

From: Noam Chomsky <[REDACTED]>
To: Harry Chomsky <[REDACTED]>
Cc: Avi Chomsky <[REDACTED]>, Diana Chomsky <[REDACTED]>
Bcc: jeevacation@gmail.com
Subject: Re: Marital Trust
Date: Mon, 21 May 2018 19:30:23 +0000

Sorry, I made the same error as before. I'm finding it hard to shake the illusion that we are discussing things within a family, and are not characters in *Bleak House*. I'll try to remember. Below.

On Sun, May 20, 2018 at 9:19 PM, Harry Chomsky <[REDACTED]> wrote:

It sounds like you would like me to say yes or no to your proposal exactly as you have stated it, without further discussion. I can't do that. Here are some reasons:

1. It's not permitted under Massachusetts trust law.

Can you -- or perhaps your lawyer -- refer me to the part of Mass Trust Law that makes it illegal for beneficiaries to agree on distributing funds from a marital trust and then liquidate it? I can't find it.

1. I agreed to certain obligations when I became trustee, and I have to make sure to discharge them faithfully. Even if you tell me you don't care about my fiduciary responsibility, the law says I'm responsible anyway.

Your solemn obligations are no doubt impressive, but there is an easy way to put them to rest. Simply resign (permitted under Mass law) and then you will have no further obligations. We can then return to the situation before I appointed you to be a trustee, when I was a trustee and there were no problems about fiduciary responsibility -- that was before the transition from family to *Bleak House*.

1. It's not specific. For instance, you mention dividing the trust into two parts, but you don't say what each part would consist of.

Correct. I left that for discussion, still laboring under my illusions. So I therefore suggest that you propose what you think would be an appropriate split and we can proceed from there.

1. It's not complete. For instance, you haven't proposed any way to shield us and Max from liability for past actions.

I hadn't realized that you are concerned that your past actions might make you legally liable. But this too can be handled easily. I'm sure that your lawyer can construct some document to protect you from whatever those past infractions were, and since I still labor under my old illusions, that will suffice.

However, given your assumptions, we should definitely have ironclad agreements, with batteries of lawyers and notaries and witnesses, including an agreement that you will not contest my will, something that had never crossed my mind before I learned about your assumptions -- which, I admit, I'm still having trouble comprehending.

It might be possible to work out all of these problems and develop a legal, specific and complete agreement based on the framework you've proposed. Would you like to engage with me in some kind of process to attempt that? Other than having your lawyer talk to mine, do you have any suggestion about how to do so?

Very simple. Proceed as above

On Sat, May 19, 2018 at 2:26 PM, Noam Chomsky <[REDACTED]> wrote:

I'm glad that you find the idea interesting and think that you might consider it, though you have to consult lawyers first.

My own view is different. To me the proposal I suggested seems to be a very simple way of settling this matter, which to me is extremely troubling. I realize that this is just another case of a longstanding difference in the way we approach these problems, a difference that has been clear ever since we were discussing the interest on the loan from the Trust and found that we could not communicate because I mistakenly assumed that it was a discussion among family members while your letters made it very clear and explicit that you saw it as a legal issue to be settled among lawyers and Bainco, perhaps with a mediator in the adversary proceeding. All matters I find it very hard to comprehend, and to live with, but so be it.

So by all means consult with your lawyer, or perhaps a battery of lawyers, to make sure that your interests are properly protected. I don't need any lawyer's advice. The matter is perfectly clear and straightforward. So there is no reason for me to hire a lawyer to deal with the question and to have a lawyer contact yours and initiate a discussion in which we all participate.

The matter is very simple. We can proceed without delay if you agree to settle the issue in the simple manner that I suggested.

As for your proposals in your letter of March 29, as I wrote you, the letter was so shocking that it was hard for me to bring myself to respond, but I did, in detail, but decided not to send it. Perhaps I should. Will think about it.

As for your proposals, my response was the obvious one. I'm sorry for the stress you had to endure, but your efforts were a waste of time for reasons I had already fully explained before you undertook them. As I'm sure you recall, a few years ago, I requested tax payments from the marital trust when my IRA was being rapidly depleted by my advisers who were distributing half to family and using the other half to pay management fees and taxes for the entire estate, so that to pay Alex's medical expenses and the expenses for Wellfleet I had to withdraw excess funds with exorbitant taxes, all that before withdrawing even a cent to live on again with exorbitant taxes. Your response was to refuse the request unless I agreed to intrusive and insulting financial investigations -- of a kind I never considered when providing funds to you for something you needed. I made it clear and explicit at the time that I would not submit to this procedure. Since your efforts and proposals simply repeat the same procedure, they were a waste of time.

There were some things in your letter that were correct. You're right that despite what has happened, I'm still a "wealthy man," with income well above the median, though lacking a pension and accumulated property, not at the level of my peers. Furthermore, I can supplement my income by teaching large undergraduate courses, something I'd never done and that is not that common for people approaching 90, but something that I enjoy. And you too are a wealthy man, for the same reasons: the reasons are that I've worked hard all my life, lived fairly simply (and live even more simply today), and was therefore able to put aside enough money to ensure that my children and grandchildren are very well cared for, indefinitely.

But I again suggest that we put all of this aside, and deal quickly and simply with what appears to be the one outstanding issue: dividing the Marital trust and then dissolving it, all very simple, needing no lawyers, at least on my part.

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On Fri, May 18, 2018 at 1:44 PM, Harry Chomsky <[REDACTED]> wrote:

This is an interesting idea. We could consider it further, but I would need the advice of my lawyer — and I assume you would want your own lawyer's advice as well — to ensure that any agreement we reach is consistent with Massachusetts law and satisfies the interests, needs, and obligations of everybody involved. Perhaps, as a next step, you could ask your lawyer to contact mine and begin a discussion in which we all participate.

I'm also curious to hear your thoughts about the proposals I suggested in my message on March 29th.

On Thu, May 17, 2018 at 10:05 AM, Noam Chomsky <[REDACTED]> wrote:

As I wrote a little while ago, I did write a long response to your last -- deeply depressing -- letter, but decided not to send it. I may return to that letter later but will keep to some factual matters that ought to be cleared up.

But now I'm writing just about one point, which seems to be the core of the problem -- a problem, which, again, I don't understand. But let's put that aside, though I hope we can clear it up soon. All of this is a painful cloud that I never would have imagined would darken my late years.

The core issue seems to be the marital trust. I've explained how M and I actually set it up with Eric, which seemed to us just plain common sense. I've also explained Max's different interpretation. I've asked you for yours, but haven't heard it. But let's put that aside too, and just resolve the matter, as can be done very simply -- with no need for lawyers to explain the fiduciary responsibility of the trustee I appointed years ago to replace me, something I never paid any attention to before.

The simple solution is to divide the trust into two parts. One part will go to you, to use as you wish. One part will go to me, for me to use without any investigations of my financial situation and other such intrusions that I won't accept. Then the trust can simply be dissolved, and it is all over.

So I suggest that we proceed this way, and end the whole matter -- at least, whatever it is that I understand about what is of concern to you.

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