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**From:** Richard Kahn <[REDACTED]>  
**Sent:** Tuesday, July 10, 2018 12:16 AM  
**To:** Jeffrey Epstein  
**Subject:** Fwd: Marital Trusts -

Richard Kahn  
HBRK Associates =nc.  
575 Lexington =venue, 4th Floor  
New York, NY =0022  
tel [REDACTED]  
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cel [REDACTED]

Begin forwarded message:

From: =/b>Noam Chomsky <[REDACTED]>  
Subject: =/b>Fwd: Marital =rusts -  
Date: =/b>July 9, 2018 at 6:25:58 PM =DT  
To: =/b>Max Kohlenberg <[REDACTED]>  
Cc: Richard Kahn <[REDACTED]>

Thanks for the comments. A few =ore of my own, for clarification. In red.

I should add =hat Harry's recent behavior, including this utterly outrageous =ocument, might make it necessary to go to litigation. The last =hing I want, but he may force me to it. If necessary, I may have =o make public the way the Trustees have handled the Trust since 2009, =hen I appointed Harry as trustee to replace me. Many serious =uestions. It is the last thing I want to =e driven to, but there are some very ugly things in this proposal, not =east the very clear implication that Valeria somehow wanted to marry an =lder man for the money and that she caused the increase of expenses -- =asily refuted, it's easily documented that the cause was diversion of =RA funds for the benefit of the children and the exorbitant tax bills =esulting. All so disgraceful I'm not going =o let it stand.

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

From: =b class="gmail\_sendername">Max Kohlenberg [REDACTED]  
<mailto:[REDACTED]>  
Date: Sun, Jul 8, 2018 at 5:02 AM  
  
Subject: RE: Marital Trusts  
To: =oam Chomsky <mailto:[REDACTED]>  
Cc: Richard Kahn =lt;mailto:[REDACTED]>>

Noam –

I'm not sure if you wanted further comments from me before responding to my message in greater detail, but I have added a couple of comments below in black text, here it seemed that a reply to your comments was appropriate.

I will look forward to your fuller response in due course, if you are so inclined, but again noting that while providing me with the financial information that I've asked for would be helpful, you may instead want to focus on the subject of selecting my successor, and then to establishing with him or her a better understanding about distributions from the trusts.

=/div>

Max

A. Max Kohlenberg

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=/span>  
<=iv dir="ltr" class="">  
From: Noam Chomsky [mailto: [REDACTED]]

Sent: Sunday, July 08, 2018 1:34 AM  
To: Max Kohlenberg  
Cc: Richard Kahn  
Subject: Fwd: Marital Trusts

=/div>

Before responding to your letter =n full, I would like to clarify a few matters. Interspersed =elow.

Noam

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

From: Max Kohlenberg <[REDACTED]>  
Date: Sat, Jul 7, 2018 at 4:43 AM  
Subject: Marital Trusts  
To: Noam Chomsky <[REDACTED]<mailto:[REDACTED]>>  
Cc: Richard Kahn <[REDACTED]<mailto:[REDACTED]>>

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Noam -

Thank you for your reply. As you indicate that you are not being represented by counsel I will reply directly to you, with a copy to Rich (as you suggest). Please consider:

1. As a starting point, let me note that I think you and Rich may have misunderstood (at least initially) the terms of the settlement that Harry proposed through his attorney. Rich and I discussed this in a call about 10 days ago and I'm hoping that misunderstanding has been cleared up, but as I'm not a party to your exchanges (and Rich's exchanges) with Harry's attorney I can't be sure. I'm also not certain whether the terms of the proposed settlement have changed. All I can say for sure is that characterizing the offer as one in which distributions to you cannot exceed \$100K per year is not consistent with my understanding of what has been offered.

The reason why the proposal is too outrageous to discuss has nothing to do with the technicalities of the settlement that Harry is graciously offering. I'll review the background, once again.

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As I've discussed before, the Marital trust was established in Carol's name for tax purposes. The obvious intention, clearly understood by Carol and me, and of course Eric Menouya, was that it would be available to the survivor -- Carol we assumed -- and then what remains would go to the beneficiaries. The idea that I intended that Carol would control "her" funds and I would control mine is too ludicrous to discuss, though I understand the legalistic conjuring that can be adduced to reach this conclusion. As you note, I was not working with you at the time you and Carol drew up your wills and trusts, but what you describe is not consistent with Eric's notes (which I have), nor with the facts as I understand them. You are right that tax savings were a major driver to the planning (and the plan did in fact result in substantial savings of both state and income taxes) but it was not drafted with the expectation that Carol would survive you.

The question of who would be the survivor is irrelevant. Carol and I assumed that she would be the survivor, but there was no reason to tell anyone, and it has no bearing at all on the fact that our intention was that the principal would be available to the survivor, then going to the children

The decision to fund Carol's trust with both financial assets and our Cape and Lexington homes was made when [REDACTED] was already ill and (as far as the notes indicate) with the expectation that she would predecease you.

This is quite surprising, and I would like some clarification. Most important, I don't see how any significant decisions could have been made during those years, who could have made them, or why it was done. Obviously [REDACTED] could not have done so. She had to undergo massive brain radiation as soon as the biopsy was taken, and serious cognitive and physical decline was immediate. Nor could I have been involved. I very much wanted to keep her at home, rather than the only alternative -- a nursing home. I managed to do so for two years, until the end, but it required 24-hour care, and I was in no position to think about such matters. If I had been informed -- don't recall anything of the sort -- I couldn't have paid any attention or granted truly informed consent. So I would like to learn more about these decisions.

Secondly, = don't understand them. How could the Cape and Lexington homes =und the Trust? Did the funds from selling the Lexington house go =o the Trust? How was it funded before. Would appreciate =larification on this.

Of =ourse we knew by then that she would predecease me. It was a =edical miracle that she was able to survive that long, on experimental =rugs, as a last =esort.

The records that I have seen do not =ndicate what your expectations (or Carol's) were as to how the =arital Trusts were to be made available to you after Carol was gone ♦=93 for that the independent trustee of the trusts (whether me or my =uccessor) has to rely on the terms of the trusts themselves, the information that's given by the trust =eneficiaries, and the law surrounding such =rusts.

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I'd be interested, of =ourse, in knowing about the records you have seen, but it would hardly =e surprising if there is no explicit record of what is obvious simply =o common sense. We were a married couple who cared for each other =nd for our children, putting a Trust in Carol's name for tax =purposes. What sort of lunacy would it to set up a Trust for one =f us to have access to but not the other? So of course you are =nlikely to find notes about it. If Harry forces this to =itigation, all of this will have to come up, either in court or in =ublic in some other manner.

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When I appointed Harry to replace me as =rustee, I took for granted that he would handle the trust as I =ad. His behavior since, and this latest proposal, make it very =lear how wrong that assumption was. This proposal calls for him to be =n complete charge, which means, as he has shown, that I can only plead =or some funds by accepting conditions that he knows I will not =ccept. You recall, I presume, that this was true even when I faced an enormous tax bill because my IRA was being depleted for =he benefit of the family.

To refresh your memory, let me repeat =gain what was happening with my IRA until I learned about it. =here is a mandatory withdrawal. Half was being distributed to =amily. The other half was being used for taxes and management fees for the =ntire estate. In order to pay [REDACTED] medical expenses, and to pay =50,000 a year for rent and upkeep on the house in Wellfleet that we had =iven to the children and that I was barely using, I had to withdraw extra funds from the IRA, with the onerous tax =urden. The same when I withdrew something to live on. Under =hese circumstances, Harry refused to release funds from the Trust for =ax relief without onerous and humiliating conditions that he knew I would not accept. Easy to predict what might happen =nder less extreme conditions. It was not until 2017 that I was =ble to overcome the accumulated burden of these actions.

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In the previous paragraph you offer to "refresh=my memory" and in the prior paragraph you say "You =ecall, I presume.....". Without going into detail, = have to note that my recollection of the events you describe is not consistent with yours (though it may not be =ntirely consistent with Harry's either – I am not =ure).

In =y case it is not recollections. When I began to understand what =as happening, I looked into the matter, and have the documents at hand, =including the mail interchanges about Harry's refusal. The rest is =straightforward and unambiguous documents.

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Since my own recollections may be the subject =f testimony in the legal proceeding that Harry has initiated, or in one =hat you may commence, I think it better that I not recite my own recollections =ere.

Note that Harry's exhibit B, beginning with section 9, is utterly false, and consciously so. All of the above has been explained to him over and over. It is not only consciously false, but is framed as a vicious and ugly attack on Valeria, implicitly accusing her of responsibility for the escalation of expenses which, as Harry knows, was caused by the actions just described once again.

For such reasons, Harry's proposal is, as I said, too outrageous to discuss.

2. As you know, Harry's attorney has commenced a legal action that is intended to facilitate my resignation and the appointment of a successor trustee to take my place. Since you've wanted me removed for some time and since I've said (from the first time you and I met) that I only wanted to serve as trustee if all the family members wanted me to serve, I'm looking forward to resigning as soon as the court determines how I am to do so and how my successor is to be selected.

3. Given that my replacement is impending, it might be worth waiting until my successor is in place before responding to my requests for financial disclosure, as it's possible that my successor won't share my views as to what the trustee of the trusts needs to know before making decisions about distributions. Likewise, if my successor will be identified soon it might make sense for me to hold off on any distributions and leave it to the new trustee to work with you on figuring all of this out. In this regard I'm kind of a "lame duck" trustee, wouldn't you say?

4. To the extent that you want to push forward while I remain the trustee, let me again state the basis for financial disclosure by you. It is that, as trustee, I owe a duty to you and I owe a duty to your children (as the remainder beneficiaries of the trusts). For the present my primary duty is to you and it is to distribute to you all income earned by the trusts, net of expenses,

Until I asked about the matter recently, I am aware of no income distributed to me earned from the trusts. I cannot be sure, because I have no record of having received any accounting of what is happening to the trusts, including distributions to others (or as required, to me). Could you then please send me the records on these matters since 2009, when I appointed Harry to replace me as trustee.

=/span>

I provided reports on income, expenses and distributions to Deborah Pechet Quinan last October and I copied those reports to Richard (and updated them) in the last 60 days. I think it might be easiest if Richard forwarded those reports to you, but if he can't for some reason then I will do so when I am back in my office.

I would like to know more about this. Richard Kahn did forward reports to me, but all that I see is from the last few years, after I requested information. I don't have any records for the years since 2009, when I appointed Harry trustee, neither about the income that was supposed to be paid to me or about distributions from the Trust or any accounting of those years. So could you send them to both of us, along with documentation about any distributions that were made. In particular, I would like to know the reason why there is virtually no income from the trust -- whether it was paid to me from 2009 or not. And about the instructions for any distributions that may have been made from the Trust.

and to distribute to you (or pay on =our behalf) additional monies as reasonably needed to the extent that your income from other sources is not =ufficient to support your reasonable expenses.

Notwithstanding your statement that =E2◆◆◆As for the claim about concern for my later years, that has been =horoughly refuted" it =as not been refuted in the context of my trusteeship and it remains my =uty to consider distributions in light of the possibility that you will have a reasonable need for distributions from the trust for many more =ears, and perhaps in increasing amounts, depending on your =ircumstances in the future.

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I didn't respond before but perhaps I should =ave. I will be 90 years old in a few months. I'm not going =o live forever. You know how much is in the Trust. You also =now my spending habits. Harry would not have millions of dollars =f I hadn't been working all my life and saving money for him and his =isters. Despite the ugly implications about Valeria in Harry's =etter, nothing material changed after our marriage beyond what I =escribed and can readily document, with one exception. In =exington, I was living rent-free, the mortgage having been paid years =earlier. Valeria and I decided that taking care of a big house with =steps everywhere and everything else that owning a house in Lexington =ntails -- snow removal, etc., and a difficult drive to work through New =ngland winter weather -- made no sense at my age, and that we =hould move to an apartment close to work with no steps or other =roblems.

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Not your business, but one thing that shocked =e about Harry's letter was his complaint that I moved from a house to a =new home" -- insinuation obvious -- in fact an apartment with no winter =riving to my office and convenient for someone my age.

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5. As for the specifics of disclosure, =hat I need to consider is (a) what your income was in 2017, since that =as the basis for the tax payments you seek to have reimbursed, (b) what your income is likely to be this year and going forward, (c) =hat your expenses were in 2017 and are likely to be in 2018, and (d) =hether any of your income (or other resources) are being used for =purposes that the trust cannot support (such as gifts to third parties). So far, Rich has provided me with some =ough information about your 2017 expenses. There are some gaps in =hat information, but nothing that can't be cleared up pretty =asily (I think). Rich has also assured me that you have not made any gifts that have diminished your resources and I assume you would =onfirm that to me. What I don't have at this point is enough information =bout your income, so that I can consider what the gap is between your =expenses and your income, which is the gap the trusts might help to =lose up. With respect to your income in 2017, all I can see is that your income tax obligations seem to be much higher than they were =reviously. I'm assuming that reflects a jump in income =rom (i) the profit made on the sale of the condominium, and (ii) large =ithdrawals from your IRA. If you want to provide me with more information (bearing in mind what I noted in item #3, above) then =nformation about your 2017 income and what your income is likely to be =his year is what I most need.

There is a very simple reason for the =ncome tax obligations. The depletion of the IRA that I reviewed =gain above imposed a huge tax burden, which we were still attempting to deal with in 2017. After Harry's refusal to release some funds =rom the trust to pay the exorbitant taxes resulting from what was =appening, I of course had to withdraw funds from the IRA to pay taxes =n the whole estate, incurring a new exorbitant tax burden. Despite

some small relief later from the trust after I =ad repeatedly pointed this out, it carried over through the 2017 tax =ill. So for that reason, taxes were extremely high. That =urious episode is at last finally over, leaving many questions unresolved about what was happening while I was paying little =ttention, relying on advisers to ensure that matters were proceeding =ppropriately

I hope this is helpful and will wait to =ear more from you and/or Rich.

<=div>

Max

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From: Noam Chomsky [mailto: [REDACTED]]  
Sent: Friday, July 06, 2018 8:53 PM  
To: Max Kohlenberg  
Subject: Re: Marital Trust

I am not represented on this issue, so you can send the =nformation to me directly, copying  
Richard Kahn.

Noam

On Fri, Jul 6, 2018 at 4:24 AM, Max Kohlenberg <[REDACTED]>  
<mailto:[REDACTED]> wrote:

Noam –

Thanks for your message and your =nquiry. I would like to reply in some detail, but before I do so please tell me whether you are now represented by legal =ounsel. If you are then I believe I'm obliged to copy =our counsel on our exchanges. I would also plan on copying Rich =ahn, since my last communications about distributions to you from the =rusts have been with him.

Please also bear in mind that since =according to Rich) you are preparing to bring a legal action against me, I have been in contact with my firm's malpractice =nsurance carrier. As my exchanges with you may also need to be =viewed with our carrier that may delay (and/or limit) my =esponses.

Max

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From: Noam Chomsky [mailto:[REDACTED]]  
Sent: Thursday, July 05, 2018 7:55 PM  
To: Max Kohlenberg  
Subject: Marital Trust

Max,

I presume it is clear that the recent proposal transmitted by Harry's lawyer that I should be satisfied with a handout of 100k a year from the Marital Trust is too disgraceful for comment. I would like to know what further information you require for reimbursement for tax payment. We have previously transmitted a great deal of financial information in order for you to reimburse our taxes, including proof of payment and more. Exactly what more do you require, and with what justification? We see little reason that you cannot act on the information already provided. As for the claim about concern for my later years, that has been thoroughly refuted.

Noam

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