

**COURT OF CHANCERY
OF THE
STATE OF DELAWARE**

Sam Glasscock III
VICE CHANCELLOR

CHANCERY COURTHOUSE
34 The Circle
GEORGETOWN, DELAWARE 19947
AND
Leonard L. Williams Justice Center
500 NORTH KING STREET, SUITE 11400
WILMINGTON, DELAWARE 19980-3734

November 12, 2020

Kimberly Gill McKinnon, Esquire
Gordon, Fournaris & Mammarella, P.A.
1925 Lovering Avenue
Wilmington, DE 19806

RE: The Schoko GST Exempt Trust Dated October 10, 2006
C.A. No. 2020-0818-SG

The PJJ GST Exempt Trust Dated October 10, 2006
C.A. No. 2020-0820-SG

The JEMM GST Exempt Trust Dated October 10, 2006
C.A. No. 2020-0821-SG

The Trinity GST Exempt Trust Dated October 10, 2006
C.A. No. 2020-0822-SG

The Padekeky GST Exempt Trust Dated October 10, 2006
C.A. No. 2020-0828-SG

The Pennies From Heaven GST Exempt Trust Dated October 10, 2006
C.A. No. 2020-0832-SG

Dear Ms. McKinnon:

Thank you for your letter of November 4, 2020, providing examples of this Court signing Orders providing for modifications or reformations of trusts, contingent upon receipt of a favorable Private Letter Ruling from the Internal Revenue Service. This is in connection with the Petitions in the cases referred to above, which all seek reformation based on the Settlor's original intent, but subject

to a condition subsequent: Receipt of a favorable letter ruling concerning tax avoidance from the IRS.

Reformation involves a determination that a settlor clearly manifested an intent, but due to a mistake in drafting the Trust Agreement, created a trust that would frustrate the intent. Unfortunately, none of the Orders that you submitted appear to be accompanied by a Judicial opinion explaining how a finding that the trust instrument violated the clearly manifested intent of the testator can be subject to a condition subsequent. Nor do the Orders appear to address how an Order of this Court subject to a condition subsequent is not an advisory opinion. Of course, this Court does not issue advisory opinions.

For the foregoing reasons, to the extent I consider the above-referenced Petitions for Reformation, I would be forced to deny them as requesting advisory opinions. However, if you wish to file amended petitions seeking reformation not subject to a condition subsequent, I would be pleased to consider those. **TO THE EXTENT THAT THE FOREGOING REQUIRES AN ORDER TO TAKE EFFECT, IT IS SO ORDERED.**

Sincerely,

/s/Sam Glasscock III

Vice Chancellor

SGIII/lkpr

cc: Register in Chancery