

Donna Conkling

From: robertbergesq@aol.com
Sent: Friday, February 08, 2019 6:54 PM
To: Mayor; Attorney's Office; Steve Pappalardo; Clerk's Department
Subject: Authorization to Execute Engagement Letter with Baker & McKenzie

Dear Mayor and Trustees, Late this Friday afternoon, I received notification of the posting of the agenda for the Board of Trustees meeting scheduled for February 13, 2019. As is my wont, I opened and perused the document. Much to my surprise (well, only partially, since Dan tipped me off a little at the SNAP meeting the other night), I noticed the Resolution regarding an Authorization to Execute an Engagement Letter to provide no-cost legal services in connection with participation as a plaintiff challenging IRS charitable gift reserve fund regulations. Reading the Resolution and the associated documents has left me profoundly concerned.

Let me say at the outset that I believe that the "new" federal tax legislation that has largely eliminated the SALT deductions in high tax states such as New York is terrible law from both a policy standpoint and as an example of a grotesque use of political vengeance. The ramifications for New York State and municipalities such as the Village of Scarsdale are hugely negative. And so, while it is my fervent hope that a more enlightened Congress and President will reinstate the 100+ year old deduction in the near future, I welcome legitimate alternate efforts to void the law.

My own personal view is that Governor Cuomo's charitable gift reserve fund workaround -- which the IRS has suggested will not pass muster -- was more of a political power play for him than legitimate legislation that comports with allowable charitable deductions under the IRC. And I give a lawsuit seeking to validate this plan little chance of success. But even if I did believe the forthcoming lawsuit would be meritorious, I am deeply disturbed that the Village of Scarsdale seems perfectly willing to hop into bed with some undefined 501(c)(4) organization -- Citizens for the Charitable Contribution Deduction, Inc. -- which has agreed to pay the legal fees and expenses of Baker & McKenzie, one of the world's largest law firms.

What is Citizens for the Charitable Contribution Deduction, Inc.? Who founded it? Who are its leaders? What is its mission? Who are its members? Who has contributed to funding it and how much has each person or organization contributed? Who will commit to fund the litigation going forward, and how much will each person commit to fund? Will each person put up the money in advance to be held in escrow? What happens if a funder decides to stop funding?

More importantly, what role will Charitable Contribution Deduction, Inc. have in the lawsuit? What role will the leaders of the 501(c)(4) have in the lawsuit? What role will New York State Assemblywoman Amy Paulin and her staff have in the lawsuit?

Who are the plaintiffs going to be in the lawsuit? Will it just be the Village of Scarsdale and the Town of Rye? What if there's a disagreement as to strategy between the Village of Scarsdale and Charitable Contribution Deduction, Inc.? What if there's a disagreement between the Village of Scarsdale and any other persons involved in this engagement? Who from the Village of Scarsdale is going to be the point person for this litigation?

Why does the Village of Scarsdale want to get involved in this litigation? Why, if this is such a wonderful idea, haven't scores of New York municipalities joined Amy's bandwagon? The utter lack of participation strongly suggests to me that this is another Grand Misadventure that the Village of Scarsdale is about to embark upon.

Don't you have enough to do with the Freightway Train Wreck? How much time is the Village staff and the Board going to commit to this lawsuit? You can't just be a passive player here if you are a plaintiff. You have to monitor everything the law firm does and be involved in every significant decision. It's our Village's name and reputation on the line. Who's going to do that? Are we going to have to hire another Village attorney to monitor what's going on? Are we going to have to hire additional Village staff to handle the duties of others who now have to focus on this lawsuit?

The residents of our Village deserve answers to my questions BEFORE you sign this engagement letter with Baker & McKenzie. As usual, you have not aired your plans publicly, other than in a few veiled comments over the past year. Our residents are entitled to weigh in before you drag our Village's good name into a political/legal circus.

Remember, you are fiduciaries for the residents of the Village of Scarsdale, though you rarely behave as such. This is a serious matter, and it seems to me that you are allowing our residents to become political pawns. I look forward to your prompt response.