

## Summary of my notes on the restatement of the trust - Smeeta Antony Lving Trust

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From: Simi Antony (simi\_27@yahoo.com)

To: aaron@aaronhall.com

Date: Sunday, June 2, 2019 04:22 PM CDT

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Aaron,

My apologies for the slight delay in response. It was worth it for me as I was able to tangesize it even more and get even more specific in language which leaves less room for error in comprehending my last wishes. The more clear and definitive I am in language the better It works for all parties involved.

Listed is a summary of disagreements or comments on each section of the restated trust documentation

1) Pg 1 looks good

### **Article 2**

2) Pg 2 - Bullet 2 under Article 2 Trust Administration during my lifetime

It reads that unless I am incapacitated, the trustee shall pay to me such portions of income as I direct and any other such payments as I direct - I disagree - I do not see the point to this language as I am a trustee of my trust estate and am free to make any distributions I want to make unless u mean that Me the trustee will pay myself an amount that I may direct myself to withdraw.

The second bullet under this section reads that if I am incapacitated the trustee shall pay to me for my benefit an amount that the trustee deems advisable - I disagree, I would like to explicitly state in the trust what I would like to be paid hopefully long before I am incapacitated.

### **Article 3**

3) Who is the Trustee in Article 3 as I have passed away in Article 3

3.1.1 and 3.2.2 - Where do I make the following specificities known....

My Burial - I wish to be dressed in a satin white gown, laid in a casket with satin white interiors, white roses, cremated, my ashes in an urn to be buried in the casket and finally to be rested in a cemetery like calvary's cemetery in St. Paul. Of course it is too early, I need to know where these instructions need to be written so that it is available to all parties.

3.2.2 - I wish for all real estate for who the trust is the beneficiary be listed on the market, sold, debt if any paid off and the remaining proceeds be brought into the real

estate trust. I am aware that upon my death that the investment property will be stepped up to the current cost basis such that if it were sold immediately after and brought into the trust I would pay no capital gain taxes. If the federal law holds good no estate taxes will be paid till the trust worth is more than 11.7 million.

Once all 3 properties are sold and brought into the trust the money in the trust will be rolled into mutual funds so that it can continue to grow. The trust will no longer be a revocable trust but rather an irrevocable trust.

3.3.3 - I see no issue with how the paragraph is worded.

#### **Article 4**

Section 4.1 - I do not anticipate any other assets in my revocable trust that became irrevocable after the listed above was satisfied. Clearly everything in this trust is 50% 50% one for each child provided the terms of the trust for when they come into their inheritance is completed. I do not see why a separate trust should be maintained for each child. In all our discussions a separate trust for each child was talked about only in the context of an IRA trust where my IRA would pass down 50% 50% into each IRA sub trust. Lets chat again as none of our discussions including written communication entail a separate trust for each child besides an IRA trust unless u can point me to written communication that states otherwise.

Section 4.2.1 - A juris doctorate and a cybersecurity degree must be attained. Upon the girls reaching age 35 and not 50 if they have not completed the criteria set forth by the trust then the trust shuts down and is donated to charity. Regarding the website at age 35 I empower them with the decision of whether they want to be paying the annual \$200 subscription to keep it running. However if by age 35 the girls have begun attending school with the intention of completing both degrees the trust will remain open till they complete, however the wait time may not be abused and the girls should demonstrate pursuing their degree diligently for the trust to wait so that they may come into their inheritance.

Section 4.2.1.3 - Any remaining funds after the first 2 criteria is completed simply stays 50% 50% and will be given out to each daughter that completes the terms of the trust and for any daughter that has not completed the terms of the trust, the other half is donated to charity.

Section 4.2.1.4 - No Disagreement

Section 4.2.15 - I have concerns with the way this paragraph is worded. Here is what I would like to see-

The power of appointment should be given to the surviving sister so that the father/spouse of the deceased sister children cannot abuse the money that is being held in the trust till the children of the deceased sister reach age 25. The money for the children of the deceased sister is only intended for them when they reach age 25. The

surviving sister who holds the power of appointment may also state additional criteria such the kind of education in addition to coming of age 25. The father of the deceased sister's children will have no access to this money and cannot use this money to raise the children. Providing for the children is the father's job and how he chooses to procure the funds to raise his children is entirely upto him. If he is not able to support the children, he will then ask the surviving sister to adopt the children upon which full access will be given to the deceased sister's share to the surviving sister such that she may use those funds to support and raise them. If the criteria appointed by the surviving sister is not completed by the children of the deceased sister, that share of the trust will shut down and will be donated to charity.

Section 4.3 - I disagree with the terms laid out. No funds will be used from the trust for the support, education and maintenance of the deceased daughters children as stated in Section 4.2.15 - That is a fathers job and reliance on the trust funds to raise his kids is completely unacceptable to me as it is his responsibility and his alone. If he finds it difficult to raise his own children he will sign a contract that he is no longer responsible for the child and the surviving sister when appointed the sole guardian of the children, as a result of that signed contract will mange the Trust Funds to raise the deceased sister's children up and educate them. Either at age 25 or the completion of criteria that the surviving sister may choose to appoint, whichever is sooner the deceased sister's children may come into their inheritance.

## **ARTICLE 5 - TRUSTEE SELECTION**

Section 5.2 - I will need a list of items articulated for the day when I may become incapacitated. My personal representative that I will appoint will be the executor of that list. I WILL have 2 personal representatives that I appoint to take care of things after death or during my incapacitation.

- 1) Francis Pereira
- 2) Ayanna Medina

5.3.1 - In this trust agreement 2 trustees are named whose letter of appointments will be authored and confirmed. I do not need a corporate trustee other than a tax consultant and an alternate real estate attorney that the Trustee's may choose to appoint or procure in case of a dispute such that an unbiased opinion or rather both sides of the story, i.e. the special co-trustee named in this document and a real estate attorney who is the SME either appointed by the county or the trustee's such that the judge may form a decision based on unbiased opinions presented from 2 sources to the court.

5.3.2 - I agree but there can be no more than 2 personal representatives at any given time but in the event there is no trustee I choose for the court to appoint a trustee as I do not see the need for a corporate trustee as I am not sure I fully comprehend any advantages it might bring me.

5.3.3 - Let's assume that the personal trustees of my irrevocable trust will be the personal representatives of my IRA sub trusts who will take care of each IRA sub trust upon my death to ensure of its complete award if trust criteria is complete or RMD distributions to my beneficiaries in case my children do not want to come into the full amount all at once or RMD distributions as dictated by the state that each beneficiary should consume by state law while they may not have met the trust criteria as yet.

5.3.4 -No Trustee will have the power to remove a trustee at will. Such a decision maybe made only by the court unless the trustee voluntarily chooses to leave which he or she will do so by providing a letter in writing. Both personal trustees will have the right to review accounts and records.

#### **e. Special Fiduciary Authority of special co-trustee**

##### **Section 1 – Valuation**

My trust estate will comprise of the following :

- 1) 1M dollar life insurance policy
- 2) An IRA worth \$450,000 as of today
- 3) 3 Town homes that if all goes well will be paid out in 15 years. I estimate the minimum total that I can get for these 3 pieces to be 900K

In terms of valuation of property whether it be after I die or before I die it would be a matter of hiring the right real estate agency and using them to list the property on the market.

My scenario and needs are a lot simpler, so I don't foresee the complexity u do.

##### **Section 2 – Voting Rights**

My trust estate will comprise of the following :

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##### **Section 3 - Life Insurance Policy**

Life Insurance when I am alive, I would be the beneficiary of that life insurance as this life insurance is paid by me and taken out on my husband's life. When I am the beneficiary I foresee no taxation issues and If I choose to bring it into the trust I foresee no taxation issues as the trust will be well below the \$11.8 million in terms of estate worth and estate taxes.

#### Section 4 – Discretionary Distributions

No, the rules on the trust are explicit and there is nothing discretionary about when the distributions can be made and if there is we should strive for it to be as explicit as possible that removes any need for discretionary authority.

#### Section 5 – Gifting Powers

This strategy will come in play if the federal estate tax law is repealed as it can be used as a lifetime exclusion gift where I can gift more than one beneficiary up until 11.4 million which might be a strategy I need and over the next 3-4 weeks it will be explicitly laid out in the execution plan of the trust as to when to use it and when not to use it.

#### Section 6 – Ancillary Trustee

This is a role that the special co-trustee can take on if I have not identified a trustee and a property management company to take care of my property when out of jurisdiction.

### **f. Amendment Powers**

#### Section 1 – Changes in Law.

Under these circumstances the special co-trustee will explain to the trustees and the beneficiaries the need to make the suggested changes. If there is disagreement, the person disagreeing should present his/her case based on research such that the special- coTrustee might factor it in from a discussion standpoint and if the matter still cannot be settled, a judgement from court might be necessitated where a third party SME can offer the judge the pros and cons of the situation.

#### Section 2 – Repeal of Federal Estate Tax Exclusions

Just because tax exemption benefits are lost that does not mean that everything from the trust cannot be rolled into mutual funds saved to be gifted to the beneficiaries by leveraging the \$11.4 million lifetime gift tax exemptions or gift the beneficiaries under certain criteria or rules upon which the gift becomes available. The trust cannot be shut down unless the matter is taken to the county, an expert real estate attorney is appointed from their end and the case is presented by both the special co-trustee and the county real estate attorney to the judge such that an independent fair decision might be arrived at by presenting the laws or lack of laws to protect the girls from taxes and yet to be able to complete their degrees as this is the mothers will and if the judge comes back stating that the full amount should be awarded 50% 50 % without the children completing the criteria then that money should be awarded to non profits as no money may be awarded to my beneficiaries until the criteria laid out for them is completed.. It is up to the judge, the trustees and the special co-trustee along with the special SME real estate attorney to come up with a decision to be able to hold onto the money so that the children can be ensured of their inheritance upon completion of the trust criteria or the amount as per the mother's will or the primary Trustee MS. Smeeta Antony where it stated the money is to be distributed to charities. Under no circumstances

can the children come into their inheritance without meeting the criteria unless one of them is incapacitated or both are incapacitated. The trustees will ensure that spouses of the incapacitated beneficiaries i.e. spouses of my daughters have no say to the amounts given to them and how it is managed and that is for the personal trustees and the special co-trustee to manage for my incapacitated children.

### **j. Business /judgement**

The special co-trustee does not have the authority to exercise business judgement without the buy in of the beneficiaries and the other trustees. If it can't be settled the same rule applies, the matter must be presented before the court and an other real estate attorney operating as a SME should be presented to the court so that a Judge might issue an unbiased decision.

#### **i. Resolution of Disputes**

No Disagreement here other than every discretionary item spending scenario must be attempted to be located and must be turned explicit.

### **l. Compensation**

I would like the will to hold explicit compensation amounts so that it is clear to everyone as to what to expect.

## **6.1 Dispositive Powers**

### **6.1.1 – Merger of Trusts**

I am sorry but I cannot foresee this and I do not want for this to be called out in my trust. I am not comfortable with someone else owning the reins of merging my trust with someone I don't even know.

### **6.1.2 – Discretionary Termination**

The special co-trustee does not have blanket authority. The case must be presented to the beneficiaries and other trustees. Their buy in would be required for this big event and if they feel the need to ask other lawyers for advice or go to court, the matter will be taken to court based on the memorandum of law and alternate statues available that one of the team members may have discovered. The case must be taken to court thereafter with my wishes presented, reasonings behind it and what big event is calling for a discretionary shut down as the beneficiaries will always see the shut down in their favor. When there are other alternate means available such as a gift tax or probably others that can ensure of the criteria met before the money passes down to the beneficiaries, an independent real estate attorney must be presented to back the special co-trustees suggestions to the court asking for a shut down of the trust and the ramifications if it didn't. I would also prefer that the matter be taken to the county officials asking for them to appoint an expert real estate attorney on this case so that a fair and

independent decision is ensured of. After all mechanisms employed where they all state nothing more can be done other than the money being awarded to my children who have not met the criteria then **in that case my decision should be called out loud and clear to the judge where my wish should be respected and the all the cash and property in the trust be awarded to charity.**

The award of funds to charity will always and always be the case if the children have not met the criteria of the trust unless one or both are incapacitated. In that case it should be ensure that the spouse has no access and an amt Of \$10,000 should be determined where only the daughter can use her funds for personal use which includes(clothing, medication, treatment, personal care or even an assisted living home ) and nothing can be used for the spouse. The daughter will provide proof of how her funds are used to the special co-trustee where if he sees any deviation from what it is stated it must be taken to court where the special co-trustee is not awarded any discretionary powers unless the court sanctions it.

## 6.2 - Administrative Poweres

No, the special co-trustee in my will is not allowed to confer powers on any fiduciary such that they may terminate the trust at will

## 6.3 - Additional Provisions

### 6.3.1 - No Disagreement

6.3.2 - - I would be the official trustee and it is my intent to appoint 2 personal representatives who will be well versed with my trust before I die and who will be able to execute my wishes in conjunction with the special co-trustee as everything besides listing the houses on market and my burial if I have not already listed the houses on market and sold will by then will be nailed and shut in place. I am concerned about the wording in 6.3.2 and would like to discuss this paragraph out

6.3.3.1 - My personal Representative Mr. Francis Pereira or Ms. Ayanna Medina in conjunction with named special co-trustee in this document will appoint a successor co-trustee for the one that has deceased or has resigned to the ones listed via a written instrument to the other acting trustees of the trust.

6.3.3.2 - No Trustee or special co-trustee has the right to remove any other trustee of the trust unless the matter is taken to court. Any trustee or co-trustee may willingly resign via a written instrument.

6.3.3.3 - I have no trouble with the first paragraph as the as the letter of the successor Trustee's appointment or personal representative appointment would be drawn up by the appointee in a written instrument and delivered to me the Acting Trustee. This person Mr. Francis Pereira is also named in the will, in case I am incapacitated and in case I die as to the appointee who is to

execute my wishes when I am incapacitated or when I die. The appointee's written acceptance which applies to both my personal representatives will be filed.

6.3.4 - Any trustee may resign by delivering a written resignation to Ms. Antony first and if she has passed away then to Mr. Francis Pereira. If he is not alive at that moment he would be succeeded by Ayanna Medina who would accept the resignation. I might hand to Ms. Medina alternative names that can be reached out to appoint a co-trustee. If the alternates can't be arranged the special co-trustee might appoint a co-trustee or the special co-trustee may not as I do not envision a corporate trustee for this trust. I envision appointing a tax consultant at appropriate times of the year to file taxes for the trust and who will know all accounts and records from which taxes may be filed. If there are any during the year that need to be filed such as taxes every quarter such kinds of instructions may be given to Mr. Aaron Hall who will send a copy of those payments and the instructions preceding them to the remainder trustees and the tax consultant who will file everything put a plan in place in case some laws have been repealed and prepare the trust plans for the following year and sent to Mr. Aaron Hall and Mr. Francis Pereira who will ensure that all trustees are notified.

NO Trustee has custody of my assets. The Trust owns the assets for which my beneficiaries will be entitled to all its benefits when the criteria is completed. Remember this trust is simple and not complex.

- 1) I have 1 special co-trustee as named in this document
- 2) I have 2 personal trustees as named in this email
- 3) The rules are laid down in the trust.
- 4) If tax law repeals are wanting for shut down of the trust, it cannot blanket shut down. A county appointed real estate attorney must be presented to the court that might chose to concur with Mr. Aaron Hall's way of thinking or might present alternates to the judge.
- 5) At no cost will my beneficiaries come into their inheritance until they complete the criteria.
- 6) If both real estate attorneys cannot come up with a solutions even after including the tax consultant that can verify laws such as using the lifetime gift tax exclusion law or other creative taxation laws where taxes can be avoided and criteria may be placed on the gift as to when they receive the gift, then the trust will be shut down and donated to charity.
- 7) A tax consultant will be appointed that will review my books and records as deemed by the special co-trustee and the tax consultant will be used to file annual taxes.

6.3.6 - The two primary beneficiaries and the two personal representatives are already listed within the trust document. I do not like the 90 day clause and I want it removed. A beneficiary may choose to say that she has no interest in the trust which must be stated before the judge and after the beneficiary is released after she has signed before the judge that her share is donated to charity effective immediately. As far as the 2 trustees go, upon the death of me the primary trustee and the death of Mr. Francis Pereira, the secondary trustee M. Ayanna Medina will be given alternative names to reach out to and to invite them to be the co-trustee and if they choose not to accept one may be appointed by the special co-trustee. please bear in mind that it is not the trust requirement to have a corporate trustee on board or a corporate trustee successor.

6.3.7 - I don't like the concept of a majority vote and delegation. I wish for there to be always an unbiased opinion executed. For any subject in dispute a subject matter expert hired by the team of trustees and special co-trustees that can speak to all the trustees only in a group meeting to ask questions and not otherwise may be presented to the court such that alternate unbiased opinion may be presented to the judge for her decision.

6.3.8 If the Trustee in the paragraph refers to me I concur. Please be specific as to who the Trustee is and when this section applies.

6.3.9 - I like the initial rights with what is applicable to me as a trustee, however as a beneficiary there is no discretionary spending allotted unless they complete the terms of the trust, unless their situation demands it where only I may make that decision. I do not like to open the door to discretionary spending as there could be a million cases to try and get money that I do not want to open the door on. Also keep in mind their father is still alive. The beneficiaries incentive is that if they complete the terms of the trust not only are they equipped to protect themselves for life but they also come into a large inheritance and if that kind of inheritance is of no value to them, the trust will wait till the beneficiaries become age 35 upon which based on the lack of completion, the trust will shut down and be donated to charity.

6.3.10 - No issues - I will make sure that both trustees receive a drive of such data in addition to both my children receiving a drive of their own which will be mirror images of all the data I own today.

6.4 - I don't envision any death benefits payable to anyone other than the trust. In case of IRA, we know that the trust will be taxed at a 37% and we know that we will put in place an IRA trust with a sub trust to each girl. All properties will be owned by the trust which does not call for a sub trust. They are assets of the trust. My daughters and me are beneficiaries of the trust. I will own a 1 Million dollar policy such that if ex-husband passes away I come into a million dollars as death benefit of my ex-husband which will be brought into the trust at no taxation as death benefits are not taxed and will become cash property of the trust.

6.4.1 - For as long as I am alive, I will be required to take my minimum requirement distributions as instructed by the law. Upon my passing, my beneficiaries have the option either to take the requirement minimum distribution or have it accumulate on their subtrust which if that incurs taxes that will be a decision that they own,

6.4.1.2 - I disagree. I really don't like the term discretionary. I need it explicit. For as long as I am alive, I will be required to take minimum required distributions as indicated by the law.

Any more that I need will be explicitly defined by me long before retirement and will not be at the discretion of the special co-trustee.

6.4.1.3 - I disagree. As far as I understand my assets in the trust are revocable till the day I die, which means that I get to revoke the asset or use parts of my assets for expenses and maintenance of properties in my trust or any other expenditure and administration of my asset. Clearly my records will also be seen by another trustee and any concerns may be brought to the table.

## **Article 7**

7.1 I do not like the blanket definition for that of descendants. As I have stated, the immediate generation i.e. the siblings named in this file a.k.a. Raeanna Raghavan and Renelle Raghavan, will come into their inheritance if the terms of the trust are met i.e. their 2 degrees each upon which all monies are allotted to them and the trust shuts down. For the next generation i.e. the generation of grandchildren, this only applies if one of my beneficiaries from my immediate line that is either Raeanna or Renelle becomes incapacitated for which I have stated that the surviving sister manages the funds and up to her discretion contributes as necessary as the father of those siblings will not be given the opportunity to give up on his own. The surviving sisters nieces and nephews or my grandchildren may come into their mothers inheritance upon age 25 unless the surviving sister places forth some criteria that the grandchildren must attain which is for their betterment and for them to go places in life and if the trust has enough funds to sustain it or the grand children come into their half at age 25.

7.3.2 - We need to talk about this. Why do I need someone else to dictate the policy benefits that I receive when I have paid for the premiums. I do not wish to empower anyone to that capacity.

7.3.4 - I would go to the extent of saying that before the money is allotted to her she cannot co-sign any element of her trust where she has awarded portion of her trust money to some attachment or spouse and that this trust money must at all times reside as money owned by her. Both girls must file in court the balance of their awards including the summary of spending from the preceding year to current and must begin the day they are awarded.

7.4.1 & 7.4.2- No until the beneficiary goes before the judge and states that she has no interest in her share and is signing away her part to charity. that share does not become residue property of the trust but rather is given away to charity. now before the trust gives it away to charity, to be consistent with prior statements the trust will wait till the beneficiary is age 35 and if the answer is to still disown the inheritance then that beneficiary's share must be disposed to charity.

7.4.3 - I would like to talk thru this some more

Thank You! for your patience, I have sent u all my comments that we may choose to discuss. I have tightened down the trust even more and have named Trustees in this document as well.

Please let me know when I can chat. I will also make sure that my trustees are given a copy of this email and are aware of what they are coming into.

Thanking You,

Smeeta Antony simi\_27@yahoo.com (952) 403-9283(R) (952) 239-9643 (C)