRA is really almost my entire income. Also fixed up the timing. We set up the Marital Trust some years before Carol was diagnosed with cancer, with our then-lawyer, Eric Menoyo. Max replaced Eric after Carol's death. I also spelled out more carefully what was happening with the IRA and Marital Trust, and clarified the matter of requests for tax relief. The first ones were denied. Later, after Deborah Quinan's intervention, there was a tax payment for a later year.

How does this look?

If it's OK, I suppose I ought to send it to Vincent so that he won't feel that I'm doing something independent that would undercut the negotiating strategy that he's worked out. Think so?

Noam

Noam

I am sure I am not the only person who has worked hard all his life, ensured that his family is well cared for while he is alive and after his death, and entrusted his own personal financial affairs to a trust and estate lawyer, expecting to spend his final years without concerns about these matters. I will relate my own experiences with my former lawyer, A. Max Kohlenberg, a partner of the firm Howland Evangelista Kohlenberg, LLP. Perhaps these experiences may provide a lesson for others.

When my first wife died in 2008, I was 80 years old. I knew that my children and grandchildren were well cared for, with trusts and other investments that I had already set up for them, and with valuable property that had been transmitted to them. After my first wife's death, having no financial expertise and no wish to pay attention to my personal financial affairs, I retained an estate lawyer. I assumed that it would not be problematic, having been a full professor at MIT for many years, with a pension that had been restructured as investments. I entrusted my affairs completely to Mr. Kohlenberg and to an investment firm (Bainco) with which he had close connections. I resigned from my position as trustee of a Marital Trust that my first wife and I had set up earlier with the intention that it be available to the survivor of the two of us, and would then pass on to our children after the survivor's death. I asked my son Harry to replace me as trustee, along with Mr. Kohlenberg as co-trustee.

In 2014 I remarried and accordingly began to think about the future. I was greatly surprised to find out that I faced serious financial problems. I learned that my only stable sole source of income was an IRA, which was being depleted by distributions to family along with taxes and management fees for the whole estate, encompassing the entire mandatory withdrawal. Therefore, even for ordinary personal expenses, I had to make additional withdrawals, with a tax penalty.

The Marital Trust was supposed to be paying an annual income to me, but I have no record of having received any payments. Recently, independent financial advisers have informed me that the trustees had put me in long-term partnership investments, and that in general the investments of the Trust were designed in ways that would reduce income to me – even if I received it – leaving the Trust larger at my death. My home in the suburbs and a summer cottage that I owned had been already been transferred to my children.

My second wife and I realized that at age 86, it was advisable to move to an apartment in town with no steps, no snow removal and other such concerns, and no long commute to my office at MIT. That of course increased expenses since I had been living rent free and was surprised that the structure dictated that I receive no money from the sale of the house.

To pay my income tax, I had no alternative but to access at double taxation money from my IRA account. My first requests for tax relief from the Marital Trust were denied by the two trustees, my son Harry and Mr. Kohlenberg, unless I agreed to submit to a detailed and highly intrusive examination of my private expenses, life style, etc., demands that were simply humiliating and which I of course rejected.

I also requested information from Mr. Kohlenberg about what had been happening with the Marital Trust. Most requests went unanswered. After repeated inquiries, now also made by new attorneys, I still have not received comprehensive information about the legally-required income that was supposed to be paid to me, or the documentation of payouts to others .

I had assumed that I could trust Mr. Kohlenberg with my personal affairs, to which, again, I was paying no attention after my first wife died. What has happened is, frankly, shocking. I never expected that at age 90, having worked all my life and ensured that my children and grandchildren were well cared for, I would have to be concerned about support for the rest of my life and about ensuring the financial security of my second wife, who gave up her successful professional career and left her family in Brazil to be with me for my last years. Nor could I have imagined that I would not even be able to obtain coherent information about what had happened to my financial situation during the years when I entrusted these matters to Mr. Kohlenberg, whom I had understood to be a reputable trust and estate lawyer.

All of this is, needless to say, deeply distressing.

Noam Chomsky