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**From:** Richard Kahn [REDACTED]  
**Sent:** Friday, April 6, 2018 3:07 PM  
**To:** jeffrey E.  
**Subject:** Fwd: Working to resolution

max just called my office line and this time i wisely did not pick up you may want to call him..or i can send another mail...

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

Begin forwarded message:

**From:** Richard Kahn [REDACTED]  
**Subject:** Re: Working to resolution

**Date:** April 6, 2018 at 10:58:37 AM -04

**To:** Max Kohlenberg [REDACTED]

not sure of your concern  
can you please provide more details..  
thank you

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On Apr 2, 2018, at 9:05 AM, Max Kohlenberg [REDACTED] 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  
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-----Original message-----

From: Richard Kahn [REDACTED]

Sent: Thursday, April 5, 2018 12:34 PM

To: Max Kohlenberg

Subject: =br class="">

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 Noam's 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.

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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're 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

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

From: =ichard Kahn [REDACTED]  
Sent: =ursday, April 05, 2018 9:26 AM  
To: Max Kohlenberg  
Subject:

I'm hoping for = resolution today . If you have any questions please  
lets =et a time to speak. Thank you

Richard Kahn  
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On Apr 4, 2018, at 9:09 =M, Max Kohlenberg [REDACTED] wrote:

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

A. Max Kohlenberg  
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-----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

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