

---

**From:** Richard Kahn <[REDACTED]>  
**Sent:** Friday, April 6, 2018 5:58 PM  
**To:** jeffrey E.  
**Subject:** Fwd: Working to resolution

Richard Kahn  
HBRK Associates Inc.  
575 Lexington Avenue 4th Floor  
New York, NY 10022  
[REDACTED]

Begin forwarded message:

**From:** =/b>Max Kohlenberg <[REDACTED]>  
**Subject:** =/b>RE: Working to =resolution  
**Date:** =/b>April 6, 2018 at 1:54:47 PM =DT  
**To:** =/b>'Richard Kahn' [REDACTED]

Thanks Rich.

-----Original Message-----

**From:** Richard Kahn =mailto:[REDACTED]  
**Sent:** =riday, April 06, 2018 12:40 PM  
**To:** Max Kohlenberg  
**Subject:** Re: Working to resolution

max,

if preferred noam can pay =he 500k back to the trust, take the full 3 million =istribuiton and gift the children 500k, same day. for =xmples.

Richard Kahn  
HBRK =ssociates Inc.  
575 Lexington Avenue 4th Floor

On Apr 11, 2018, at 9:05 AM, Max Kohlenberg <> wrote:

Rich -

I'm afraid I don't agree that negotiating the amount the children will receive needs to be gotten out of the way first. I think the first step is to figure out which of the three alternatives that we've discussed are actually viable. I am not concerned about Mass. law, but if a "carve off" for the children can't be accomplished without triggering a retroactive state tax (with interest and penalties) then it may be that the trust (at some agreed rate) will be the only alternative worth considering. I am looking into that (as I said) and I will also calculate the tax cost if we do follow a course that results in loss of the marital deduction, in case that cost turns out to be little enough not to dissuade us from an approach that triggers it. If my concerns turn out to be unfounded that will be great, of course, but some review of this issue at your end (whether by Beth Tractenberg or some other attorney trusted by Noam) would be helpful.

As noted, given the children's concern that the money doesn't run out during Noam's lifetime, I'd really like to see what the annuity figures might be for a life annuity (as opposed to a fixed term annuity). That could be run assuming funding with \$2M. The result would provide us with a baseline which we could scale from depending on what amount might actually end up being allocated to the children.

I am also following up with Noam's daughters, as noted.

Max

A. Max Kohlenberg  
Howland Evangelista Kohlenberg Burnett, LLP One Financial Plaza –  
Suite 1600 Providence, Rhode Island 02903



[www.hekblaw.com](http://www.hekblaw.com)

This email and any attachments hereto are intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this email, you are hereby notified that any dissemination, distribution or copying of this email, and any attachments thereto, is strictly prohibited. If you have received this email in error, please immediately notify me by return mail and permanently delete the original and any copy of this message or attachment. Thank you.

-----Original Message-----

From: Richard Kahn <[REDACTED]>

Sent: Thursday, April 05, 2018 12:34 PM

To: Max Kohlenberg

Subject: [REDACTED]

the first issue is the amount that the children will claim belongs to them. . lets get that out the way. I have taken you at your word as you said that as definitely not the hold up as they only wanted to make sure the assets were there for noams lifetime. the annuity can be custom structured for a guaranteed 5 year 8 or 10 year payout, for noam and his estate. the trust could buy the policy, no violation of mass law. I expect noam to receive 2 million dollars of the 2.5 and the children can have the balance. we will need to deal with the 500k note. Beth will join the litigation if needed be, so no advice for the moment.

Richard Kahn  
HBRK Associates Inc.  
575 Lexington Avenue 4th Floor  
New York, NY 10022  
[REDACTED]

On Apr 5, 2018, at 10:28 AM, Max Kohlenberg <[REDACTED]> wrote:

Rich -

I will definitely be in touch with any questions (today if I can).  
But a resolution today will not be possible. Harry is considering the alternatives you've suggested, as am I. I will also want to review the alternatives with noam's daughters. (As I have noted, although they are not trustees they remain essential parties to any settlement.)

In addition to the substantive pros and cons of each approach, I will also need to consider the tax implications of the various alternatives that have been suggested (annuity, unitrust or division/distribution), since we don't want any resolution to constitute an impermissible disposition of a marital trust, as that would trigger very substantial Massachusetts and federal estate taxes, interest and penalties, based on the retroactive disallowance of the marital deduction taken at the time of Carol Homsky's death. With respect to this aspect, if Beth Tractenberg is already familiar with this case, perhaps we could have the benefit of her insight on these issues? I would be grateful for that.

With respect to the annuity alternative, I'm not entirely sure I understand the materials provided by Jarad Minsky. In particular it's not clear to me whether the annuity illustration shows a five year payout, with no further payments even if Noam is still living in 2023, or whether it illustrates a minimum five year payout even if Noam dies during that time period). Would you have any objection to my speaking with Jarad directly to clear up that question and perhaps others)?

Thanks,

Max


A. Max Kohlenberg  
Howland Evangelista Kohlenberg Burnett, LLP One Financial Plaza –  
Suite 1600 Providence, Rhode Island 02903



[www.hekblaw.com](http://www.hekblaw.com)

This email and any attachments hereto are intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this email, you are hereby notified that any dissemination, distribution or copying of this email, and any attachments thereto, is strictly prohibited. If you have received this email in error, please immediately notify me by return email and permanently delete the original and any copy of this message or attachment. Thank you.

-----Original Message-----

From: Richard Kahn [mailto:  
Sent: Thursday, April 05, 2018 9:26 AM  
To: Max Kohlenberg  
Subject:

I'm hoping for a resolution today. If you have any questions please let's set a time to speak. Thank you

Richard Kahn  
HBRK Associates Inc.  
575 Lexington Avenue 4th Floor  
New York, NY 10022



On Apr 4, 2018, at 9:09 AM, Max Kohlenberg <[REDACTED]> wrote:

Thanks for this Rich. I will review it (and the prior email with attachments). I will get back to you ASAP with any questions.

A. Max Kohlenberg  
Howland Evangelista Kohlenberg Burnett, LLP One Financial Plaza -  
Suite 1600 Providence, Rhode Island 02903



[www.hekblaw.com](http://www.hekblaw.com)

This email and any attachments hereto are intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this email, you are hereby notified that any dissemination, distribution or copying of this email, and any attachments thereto, is strictly prohibited. If you have received this email in error, please immediately notify me by return email and permanently delete the original and any copy of this message or attachment. Thank you.

-----Original Message-----

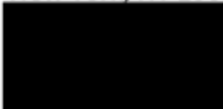
From: Richard Kahn <[REDACTED]>  
Sent: Tuesday, April 03, 2018 5:15 PM  
To: Max Kohlenberg  
Subject:

max:

without noams approval: which i would undertake to get - we can do a guaranteed 5 year payout for the 2 million leave the balance for harry and sisters.

if noam passes the balance of the 5 year goes to his estate... easy

Richard Kahn  
HBRK Associates Inc.  
575 Lexington Avenue 4th Floor  
New York, NY 10022



=