

Re: Meeting Minutes or my Understanding from Yesterday

From: Aaron Hall (aaron@aaronhall.com)

To: simi_27@yahoo.com

Date: Thursday, December 20, 2018 05:26 PM CST

Hi Smeeta,

I have a correction. You asked two questions about your retirement accounts:

Retirement Accounts - The beneficiaries will stay the beneficiaries as written when the account was created. In order for the retirement account to become part of the trust, it needs to be liquidated and brought into the trust.

Retirement accounts would be liquidated, 10% penalty would be paid for liquidating it and the balance would be brought into the trust account. If I am over 65, I do not pay any penalty for bringing all the money into the Trust do I??? it is only if the accounts are liquidated prior to age 65 that I would pay a 10% penalty correct? Please affirm

The response I gave you was for the typical situation. However, you have different circumstances. I now recall that, upon your death, you want your retirement funds liquidated, any tax and penalties would be paid, and then you want the funds put into your trust for safekeeping. Thus, here are my corrected responses:

Retirement Accounts - The beneficiaries will stay the beneficiaries as written when the account was created. In order for the retirement account to become part of the trust, it needs to be liquidated and brought into the trust.

Aaron: If you want your retirement funds to transfer into the trust upon your death, you need to update the beneficiary designations on your retirement accounts to name the trust.

Retirement accounts would be liquidated, 10% penalty would be paid for liquidating it and the balance would be brought into the trust account. If I am over 65, I do not pay any penalty for bringing all the money into the Trust do I??? it is only if the accounts are liquidated prior to age 65 that I would pay a 10% penalty correct? Please affirm

Aaron: That is somewhat correct. When retirement accounts are distributed to you, at any time, the funds are taxable income. If you withdraw the funds before a certain age, there is a penalty. There are special rules about that particular age. You can read more about this here: <https://www.thebalance.com/what-age-can-funds-be-withdrawn-from-401k-2388807>

Aaron Hall

Attorney

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On Thu, Dec 20, 2018 at 12:04 PM Aaron Hall <aaron@aaronhall.com> wrote:

Hi Smeeta,

Please see below for my responses in red.

Regarding a degree in cybersecurity, what do you think about this requirement?

She must have obtained an associate's degree or bachelor's degree in cybersecurity from a school accredited by the U.S. Department of Education's Office of Postsecondary Education.

Please let me know if you have any other questions.

Aaron Hall
Attorney

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On Fri, Nov 30, 2018 at 7:29 PM Simi Antony <simi_27@yahoo.com> wrote:

We started out discussing the design of the Will

I shared the following concerns :

This is the part I need the most clarification on or the most affirmation on:

1) I discussed that my ex-husband would not want for me to tell the girls what happened to their Mother

Aaron: Confirmed.

2) I discussed that my ex-husband would want to milk the mental health diagnosis to such a degree where he would want to declare me incompetent or incapacitated to the courts so that the girls could never know the contents of my will

Aaron: Confirmed.

Couple Scenarios

First off u said that there was nothing he could do to prevent the girls from knowing the contents of my will. According to u I could share the contents of my will today if I wanted. - **Please affirm**

Aaron: While the girls are minors, their father has some legal control over what they see and do. However, you are generally welcome to share your estate plan with whoever you want.

When the girls turn 18 if he wanted to prevent me from sharing the contents of the will to the girls should I understand from my conversation with u yesterday that he would need to bring 2 doctors opinions to you telling u that I am incapacitated. Does the 2 doctors letters/opinions apply only in terms of management of funds or does it also apply in terms of the contents of the will being read to the girls when they are 18? **Please confirm**

Aaron: After the girls reach the age of majority (they are no longer minors), they can decide for themselves what they see and do. Their father no longer can control them.

Aaron: Please disregard any discussion regarding "two doctors." Based on your input, I removed that requirement from your estate plan. I have changed your estate plan so there is no way to declare you "incapacitated" besides the usual legal process ("due process") that applies now (e.g. going to court).

We discussed what should happen, in case I am declared incapacitated. Two options were raised in terms of management of funds :

- 1) You would appoint a trustee to take care of my funds and how it is managed which would mean I would lose control over my own money and would not be able to exercise freedom of my decisions.
- 2) I asked that it be taken to court so that those opinions that my ex-husband brought from 2 doctors could be countered by other expert opinions

Aaron: You asked that the only way your "capacity" could be challenged is the approach available under the law now. Your estate plan will not modify that. This means you would have "due process" in the court system if anyone challenges your capacity.

I do not want to give in without a fight as over the last 6 years to say the very least he has done nothing but milk my mental health diagnosis to ensure he leaves me with nothing even freezing accounts in the household prior to the divorce proceeding to ensure he can have a fancy lawyer and throw me to the streets without nothing so that he can have all the assets.

if anything that is an indicator for what he will do in the future. I also called him into the IRS on grounds of the untraceable funds he has and how he used it to ensure that I am left with nothing and how he can have all the money.

Aaron: I have modified your estate plan. Now, neither doctors nor lawyers (including me) could declare you "incapacitated." Nobody will be able to control your money besides the usual legal process ("due process") that applies now (e.g. going to court).

So my wishes in case of 2 doctor opinions rendering me incapacitated is that I would like to take it to court and have a judge decide on the matter as I would like to make every effort to counter it.

Aaron: Confirmed.

We did not discuss the criteria a doctor must use to declare a person incapacitated. I would like to probe that some more with u and try to get an understanding of what criteria defines incapacitation in the book of the law. I would like to see the legal definition of incapacitation?

Aaron: This is not my area of expertise, but there are many resources online. For example:

- https://mn.gov/omhdd/assets/substituteddecisionmakers_tcm23-27586.pdf
- <https://www.google.com/search?q=proving+incapacity+in+minnesota>

Trust and Retirement Account Funds

- 1) I should go to the bank and have the trust be the beneficiary for my checking and savings accounts - **Action Item for me**

Aaron: Confirmed.

- 2) I don't own any life insurance plans or annuities at the moment so it would be rather pointless to discuss that.

Aaron: Confirmed.

- 3) I don't own any real estate at the moment but if I do the deed of sale I should have the trust as the beneficiary. Please affirm. Is it that on the deed the trust is the beneficiary or is that the real estate is bought in the trusts name? **Please affirm**

Aaron: The real estate should be bought and owned by the trust.

4) In the rare event that I was not able to have the trust own the real estate, the will would kick in as a contingency plan except that the particular piece of property that was not in trust would go thru probate.

Aaron: Confirmed.

4) Retirement Accounts - The beneficiaries will stay the beneficiaries as written when the account was created. In order for the retirement account to become part of the trust, it needs to be liquidated and brought into the trust.

Aaron: No. You have the option to update the beneficiaries on your retirement accounts to name the trust as the beneficiary. However, in your case, there is no harm in leaving your daughters as beneficiaries on your retirement accounts.

What happens when I die?

1) You would look around from a bank trustee i.e. a bank officer that is appointed the trustee of the trust. You would be the co-trustee of the trust.

Aaron: I would be the "special co-trustee," which is very different from a usual co-trustee. My limited role would be to appoint a professional trustee (bank) to manage the trust for your daughters.

2) A financial advisor would be appointed

Aaron: Confirmed.

3) Decisions would be made to either leave real estate alone or sell real estate, pay any expenses or pending mortgage balances after sale and bring the balance into the trust account.

Aaron: Confirmed.

4) Retirement accounts would be liquidated, 10% penalty would be paid for liquidating it and the balance would be brought into the trust account. If I am over 65, I do not pay any penalty for bringing all the money into the Trust do I??? it is only if the accounts are liquidated prior to age 65 that I would pay a 10% penalty correct? **Please affirm**

Aaron: Any money in your retirement accounts would be "rolled over" into retirement accounts in the names of your daughters (assuming they are the beneficiaries). Your daughters would be required to take "required minimum distributions" based on their life expectancy. Your daughters would owe tax when money is distributed to them, but there would be no special tax penalty.

5) Checking accounts and saving accounts would be ported over to the trust or rather the trust would inherit it because the trust is the beneficiary.

Aaron: Confirmed.

6) A Tax Identification Number would be assigned to the trust account

Aaron: Confirmed.

7) A Tax statement would be prepared and issued to the IRS

Aaron: Confirmed.

8) The Trust would then take over and would dispense funds based on the criteria or the design that has been laid down for the trust which in this case is my girls earning their law degree and cyber degree.

Aaron: Confirmed.

9) The financial advisor would ensure that the trust account is maximized in every way possible

Aaron: Confirmed.

Elements of specificity missing from the design of the Trust

I have certainly specified a 4 year Juris doctor degree.

Aaron: Law school is three years, not four. The trust requires a degree from an ABA accredited law school. That means your daughters would need to complete all three years and graduate with a law degree.

I have not specified the length of the cyber degree of the areas of the cyber degree that I would want for them to be fruit in

I said I would come back to you with that. **Action item for me**

Aaron: Confirmed. **When would you be able to provide this?**

What about fees for maintaining the trust?

Clearly the financial advisor or the bank trustee does not come cheap. What maintenance fees can I expect annually on the trust? **Please affirm**

Aaron: Trustee fees are usually 1%. I believe brokerage fees are also around 1%. You could do some research to find out more.

What if something were to happen to you?

Someone u appoint or your successor would take over. I can't recall if any lawyer in your firm without u appointing that lawyer can take over the responsibility u would own upon my death?

Please affirm

Aaron: Confirmed. If I have no successor (or my successor is dead), the court would appoint someone.

Making my Trust/Will Discoverable

We talked about filing the will in court and getting me a quote for what it would take to do that such that if I were to die and my body was picked up by state officials that u would be notified because they would be in position to discover my will in court as those are the systems that would be checked first to figure out relatives to the body discovered.

Aaron: Confirmed. I have not yet obtained that. I expect it will no exceed \$1,000.

Versions of the Will and who owns them

- 1) You would own an electronic version
- 2) I would own an electronic version
- 3) I would own the binder in my home
- 4) I would send u the home page of my website so that u can attach it to the electronic version
- 5) I would send u the website hosters information so that u or the trustee could contact the merchant hosting website and pay the \$200 annual subscription fee to keep it running
- 6) I have a flash drive with content for my girls that I need to keep in a secure place - What are your thoughts about me owning a locker or safety deposit box at the post office **just for** the flash drive and my letters alone and giving u the key for safe keeping. **Please affirm your thoughts**

Aaron: You have the originals. I will do my best to keep electronic copies of documents. Since I am not in the business of providing long term storage, I would recommend you use another service for this. Options include Google Drive (free with a Gmail account), DrobBox (free for a small amount of storage), or other services you may find online. I am not in a position to keep keys long term—I have a hard enough time keeping track of all of my keys. :-)

The letters in the safety deposit box would be the first set of instructional letters letting my girls know where to find all the information both on the flash drive, around my home, and on my website.

Aaron: Confirmed.

In addition I should begin typing a letter to the banker writing down my instructions to the banker as to where he can find things.

Aaron: Confirmed.

Funeral Arrangements

I have not thought of any as yet. When I do figure that out what would that mean? Could I simply send u an electronic version of my wishes for my funeral arrangements or should I have that figured out in the next 3 months as we did chat about me having the contents of the spec of the trust for 3 months, reading it, thinking about my questions before affirming the contents of the trust/will which would then be made final.

Aaron: You can send me electronic copies of information at any time. If this ends up taking significant time on my part, I will discuss with you some reasonable fees for the time.

Question about the Design of the Final Will/Trust

After the 3 month period now that I have had the time to review the contents of the trust and will, what would it mean to make changes if any after the final version has been signed off?

Aaron: You would contact me (or any estate planning attorney) for a quote to make the specific changes you need. Then you could decide whether you wanted to proceed. Usually, changes cost \$1,000-2,000.

We talked about a lot. Hopefully I have captured most of it. Please add what I may have missed as yesterday was a very important conversation that I wanted to have documented.

Legal Malpractice and Media

1) You would send me the name of the attorney that u know that does take contingency based malpractice cases every once in a while

Aaron: Here you go:

Paul A. Sortland
Attorney at Law
431 South Seventh Street, Suite 2440
Minneapolis, Minnesota 55415
Telephone (612) 375-0400
Toll-free (888) 305-0400
Facsimile (612) 375-0404
E-mail: sortland@sortland.com

- 2) **Action Item for me** - Send u a copy of the contract I signed with Patrick Burns
- 3) You would send me the name of the PR agency that u used for your client to issue a press release to some major agencies that could help engage the right audience to help it go viral.

I contacted the owner of the PR agency we used in the past. They only work with companies, so it wouldn't work for your situation. He recommended you try <https://www.media-minefield.com/> .

4) We talked about some mystery shows. Would this PR agency be able to connect to those TV shows

Aaron: I'm not sure. I would ask them.

5) I know Dateline does true stories. Would this PR agency be able to connect to those channels?

Aaron: I'm not sure. I would ask them.

Thanking You,

Smeeta Antony simi_27@yahoo.com (952) 403-9283(R) (952) 239-9643 (C)