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LICENSED IN FLORIDA & DISTRICT OF COLUMBIA

FEBRUARY 1, 2022

Mr. John Smith

Via email: jsmith@email.com

PERSONAL & CONFIDENTIAL

Re: Estate Plan - Follow Up to Yesterday's Meeting

Dear John:

It was a pleasure discussing your estate planning with you yesterday. In this letter I'm going to review my understanding of the instructions going forward, and remind you of the items that I will need to put your estate plan together:

Current Will. The Last Will and Testament that you provided me from attorney Oliver Twist dated August 2, 2021 does not make reference to a revocable living trust. I am going to base your planning with a Revocable Trust. Your will therefore becomes a "pour over will" acting as a safety net for the trust. I will be drafting your trust, pour over will, durable powers of attorney, health care surrogates, living will and other pertinent documents.

Trust Planning Avoids Probate Process. Generally speaking, we want to transfer the assets that are in your name individually that would also be subject to probate into the trust before your passing. You will remain in control of your trust for your lifetime and will be the trust beneficiary.

Jane, James, and Julia. We represent you and will not be representing your wife, Jane. You and Jane are in a long-term marriage, and your children are of your marriage. You plan to leave Jane more than half of your significant estate and trust assets, with your children receiving the remaining half between them. You are very proud of your children. Harvard MBA program recently accepted James, but he's not sure that he'll give up his current business to attend. Julia is a private equity analyst in New York City and is doing very well. Neither is married yet or has any children.

Brother Bill. You financially support your younger brother Bill who lives in South Carolina and is healthy. You shared with me your upbringing, as your mother single-handedly raised you and your two siblings. Your father abandoned the family and was never a significant part of your life. Your sister suffered from a mental breakdown and has passed away. Your success you built on your own through various occupations and entrepreneurial endeavors. You would like to segregate \$300,000 from your estate to pay your brother James \$2,000 a month upon your death and for his lifetime. You feel that this amount would be sufficient to take him through the rest of his life. If it's not enough, you trust your wife and children to take care of him with their inheritance.

Annuity. A significant portion of your net worth is invested up in a non-qualified annuity (it is not part of an IRA or other qualified deferred account). I asked you to provide me a copy of the actual annuity contract, as well as a recent statement. The annuity is currently worth approximately \$13.7 million with a tax basis of \$4.5 million. I want to review the contract to determine the payout options at your passing. Annuities generally can't name trusts as beneficiaries without accelerating the payout. Because distributions result in ordinary income to the beneficiaries, how you plan for the annuity will have real economic effect to your wife and children. If you have a financial advisor who is familiar with the terms of this annuity contract, I would like to speak to him or her. You believe that the successor beneficiaries to you include your wife, Jane with 50% with James and Julia each to receive 25%. I would like a copy of the beneficiary designation you signed to verify your understanding.

Roth IRA. You own a Roth IRA with approximately \$1.6 million in it. I would like to see a copy of that statement and the beneficiary designations. One issue is how you provide for James. We could name your brother's share of the trust as a beneficiary of some portion of the IRA (it would have to be a percentage, not a specific dollar amount). While you don't have any Required Minimum Distributions from the Roth during your lifetime, upon your passing there will be a ten year withdrawal requirement. Let me know if this strategy appeals to you.

Smith Children's Trust. This irrevocable trust was originally established back in 1997. You contributed a Pacific Life Insurance policy to it, then had your CPA, Bruce Marquess, cash it out. You contributed amounts to it throughout the years, with an additional \$1 million in 2021. Mr. Marquess will be filing the Federal Gift Tax Return Form 709. I would like a copy of all Form 709s that you and Jane have filed. I will gather Mr. Marquess email address and copy him with this letter. I would ask that he send PDF Form 709 copies to me at my email address on my letterhead.

123 Main Street Sanibel. Your Florida homestead is owned jointly between you and Jane as husband and wife. It is located in Sanibel. The tax assessed value is \$1.02 million. You believe its fair market value approximates \$1.2 million.

Other Liquid Investments. You mentioned an individual investment accounts totaling another \$650,000 or so. These would presumably be funded into your revocable trust for distribution.

Successor Trustees, Personal Representative, Agents Under DPOA and HCS. You instructed met to draft your legal documents naming your wife and both children as your trustees, agents and personal representatives (executors).

Beneficiaries. You also instructed me that you want the disposition of your estate (excluding the home and the amount to be segregated for James if he survives you) is to be 50% to Jane, 25% to James and 25% to Julia. How we accomplish that in the most tax efficient way will become more evident to me once I've had a chance to review the documents that I requested in this letter.

Taxes. When I review your Federal Gift Tax Return I'll have a better idea how much of a gift/estate tax exemption you have remaining. While the current exemption appears more than enough to cover your estate assuming that you haven't used too much of your exemption, on December 31, 2026 the current law sunsets. The gift/estate tax exemptions will therefore decrease to around \$6.5 million. If that's the case, then with your current dispositive intent there may be tax due on your passing, even if Jane survives you. Amounts and assets that are distributed to Jane enjoy an unlimited marital deduction. In addition to transfer tax (gift/estate) issues, there are

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also significant income tax issues in your estate. When I receive the information requested above, I'll have a better handle on that, and from there we can craft your plan.

I know this is a lot to read and digest. If you have any questions, please call me. In the meantime, please start gathering the information requested and get that to me when you can.

I look forward to hearing from you.

Kind Regards,
Sheppard Law Firm, P.A.

A handwritten signature in black ink, appearing to read "Craig R. Hersch", is written over the typed name.

Craig R. Hersch
CRH:crh