

From: Valeria Chomsky <[REDACTED]>
To: "jeffrey E." <jeevacation@gmail.com>
Subject: Fwd: Fwd: taxes - 2
Date: Wed, 12 Jul 2017 05:26:41 +0000

This is where we stand right now (e-mails below). They didn't acknowledge his request.

Until recently Noam was absolutely convinced that his children would disregard and forgive the loan completely. This and some other things have been a blow on him. He was very sad. But, fortunately, we came to Tucson and we have been enjoying our new house and somehow distracting ourselves from the pressure and stress.

I don't want to bring the subject back now, but, when we can meet, I would like to explain some aspects of the relationship between the family lawyer and our new lawyer. There were some e-mail exchanges where the family lawyer proposed our new lawyer that they have to work as a "team".

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

From: Diana Chomsky
Date: Sat, Jul 8, 2017 at 9:51 PM
Subject: Re: Fwd: taxes
To: Noam Chomsky
Cc: Avi Chomsky , Harry Chomsky, Valeria Chomsky

Ok, hope the trips go well, and looking forward to hearing from you when you are back.

Love, Avi, Diane and Harry

From: Noam Chomsky
To: Diana Chomsky
Cc: Avi Chomsky, Harry Chomsky, Valeria Chomsky
Date: 08/07/2017 06:00
Subject: Re: Fwd: taxes

I guess we'll have to agree to disagree.

On the DNI payments to me, I have nothing to ask, because I never heard of it before your letter and have no idea what it is.

There are no further distributions. That was arranged with Bainco when it became clear to them and us that distributions to the family were almost exhausting the obligatory IRA withdrawals.

On the promissory note, it's up to you what interest you want to charge on the loan. The Trust is basically yours. If you want to leave it this way, that's your choice. We have nothing to talk to Max about it.

We tried to rouse up David, but he never answered our phone calls or other messages, so we never got back in.

We'll probably spend a couple of days there later in August. Now we're off to Tucson, then Uruguay for talks and various events with Mujica, then Brazil, back at the end of the month.

D

On Fri, Jul 7, 2017 at 6:02 PM, Diana Chomsky <dchomsky@oxfam.org.uk> wrote:

The issues you're mentioning would best be discussed with Max, simply because he is the one who set up the loan. He will be happy to speak with you even though he no longer represents you, if you decide you do want more information. We're not sure whether or how the Promissory Note could be amended, but that's also something you could discuss with him if you like. And Isabel Scharmer can answer any questions you have about your accounts, including the history of distributions from the Marital Trust.

Glad to hear the power is on in the house! That's an advance, though getting the house unlocked would certainly also be useful. Oh well, one step at a time.

Love, Avi, Diane and Harry

From: Noam Chomsky <[REDACTED]>
To: Diana Chomsky <dchomsky@oxfam.org.uk>
Cc: Avi Chomsky <achomsky@salemstate.edu>, Harry Chomsky <[REDACTED]>, Valeria Chomsky <[REDACTED]>
Date: 06/07/2017 14:49
Subject: Re: Fwd: taxes

I don't really understand. There are two questions. One is about the DNI, I had never heard of that before your letter and have no idea what it is. The other matter has to do with the interest on the loan. But as I wrote, that's up to you. The issue could easily be settled by an addendum to the promissory note that conforms to your choice.

As I also explained, Max and I agreed some time ago that he would no longer be representing me, so I don't really have anything to contact him about.tri

All seems pretty simple as far as I can see.

We went over to the Cape house and found that the workers were there. They said that the power had been restored. I tried the garage light, and it's on. Problem is that the house is locked. Tried to contact David but haven't yet been able to reach him.

D

On Thu, Jul 6, 2017 at 3:02 PM, Diana Chomsky <[REDACTED]> wrote:

Thanks for your message. I guess it's not productive to continue this conversation by this medium at this point. If you have questions about anything we've brought up we suggest that you speak directly to the people administering those affairs.

It sounds like you're all having a good time at the Cape and the weather has been lovely. Those of us who couldn't make it this time are sorry to have missed it! and hope to be able to catch up soon.

Love, Avi, Diane and Harry

From: Noam Chomsky <[REDACTED]>
To: Diana Chomsky <dchomsky@oxfam.org.uk>, Avi Chomsky <achomsky@salemstate.edu>, Harry Chomsky <[REDACTED]>
Cc: Valeria Chomsky <[REDACTED]>
Date: 06/07/2017 08:33
Subject: Fwd: taxes

No need to find any of this painful, and no point in spending time up and back with Max. As I explained, none of what we're now discussing has anything to do with our decision to move or other major decisions, all being taken on entirely different grounds. And no reason for you to be concerned about our financial situation, which is well in hand..

You mention other examples. If there are any, I'd of course like to know about them. All I knew about, until your last letter, had to do with the interest on the loan. You brought up another matter that I didn't know about: DNI payments to me. As I wrote, I would like to know about them, since there is no record in what has been sent by Bainco. But that's easily cleared up without our wasting any time.

The only other issue has to do with what the promissory note says about the interest on the loan, again, easily resolved. What remains is a passage that we're interpreting somewhat differently, but that too is very easily resolved without any meetings: simply have the promissory note rewritten to state explicitly what interest is to be paid when we pay back the loan. And that's basically up to you. Nothing else has to be mentioned about non-existent loans. And there's no reason for any of us to waste precious time simply to resolve matters that are easily settled just by mail.

With regard to Max, he and I agreed some time ago that he was in a difficult position representing both Valeria and me on the one hand, and the rest of the family on the other. There are no difficulties in that, but it's best to resolve the matter cleanly. So we agreed that he would represent the rest of the family while Valeria and I have all of our affairs separately, which is how it has been working since. So there's no reason to bring Max into this apart from rewriting the promissory note to resolve any ambiguities.

Again, nothing painful, no reason for concern, what is still unclear has nothing to do with any of our decisions and can easily be resolved without difficulty or delay.

D

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

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

Date: Tue, Jul 4, 2017 at 4:17 PM

Subject: Re: taxes

To: Noam Chomsky <[REDACTED]>

Cc: Avi Chomsky <[REDACTED]>, Harry Chomsky <[REDACTED]>, Valeria Chomsky <[REDACTED]>

Hi,

What worries us about continuing to try to clear it all up in writing is that it isn't efficient or effective. There's lots of time-consuming, expensive back-and-forth with Max in order for us to give you responses which are obviously not clear because they only lead to further questions. What's your objection to a meeting? Cutting out the middle-man/woman (us) would almost have to be more effective. At the very worst, it can't hurt, and it could help. We don't understand why you have repeatedly refused to consider this, unless of course there's some issue there on your side that we're not aware of.

However, we'll give this one another try in writing anyway, since we do have more detailed information now.

The paragraph you quoted from the Promissory Note specifies interest rates under two different conditions: 1) when there is a loan outstanding between the Marital Trust and Pershing; 2) when there is no such loan outstanding. At the moment there is no such loan outstanding. Therefore, the interest rate that applies is the Mid Term Applicable Federal Rate. A quick web search shows that this has hovered between about 1.5% and 2% during the past couple of years.

The language you are disturbed by -- "the highest rate in effect" -- does not apply in the current circumstances. It did apply when the loan was new, because the Marital Trust borrowed money from Pershing in order to raise money to lend to you.

However, that secondary loan was paid off once the Lexington house was sold. Since that time, there has been no outstanding loan between the Trust and Pershing, and your interest rate has been governed by the Mid Term Applicable Federal Rate.

As we all know, legal language can be abstract and thus difficult or impossible to interpret correctly without having the context. Example: Without knowing about the second loan, it is not possible to understand what the promissory note means. Another example: Without having the terms and conditions of the trust at hand, it is not possible to glean from the promissory note that the interests - in effect - are returned to you.

These are just two examples of many, as we've said before.

In general, we are finding this discussion extremely painful. We feel like you are immersed in an alternative world-view which is distorting your interpretation of what is going on. You may very well feel the same about us. Can't we try a different approach?

Love, Avi, Diane and Harry

From: Noam Chomsky <[REDACTED]>
To: Avi Chomsky <achomsky@saalemstate.edu>, Diana Chomsky <[REDACTED]>, Harry Chomsky <[REDACTED]>
Cc: Valeria Chomsky <[REDACTED]>
Date: 01/07/2017 23:18
Subject: Re: taxes

I should make it clear to start with that none of this bears on our decision to move to Tucson. That has quite different motives.

We do of course have to face our financial situation: reliance on a diminishing IRA (and another very small one) with no access to other funds, and the burden of paying for an apartment that I agreed to buy only on the mistaken assumption that the cost would be paid by the Lexington house.

What we're discussing is something else: the nature of the loan from the Trust.

The final version of the Promissory Note that was provided to me reads as follows:

"Interest on the balance outstanding shall be payable at a rate equal to the highest rate in effect from time to time on any one or more loans outstanding

between-Lender and **[insert full name of Pershing entity]**, or if no such loans are in existence, then the rate shall be fixed at the so-called Mid Term Applicable Federal Rate in effect at the time, recalculated monthly in accordance with Section 1274(d) of the Internal Revenue Code, or any successor thereto. Interest due on each Loan shall be calculated based on a 360-day year and the actual number of days elapsed."

There is nothing here, or elsewhere in the document, that restricts it to the brief period before the sale of the Lexington house.

I have no information at all about having received any DNI. If there is such information, it should be sent to me so that I can use it for our own plans.

I don't see much point in a meeting. It seems to me that all of this can be cleared up in writing.

D

On Sat, Jul 1, 2017 at 7:32 PM, Diana Chomsky <[REDACTED]> wrote:
Hi, thanks for your reply.

We are very, very concerned that you are not understanding and not getting help in understanding what is happening with your finances. Your responses below only increase our concern. The three of us are not able to serve as financial advisors. We urge you strongly to speak directly with Max so that he can clarify what he says in the Memo and explain what the Promissory Note language means.

Just to give you one example of our concern: You focus on one phrase: that the interest will be "at the highest rate in effect." But you are taking those words out of context. We really don't think we should be trying to explain these details to you, but to try to summarize: this phrase applied to the double nature of the loan—the Marital Trust had to borrow money from Pershing to make the loan to you, until the Lexington house was sold. The phrase you quote applies only to that brief period, and has no impact on the interest accruing now or in the future.

We can see why focusing on those six words would make you angry. But the six words mean nothing in and of themselves (i.e., what rate is "in effect"?). But instead of doing the logical thing—getting the full information—you are just so angry that you refuse to find out the truth.

Again, this is just one example of where you are stating conclusions based on faulty or incomplete information. There are explanations for your other issues as well (how the DNI is paid to you, how the interest payments can be made, etc) but rather than us trying to summarize the information for you here, we think it would make more sense for you to discuss them with the people who set all of this up, in the context of a broader conversation. Reading your response only redoubles our sense that you are simply misreading important elements of your entire financial situation, and that you are making big decisions based on faulty information. We feel that you have painted yourself into a corner, in which you arrive at the worst possible interpretation of complex legal language, and then refuse to speak with the very people who could explain it to you, and just get angry at them based on your misinterpretations.

We beg you once again to meet with us and with the people who set up the Trust, the loan, etc., to clarify these issues.

Love, Avi, Diane and Harry

From: Noam Chomsky <[REDACTED]>
To: Diana Chomsky <[REDACTED]>
Cc: Avi Chomsky <[REDACTED]>, Harry Chomsky <[REDACTED]>, Valeria Chomsky <[REDACTED]>
Date: 30/06/2017 19:41
Subject: Re: taxes

Glad to see the memo. I compared the memo with the original document, the promissory note that is the official signed agreement. The memo is in error about the promissory note. The facts are as I already described them. A few comments interspersed into the memo you sent, attached.

I don't see any point in discussions with Max and Bainco. The facts seem completely clear.

If there are other issues, I'd of course be glad to know about them.

I hope we can settle all of this quickly.

D

On Fri, Jun 30, 2017 at 1:56 PM, Diana Chomsky <[REDACTED]> wrote:

As promised, please find attached a memo with information about the Marital Trust, and in particular the conditions on the loan from the Trust, which are somewhat different from what you indicated to us in your previous email.

We have thought for a long time that you have misunderstood key aspects of the financial situation. This is why we have been asking you to meet with us and with Max and Bainco. The issues discussed in this memo are only one part of the picture. We still think that the meeting we have been urging is important and could clear up other issues.

Love, Avi, Diane and Harry

From: Noam Chomsky <[REDACTED]>
To: Avi Chomsky <a[REDACTED]>, Diana Chomsky <[REDACTED]>, Harry Chomsky <h[REDACTED]>, Valeria Chomsky <[REDACTED]>
Date: 26/06/2017 17:37
Subject: Re: taxes

We're in the process of arranging our finances with the impending sale of the apartment and the move to Tucson, and would like to clear up some unsettled questions.

In my letter to you I outlined what I have determined about the matter. In your letter you said that you think the facts about the Marital Trust and the conditions on the loan from the Marital Trust and the way the interest works are different from what I understand, and that you have different facts.

You said you were working on a memo to lay out the facts as you see them. Any progress on this? I'd like to clarify this so that we can settle just what the facts are.

D

On Tue, May 30, 2017 at 5:46 PM, Avi Chomsky <[REDACTED]> wrote:
[Hi Doddoy,](#)

It was great to see you yesterday. It was really hard for me to tell from your conversation, and from your message, how the different factors are playing into your decision to move to Tucson. As I said—if it's what you want to do, then of course we support it.

But we do indeed think the facts about the Marital Trust and the conditions of the loan from the Marital Trust and the way the interest works are different from what you understand. We are still worried that you are making the decision based on, for example, your understanding of the Marital Trust loan and the way you understand the interest payments on this loan. We do indeed have different facts about how that loan was set up so that the interest would not be a burden on you. We are working on a memo that lays out those facts. We don't know if these facts are relevant to your decision to move, but we do think it's important for you to have them. We should be able to get you this in a document in a few days.

[Love,](#)

[Avi, Diane, and Harry](#)

From: Noam Chomsky [mailto:[REDACTED]]
Sent: Saturday, May 20, 2017 4:18 PM
To: Diana Chomsky <[REDACTED]>

EFTA01040508

Cc: Avi Chomsky <[REDACTED]>; Harry Chomsky <[REDACTED]>
Subject: Re: taxes

Just back from a couple of days in England, packed with talks, interviews and the rest. Valeria and I had thought of staying on for a few days for ourselves, but we can't manage that these days, due to very intense commitments.

Turning to your letter, about the family relationship, we can put that aside. That's stable, enduring, permanent.

The rest of the letter, however, I find puzzling. I'll explain. And these are matters we ought to clear up.

You say that there is "some major disagreement about what the basic facts are" and that there is a difference of perspectives. That's what I find puzzling. I don't know of any disagreement about the basic facts, and I know of only one perspective: the one I outlined in my letters. I reported what the facts are -- will review the matter briefly again below -- and outlined my perspective, based on the only relevant facts I know of, which to my knowledge are complete. I'm not aware of any other relevant facts, hence see no basis for any other perspective (whatever that perspective may be).

If I'm missing some facts, basic or not, I'd of course like to be aware of them, and also of the source for them so that I can check and discover on what the picture is based. But since I haven't heard of any other facts beyond those I outlined (and more that simply fill out the same picture), I don't understand the disagreement and don't see any alternative perspective. And I don't understand the suggestion about an outside "expert." In fact, find the suggestion very strange, and would even if there were some factual basis for it. Even stranger when there is no factual basis, as far as I am aware -- and if there is, again, I'd like to know what it is and, crucially, what is the source. So far I haven't seen anything.

To review the basic facts briefly, Mommoy and I worked out the estate planning a long time ago, with Eric Menoyo and (later) Palmer Dodge when he moved there. Our general plan at that time, about 20 years ago, was for everything to go to you after the two of us died. We took for granted that M would survive me. Therefore, putting aside the trusts designated specifically for you, the rest (apart from IRAs) was put in trusts in M's name for her to access for the rest of her life. The intention, of course, was that these would be accessible to the survivor -- and we took for granted that M would survive me.

Things didn't turn out as we expected. It turned out, contrary to our assumptions, that I was the survivor, not M. And when I remarried, things changed again. Because the pension went almost entirely into M's trust, what remains of the pension is very small, actually less than Social Security. And, importantly, it doesn't go to Valeria after my death. And I have no access to the trusts, only to one IRA (and another small one).

I wasn't paying much attention, but we discovered that until last year, the one IRA to which I have access was being used to distribute money to the family, up to the legal limit, which amounts to about half the annual required withdrawals from the IRA. Furthermore, taxes and management fees for the whole estate, most of which we have no access to, were being withdrawn from our IRA, carrying us well beyond the required withdrawal. In addition there were other expenses, like Wellfleet (\$50,000 annually), Alex's annual medical bills, Max's bills, and others. That has all led to rapid depletion of the IRA -- again, the only source we have access to in the estate. We were therefore compelled to make extra withdrawals, since there is almost no other source of income and we have other regular expenses (like Anthony). The family distributions along with full taxes and management fees for the whole estate, exhausting the IRA, made no sense, but it was my fault for not paying attention and simply assuming that sensible decisions were being made. Wrongly it turns out.

The same was true of the decision to move from Lexington to the Cambridge apartment. I had assumed, mistakenly, that I owned the Lexington house, and that the sale would cover the purchase of the apartment. Turns out that that was mistaken and the three of you actually owned the house -- again, my mistake; not paying attention. We also received very poor advice. We should never have bought this apartment, which we can't possibly afford. I had assumed that the proceeds of the Lexington house would come to me when the house would be sold. Therefore, we followed Max's and Sam's advice and took out a mortgage for half the price of the apartment, and a loan from one of your trusts (that is, a trust in M's name) for the other half, in order to buy the apartment, expecting that as soon as the Lexington house sold, we would immediately pay off the mortgage and the loan. Of course, that never happened, since the house was not mine. We therefore have to deal with the mortgage and the loan.

The mortgage we have been paying it off slowly. The much bigger problem is the loan -- which, it turns out, has a substantial interest rate, so that it grows every year. We not only have to sell the apartment, which is too expensive for us, but to do so quickly, or it will never be possible to pay off the loan from the trust, which grows every year. More bad advice.

We're dealing with all of this. We've cut back our life styles to below what either Valeria or I had been used to in the past -- not poverty of course, but cutting back on lots of things. And we're making plans to accommodate to the circumstances, which we'll tell you about when they are in place.

For me, it's of course a great relief that all of you will be financially quite well off when I die. But I also want to make sure that Valeria will be able to be independent just as she was all her life. We're very happy together. Her coming into my life was not only a surprise -- I'd expected to spend my last years alone -- but also a real blessing for me. Valeria has given up quite a lot, for all the obvious reasons: family, her life in Brazil, and so on. I don't have to explain why I'm concerned about her welfare after I die.

Those are the basic facts. If there is something I'm overlooking, or unaware of, I of course would like to know about it -- and also to know the source, because it would be quite a surprise and I'd like to check. I've looked into all of these matters carefully and think I have a complete picture. This is something I'd never done in earlier years, simply placing my trust in others -- not always wisely, it turns out.

For these reasons, I don't see what the disagreement is about, and don't know what any other perspective could be based on. And I think all of this should be cleared up, as quickly as possible.

And to repeat the obvious, our relationships are unaffected. They remain what they always were: loving, caring, stable and permanent.

D

On Tue, May 9, 2017 at 6:38 PM, Diana Chomsky <[REDACTED]> wrote:

Dear Doddoy,

We read with distress your last exchange with Harry about the Marital Trust, as well as your long letter to the three of us from January. It seems like there is some major disagreement about what the basic facts are. It's easy to understand why you would be angry with us, based on your understanding of the facts - although we are operating out of love and concern for you, not out of greed for ourselves, it is clear to us that you don't see it this way. Although it is very upsetting to us to see this and to realize how you are interpreting our decisions, it does feel like at this point there is probably nothing to be gained from arguing about the facts. As long as we're not able to sit down and talk about the situation with some expert guidance, we probably won't be able to reconcile our perspectives. We just wanted to reiterate that despite these deep differences in understanding, our family relationship is very important to us and we love you very much and hope that our relationship with you can continue - all three of us.

Love, all three

From: Noam Chomsky <[REDACTED]>
To: Harry Chomsky <[REDACTED]>
Cc: Avi Chomsky <[REDACTED]>, Diana Chomsky <[REDACTED]>

I'm sorry that I have not made myself clear.

You are the trustee for the marital trust, not for my assets. We are in charge of our assets. There are no mixed signals.

As I have explained, the marital trust was set up many years ago on the assumption that the funds would be available both to Carol and me, and to the survivor -- which we took for granted would be Carol, which is why it is in her name. After I appointed you as trustee a few years ago, you certainly have the legal right to determine whether funds should be available, even for partial tax payments as in this case.

I am indeed surprised, in fact shocked, that you feel that you cannot permit a small payment from the marital trust -- even less that what I was providing annually as distributions and for Alex's health care -- without insisting on some professional supervision of my financial affairs. It of course never would have occurred to me over the years to ask for anything similar.

That is the sole issue. Nothing else. We take care of our own financial affairs, just as you do of yours. It is no one else's concern. The marital trust, and that alone, is your proper concern, since the time when I appointed you as trustee. I will not ask for anything further from the marital trust, and there is no reason for you to ask again to be involved in our financial affairs.

D

On Wed, Apr 19, 2017 at 2:00 PM, Harry Chomsky <[REDACTED]> wrote:
Dear Doddoy,

It sounds like you are very angry about my decision yesterday, and I'm deeply sorry that it has come to this. I still hope that we can sit down at a meeting someday and resolve this. I'd like to use the funds from the marital trust to support you, but I can't do that without some understanding of your overall financial picture. If we were to meet with any professional advisor of your choosing, I'm confident we could work out a plan that ensures your long-term solvency and comfort, helps Valeria after your death, and uses the marital trust in a way that we both agree is reasonable and sustainable. It would be up to you how much detail to share with me at this meeting and how much to keep private. The more I understand your circumstances, the better I can fill my role as trustee.

You are sending me mixed signals about whether you want me involved in your financial affairs or not. Several times you've declared that your own IRA is plenty, you are managing fine without using the marital trust, and you don't want to discuss it with me anymore. But yesterday you came to me out of the blue, demanded a six-figure sum on three hours' notice, and reacted angrily when I insisted on taking time to discuss it first. You can't have it both ways. I am the trustee for part of your assets, like it or not, and you have to decide whether to include me in a genuine ongoing conversation (with professional advice) about your finances, or forgo your access to this money. I'd like to know which it is going to be. Please don't ask for further trust distributions until we have begun a conversation. I will be ready for the conversation anytime you like.

On Tue, Apr 18, 2017 at 11:18 AM, Noam Chomsky <[REDACTED]> wrote:
It's hard to express my feelings about your unwillingness to permit the marital account to contribute to the taxes, or the demand for inspection and review of our financial affairs.

Hardly the pattern for many years, but we will manage on our own.

D

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