

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT COURT ILLINOIS  
EASTERN DIVISION**

**SIMON BERNSTEIN IRREVOCABLE )  
INSURANCE TRUST DTD 6/21/95, )**

**Plaintiff, )**

**v. )**

**HERITAGE UNION LIFE INSURANCE )  
COMPANY, )**

**Defendant. )**

**----- )  
HERITAGE UNION LIFE INSURANCE )  
COMPANY, )**

**Counter-Plaintiff, )**

**v. )**

**SIMON BERNSTEIN IRREVOCABLE )  
INSURANCE TRUST DTD 6/21/95, )**

**Counter-Defendant, )**

**and, )**

**FIRST ARLINGTON NATIONAL )  
BANK, as Trustee of S.B. Lexington, )  
Inc. Employee Death Benefit Trust, )  
UNITED BANK OF ILLINOIS, BANK )  
OF AMERICA, successor in interest to )  
LaSalle National Trust, N.A., )  
SIMON BERNSTEIN TRUST, N. A., )  
TED BERNSTEIN, individually and )  
as alleged Trustee of the Simon )  
Bernstein Irrevocable Insurance Trust )  
Dtd. 6/21/95, and ELIOT BERNSTEIN, )**

**Third-Party Defendants. )  
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**Case No. 13-cv-03643**

**Honorable Amy J. St. Eve  
Magistrate Mary M. Rowland**

**ELIOT IVAN BERNSTEIN,** )  
 )  
**Cross-Plaintiff,** )  
 )  
**v.** )  
 )  
**TED BERNSTEIN individually and** )  
**as alleged Trustee of the Simon** )  
**Bernstein Irrevocable Insurance Trust** )  
**Dtd. 6/21/95** )  
 )  
**Cross-Defendant** )  
 )  
**and** )  
 )  
**PAMELA B. SIMON, DAVID B. SIMON** )  
**both Professionally and Personally,** )  
**ADAM SIMON both Professionally and** )  
**Personally, THE SIMON LAW FIRM,** )  
**TESCHER & SPALLINA, P.A.,** )  
**DONALD TESCHER both Professionally)** )  
**and Personally, ROBERT SPALLINA** )  
**both Professionally and Personally,** )  
**LISA FRIEDSTEIN, JILL IANTONI,** )  
**S.B. LEXINGTON, INC. EMPLOYEE** )  
**DEATH BENEFIT TRUST, S.T.P.** )  
**ENTERPRISES, INC.,** )  
**S.B. LEXINGTON, INC., NATIONAL** )  
**SERVICE ASSOCIATION, INC.** )  
**(OF FLORIDA) NATIONAL** )  
**SERVICE ASSOCIATION, INC.** )  
**(OF ILLINOIS) AND** )  
**JOHN AND JANE DOE’S** )  
 )  
**Third Party Defendants.** )

# **POTENTIAL BENEFICIARIES<sup>1</sup>:**

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<sup>1</sup> – Parents act as beneficiary Trustees in the estate of Simon L. Bernstein to their children, where Simon’s estate may be the ultimate beneficiary of the policy and their children named below would be the ultimate beneficiaries of the policy proceeds. The failure of them to be represented in these matters and listed as potential beneficiaries is due to an absolute conflict with their parents who are trying to get the benefits paid to them directly. This is gross violations of fiduciary duties and may be viewed as criminal in certain aspects as the lawsuit attempts to convert the benefits from their children to themselves by failing to inform their children or have them represented

**JOSHUA ENNIO ZANDER BERNSTEIN  
(ELIOT MINOR CHILD);  
JACOB NOAH ARCHIE BERNSTEIN  
(ELIOT MINOR CHILD);  
DANIEL ELIJSHA ABE OTTOMO  
BERNSTEIN (ELIOT MINOR CHILD);  
ALEXANDRA BERNSTEIN (TED  
ADULT CHILD);  
ERIC BERNSTEIN (TED ADULT  
CHILD);  
MICHAEL BERNSTEIN (TED ADULT  
CHILD);  
MATTHEW LOGAN (TED'S SPOUSE  
ADULT CHILD);  
MOLLY NORAH SIMON (PAMELA  
ADULT CHILD);  
JULIA IANTONI – JILL MINOR CHILD;  
MAX FRIEDSTEIN – LISA MINOR  
CHILD;  
CARLY FRIEDSTEIN – LISA MINOR  
CHILD;**

**INTERESTED PARTIES:**

**DETECTIVE RYAN W. MILLER –  
PALM BEACH COUNTY SHERIFF  
OFFICE;  
ERIN TUPPER - FLORIDA GOVERNOR  
OFFICE NOTARY EDUCATION - THE  
OFFICE OF THE GOVERNOR OF  
FLORIDA RICK SCOTT**

**(1) MOTION TO STRIKE PLEADINGS AND REMOVE ADAM SIMON FROM LEGAL  
REPRESENTATION IN THIS LAWSUIT OTHER THAN AS DEFENDANT FOR  
FRAUD ON THE COURT AND ABUSE OF PROCESS.**

Eliot Ivan Bernstein (“ELIOT”) a third party defendant and his three minor children, Joshua,

Jacob and Daniel Bernstein, are alleged beneficiaries of a life insurance policy Number 1009208

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in these matters. The Court should take Judicial Notice of this, especially in the interests of the minor children who may lose their benefits.

on the life of Simon L. Bernstein (“Policy(ies)”), a “Simon Bernstein Irrevocable Insurance Trust dtd. 6/21/95” and a “Simon Bernstein Trust, N.A.” that are at dispute in the Lawsuit, makes the following (1) Motion to Strike Pleadings by Adam Simon for Fraud on the Court and Abuse of Process (2) Motion to Remove Adam Simon from Legal Representation in this Lawsuit other than as Defendant and Strike Prior Pleadings.

I, Eliot Ivan Bernstein, make the following statements and allegations to the best of my knowledge and on information and belief as a Pro Se Litigant<sup>2</sup>:

### **BACKGROUND**

1. That after reviewing discovery documents tendered by JACKSON, it was discovered that a claim to the Policy(ies) was made by defendant, Attorney at Law SPALLINA, with HERITAGE, whereby SPALLINA acted under a false fiduciary capacity on behalf of an alleged missing and lost trust, the “Simon Bernstein Irrevocable Insurance Trust dtd. 6/21/95” that SPALLINA claimed to be the “Trustee” for when filing the claim. The claim was then DENIED by HERITAGE and a request for a Court Order was issued by the carrier to approve of any beneficiary scheme. **EXHIBIT 1 – SPALLINA CLAIM FORM AND CARRIER REQUEST.**

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<sup>2</sup> Pleadings in this case are being filed by Plaintiff In Propria Persona, wherein pleadings are to be considered without regard to technicalities. Propria, pleadings are not to be held to the same high standards of perfection as practicing lawyers. See Haines v. Kerner 92 Sct 594, also See Power 914 F2d 1459 (11th Cir1990), also See Hulsey v. Ownes 63 F3d 354 (5th Cir 1995). also See In Re: HALL v. BELLMON 935 F.2d 1106 (10th Cir. 1991).” In Puckett v. Cox, it was held that a pro-se pleading requires less stringent reading than one drafted by a lawyer (456 F2d 233 (1972 Sixth Circuit USCA). Justice Black in Conley v. Gibson, 355 U.S. 41 at 48 (1957)”The Federal Rules rejects the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits.” According to Rule 8(f) FRCP and the State Court rule which holds that all pleadings shall be construed to do substantial justice.

2. That EXHIBIT 1 shows that on November 01, 2012, SPALLINA tendered a letter written by MORAN<sup>3</sup> with a Claimant Statement to HERITAGE that on page 5 of the form SPALLINA signs as the “Trustee” of the “Simon Bernstein Irrevocable Insurance Trust dtd. 6/21/95,” yet the cover letter prepared by MORAN for SPALLINA claims that “We are unable to locate a copy of the original insurance policy” and then in a December 06, 2012 letter included in EXHIBIT 1, SPALLINA further states, “We are unable to locate the Simon Bernstein Irrevocable Insurance Trust dated June 1, 1995, which we have spent much time searching for.”
3. That due to a lost policy and lost trust, the insurance carrier denied SPALLINA’S claim that he was the “Trustee” of the lost trust and demanded a court order to approve of the beneficiary scheme being proposed.
4. That SPALLINA claims in his letter to the carrier dated December 06, 2012 that “if necessary, we will prepare for Heritage an Agreement and Mutual Release amongst all [emphasis added] the children.”
5. That SPALLINA knew he was not the “Trustee” of the lost trust, as he has claimed repeatedly that he has NEVER seen a copy of the lost trust. Therefore, this is Prima Facie evidence of INSURANCE FRAUD and as such the claim was denied when none of the claim form information requested by the carrier was provided to prove the beneficial interests so new schemes were hatched to try to abscond with the insurance benefits, including this instant lawsuit.

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<sup>3</sup> That defendants’ TSPA, SPALLINA and TESCHER’S notary public, a one Kimberly Moran (“MORAN”), while working for the law firm TSPA, did admit to authorities that she had FORGED and FRAUDULENTLY altered documents changing beneficiaries of estate assets in the estate of SHIRLEY. EXHIBIT 2 – MORAN SUSPENSION and EXHIBIT 3 – PALM BEACH COUNTY SHERIFF REPORT.

6. That SPALLINA then prepared a Settlement Agreement and Mutual Release (“SAMR”) for the children of SIMON to sign in efforts to have the benefits paid to a new POST MORTEM trust with new trustees and beneficiaries according to what SPALLINA, TED and P. SIMON claimed from memories were the trustees and beneficiaries of the missing and lost trust and Policy(ies) and that SPALLINA was going to take that SAMR to the Probate Court in Palm Beach County for approval by the Probate court judge.
7. That when the SAMR was presented to ELIOT and his children’s counsel, there were multiple problems found, including the fact that it put ELIOT and his children in a conflict over the benefits. ELIOT notified SPALLINA and all of SIMON’S children of the problems with the SAMR and the need for each child of SIMON’S to get counsel for their children separate than any they might get for themselves, as it appeared that the beneficiaries could either be the children or the grandchildren and the children were acting simultaneously as trustees for their children who are alleged to be the estate beneficiaries.
8. That due to problems caused in part by the estate planners, including but not limited to, missing insurance policies and missing trusts, TSPA, TESCHER and SPALLINA’S incompetence created the conflict between SIMON’S children and grandchildren for the insurance benefits. Due to the conflicts of interest caused ELIOT was advised by counsel to then have his children represented by separate counsel and ELIOT was then left representing his interests without counsel. The estate refused to pay for counsel for the parties despite the need arising due to the estate planners TSPA, TESCHER and SPALLINA’S Willful, Wanton, Reckless, and Grossly Negligent acts in preparing the estate plan for SIMON and neglecting to protect the beneficiaries of the Policy(ies) and trusts that SPALLINA claimed he was aware of but failed to get copies or any documentation regarding his claims. SIMON

allegedly told SPALLINA who the beneficiaries were to be, as evidenced in the correspondences exhibited herein of SPALLINA'S. Yet, SPALLINA in his estate plan failed to maintain a copy of the lost Policy(ies) and lost trust and therefore failed to provide a clear path to the benefits for the beneficiaries, not even getting letters or anything from SIMON in writing regarding his claimed intent, since SPALLINA now claims not to have a Policy(ies) or trust to prove such claims after looking high and low.

9. That TED, P. SIMON, D. SIMON, IANTONI and FRIEDSTEIN are acting as alleged trustees for their children in the estates over their minor and adult children's trusts and yet failed to have their children included in this lawsuit, knowing they may be potential beneficiaries of the now lost or suppressed Policy(ies) if the proceeds were to flow to the estate as they should. Where each child of SIMON'S now stands in direct conflict with SIMON'S grandchildren, their own children, for inheritance of the benefits and where none of the other children, other than ELIOT, has their children represented in this insurance claim that has now metamorphosed into this baseless Breach of Contract lawsuit.
10. That ELIOT is unaware if the grandchildren of his siblings even know they are possible direct beneficiaries of the Policy(ies) and trusts, as evidence exists that efforts were made to keep these insurance matters from their children, in order to prevent lawsuits by not disclosing the conversion of the benefits. This advice to not tell the children was given to TED, P. SIMON, IANTONI and FRIEDSTEIN by SPALLINA who advised them to keep it a secret from their children in a meeting. Other witnesses were present on the calls when SPALLINA made these claims when proposing the SAMR scheme. **EXHIBIT 4 - TRIPP SCOTT CONFLICT LETTER.**

11. That the fact that not all the potential beneficiaries have been notified of this insurance claim/breach of contract lawsuit, with intent, may invoke the Probate Exception to Federal Jurisdiction in this matter and proving this lawsuit further frivolous and fraudulent. Whereby the proceeds paid to this Court by the carrier should be returned to the carrier and the matter turned over to the Florida Probate court to rule on, after that Court determines the true and proper beneficiaries of the estate of SIMON and SHIRLEY.
12. That the SAMR scheme attempted to convert the assets of the estates from the grandchildren to the children of SIMON without the grandchildren's knowledge and consent and where the parents were going to sign off rights on behalf of their children, acting as "Trustees" for them, in order to release the funds to themselves through a POST MORTEM trust for SIMON. The breaches of fiduciary duties from this Willful, Wanton, Reckless, Grossly Negligent and unlawful behavior of TED, P. SIMON, IANTONI and FRIEDSTEIN as trustees for their children as estate beneficiaries constitutes fraud and conversion of estate assets. **SEE EXHIBIT 5 – ELIOT/TED/SPALLINA LETTERS REGARDING THE INSURANCE FRAUD SCHEMES.**
13. That in a lost beneficiary situation the proceeds of the Policy(ies) appear to legally flow to the estate for distribution to the estate beneficiaries, where TED and P. SIMON would be wholly excluded, as both were wholly disinherited from both of their parents estates.
14. That the alleged beneficiaries of the estate are the grandchildren according to TED and P. SIMON and where TED and P. SIMON'S adult children would inherit the insurance benefits directly under this scenario and TED and P. SIMON would get none of the benefits if the benefits instead flow to the estate beneficiaries provides motive for the SAMR scheme and attempts to convert the benefits to themselves instead of their children.



15. The reason the beneficiaries of the estates are alleged to be beneficiaries at this time, is due to revelations in the probate hearings before Judge Martin Colin in SHIRLEY'S estate of forgery, fraud, identity theft and more, due to the fraudulent and forged documents in that estate and improperly and alleged fraudulent Wills and Amended and Restated trusts in SIMON'S estate still being investigated. Further, it was learned that SPALLINA and TESCHER used SIMON post mortem as if alive to file a series of documents to close SHIRLEY'S estate and pulled a fraud on the court, whereby Judge Colin stated he should read them their Miranda Warnings when he discovered these crimes.
16. That MORAN has been arrested for filing forged and fraudulent documents in SHIRLEY'S estate and SHIRLEY'S estate was subsequently reopened due to these frauds. As these matters are not yet fully resolved in the probate court of Judge Colin and Judge French in Florida, as to who the ultimate beneficiaries of the estates will be remains unclear as evidenced in an Evidentiary Hearing held in SHIRLEY'S estate on October 28, 2013. Therefore, if the currently alleged beneficiaries were so effectuated through a series of fraudulent documents and acts done to seize Dominion and Control of the estates illegally, in efforts to loot the estate through a variety of fraudulent acts, insurance benefits paid to this Court in this lawsuit should not be distributed to any parties until all matters are fully resolved both criminally and civilly in the estates. Thus, the benefits deposited with this Court by JACKSON should be returned to the insurance carrier immediately until it can be determined if this Court is the proper court to determine the beneficiaries of the missing and lost trusts and the missing and lost insurance Policy(ies) and if these matters are legally under the jurisdiction of the state probate courts and finally if this legal action is merely an abuse of process to commit fraud.

17. That ELIOT and his children's counsel were then told that the SAMR trust was being submitted to the probate court for approval since the trust and Policy(ies) were claimed to be lost and then it would be submitted for approval by ELIOT and his children's counsel before any distributions would be made. However, during that time, without informing ELIOT or his children's counsel, this Breach of Contract lawsuit was filed by "4/5" of SIMON'S children who had meetings without ELIOT to conspire how to get the proceeds without his knowledge or their own children's, resulting in this cleverly concealed lawsuit to commit fraud.
18. That ELIOT would never have known of this lawsuit without JACKSON suing ELIOT as a third party defendant and this Court could have paid out the benefits to this scheme and circumvented the true and proper beneficiaries and none of these parties with interests would have known until after the proceeds were distributed, if ever.
19. That knowing the SAMR would never get approval by the probate court that idea was discarded and this new third scheme to convert the benefits fraudulently was then hatched and facilitated through a meritless and baseless Breach of Contract lawsuit brought on behalf of a lost trust. Therefore, this lawsuit is actually a clever Legal Abuse of Process, which uses this Court to facilitate the crime, now attempting to convert the benefits to imagined beneficiaries through a cleverly disguised Fraud on the Court concocted by Defendants TED, P. SIMON, D. SIMON, A. SIMON, IANTONI, FRIEDSTEIN, TSPA, TESCHER and SPALLINA, again in an attempt to convert the Policy(ies) proceeds to now imaginary beneficiaries of a lost trust, Of course the newly conjured up beneficiaries, include TED, P. SIMON, IANTONI and FRIEDSTEIN, or "4/5" of SIMON'S children according to TED'S response to JACKSON'S counter complaint. Again, the benefits would be converted from

their unrepresented children in this lawsuit, who they are acting as trustees for and again this scheme would end around their children and benefit them directly instead, while evidence exists that their intent was to conceal this from their children and others. All of this in efforts to undo the estate plans of SIMON and SHIRLEY in the transfer of their assets, which excluded TED and P. SIMON from ANY benefits.

20. That on September 13, 2013 at a hearing before Hon. Judge Martin Colin of the CIRCUIT COURT OF THE FIFTEEN JUDICIAL CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA, CASE NO. 502011CP000653XXXXSB in the estate of SHIRLEY, SPALLINA did admit that he was “involved” in the MORAN fraud and forgery as the Attorney that filed the documents with the Court.
21. That on September 13, 2013 at a hearing before Hon. Judge Martin Colin of the CIRCUIT COURT OF THE FIFTEEN JUDICIAL CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA, CASE NO. 502011CP000653XXXXSB in the estate of SHIRLEY, SPALLINA did admit that he had presented documents to the court on behalf of SIMON to close the estate of SHIRLEY and failed to notify that court that SIMON was dead at the time he was using him as if he were alive, thus acknowledging that he perpetrated a Fraud on the Court and more in the closing of SHIRLEY’S estate with a dead Personal Representative and Trustee SIMON.
22. That in an October 28, 2013 Evidentiary Hearing before Judge Colin, it was learned that TED had been acting in fiduciary capacities that he did not have prior, including acting as Personal Representative and Trustee for the estate of SHIRLEY. Due to the FRAUD ON THE COURT using my father SIMON’S identity after he was deceased to close the estate of my mother, no successors were elected or appointed by the court after that point.

SPALLINA, acting as estate counsel failed to notify the court that SIMON was dead and continued for four months to use documents filed as if SIMON were alive to close her estate, instead of notifying the court of his death and electing successors. It is alleged they needed to make it look like SIMON was alive when he closed SHIRLEY'S estate, so that they could then attempt to change her beneficiaries POST MORTEM through the alleged FORGED and FRAUDULENT alleged Will and Amended and Restated Trust filed in SIMON'S estate, supposedly while he was alive. Yet, these documents, the Will and Amended and Restated Trust of SIMON are again improperly notarized and witnessed and are now being investigated. Again, MORAN and SPALLINA are involved as witnesses of these documents. The Court should note that SPALLINA witnesses these documents, the alleged Will and Amended and Restated Trust of SIMON, documents he drafted and which gave him the fiduciary powers, as they elect him Personal Representative, allowing him to seize Dominion and Control of the estates by becoming Personal Representative. MORAN, who already has been arrested for fraud and forged documents in the estate of SHIRLEY, also witnesses these documents in SIMON'S estate. What evolves is a pattern and practice of fraudulent documents used to seize dominion and control of the estates of SIMON and SHIRLEY and used to loot the estates of assets to the wrong beneficiaries, including now this insurance fraud upon this Court.

**MOTION TO STRIKE PLEADINGS BY ADAM SIMON FOR FRAUD ON  
THE COURT AND ABUSE OF PROCESS**

23. That when SPALLINA'S insurance fraud failed, this frivolous and baseless instant Breach of Contract lawsuit was instituted before this Court with TED now suddenly and bizarrely claiming to be the alleged "Trustee" of the lost trust and claiming as such that he can elect new beneficiaries POST MORTEM for SIMON. SPALLINA now disappears as "Trustee" and in an unknown transfer of trusteeship to TED of the lost trust, TED through his brother-in-law D. SIMON'S brother and P. SIMON'S brother-in-law, A. SIMON acting as Attorney at Law to TED as alleged "Trustee," files this lawsuit to fraudulently convert the death benefits. Again, ELIOT reminds the Court that all of these bogus claims are being made on behalf of a lost trust on a lost insurance Policy(ies) and no one to date has any legal and binding contracts to prove their claims.
24. That ELIOT alleges that the trusts and Policy(ies) are being suppressed and denied by the parties responsible for them, in order to change the beneficiaries and convert the funds illegally. That it was learned in letters from SPALLINA that P. SIMON had good relationships at one of the insurance carriers involved in the claim and that she could facilitate payment of the claim to their SAMR scheme, despite the obvious illegality of the scheme. This relationship may explain why suddenly the insurance carrier is claiming to not have a copy of the actual insurance contract, the Policy(ies) and to date, no one has produced one.
25. That P. SIMON and SIMON sold the "lost" insurance Policy(ies) on SIMON, acting as the broker and agent of record and also maintained and setup the VEBA trust through trust companies they operate that paid the insurance proceeds to the plan participants. D. SIMON, A. SIMON and TSL provided legal counsel to the businesses and trusts involved in this lawsuit and are alleged to be suppressing records relating to the "lost" insurance Policy(ies)

and “lost” trust, with intent to conceal and change the beneficiaries of SIMON’S policy(ies) to themselves to the detriment of others.

26. That while A. SIMON is directly involved as counsel to many of these trusts and the insurance agencies involved that are Bernstein family owned companies and his law firm is located in the same offices, A. SIMON and TED have access to all these records, including the policies and various trusts over the years and it should be noted that when producing documents for this lawsuit, they have failed to include any of the VEBA trust documentation that was responsible for beneficiary designations of the VEBA plan, which paid the benefits to the employees elected beneficiaries under the plan, as the Policy(ies) direct beneficiaries in the VEBA are trust companies, not individuals, that then pay the VEBA trust the proceeds, which then pays the plans beneficiaries designated under the VEBA trust. This appears to be the case with the Policy(ies) claimed in this lawsuit and why the primary beneficiary is LaSalle Bank and the contingent SIMON BERNSTEIN TRUST N.A. Nowhere is the lost “Simon Bernstein Irrevocable Insurance Trust dtd. 6/21/95” trust named as a beneficiary of the Policy(ies), as it was a beneficiary of the VEBA plan and would have been so listed in the documentation of the VEBA trust, all of these records have not been produced to establish any claims and ELIOT claims these documents are also suppressed by A. SIMON, D.

SIMON, TSL, P. SIMON, TED, SPALLINA and TESCHER.

27. That it should be noted by this Court, that after thousands of pages of discovery were sent to ELIOT by defendants A. SIMON and JACKSON in these matters, **NEITHER SENT A COPY OF THE POLICY AND A VALID LEGAL TRUST DOCUMENT WITH CLAIMS TO THE POLICY.** Where this may be the first such case where all responsible parties to maintain insurance contracts and trusts appear to be missing the insurance contract

and trusts entirely, no valid copies even tendered, indicating further alleged insurance fraud.

Where ELIOT has worked in the insurance and estate planning industry and sold hundreds of millions of dollars of premium to billionaires and multimillionaires for over 20 years and has never heard of a “lost” trust and missing Policy(ies), where no one, including the policyholder, the estate planners, the fiduciaries of the trusts and Policy(ies) and even the INSURANCE CARRIER claim to have no original contracts, no copies of originals, no valid drafts or anything of substantive legal contractual value for making a claim or paying a claim. That the insurance carrier claims not to have a copy of the Policy(ies) and thus far has provided only a specimen contract and claims to not have a single page of the any of the trusts claimed to be beneficiaries.

28. That also missing from the records sent to ELIOT thus far are the records of the VEBA TRUST maintained by P. SIMON, D. SIMON and A. SIMON that supposedly was dissolved according to the original complaint in this matter, including but not limited to the annual VEBA trust statements, information pertaining to the dissolution of the VEBA, the sold case information, etc. that was maintained by P. SIMON and D. SIMON’S companies and what SIMON and SHIRLEY’S total beneficial interest in the VEBA plan were.
29. That the VEBA TRUST was written for companies owned by SIMON, insuring all the employees of his company and all assets held under the VEBA trust may also be part of the plan benefits to be paid to the proper beneficiaries and where all of these records are necessary in determining the total benefits in this instant action and who the true and proper beneficiaries are and this all is alleged suppressed with intent as there may be other beneficial interests that are to be paid with the Policy(ies) from the VEBA trust.

30. That also missing at this time is any information from other defendants involved in these matters who have not yet responded to the complaint or answered the actions and have not disclosed under Rule 26, including trust companies and other law firms involved that are largely responsible to the beneficiaries of the VEBA TRUST and Policy(ies) and other assets contained therein, including but not limited to, the estate planners, TSPA, TESCHER and SPALLINA, who are largely responsible for this insurance fraud.
31. That from the records sent thus far by JACKSON, it appears that the last named alleged beneficiary and contingent beneficiary on the Policy(ies), according to JACKSON is not the lost trust claimed by SPALLINA, TED, P. SIMON and A. SIMON, the “Simon Bernstein Irrevocable Insurance Trust dtd. 6/21/95” but instead the primary beneficiary appears to be LaSalle National Trust and the contingent beneficiary appears to be another lost trust where no records were tendered to ELIOT by JACKSON or A. SIMON, the “Simon Bernstein Trust, N.A.” Therefore, at this time it does not appear relevant who the trustee or the beneficiaries of the “Simon Bernstein Irrevocable Insurance Trust dtd. 6/21/95” are in this lawsuit, as this trust is not a primary or contingent beneficiary on the Policy(ies) according to JACKSON. Thus, the lost trust serves no purpose to establish a claim as it is not a beneficiary, other than to prove the attempted Insurance Fraud, Abuse of Process and Fraud on this Court taking place to attempt to convert the benefits illegally. Further, in the 2500 page document dump thus far, no clear beneficiary forms have been evidenced for “Simon Bernstein Trust, N.A.” showing how this entity became the contingent beneficiary or what it is and no documents exist establishing the “Simon Bernstein Irrevocable Insurance Trust dtd. 6/21/95” as a beneficiary of the Policy(ies).



32. .That this Willful, Wanton, Reckless, and Grossly Negligent illegal behavior of the Attorneys at Law, TSPA, TESCHER and SPALLINA who have largely caused this mess of unknown beneficiaries and missing trusts and missing Policy(ies) in the estate by failing to protect the beneficiaries through their extensive estate planning that SIMON and SHIRLEY contracted them do, who have still not answered this lawsuit at this time, further delaying the ability to settle these matters or litigate them timely and further causing damages to the true and proper beneficiaries of the Policy(ies) who have been denied benefits by these fraudulent insurance schemes.
33. That in filing this instant action, A. SIMON knew that SPALLINA had filed a claim with HERITAGE that was denied and where A. SIMON knew SPALLINA was not the “Trustee” and could never have been the “Trustee” of the lost trust SPALLINA claimed never to have seen. Yet, A. SIMON failed to notify the proper authorities of this Insurance Fraud by another Attorney at Law as required by state and federal ethics codes and law. A. SIMON has also failed to notify this Court of the fraudulent attempt by SPALLINA to collect the benefits as “Trustee” that his client, TED, now claims to be the acting “Trustee” of the lost trust
34. That instead, A. SIMON further conspired now with TED and SPALLINA to file this FRAUDULENT BREACH OF CONTRACT LAWSUIT ON A US FEDERAL COURT once the initial schemes failed, with TED now acting as “Trustee” of the lost trust and attempting yet a third fraud to abscond illegally with the death proceeds through conversion to the wrong beneficiaries.
35. That two other documents presented to this Court in Motions and Discovery deserve special note, as they were drafted by Anonymous Attorneys at Law, no markings or bearings of who

the draftsmen are, what law firm sent them or any other legally identifying marks upon them. The first is the SAMR trust agreement already exhibited herein and the Court should demand to know who the drafter of this document is, so as any legal liabilities or evidence of fraud can be identified to the proper parties. The second document was submitted by A. SIMON on behalf of his clients the lost trust and TED via discovery in this lawsuit, which is attempted to be inserted into the record as some kind of parole evidence of the lost trust.

**SEE EXHIBIT 6 - BLANK COPY OF ALLEGED TRUST.** This document also lacks any identifying marks as to who the Attorneys at Law were that drafted it, it is further unsigned, undated and has no legal validity, an attempt to fool this Court into believing this document validates the lost trust scheme. Again, this Court should demand to know who the legal draftsmen of the document are so that any legal liabilities or evidence of fraud can be identified to the proper parties. As it is not standard operating procedure for law firms to send out documents, especially estate planning documents without the proper nomenclature identifying their works and therefore this is a worthless document to prove anything but attempted fraud to fulfill Your Honor's request for a copy of the lost trust that could have been prepared by anyone with plain paper.

36. That A. SIMON knew of the SAMR, which was a trust vehicle they had attempted to have the proceeds paid to in replacement of the lost trust and now somehow they sued in this Court to have the proceeds paid to the lost trust with no valid controlling documents, other than the blank draft of the lost trust submitted by A. SIMON. The question, how did the lost trust that was being replaced with the SAMR, now sue the carrier? If everything is a best guess, according to SPALLINA as evidenced in EXHIBIT 4, including who the trustee and

beneficiaries are how can the trust sue anyone when TED or SPALLINA or ALICE IN WONDERLAND could be the trustee and beneficiaries?

37. That A. SIMON in two hearings in this Court appears to have personal feelings and emotions involving ELIOT as a family member that interfere with his ability to act independently and without malice towards ELIOT as an adversary in these proceedings. It should be noted that A. SIMON has a conflicting interest in these proceedings, as ELIOT is alleging that he is committing Insurance Fraud, Abuse of Process and Fraud on the Court, as he and his law firm are involved directly in the lost/suppressed Policy(ies) and trusts and now attempt to convert the funds to his brother's wife. For these reasons A. SIMON and his law firm members will be deposed and called as witnesses in these matters, regarding direct involvement in the lost Policy(ies) and trusts and for his knowingly fraudulent filing of this lawsuit with no basis in law and all of these personal factors make his representation far from impartial on behalf of both his client and himself. A. SIMON appears to have responded to ELIOT'S answer and cross claim representing himself as his own attorney and it is further unclear if he is representing himself personally or professionally as he was sued in both capacities. That D. SIMON is represented by A. SIMON and again D. SIMON was sued in both his personal and professional capacities and it is unclear which capacity A. SIMON will be attempting to represent him in these matters. A. SIMON for reason stated herein and in the cross claim should be removed from acting as a counsel for TED or any other party and seek legal counsel for both himself, personally and professionally, and for his law firm, as they have all now been sued in this lawsuit as Cross Claim Defendants with good cause.
38. That before ELIOT is compelled by this Court to respond to pleadings, interrogatories and share information with A. SIMON or TED, this Court should first determine if there is any

basis to this lawsuit and should note that in JACKSON'S Answer and Counter Complaint, they claim that TED was advised by counsel that he had no basis to file this lawsuit. If found to have no basis then A. SIMON, SPALLINA and TED should be sanctioned and reported to the proper authorities for insurance fraud and more and this Court should award a Default Judgment and award all reliefs and damages requested by ELIOT.

### **RELIEF**

**WHEREFORE**, Cross Plaintiff ELIOT prays to this Court:

- i. FOR AN ORDER TO STRIKE PLEADINGS BY A. SIMON FOR FRAUD ON THE COURT AND ABUSE OF PROCESS;
- ii. FOR AN ORDER TO REMOVE ADAM SIMON FROM LEGAL REPRESENTATION ON BEHALF OF ANY PARTIES IN THIS LAWSUIT OTHER THAN AS DEFENDANT PRO SE or REPRESENTED BY COUNSEL;
- iii. That all filings of A. SIMON should be withdrawn from this proceeding and this Court should order that TED, P. SIMON, IANTONI, D. SIMON and FRIEDSTEIN find new non conflicted counsel to represent their interests in this FRIVOLOUS AND FRAUDULENT action;
- iv. That each defendant party represented by A. SIMON seeks independent non-conflicted counsel and separate and independent counsel demanded by this court for their children;
- v. For sanctions to be levied against A. SIMON, D. SIMON, TSPA, TESCHER and SPALLINA for abuse of process and fraud on the court. That according to JACKSON'S original complaint, TED was advised by counsel, alleged to be

- SPALLINA, that he had no basis to file this lawsuit, and yet, A. SIMON filed the action on behalf of a “lost” trust and TED as alleged trustee of said “lost” trust and to further benefit his his sister-in-law/employer, P. SIMON.
- vi. Award Court Costs not from the Policy(ies) but from alleged conspirators of this Fraud on the Court and Abuse of Process and force bonding for these unnecessary legal and other costs by those parties that have caused this baseless Lawsuit in efforts to perpetrate a fraud;
  - vii. ELIOT requests this Court take Judicial Notice of the alleged Fraud on the Court and Fraud on the Beneficiaries of the Policy(ies) through this criminal abuse of process by Attorneys at Law violating ethical codes of conduct and law and act on its own motions to prevent any further possible criminal activities and damages to others being incurred until these alleged criminal matters are fully resolved and report these matters of misconduct and alleged felony crimes to all the proper authorities as so required by Judicial Cannons and law. Especially where the criminal matters before this Court are being committed by Attorneys at Law or more aptly, criminals with legal degrees.
  - viii. Award damages sustained to date and continuing in excess of at least EIGHT MILLION DOLLARS (\$8,000,000.00) as well as punitive damages, costs and attorney's fees.

Respectfully submitted,

/s/ Eliot Ivan Bernstein

---

Dated

\_\_\_\_\_, 2013

Eliot I. Bernstein  
2753 NW 34<sup>th</sup> St.  
Boca Raton, FL 33434  
(561) 245-8588

**Certificate of Service**

The undersigned certifies that a copy of the foregoing Answer and Cross Claim was served by ECF, US Mail and by E-mail on November \_\_ 2013 to the following parties:

**Email**

Robert L. Spallina, Esq. and  
Teschler & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way  
Suite 720  
Boca Raton, FL 33431  
[rspallina@tescherspallina.com](mailto:rspallina@tescherspallina.com)

Donald Tescher, Esq. and  
Teschler & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way  
Suite 720  
Boca Raton, FL 33431  
[dtescher@tescherspallina.com](mailto:dtescher@tescherspallina.com)

Theodore Stuart Bernstein and  
National Service Association, Inc. (of Florida) ("NSA")  
950 Peninsula Corporate Circle, Suite 3010  
Boca Raton, Florida 33487  
[tbernstein@lifeinsuranceconcepts.com](mailto:tbernstein@lifeinsuranceconcepts.com)

Lisa Sue Friedstein  
2142 Churchill Lane  
Highland Park IL 60035  
[Lisa@friedsteins.com](mailto:Lisa@friedsteins.com)  
[lisa.friedstein@gmail.com](mailto:lisa.friedstein@gmail.com)

Jill Marla Iantoni  
2101 Magnolia Lane  
Highland Park, IL 60035  
[jilliantoni@gmail.com](mailto:jilliantoni@gmail.com)

[Iantoni\\_jill@ne.bah.com](mailto:Iantoni_jill@ne.bah.com)

Pamela Beth Simon and  
S.T.P. Enterprises, Inc.,  
S.B. Lexington, Inc. Employee Death Benefit Trust,  
SB Lexington, Inc.,  
National Service Association, Inc. (of Illinois)  
303 East Wacker Drive  
Suite 210  
Chicago IL 60601-5210  
[psimon@stpcorp.com](mailto:psimon@stpcorp.com)

David B. Simon and  
The Simon Law Firm  
303 East Wacker Drive  
Suite 210  
Chicago IL 60601-5210  
[dsimon@stpcorp.com](mailto:dsimon@stpcorp.com)

Adam Simon and  
The Simon Law Firm  
General Counsel STP  
303 East Wacker Drive  
Suite 210  
Chicago IL 60601-5210  
[asimon@stpcorp.com](mailto:asimon@stpcorp.com)

/s/ Eliot Ivan Bernstein

---

Eliot Ivan Bernstein  
2753 NW 34th St.  
Boca Raton, FL 33434  
(561) 245-8588

**EXHIBIT 1 – SPALLINA CLAIM FORM WITH SPALLINA AS TRUSTEE OF THE  
“LOST” TRUST**



LAW OFFICES  
**TESCHER & SPALLINA, P.A.**

BOCA VILLAGE CORPORATE CENTER I  
1855 TECHNOLOGY WAY, SUITE 720  
BOCA RATON, FLORIDA 33431

ATTORNEYS  
DONALD R. TESCHER  
ROBERT L. SPALLINA  
LAUREN A. GAYMAN

TEL: 561-997-7008  
FAX: 561-997-7308  
TOLL FREE: 888-997-7008  
WWW.TESCHERSPALLINA.COM

SUPPORT STAFF  
DIANE DUNN  
KIMBERLY MORAN  
SUANN TESCHER

November 1, 2012

**VIA FEDERAL EXPRESS**  
Claims Department  
Heritage Union Life Insurance Company  
1275 Sandusky Road  
Jacksonville, IL 62651

Re: Insured: Simon L. Bernstein  
Contract No.: 1009208

Dear Sir or Madam:

Enclosed is the Claimant's Statement for the above referenced policy, together with an original death certificate for the insured, Simon Bernstein. We are also enclosing a copy of Internal Revenue Service Form SS-4, Application for Employer Identification Number for the Simon Bernstein Irrevocable Insurance Trust dated June 1, 1995, which is the trust listed as beneficiary of the above referenced policy. We will provide wiring instructions for the trust bank account when you have processed the claim, if possible, in lieu of a check. Finally, we are enclosing a copy of the obituary for the decedent which was published in the Palm Beach Post. We are unable to locate a copy of the original insurance policy.

If you have any questions with regard to the foregoing, please do not hesitate to contact me.

Sincerely,

*Robert L. Spallina/km*

ROBERT L. SPALLINA

RLS/km

Enclosures

km = Kimberly  
Moran

JCK001277

## CLAIMANT STATEMENT

Heritage Union Life Insurance Company

Mailing Address  
P.O. Box 1600  
Jacksonville, IL 62651-1600

Proof of Loss

### Part I

#### INSTRUCTIONS

The following items are required for all claims:

- ☐ An original **certified death certificate** showing the cause of death. Photocopies are not acceptable.
- ☐ The original policy or, if unavailable, an explanation provided in Decedent Information section, space 5 of this form.
- ☐ This claim form completed and signed by the claimant(s).

If the policy has been in force for less than two years during the lifetime of the Insured or if the policy has been reinstated within two years of the Insured's death, then we may perform a routine inquiry into the answers on the application for the policy or reinstatement application of the lapsed policy.

If the death occurred outside of the United States, we will require a Report of the Death of an American Citizen Abroad.

Special Instructions and additional requirements may apply.

- If the beneficiary is the Estate of the Insured, we will also require evidence of the court approved legal representative over the Estate. Please provide the Tax ID number of the Estate of the Insured.
- If the beneficiary is a trust, we will also require a copy of the trust agreement and any amendments, including the signature page(s). Please note the Trustee Certification section of the claim form will also need to be completed by all trustees. Please use the trust's name when completing the Claimant Information section of the claim form and provide the Tax ID number of the trust.
- If the beneficiary is a minor, we will require evidence of court appointed guardianship of the Minor's Estate.
- If the policy is collaterally assigned, we will require a letter from the collateral assignee stating the balance due under the collateral assignment. If the collateral assignee is a corporation, please include a copy of the corporate resolution verifying who is authorized to sign on behalf of the corporation.
- If the primary beneficiary(ies) is (are) deceased, we will require a death certificate for each deceased beneficiary.
- If the policy has a split dollar agreement associated with it, we will require a copy of said agreement.
- If the policy is subject to a Viatical or a Life Settlement transaction, and if the beneficiary is a viatical settlement provider, life settlement provider, the receiver or conservator of viatical or life settlement company, a viatical or life financing entity, trustee, agent, securities intermediary or other representative of a viatical or life settlement provider or an individual or entity which invested in this policy as a viatical or life settlement, please complete questions 19 and 30.

Other requirements may be needed depending on the individual facts of the claim. The company will advise you if other documentation is required.

## CLAIMANT STATEMENT

### FRAUD INFORMATION

**For Residents of Alaska, Arizona, Nebraska, New Hampshire and Oregon:** Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance may be guilty of a crime and may be subject to fines and confinement in prison.

**For Residents of California:** For your protection California law requires the following notice to appear on this form. Any person who knowingly presents a false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in state prison.

**For Residents of Colorado:** It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado division of insurance within the department of regulatory agencies.

**For Residents of Florida:** Any person who knowingly and with intent to injure, defraud, or deceive any insurer files a statement of claim or an application containing any false, incomplete, or misleading information is guilty of a felony of the third degree.

**For Residents of Kentucky, Ohio and Pennsylvania:** Any person who knowingly & with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime & subjects such person to criminal and civil penalties.

**For Residents of Maine, Tennessee and Washington:** It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits.

**For Residents of Minnesota:** A person who files a claim with intent to defraud or helps commit a fraud against an insurer is guilty of a crime.

**For Residents of New Jersey:** Any person who knowingly files a statement of claim containing any false or misleading information is subject to criminal and civil penalties.

**For Residents of New Mexico:** Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to civil fines and criminal penalties.

**For Residents of New York:** Please see the Signature section of this form.

**For Residents of Puerto Rico:** Any person who, knowingly and with intent to defraud, presents false information in an insurance request form, or who presents, helps or has presented a fraudulent claim for the payment of a loss or other benefit, or presents more than one claim for the same damage or loss, will incur a felony, and upon conviction will be penalized for each violation with a fine no less than five thousand (5,000) dollars nor more than ten thousand (10,000) dollars, or imprisonment for a fixed term of three (3) years, or both penalties. If aggravated circumstances prevail, the fixed established imprisonment may be increased to a maximum of five (5) years; if attenuating circumstances prevail, it may be reduced to a minimum of two (2) years.

**For Residents of All Other States:** Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

# CLAIMANT STATEMENT

<b>DECEDENT INFORMATION</b>			
1. Name of Deceased (Last, First, Middle) <b>Bernstein, Simon Leon</b>		2. Last 4 digits of Deceased's Social Security No: <b>5211</b>	
3. If the Deceased was known by any other names, such as maiden name, hyphenated name, nickname, derivative form of first and/or middle name or an alias, please provide them below.			
4. Policy Number(s) <b>1009208</b>		5. If policy is lost or not available, please explain: <b>unable to locate, policy is 30 years old</b>	
6. Deceased's Date of Death <b>09/13/12</b>		7. Cause of Death <b>natural causes</b>	
8. <input checked="" type="checkbox"/> Natural <input type="checkbox"/> Accidental <input type="checkbox"/> Suicide <input type="checkbox"/> Homicide <input type="checkbox"/> Pending			
<b>CLAIMANT INFORMATION</b>			
9. Claimant Name (Last, First, Middle). If trust, please list trust name and complete Trustee Certification section. <b>Simon Bernstein Irrevocable Insurance Trust</b>			
10. Street Address		11. City	
12. State and Zip		13. Daytime Phone Number	
14. Date of Birth		15. Social Security or Tax ID Number	
16. Relationship to Deceased			
17. I am filing this claim as: <input type="checkbox"/> an individual who is named as a beneficiary under the policy <input type="checkbox"/> a Trustee of a Trust which is named as a beneficiary under the policy <input type="checkbox"/> an Executor of Estate which is named as a beneficiary under the policy <input type="checkbox"/> Other			
18. Are you a U.S. Citizen? <input type="checkbox"/> Yes <input type="checkbox"/> No If "No" please list country of citizenship.			
19. Policies subject to Viatical / Life Settlement transactions - Are you a viatical settlement provider, life settlement provider, the receiver or conservator of viatical or life settlement company, a viatical or life financing entity, trustee, agent, securities intermediary or other representative of a viatical or life settlement provider; or an individual or entity which invested in this policy as a viatical or life settlement? <input type="checkbox"/> Yes <input type="checkbox"/> No			
<b>CLAIMANT INFORMATION (to be completed by 2nd claimant, if any)</b>			
20. Claimant Name (Last, First, Middle). If trust, please list trust name and complete Trustee Certification section.			
21. Street Address		22. City	
23. State and Zip		24. Daytime Phone Number	
25. Date of Birth		26. Social Security or Tax ID Number	
27. Relationship to Deceased			
28. I am filing this claim as: <input type="checkbox"/> an individual who is named as a beneficiary under the policy <input type="checkbox"/> a Trustee of a Trust which is named as a beneficiary under the policy <input type="checkbox"/> an Executor of Estate which is named as a beneficiary under the policy <input type="checkbox"/> Other			
29. Are you a U.S. Citizen? <input type="checkbox"/> Yes <input type="checkbox"/> No If "No" please list country of citizenship.			
30. Policies subject to Viatical / Life Settlement transactions - Are you a viatical settlement provider, life settlement provider, the receiver or conservator of viatical or life settlement company, a viatical or life financing entity, trustee, agent, securities intermediary or other representative of a viatical or life settlement provider; or an individual or entity which invested in this policy as a viatical or life settlement? <input type="checkbox"/> Yes <input type="checkbox"/> No			

YOUR SIGNATURE IS REQUIRED ON THE NEXT PAGE.

CL 6812F LBS Claimant Statement No 3.A.A. 12/23/2011

Page 3

0008630.000710

JCK001271

000000.0002711

The policy may contain one or more settlement options, such as Interest Payments, Installments for a Specified Amount, Life Annuity, Life Annuity with Period Certain, and/or Joint Life and Survivorship Annuity. You may choose to receive a lump sum payment or another settlement option available in the policy under which a claim is made. For more information, refer to the optional methods of policy settlement provision in the policy or contact us at the mailing address noted on the front of the claim form.

Name of Settlement Option from Policy

To help fight the funding of terrorism and money-laundering activities, the U.S. government has passed the USA PATRIOT Act, which requires banks, including our processing agent bank, to obtain, verify and record information that identifies persons who engage in certain transactions with or through a bank. This means that we will need to verify the name, residential or street address (no P.O. Boxes), date of birth and social security number or other tax identification number of all account owners.

This information is being collected on this form versus IRS form W-9 and will be used for supplying information to the Internal Revenue Service (IRS). Under penalty of perjury, I certify that: (1) the tax ID number above is correct (or I am waiting for a number to be issued to me), (2) I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the IRS that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and (3) I am a U.S. person (including a U.S. resident alien). Please cross through item 2 if you have been notified by the IRS that you are subject to backup withholding because you have failed to report all interest and dividends on your tax return.

I/We do hereby make claim to said insurance, declare that the answers recorded above are complete and true, and agree that the furnishing of this and any supplemental forms do not constitute an admission by the Company that there was any insurance in force on the life in question, nor a waiver of its rights or defenses.

**For Residents of New York:** Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.

**For Residents of All Other States:** See the Fraud Information section of this claim form.

The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to avoid backup withholding.

Date \_\_\_\_\_

Date \_\_\_\_\_

# CLAIMANT STATEMENT

## TRUSTEE CERTIFICATION

### TRUSTEE CERTIFICATION (to be completed only if trust is claiming proceeds)

COMPLETE THIS SECTION ONLY IF A TRUST IS CLAIMING BENEFITS.

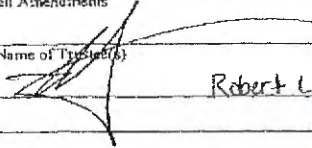
Please include a copy of the trust agreement, including the signature page(s) and any amendments.

I/We, the undersigned trustee(s), represent and warrant that the copy of the trust agreement, which we will provide you pursuant to this certification, is a true and exact copy of said agreement, that said agreement is in full force and effect, and that we have the authority to make this certification.

#### Generation Skipping Transfer Tax Information - THIS MUST BE COMPLETED FOR PAYMENT

I/We the undersigned, on oath, depose and states as follows with respect to the possible application of the Generation Skipping Transfer (GST) tax to the death benefit payment (Mark the appropriate item):

- ☐ 1. The GST tax does not apply because the death benefit is not included in the decedent's estate for federal estate tax purposes.
- ☒ 2. The GST tax does not apply because the GST tax exemption will offset the GST tax.
- ☐ 3. The GST tax does not apply because at least one of the trust beneficiaries is not a "skipped" person.
- ☐ 4. The GST tax does not apply because of the reasons set forth in the attached document (Please attach document setting forth the reasons why you believe the GST tax does not apply.)
- ☐ 5. The GST tax may apply. As a result, the death benefit payment IS subject to withholding of the applicable GST tax. Enclosed is the completed Schedule R-1 (Form 706) for submission to the Internal Revenue Service.

Name of Trust <b>Simon Bernstein Irrevocable Insurance Trust</b>		Date of Trust Agreement <b>06/01/1995</b>
Date of all Amendments		Trust Tax ID Number <b>65-6178960</b>
Printed Name of Trustee(s)	Signature(s)	
a <b>Robert L. Spallina</b>		
b		
c		
d		

Spallina signs as trustee = FRAUD



**Heritage Union Life Insurance Company**

P.O. Box 1600, Jacksonville, IL 62651

Phone 800-825-0003 Fax 803-333-4936

Visit us at [www.insurance-servicing.com](http://www.insurance-servicing.com)

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October 9, 2012

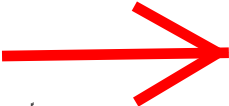
LASALLE NATIONAL TRUST N.A TRUSTEE  
C/O ROBERT SPALLINA, ATTORNEY AT LAW  
4855 TECHNOLOGY WAY STE 720  
BOCA RATON FL 33431

Insured Name: SIMON BERNSTEIN  
Policy Number: 1009208  
Correspondence Number: 09765315

Dear Trustee:

We are writing in response to your notification of the death of Simon Bernstein. Our sincere condolences go to the family for their loss.

In order to proceed with our review of the claim, we require the following items to be submitted:

- 
- The enclosed Claimants Statement completed and signed by the named beneficiary. If the beneficiary has had a change in name, we require a copy of the applicable marriage license, divorce decree or similar legal documents.
  - A certified death certificate. This should indicate cause of death, manner of death, date of birth and Social Security Number.
  - Return the original policy – If the original policy cannot be located, please note on the Claimant Statement (Page 3, Item 4).
  - Trust Documentation – Please provide a copy of the trust agreement and any amendment(s), including the signature page(s). We will also require the Trustee Certification section of the claim form to be completed by all trustees. Please use the trust's name when completing the Claimant Information section.
  - Letter of representation or written authorization signed by the beneficiary authorizing information to be released on the above referenced policy.

Please review Page 1 of the Claimant Statement which also explains other documents that may be required. Providing the Claimant Statement is not an admission of liability on the part of the Company.

We will promptly review and evaluate the claim upon receipt of the required documents. A valid claim will include interest due and payable from the date of death at a rate of 10% if we do not pay the claim within 31 days from the latest of 1) the date that we receive proof of death, 2) the date we receive sufficient information to determine our liability and the appropriate beneficiary(ies) entitled to the proceeds; or 3) the date that any legal impediments are resolved.

If you have any questions, please call our office at 800-825-0003, Monday through Friday from 7:30 AM to 4:30 PM Central Standard Time.

Sincerely,

Diane Henderson  
Claims Manager

Enclosure(s): Life Claimant Statement No RAA

JCK001263



AWD History for Work object key 2012-10-04-10.38.59.016241T01

JLIFE - DTHCLM - CLLEGAL - CLIENT - Updateable

- 1009208 - - BERNSTEIN - SIMON - 19 - SRDC00014031

Social Security Num: Policy Number: 1009208

Agent Number: Insured's Last Name: BERNSTEIN

Printed on Tuesday, May 07, 2013 at 3:01:53PM

Queue: CLIENT  
User Name: MCDONALD, JIM L  
DTM Description:  
Comments:

-----  
Begin Date: 2013-01-17                      Flags:  
Begin Time: 16:49:34                      DTM Job Name:  
User Id: SMCDOJL                      DTM Return Code:  
Workstation Id:                      DTM Task Name:  
Business Area:                      DTM Next Task:  
Type:                      End Date: 2013-01-17  
Status:                      End Time: 16:49:34  
Queue:  
User Name: MCDONALD, JIM L  
DTM Description:  
Comments: Received a call from attorney Spallina. He wants to talk to in-house counsel  
about not filing dec. action because of expense. Sent Jackson legal message to  
call me or Spallina. JIM

-----  
Begin Date: 2013-01-17                      Flags: 0000NO  
Begin Time: 16:47:32                      DTM Job Name:  
User Id: SMCDOJL                      DTM Return Code:  
Workstation Id:                      DTM Task Name:  
Business Area: JLIFE                      DTM Next Task:  
Type: DTHCLM                      End Date: 2013-01-17  
Status: CLREVIEW                      End Time: 16:43:22  
Queue: CLIENT  
User Name: MCDONALD, JIM L  
DTM Description:  
Comments:

-----  
Begin Date: 2013-01-15                      Flags:  
Begin Time: 11:50:00                      DTM Job Name:  
User Id: JWALKK                      DTM Return Code:  
Workstation Id:                      DTM Task Name:  
Business Area:                      DTM Next Task:  
Type:                      End Date: 2013-01-15  
Status:                      End Time: 11:50:00  
Queue:  
User Name: WALKER, KELLIE  
DTM Description:  
Comments: faxed client letter to Robert Spallina and advised of court order  
required..faxed to 561-997-7308

JCK001225

## Heritage Union Life Insurance Company

P.O. Box 1600, Jacksonville, FL 32202  
Phone 800-825-0003 Fax 803-333-4936  
Visit us at [www.insurance-servicing.com](http://www.insurance-servicing.com)

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November 29, 2012

LASALLE NATIONAL TRUST N.A.  
C/O ROBERT SPALLINA, ATTORNEY AT LAW  
4855 TECHNOLOGY WAY STE 720  
BOCA RATON FL 33431

Insured Name: SIMON BERNSTEIN  
Policy Number: 1009208  
Correspondence Number: 09801925

Dear Trustee:

We are writing to remind you that we have not received the previously requested items necessary to proceed with our review of the pending claim on the above referenced policy. The required items are:

- The enclosed Claimant Statement completed and signed by the named beneficiary. If the beneficiary has had a change in name, we require a copy of the applicable marriage license, divorce decree or similar legal documents.
- Trust Documentation – Please provide a copy of the trust agreement and any amendment(s), including the signature page(s). We will also require the Trustee Certification section of the claim form to be completed by all trustees. Please use the trust's name when completing the Claimant Information section.

Please review Page 1 of the Claimant Statement which also explains other documents that may be required. Providing the Claimant Statement is not an admission of liability on the part of the Company.

We will promptly review and evaluate the claim upon receipt of the required documents. If you have any questions, please call our office at 800-825-0003, Monday through Friday from 7:30 AM to 4:30 PM Central Standard Time.

V02091806

Sincerely,

D. Henderson  
Claims Services

Enclosure(s): IL Department of Insurance Notification  
Life Claimant Statement No RAA

JCK001290

LAW OFFICES  
**TESCHER & SPALLINA, P.A.**

BOCA VILLAGE CORPORATE CENTER I  
4855 TECHNOLOGY WAY, SUITE 720  
BOCA RATON, FLORIDA 33431

ATTORNEYS  
DONALD R. TESCHER  
ROBERT L. SPALLINA  
LAUREN A. GALVANI

TEL: 561-997-7008  
FAX: 561-997-7308  
TOLL FREE: 888-997-7008  
WWW.TESCHERSPALLINA.COM

SUPPORT STAFF  
DIANE DUSTIN  
KIMBERLY MORAN  
SUANN TESCHER

December 6, 2012

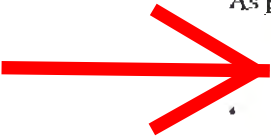
**VIA FACSIMILE: 803-333-4936**

Attn: Bree  
Claims Department  
Heritage Union Life Insurance Company  
1275 Sandusky Road  
Jacksonville, IL 62651

Re: **Insured: Simon L. Bernstein**  
**Contract No.: 1009208**

Dear Bree:

As per our earlier telephone conversation:



- We are unable to locate the Simon Bernstein Irrevocable Insurance Trust dated June 1, 1995, which we have spent much time searching for.
- Mrs. Shirley Bernstein was the initial beneficiary of the 1995 trust, but predeceased Mr. Bernstein.
- The Bernstein children are the secondary beneficiaries of the 1995 trust.
- We are submitting the Letters of Administration for the Estate of Simon Bernstein showing that we are the named Personal Representatives of the Estate.
- We would like to have the proceeds from the Heritage policy released to our firm's trust account so that we can make distributions amongst the five Bernstein children.
- If necessary, we will prepare for Heritage an Agreement and Mutual Release amongst all the children.
- We are enclosing the SS4 signed by Mr. Bernstein in 1995 to obtain the EIN number for the 1995 trust.

If you have any questions with regard to the foregoing, please do not hesitate to contact me.

Sincerely,

*Robert L. Spallina/km*  
ROBERT L. SPALLINA

RLS/km

Enclosures

JCK001297

From: (561) 997-7008  
Kimberly Moran  
TESCHER & SPALLINA  
4855 Technology Way  
Suite 720  
BOCA RATON, FL 33431

Origin ID: PHKA

FedEx  
Express



J12201208200325

Ship Date: 21DEC12  
ActWgt: 1.0 LB  
CAD: 1544078/NET3300

Delivery Address Rec Code



SHIP TO: (800) 825-0803

BILL SENDER

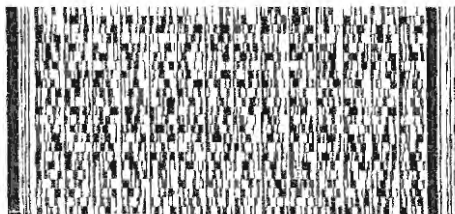
Claims Department  
Heritage Union Life Insurance Compa  
1275 Sandusky Road

JACKSONVILLE, IL 62651

Ref # Bernstein 11187.006  
Invoice #  
PC #  
Dept #

MON - 24 DEC AA  
STANDARD OVERNIGHT

TRK# 7943 7521 3807  
0281



SH SPIA

62651  
IL-US  
STL



515G18263AA44

JCK001306

## Eliot Bernstein

---

**Subject:**

FW: Call with Robert Spallina tomorrow/Wednesday at 2pm EST


---

**From:** Robert Spallina [<mailto:rspallina@tescherspallina.com>]

**Sent:** Tuesday, October 23, 2012 2:34 PM

**To:** Jill Iantoni; Eliot Bernstein; Ted Bernstein; Ted Bernstein; Pamela Simon; Lisa Friedstein

**Subject:** RE: Call with Robert Spallina tomorrow/Wednesday at 2pm EST

As discussed, I need the EIN application and will process the claim. Your father was the owner of the policy and we will need to prepare releases given the fact that we do not have the trust instrument and are making an educated guess that the beneficiaries are the five of you as a result of your mother predeceasing Si. Luckily we have a friendly carrier and they are willing to process the claim without a copy of the trust instrument. A call regarding this is not necessary. We have things under control and will get the claim processed expeditiously after we receive the form. 

Thank you for your help.

Robert L. Spallina, Esq.

**TESCHER & SPALLINA, P.A.**

4855 Technology Way, Suite 720

Boca Raton, Florida 33431

Telephone: 561-997-7008

Facsimile: 561-997-7308

E-mail: [rspallina@tescherspallina.com](mailto:rspallina@tescherspallina.com)

If you would like to learn more about **TESCHER & SPALLINA, P.A.**, please visit our website at [www.tescherspallina.com](http://www.tescherspallina.com)

The information contained in this message is legally privileged and confidential information intended only for the use of the individual or entity named above. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. If you have received this communication in error, please immediately notify us by e-mail or telephone. Thank you.

## **EXHIBIT 2 – MORAN SUSPENSION**



RICK SCOTT  
GOVERNOR

STATE OF FLORIDA  
**Office of the Governor**

THE CAPITOL  
TALLAHASSEE, FLORIDA 32399-0001

[www.flgov.com](http://www.flgov.com)  
850-488-7146  
850-487-0801 fax

October 14, 2013

Via Certified Mail

Ms. Kimberly Moran  
6362 Las Flores Drive  
Boca Raton, Florida 33433

Dear Ms. Moran:

Enclosed is a copy of Executive Order Number 13-291 issued by Governor Rick Scott on October 14, 2013. This Executive Order suspends your notary public commission pursuant to section 117.01(4)(c), Florida Statutes. As a result, the Executive Office of the Governor requires your notary commission certificate to be relinquished to this Office, in the self-addressed envelope enclosed. Additionally, you are required to destroy your notary stamp.

If you have any additional questions, please contact our office at (850) 717-9529 or via email at [NOTARY@eog.myflorida.com](mailto:NOTARY@eog.myflorida.com).

Sincerely,

Erin Tupper  
Notary Coordinator  
Executive Office of the Governor, Notary Section

Enclosures

cc: **Eliot Bernstein**  
Notary Public Underwriters

# STATE OF FLORIDA

## OFFICE OF THE GOVERNOR

### EXECUTIVE ORDER NUMBER 13-291

(Executive Order of Suspension)

**WHEREAS**, Kimberly Moran, is presently serving as a Notary Public of the State of Florida;

and

**WHEREAS**, this Office received a complaint reporting Kimberly Moran for notary

misconduct; and

**WHEREAS**, the complainant states that Kimberly Moran notarized a signature on a document

when the signing party was not in her presence at the time of the notarization, and made a false or fraudulent acknowledgement of that signed instrument, and made changes to the instrument after the party had signed, in violation of Sections 117.107(9), 117.105, and 117.107(7), Florida Statutes; and

**WHEREAS**, in a sworn written statement, dated August 8, 2013, Kimberly Moran confirmed the above-stated violations of notarial statutes; and

**WHEREAS**, it is in the best interests of the citizens of the State of Florida that Kimberly

Moran be immediately suspended from the public office, which she now holds, upon the grounds set forth in this Executive Order;

**NOW, THEREFORE, I, RICK SCOTT**, Governor of Florida, pursuant to Article IV, Section 7 of the Florida Constitution and Section 117.01(4), Florida Statutes, find and state as follows:

A. Kimberly Moran is a duly appointed Notary Public of the State of Florida, pursuant to

Section 117.01, Florida Statutes.

B. Kimberly Moran is commissioned as a Florida notary public from April 29, 2012, through April 28, 2016.

C. Kimberly Moran admitted to notarizing a document when the signers were not in her presence at the time of the notarization, in violation of Section 117.107(9), Florida Statutes.



D. Kimberly Moran admitted to making a false or fraudulent acknowledgment of the instrument being notarized, in violation of Section 117.105, Florida Statutes.

E. Kimberly Moran amended the instrument after the party had signed, in violation of Section 117.107(7), Florida Statutes.

**BEING FULLY ADVISED** in the premise, and in accordance with the Florida Constitution and the laws of the State of Florida, this Executive Order is issued

Section 1. Kimberly Moran is suspended from the public office which she now holds: Notary Public of the State of Florida.

Section 2. Kimberly Moran is prohibited from performing any official act, duty, or function of this public office; from receiving any pay or allowance; and from being entitled to any of the emoluments or privileges of this public office during the period of suspension, which period shall begin, today, until further Executive Order is issued, or as otherwise provided by law.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed, at Tallahassee, this 14<sup>th</sup> day of October, 2013.

A handwritten signature in black ink, appearing to read "Rick Scott", written over a horizontal line.

RICK SCOTT, GOVERNOR

ATTEST:

A handwritten signature in black ink, appearing to read "Ken Retzner", written over a horizontal line.

SECRETARY OF STATE

**FILED**  
2013 OCT 14 AM 9:40  
DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA

## **EXHIBIT 3 – PALM BEACH COUNTY SHERIFF REPORT**

CASE NO. 13097087

PALM BEACH COUNTY SHERIFF'S OFFICE  
OFFENSE REPORT

PAGE 1  
CASE NO. 13097087

DISPOSITION: OPEN  
DIVISION: ROAD PATROL

911:

IMPRESITE PUB OF

SIGNAL CODE: 53 CRIME CODE: 4 NON CRIME CODE: CODE: 260D 07/15/13 MONDAY  
ZONE: F52 GRID: DEPUTY I.D.: 7657 NAME: LONGSWORTH BRYA ASSIST: TIME D 1218 A 1235 C 1333  
OCCURRED BETWEEN DATE: 07/15/13 , 1241 HOURS AND DATE: 07/15/13 , 1330 HOURS  
EXCEPTION TYPE:

INCIDENT LOCATION: 18901 S STATE RD 7 APT. NO:  
CITY: BOCA RATON STATE: FL ZIP: 33498

NO. OFFENSES: 01 NO. OFFENDERS: 01 NO. VEHICLES STOLEN: 0 NO. PREMISES ENTERED: 0  
LOCATION: GOVERNMENT / PUBLIC BUILDING  
NO. VICTIMS: 01 NO. ARRESTED: 0 FORCED ENTRY: 0

OFFENSE NO. 1 FLORIDA STATE STATUTE 843 0855 3 CIS CODE 260D

NAME LIST:

ROLE:

COMPLAINANT

ELLIOT I BERNSTEIN

DOB: 09/30/1963

SEX: M RACE: W HT: 510 WT: 185 HR: BROWN EYE: HAZEL

RESIDENTIAL ADDRESS: 2753 NW 34TH ST BOCA RATON FL 33434 HOME PHONE: 561 246-8588  
BUSINESS PHONE: 561 886-7628

OTHER

ROBERT L SPALLINA

DOB: 06/09/1965

SEX: M RACE: W HT: 0 WT: 0 HR: UNKNOWN EYE: UNKNOWN

RESIDENTIAL ADDRESS: 4855 TECHNOLOGY WY BOCA RATON FL 33431 HOME PHONE: 561 997-7008  
BUSINESS PHONE: 561 000-0000

OTHER

TED BERNSTEIN

DOB: 08/27/1959

SEX: M RACE: W HT: 0 WT: 0 HR: UNKNOWN EYE: UNKNOWN

RESIDENTIAL ADDRESS: 800 BERKELEY ST BOCA RATON FL 33484 HOME PHONE: 561 988-8984  
BUSINESS PHONE: 561 000-0000

OTHER

SIMON BERNSTEIN

DOB: 12/02/1935

SEX: M RACE: W HT: 506 WT: 180 HR: GRAY EYE: BROWN

RESIDENTIAL ADDRESS: 7020 LIONSHEAD LA BOCA RATON FL 33496 HOME PHONE: 561 000-0000  
BUSINESS PHONE: 561 000-0000

ARRESTEE

KIMBERLY MORAN

DOB: 10/24/1972

SEX: F RACE: W HT: 505 WT: 135 HR: BROWN EYE: BROWN

RESIDENTIAL ADDRESS: 6362 LAS FLORES DR APT. 4 BOCA RATON FL 33433 HOME PHONE: 561 000-0000  
BUSINESS PHONE: 561 000-0000

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CASE NO. 13097087

PALM BEACH COUNTY SHERIFF'S OFFICE  
OFFENSE REPORT

PAGE 2

CASE NO. 13097087

DISPOSITION: OPEN

## ROLE:

OTHER ROLE NO. 4

\*NAMES\* LAST

REAL... SIMON

FIRST  
PAMELA

MIDDLE

J/S R/S  
W F

DOB

\*ADDRESS\* NO. STREET

BUSINESS 950 MICHIGAN

SFX DIR APT#  
AV N 2603CITY  
CHICAGOST ZIP  
IL 60035

\*PHONE #S\*

HOME  
000 0000OTHER  
000 0000BUSINESS  
(312) 819 7474

## ROLE:

OTHER ROLE NO. 5

\*NAMES\* LAST

REAL... IANTONI

FIRST  
JILL

MIDDLE

J/S R/S  
W F

DOB

\*ADDRESS\* NO. STREET

BUSINESS 2101 MAGNOLIA

SFX DIR APT#  
LACITY  
HIGHLAND PARKST ZIP  
IL 60035

\*PHONE #S\*

HOME  
(847) 831 4915OTHER  
000 0000BUSINESS  
(312) 804 2318

## ROLE:

OTHER ROLE NO. 6

\*NAMES\* LAST

REAL... FRIEDSTEIN

FIRST  
LISAMIDDLE  
SJ/S R/S  
W F

DOB

\*ADDRESS\* NO. STREET

BUSINESS 2142 CHURCHILL

SFX DIR APT#  
LACITY  
HIGHLAND PARKST ZIP  
IL 60035

\*PHONE #S\*

HOME  
(847) 877 4633OTHER  
000 0000BUSINESS  
(312) 000 0000

OFFENSE INDICATOR: OFFENSE 1

VICTIM NUMBER: 1

VICTIM TYPE: UNKNOWN

RESIDENCE TYPE: NOT APPLICABLE

RESIDENCE STATUS: NOT APPLICABLE

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CASE NO. 13097087

PALM BEACH COUNTY SHERIFF'S OFFICE  
OFFENSE REPORT

PAGE: 3  
CASE NO. 13097087

DISPOSITION: OPEN

EXTENT OF INJURY: NONE  
INJURY TYPE(1): NOT APPLICABLE  
INJURY TYPE(2): NOT APPLICABLE  
VICTIM RELATION: NOT APPLICABLE

ON 071513, I RESPONDED TO THE DISTRICT VII SUBSTATION LOCATED AT 17901 SOUTH STATE ROAD 7, UNINCORPORATED BOCA RATON, FLORIDA IN REFERENCE TO A REPORT OF FRAUD.

UPON ARRIVAL, I MADE CONTACT WITH THE COMPLAINANT INSIDE OF THE DISTRICT VII LOBBY. THE COMPLAINANT VERBALLY IDENTIFIED HIMSELF AS ELLIOT I. BERNSTEIN. ELLIOT STATED THAT SINCE SEPTEMBER OF 2012 THERE HAVE BEEN SEVERAL FRAUDULENT AND FORGED DOCUMENTS THAT HAVE BEEN FILED IN THE SOUTH COUNTY COURTHOUSE LOCATED AT 200 WEST ATLANTIC AVENUE, DELRAY BEACH, FLORIDA. ELLIOT ADVISED THAT THESE FRAUDULENT/FORGED DOCUMENTS WERE FILED WITH THE SOUTH COUNTY COURTHOUSE TO MISAPPROPRIATE ASSETS ILLEGALLY FROM THE ESTATES OF SIMON AND SHIRLEY BERNSTEIN (DECEASED PARENTS). ELLIOT TOLD ME THAT THESE DOCUMENTS WERE PREPARED AND EXECUTED BY ATTORNEYS DONALD TESCHER AND ROBERT SPALLINA OF TESCHER AND SPALLINA AND THAT THESE DOCUMENTS WERE FOR POWER OF ATTORNEY OVER THE TWO (2) ESTATES WHICH WERE VALUED BETWEEN 20 TO 50 MILLION DOLLARS. ACCORDING TO ELLIOT, HIS BROTHER, THEODORE STUART BERNSTEIN, ALSO HAD INVOLVEMENT WITH THE FILING OF THESE FRAUDULENT/FORGED DOCUMENTS.

WHILE SPEAKING TO ELLIOT, HE SHOWED ME SEVERAL COURT DOCUMENTS WHICH HE ALLEGED ARE COPIES OF THE FRAUDULENT/FORGED DOCUMENTS THAT WERE FILED AT THE COURT HOUSE. ELLIOT COMPLETED A SWORN WRITTEN STATEMENT AND I COMPLETED A VICTIM/WITNESS CASE INFORMATION FORM IN WHICH ELLIOT WAS GIVEN ALONG WITH COPIES OF HIS FOUR (4) PAGE SWORN WRITTEN STATEMENT.

DUE TO THE MONETARY AMOUNT AND THE ALLEGATIONS THAT WERE MADE REGARDING THE FILING OF FRAUDULENT/FORGED DOCUMENTS AT THE SOUTH COUNTY COURTHOUSE, THIS CASE WILL BE FORWARDED TO THE PBSO FINANCIAL CRIMES DIVISION. THIS CASE WAS COMPLETED AT THIS TIME FOR DOCUMENTATION PURPOSES ONLY.

D/S B.E. LONGSWORTH/ID 7657/TRANS:072313/ALS

DICT:071613/2115HRS.

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CASE NO. 13097087 PALM BEACH COUNTY SHERIFF'S OFFICE PAGE 4 of 1  
SUPPLEMENT 1 OFFENSE REPORT CASE NO. 13097087

DISPOSITION: ZULU  
DIVISION: DETECTIVE

911: \*  
IMPRANTE PUB OF \*  
SIGNAL CODE: 53 CRIME CODE: NON CRIME CODE: OT CODE: 260D 08/14/13 MONDAY  
ZONE: F52 GRID: DEPUTY I.D.: 7704 NAME: MILLER ASSIST: TIME D 1210 A 1235 C 1333  
OCCURRED BETWEEN DATE: 07/15/13, 1241 HOURS AND DATE: 07/15/13, 1330 HOURS  
EXCEPTION TYPE:  
INCIDENT LOCATION: 17901 S STATE RD 7 APT. NO.:  
CITY: BOCA RATON STATE: FL ZIP: 33498

NO. OFFENSES: 01 NO. OFFENDERS: 01 NO. VEHICLES STOLEN: 0 NO. PREMISES ENTERED: 0  
LOCATION: GOVERNMENT / PUBLIC BUILDING  
NO. VICTIMS: 01 NO. ARRESTED: 0 FORCED ENTRY: 0

OFFENSE NO. 1 FLORIDA STATE STATUTE: 843 0855 3 CIS CODE 260D

AFTER BEING ASSIGNED THE FOLLOW-UP INVESTIGATION IN REGARDS TO THIS CASE,  
I ATTEMPTED TO MAKE CONTACT WITH ELLIOT BERNSTEIN VIA PHONE ON BOTH 08/13/13  
AND 08/14/13. MESSAGES WERE LEFT FOR HIM TO CONTACT ME ON BOTH NUMBERS  
PROVIDED IN THE ORIGINAL REPORT. THIS CONCLUDES MY SUPPLEMENTAL REPORT.  
DETECTIVE RYAN W. MILLER #7704  
08/14/13 @ 1241 HRS.  
TRANS. VIA EMAIL/COPY/PASTE: 08/15/2013/MDR/#6405

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CASE NO. 13097087 PALM BEACH COUNTY SHERIFF'S OFFICE PAGE 1  
SUPPLEMENT 2 OFFENSE REPORT CASE NO. 13097087

DISPOSITION: ZULU  
DIVISION: DETECTIVE

911: IMPRSENTE PUB OF  
SIGNAL CODE: 53 CRIME CODE: \* NON CRIME CODE: OT CODE: 260D 08/20/13 MONDAY  
ZONE: F52 GRID: DEPUTY I.D.: 7704 NAME: MILLER ASSIST: TIME D 1213 A 1235 C 1333  
OCCURRED BETWEEN DATE: 07/15/13, 1241 HOURS AND DATE: 07/15/13, 1330 HOURS  
EXCEPTION TYPE:  
INCIDENT LOCATION: 17901 S STATE RD 7 APT. NO.:  
CITY: BOCA RATON STATE: FL ZIP: 33498

NO. OFFENSES: 01 NO. OFFENDERS: 01 NO. VEHICLES STOLEN: 0 NO. PREMISES ENTERED: 0  
LOCATION: GOVERNMENT / PUBLIC BUILDING  
NO. VICTIMS: 01 NO. ARRESTED: 0 FORCED ENTRY: 0

OFFENSE NO. 1 FLORIDA STATE STATUTE: 843 0855 3 CIS CODE 260D

AFTER BEING ASSIGNED THE FOLLOW-UP INVESTIGATION IN REGARDS TO THIS  
INCIDENT, I WAS ABLE TO MAKE CONTACT WITH ELLIOT BERNSTEIN VIA PHONE. ELLIOT  
SUPPLIED ME WITH AN E-MAIL WHICH CONTAINED 567 DOCUMENTS WHICH HE STATES ARE  
PERTINENT TO THIS CASE. I AM CURRENTLY REVIEWING THE DOCUMENTS AND STATEMENT  
HE PROVIDED. FURTHER INVESTIGATION WILL CONSIST OF MEETING WITH ELLIOT IN THE  
NEAR FUTURE TO GO OVER HIS STATEMENT AND THE DOCUMENTS HE SUPPLIED. THIS CASE  
REMAINS OPEN.

DETECTIVE RYAN W. MILLER #7704  
08/20/13 @ 1430 HRS.  
TRANS. VIA EMAIL/COPY/PASTE: 08/21/2013/MDR/#6405

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PALM BEACH COUNTY SHERIFF'S OFFICE PAGE 1  
CASE NO. 13097087 SUPPLEMENT 3 OFFENSE REPORT CASE NO. 13097087

DISPOSITION: OPEN  
DIVISION: DETECTIVE

911:  
IMPERMITE PUB OF  
SIGNAL CODE: 53 CRIME CODE: NON CRIME CODE: OT CODE: 260D 09/25/13 MONDAY  
ZONE: F52 GRID: DEPUTY I.D.: 7704 NAME: MILLER ASSIST: TIME D 1218 A 1235 C 1333  
OCCURRED BETWEEN DATE: 07/15/13 , 1241 HOURS AND DATE: 07/15/13 , 1330 HOURS  
EXCEPTION TYPE:  
INCIDENT LOCATION: 17901 S STATE RD 7 APT. NO.:  
CITY: BOCA RATON STATE: FL ZIP: 33498

NO. OFFENSES: 01 NO. OFFENDERS: 01 NO. VEHICLES STOLEN: 0 NO. PREMISES ENTERED: 0  
LOCATION: GOVERNMENT / PUBLIC BUILDING  
NO. VICTIMS: 01 NO. ARRESTED: 0 FORCED ENTRY: 0

OFFENSE NO. 1 FLORIDA STATE STATUTE: 843 0855 3 CIS CODE 260D

ON AUGUST 23, 2013 I MET WITH ELIOT BERNSTEIN REFERENCE HIS COMPLAINT. HE STATED THAT DUE TO SOME DOCUMENTS BEING FRAUDULENTLY NOTARIZED A LARGER FRAUD HAS OCCURRED. HE SUPPLIED ME WITH COPIES OF A DOCUMENT TITLED: WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE: WAIVER OF SERVICE OF PETITION FOR DISCHARGE: AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE FOR THE ESTATE OF SHIRLEY BERNSTEIN, WHO IS ELIOT'S DECEASED MOTHER.

ELIOT STATED THAT IN THE FIRST PART (BELIEVED TO BE APRIL) OF 2012, HIS FATHER HAD A MEETING WITH HIM AND HIS FOUR SIBLINGS (TED, PAMELA, JILL, & LISA). I HAVE SINCE FOUND OUT THAT THIS WAS A CONFERENCE CALL WHICH TOOK PLACE AT THE OFFICE OF ATTORNEY ROBERT SPALLINA, WHO IS/WAS THE ATTORNEY FOR SIMON AND SHIRLEY BERNSTEIN. IT SHOULD BE NOTED THAT SIMON HAS SINCE PASSED, WHICH OCCURRED ON OR ABOUT SEPTEMBER 13, 2012. AT THIS CONFERENCE CALL, WHICH WAS IN THE FIRST PART OF 2012, SIMON BERNSTEIN REVEALED TO HIS CHILDREN THAT HE WOULD LIKE THEM TO SIGN THE AFOREMENTIONED WAIVER. IT IS BELIEVED THAT THERE WAS ALSO SOME DISCUSSION OF INHERITANCE AND WHO WAS TO GET WHAT UPON SIMON'S PASSING.

INVESTIGATION REVEALED THAT ALL FIVE CHILDREN AND SIMON SIGNED THE AFOREMENTIONED WAIVER THAT WAS SENT TO THEM BY SPALLINA'S LEGAL ASSISTANT, KIMBERLY MORAN. I SPOKE WITH MORAN ON 09/24/13 AND SHE ADMITTED TO SENDING OUT THE WAIVER AS TOLD TO BY HER BOSS. THE WAIVERS WERE THEN SIGNED AND RETURNED. SIMON'S WAS SIGNED ON 04/09/12 AND ELIOT'S ON MAY 15, 2012. IT WAS FOUND THAT THE OTHER SIBLINGS DID NOT RETURN THEIR DOCUMENT FOR SEVERAL MONTHS. MORAN STATED SHE HAD TO CONDUCT FOLLOW-UP E-MAILS AND PHONE CALLS TO GET THE

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CASE NO. 13097087 PALM BEACH COUNTY SHERIFF'S OFFICE  
SUPPLEMENT 3 OFFENSE REPORT

PAGE 2  
CASE NO. 13097087

DISPOSITION: OPEN

DOCUMENTS RETURNED. THEY WERE FINALLY RETURNED IN AUGUST AND OCTOBER OF 2012.  
MORAN STATED SHE FILED THE DOCUMENTS WITH THE COURT IN OCTOBER OF 2012.

SHE RECEIVED A MEMORANDUM FOR JUDGE MARTIN COLIN'S CASE MANAGER, ASTRIDE LIMOUSIN, STATING THE DOCUMENTS WERE NOT NOTARIZED AND THEY NEED TO BE. MORAN STATED THAT AT THIS TIME, SHE TOOK IT UPON HERSELF TO TRACE EACH SIGNATURE OF THE SIX MEMBERS OF THE BERNSTEIN FAMILY ONTO ANOTHER COPY OF THE ORIGINAL WAIVER DOCUMENT. SHE THEN NOTARIZED THEM AND RESUBMITTED THEM TO THE COURTS. WHEN I INTERVIEWED HER ON 09/24/13, SHE STATED SHE DID NOT REALLY HAVE A REASON WHY SHE FORGED THE SIGNATURES, OTHER THAN TO MAYBE SAVE TIME.

I SPOKE WITH LISA AND JILL VIA PHONE ON SEPTEMBER 10, 2013. THEY STATED THAT AS FAR AS THEY KNOW, THE FRAUDULENT NOTARIZATION CHANGED NOTHING WITH THE ESTATE SINCE THEY WILLINGLY AND KNOWINGLY SIGNED THE ORIGINAL DOCUMENTS. THEY STATED THAT THEY DO NOT WISH TO PURSUE ANYTHING CRIMINALLY. I SPOKE WITH TED ON 09/24/13. HE ALSO STATED THAT THE MISTAKE DID NOT AFFECT THE ESTATE AND DOES NOT WISH TO PURSUE ANYTHING CRIMINALLY. TO DATE PAMELA HAS NOT RESPONDED TO MY PHONE MESSAGES OR E-MAILS.

D/S MARK BEREY WAS PRESENT DURING MY INTERVIEWS WITH MORAN, TED, AND SPALLINA. WE SPOKE TO MORAN ALONE. THE INTERVIEW WAS RECORDED. SHE ADMITTED TO MAKE A POOR DECISION, BUT STATED SHE DID NOT BENEFIT FINANCIALLY FROM HER ACTIONS. WE ALSO SPOKE WITH SPALLINA ALONE. SPALLINA STATED HE WAS NOT AWARE OF MORAN'S ACTIONS UNTIL SHE TOLD HIM. MORAN STATED SHE WAS MADE AWARE THAT OTHERS HAD CAUGHT ONTO WHAT SHE DID ONCE SHE RECEIVED NOTICE FROM THE GOVERNOR'S OFFICE, NOTARY EDUCATION DIVISION. ELIOT FILED A COMPLAINT ON HER WITH THE STATE. I WAS SUPPLIED WITH A COPY OF THE COMPLAINT AND CORRESPONDENCE BY ELIOT. I ALSO SPOKE WITH ERIN TUPER MAKING HER AWARE OF MY INVESTIGATION. ELIOT SUPPLIED A SWORN WRITTEN STATEMENT TO THE ORIGINAL REPORTING DEPUTY, STATING THAT HE WISHES TO PURSUE CRIMINAL CHARGES. ELIOT ALSO TOLD ME HIMSELF THAT HE WISHES TO PURSUE CHARGES ANY CRIMINAL WRONGDOINGS IN THIS CASE. IN SPEAKING WITH SPALLINA, WE FOUND THAT THE DOCUMENT IN QUESTION CHANGES THE INHERITANCE OF PERSONAL PROPERTY IN THE ESTATE OF SHIRLEY BERNSTEIN FROM SIMON AND SHIRLEY'S CHILDREN TO THEIR GRANDCHILDREN.

D/S BEREY AND I ALSO REVIEWED ALL E-MAILS AND ATTACHMENTS (MAINLY COURT DOCUMENTS) SUPPLIED BY ELIOT. WE FOUND THAT MOST OF THE INFORMATION WAS RELATED TO THE ONGOING CIVIL CASE INVOLVING THE TRUSTS AND ESTATES OF SHIRLEY AND SIMON BERNSTEIN. THE ONLY CRIMINAL WRONGDOINGS FOUND ARE THE AFOREMENTIONED FRAUDULENTLY NOTARIZED DOCUMENTS.

IT SHOULD BE NOTED THAT ON 9/25/13 ELIOT'S WIFE, CANDICE BERNSTEIN CALLED ME AND MENTIONED THAT SHE WAS FEELING A CONCERN FOR THE SAFETY OF HER AND ELIOT. SHE STATED IT IS JUST A FEELING SHE HAD DUE TO RISING TENSIONS IN THIS ONGOING COURT BATTLE. I ASKED HER IF ANYONE HAS THREATENED HER OR HER HUSBAND AND SHE SAID NO, JUST PEOPLE INVOLVED KNOW PEOPLE WHO HAVE HIGH INFLUENTIAL

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PALMBEACH COUNTY SHERIFF'S OFFICE PAGE 3  
CASE NO. 13097087 SUPPLEMENT 3 OFFENSE REPORT CASE NO. 13097087  
DISPOSITION: OPEN

ABILITIES. ELIOT WOULD NOT ELABORATE, BUT DID STATE THAT HE HAS ONGOING FEDERAL COURT BATTLES AND BELIEVES HE IS BEING TARGETED BY PEOPLE DUE TO HIS PATENTS AND INVENTIONS. AT THIS TIME, I HAVE NO EVIDENCE TO SHOW THEY ARE IN ANY HARM'S WAY REGARDING MY INVESTIGATION OR GENERALLY SPEAKING.

BASED ON THE FACTS AND FINDINGS OF THIS INVESTIGATION, I FIND PROBABLE CAUSE FOR THE ARREST OF MORAN FOR CRIMINAL ACTIONS UNDER THE COLOR OF LAW OR THROUGH USE OF SIMULATED LEGAL PROCESS, F.S.S. 843.0855 (3), DUE TO THE FACT THAT SHE DID WILLINGLY AND KNOWINGLY SIMULATE A LEGAL PROCESS OF A LEGAL DOCUMENT REGARDING PERSONAL PROPERTY, KNOWING THAT THE DOCUMENT CONTAINED FRAUDULENT SIGNATURES. THIS CASE REMAINS OPEN.

DETECTIVE RYAN W. MILLER #7704

09/25/13 @ 1433 HRS.

TRANS. VIA EMAIL/COPY/PASTE: 09/25/2013/MD/#6405

printed by Employee Id #: 5264 on November 01, 2013 11:10:31AM

CONFIDENTIAL

PALM BEACH COUNTY SHERIFF'S OFFICE  
CASE NO. 13097087 SUPPLEMENT 4 OFFENSE REPORT PAGE 11  
CASE NO. 13097087

DISPOSITION: OPEN  
DIVISION: DETECTIVE

911: \* \* \*  
IMPRESITE PUB OF  
SIGNAL CODE: 53 CRIME CODE: NON CRIME CODE: OF CODE: 260D 09/27/13 MONDAY  
ZONE: F52 GRID: DEPUTY I.D.: 7704 NAME: MILLER ASSIST: TIME D 1213 A 1235 C 1333  
OCCURRED BETWEEN DATE: 07/15/13, 1241 HOURS AND DATE: 07/15/13 1330 HOURS  
EXCEPTION TYPE:

INCIDENT LOCATION: 17901 S STATE RD 7 APT. NO.:  
CITY: BOCA RATON STATE: FL ZIP: 33498

NO. OFFENSES: 01 NO. OFFENDERS: 01 NO. VEHICLES STOLEN: 0 NO. PREMISES ENTERED: 0  
LOCATION: GOVERNMENT / PUBLIC BUILDING  
NO. VICTIMS: 01 NO. ARRESTED: 0 FORCED ENTRY: 0

OFFENSE NO. 1 FLORIDA STATE STATUTE: 843 0855 3 CIS CODE 260D

THIS CASE WAS FILED WITH THE PALM BEACH COUNTY STATE ATTORNEY'S OFFICE ON  
09/27/13. THIS CASE REMAINS OPEN.  
DETECTIVE RYAN W. MILLER #9704  
09/27/13 @ 1311 HRS.  
TRANS. VIA EMAIL/COPY/PASTE: 09/30/2013/MDR/#6405

Printed by Employee Id #: 5264 on November 01, 2013 11:10:31AM

CASE NO. 13097087 PALM BEACH COUNTY SHERIFF'S OFFICE PAGE 11  
SUPPLEMENT 5 OFFENSE REPORT CASE NO. 13097087

DISPOSITION: OPEN  
DIVISION: DETECTIVE

911: \* \* \*  
IMPRISONED PUB OF  
SIGNAL CODE: 53 CRIME CODE: NON CRIME CODE: OT CODE: 260D 10/08/13 MONDAY  
ZONE: F52 GRID: DEPUTY I.D.: 7704 NAME: MILLER ASSIST: TIME D 1213 A 1235 C 1333  
OCCURRED BETWEEN DATE: 07/15/13 , 1241 HOURS AND DATE: 07/15/13 , 1330 HOURS  
EXCEPTION TYPE:

INCIDENT LOCATION: 87901 S STATE RD 7 APT. NO.:  
CITY: BOCA RATON STATE: FL ZIP: 33498

NO. OFFENSES: 01 NO. OFFENDERS: 01 NO. VEHICLES STOLEN: 0 NO. PREMISES ENTERED: 0  
LOCATION: GOVERNMENT / PUBLIC BUILDING  
NO. VICTIMS: 01 NO. ARRESTED: 0 FORCED ENTRY: 0

OFFENSE NO. 1 FLORIDA STATE STATUTE: 843 0855 3 CIS CODE 260D

ON 10/07/13 I RECEIVED AN E-MAIL FROM THE STATE ATTORNEY'S OFFICE STATING  
THEY HAVE REVIEWED THE CASE AND CHARGES WILL BE FILED. ON 10/08/13 I SPOKE  
WITH ELIOT AND MADE HIM AWARE OF MY FINDINGS IN THIS CASE. HE ALSO SUPPLIED  
ME WITH NEW COURT DOCUMENTS, WHICH WERE FORWARDED TO THE SAO. THIS CASE  
REMAINS OPEN.

DETECTIVE RYAN MILLER #7704  
10/08/13 @ 1033 HRS.  
TRANS. VIA EMAIL/COPY/PASTE: 10/08/2013/MDR/#6405

printed by Employee Id #: 5264 on November 01, 2013 11:10:31AM

VIEWING CASE NUMBER 13097087

Page 11 of 11

CASE NO. 13097087

PALM BEACH COUNTY SHERIFF'S OFFICE  
SUPPLEMENT 6 OFFENSE REPORT

PAGE 11

CASE NO. 13097087

DISPOSITION: CLEARED BY ARREST  
DIVISION: DETECTIVE

911:

IMPRISONED FOR OF

SIGNAL CODE: 53

CRIME CODE: \*

NON CRIME CODE: OT

CODE: 260D 10/29/13

MONDAY

ZONE: F52 GRID:

DEPUTY I.D.: 7704 NAME: MILLER

ASSIST:

TIME D 1210 A 1235 C 1333

OCCURRED BETWEEN DATE: 07/15/13 , 1241 HOURS AND DATE: 07/15/13 , 1330 HOURS

EXCEPTION TYPE:

INCIDENT LOCATION: 17901 S STATE RD 7

CITY: BOCA RATON

STATE: FL

APT. NO.:

ZIP: 33498

NO. OFFENSES: 01 NO. OFFENDERS: 01 NO. VEHICLES STOLEN: 0 NO. PREMISES ENTERED: 0  
LOCATION: GOVERNMENT / PUBLIC BUILDING

NO. VICTIMS: 01 NO. ARRESTED: 1 FORCED ENTRY: 0

OFFENSE NO. 1 FLORIDA STATE STATUTE: 843 0855 3 CIS CODE 260D

ON 10/25/13 KIMBERLY MORAN TURNED HERSELF IN REFERENCE A CAPIAS ISSUED IN  
THIS CASE. THIS CASE IS NOW CLEARED BY ARREST.  
DETECTIVE RYAN W. MILLER #7704  
10/29/13 @ 1505 HRS.  
TRANS. VIA EMAIL/COPY/PASTE: 10/30/2013/MDR/#6405

Printed by Employee Id #: 5264 on November 01, 2013 11:10:31AM

**PALM BEACH COUNTY SHERIFF'S OFFICE  
CENTRAL RECORDS  
FSS EXEMPTIONS/CONFIDENTIAL**

- |  |   |
|--|---|
| <input type="checkbox"/> 119.071(2)(c) Active criminal intelligence/active criminal investigative Information  | <input type="checkbox"/> 119.071(5)(g)1 Biometric Identification Information (Fingerprints, palm prints, and footprints)  |
| <input type="checkbox"/> 119.071(2)(e) Confession  | <input type="checkbox"/> 119.071(2)(f) Confidential Informants  |
| <input type="checkbox"/> 365.171(15) Identity of 911 caller or person requesting emergency service   | <input type="checkbox"/> 316.066(5)(a) Crash reports are confidential for period of 60 days after the report is filed   |
| <input type="checkbox"/> 119.071(2)(d) Surveillance techniques, procedures, and personnel; inventory of law enforcement resources, policies or plans pertaining to mobilization, deployment or tactical operations | <input type="checkbox"/> 119.071(2)(h)(1) Identity of victim of sexual battery, lewd and lascivious offense upon a person less than 16 years old, child abuse, sexual offense |
| <input type="checkbox"/> 119.071(2)(l) Assets of crime victim  | <input type="checkbox"/> 985.04(1) Juvenile offender records  |
| <input type="checkbox"/> 119.071(5)(a)(5) Social security numbers held by agency   | <input type="checkbox"/> 119.0712(2) Personal information contained in a motor vehicle record   |
| <input type="checkbox"/> 119.071(5)(b) Bank account #, debit, charge and credit card numbers held by an agency   | <input type="checkbox"/> 119.071(2)(b) Criminal intelligence/investigative information from a non-Florida criminal justice agency   |
| <input checked="" type="checkbox"/> 395.3025(7)(a) and/or 456.057(7)(a) Medical information  | <input type="checkbox"/> 394.4615(7) Mental health information  |
| <input type="checkbox"/> 943.053/943.0525 NCIC/FCIC/FBI and in-state FDLE/DOC  | <input type="checkbox"/> 119.071(4)(c) Undercover personnel   |
| <input type="checkbox"/> 119.07(4)(d) Extra fee if request is voluminous or requires extensive personnel, technology   | <input type="checkbox"/> 119.071(4)(d)(1) Home address, telephone, soc. security #, photos of active/former LE personnel, spouses and children                                |

☐ Other:

Case No:12-121312

Tracking No.: n/a

Clerk Name/ID: Hall/9205

Date: 1/31/2013

Revised 03/04/2011

01/31/2013 12:08 5616883163

CENTRAL RECORDS

#2517 P. 001/004

P A L M B E A C H C O U N T Y S H E R I F F ' S O F F I C E      P A G E      1  
C A S E N O . 1 2 1 2 1 3 1 2      O F F E N S E R E P O R T      C A S E N O . 1 2 1 2 1 3 1 2  
D I S P O S I T I O N : Z U L U  
D I V I S I O N : R O A D P A T R O L

POLICE SERVICE CALL      \*      \*      \*  
SIGNAL CODE: 68      CRIME CODE:      NON CRIME CODE: PS      CODE: 9568      09/13/12      THURSDAY  
ZONE: C21 GRID:      DEPUTY I.D.:      8826 NAME: HAUGH VINCENT      ASSIST:      TIME D 1155 A 1211 C 1522  
OCCURRED BETWEEN DATE: 09/12/12 , 0830 HOURS AND DATE: 09/13/12 , 0100 HOURS  
EXCEPTION TYPE:  
INCIDENT LOCATION: 7020      LIONS HEAD      LA      APT. NO.:  
CITY: BOCA RATON      STATE: FL      ZIP: 33496

NO. OFFENSES: 00 NO. OFFENDERS: UK NO. VEHICLES STOLEN: 0 NO. PREMISES ENTERED: 0  
LOCATION: RESIDENCE - SINGLE FAMILY  
NO. VICTIMS: 00 NO. ARRESTED: 0 FORCED ENTRY: 0

..  
NAME LIST:  
ROLE:

OTHER      SIMON BERNSTEIN      DOB: 12/02/1935  
SEX: M RACE: W HT: 506 WT: 180 HR: GRAY      EYE: BROWN  
RESIDENTIAL ADDRESS: 7020      LIONSHEAD LA      BOCA RATON FL 33496      HOME PHONE: 561 000-0000  
BUSINESS PHONE: 561 000-0000  
OTHER      TED BERNSTEIN      DOB: 08/27/1959  
SEX: M RACE: W HT: 0 WT: 0 HR: UNKNOWN      EYE: UNKNOWN  
RESIDENTIAL ADDRESS: 12344      MELROSE WY      BOCA RATON FL 33428      HOME PHONE: 561 213-2322  
BUSINESS PHONE: 561 000-0000  
OTHER      ELLIOT I BERNSTEIN      DOB: 09/30/1963  
SEX: M RACE: W HT: 510 WT: 185 HR: BROWN      EYE: HAZEL  
RESIDENTIAL ADDRESS: 2753 NW 34TH      ST      BOCA RATON FL 33434      HOME PHONE: 561 886-7627  
BUSINESS PHONE: 561 000-0000  
OTHER      RACHEL WALKER      DOB: 03/05/1984  
SEX: F RACE: W HT: 508 WT: 130 HR: BLOND      EYE: BLUE  
RESIDENTIAL ADDRESS: 99      SE MIZNER BD      BOCA RATON FL 33434      HOME PHONE: 561 000-0000  
BUSINESS PHONE: 561 000-0000  
OTHER      MARITZ UCCIO      DOB: 04/23/1966  
SEX: F RACE: W HT: 502 WT: 120 HR: BROWN      EYE: BROWN  
RESIDENTIAL ADDRESS: 7020      LYONS HEAD LA      BOCA RATON FL 33496      HOME PHONE: 561 305-2999  
BUSINESS PHONE: 561 000-0000  
OTHER      LISA FRIEDSTEIN      DOB: 03/15/1967  
SEX: F RACE: W HT: 501 WT: 120 HR: BROWN      EYE: BROWN  
RESIDENTIAL ADDRESS: 2142      CHURCHILL LA      HIGHLAND IL 60035      HOME PHONE: 847 877-4633  
BUSINESS PHONE: 561 000-0000  
..

.....  
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PALM BEACH COUNTY SHERIFF'S OFFICE PAGE 2  
CASE NO. 12121312 OFFENSE REPORT CASE NO. 12121312  
DISPOSITION: ZULU

ON 9/13/12 AT 1211 HOURS, I RESPONDED TO 7020 LYONS HEAD LANE, UNINCORPORATED BOCA RATON, FL., AND MET WITH TED BERNSTEIN AND HIS SISTER AND BROTHER, LISA FRIEDSTEIN AND ELLIOT BERNSTEIN, IN REFERENCE TO A POLICE ASSIST. TED ADVISED HIS FATHER, SIMON BERNSTEIN WAS TAKEN TO DELRAY COMMUNITY HOSPITAL AT 1000 HOURS ON 9/12/12 AND PASSED AWAY AT 0100 HOURS ON 9/13/12. HE EXPLAINED WHILE AT THE HOSPITAL HE WAS ADVISED BY SIMON'S CARETAKER, RACHEL WALKER THAT SIMON'S LIVE-IN GIRLFRIEND, MARITZA PUCCIO MIGHT HAVE PROVIDED SIMON WITH A LARGER THEN PRESCRIBED DOSE OF HIS MEDICATION AS WELL AS ONE OF HER PRESCRIBED SLEEPING PILLS, WHICH COULD OF CAUSED HIS DEATH. HE SAID HE VOICED HIS CONCERNS TO THE DOCTORS AT DELRAY COMMUNITY HOSPITAL BUT THEY ADVISED THERE DID NOT APPEAR TO BE ANY SUSPICIOUS CIRCUMSTANCES SURROUNDING SIMON'S DEATH AND THEY WOULD NOT BE CONDUCTING AN AUTOSPY. TED CONTACTED BOTH A PRIVATE COMPANY AND THE PALM BEACH COUNTY MEDICAL EXAMINER'S OFFICE REGARDING HAVING AN AUTOSPY CONDUCTED. BOTH ADVISED HE SHOULD CONTACT THE PALM BEACH COUNTY SHERIFF'S OFFICE.

AFTER SPEAKING WITH TED, I SPOKE WITH RACHEL. RACHEL STARTED BY TELLING ME THAT SIMON SUFFERED FROM SEVERAL AILMENTS TO INCLUDE, AND HE HAD APPROXIMATELY 2 YEARS AGO, WHICH WAS ONE OF SEVERAL SIMON WAS RECENTLY PLACED ON FOR THE, WHICH SHE SAID EFFECTED HIS MENTAL FACULTIES. RACHEL ADVISED WHEN SHE ARRIVED AT SIMON'S HOUSE AT 0830 HOURS ON 9/12/12, SHE FOUND SIMON LYING ON THE COUCH IN THE LIVING ROOM. HE WAS AWAKE AND BREATHING BUT HE HAD A VERY LOW HEART BEAT AND WAS UNAWARE OF HIS SURROUNDINGS. RACHEL SAID SHORTLY AFTER HER ARRIVAL MARITZA RETURNED HOME. THEY HAD A BRIEF ARGUMENT OVER WHETHER OR NOT THEY SHOULD BRING SIMON TO THE HOSPITAL AS RACHEL SAYS MARITZA DID NOT BELIEVE HE NEEDED TO GO TO THE HOSPITAL AT THIS TIME. RACHEL SAID THAT SHE FINALLY TOLD MARITZA THAT SHE WAS GOING TO TAKE HIM TO THE HOSPITAL BY HERSELF. SHE SAID SHE LEFT THE HOUSE APPROXIMATELY 1000 HOURS FOR THE HOSPITAL. RACHEL WENT ONTO TELL ME THAT MARITZA PROVIDED SIMON WITH ONE OF HER PRESCRIBED SLEEPING PILLS ON THE NIGHT OF 9/8/12. SHE ALSO SAID SIMON WAS PRESCRIBED 100 PILLS ON 9/7/12 AND SHE BELIEVE THAT MARITZA WAS PROVIDING SIMON WITH LARGER THEN PRESCRIBED DOSES OF. RACHEL TOLD ME SHE BELIEVED THERE WERE ONLY 30 PILLS LEFT IN THE BOTTLE AT THE TIME OF SIMON'S DEATH. I LATER COUNTED THE BOTTLE OF. THERE WERE 90.5 PILLS IN THE

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PALM BEACH COUNTY SHERIFF'S OFFICE PAGE 3  
CASE NO. 12121312 OFFENSE REPORT CASE NO. 12121312  
DISPOSITION: ZULU

BOTTLE SHOWING THAT SIMON DID NOT TAKE MORE THAN PRESCRIBED.

IT SHOULD ALSO BE NOTED THAT I SPOKE WITH ELLIOT, WHO SAID HE WAS AT DINNER WITH SIMON AND MARITZA ON 9/8/12 AND OBSERVED HIS FATHER TELL MARITZA THAT HE WANTED ONE OF HER ~~SCENT~~ SLEEPING PILLS BECAUSE HE COULD NOT SLEEP. ELLIOT SAID THEY HAD A BRIEF ARGUMENT OVER THIS AS MARTIZA REFUSED TO ALLOW SIMON TO TAKE ONE OF HER PILLS INITIALLY. AT THIS TIME SGT. CASTELLI ARRIVED ON SCENE AND WAS ADVISED OF THE CASE.

HE MADE CONTACT WITH VCD AND THE MEDICAL EXAMINER'S OFFICE. HE WAS ADVISED TO HAVE ME CONTACT DELRAY COMMUNITY HOSPITAL TO PUT A HOLD ON SIMON'S BODY FOR ~~RECEIVED~~ FROM THE MEDICAL EXAMINER'S OFFICE WHO WOULD CHECK ON THE SITUATION THE NEXT DAY. I WAS ALSO ADVISED TO EMAIL A COPY OF THE REPORT TO ~~RECEIVED~~ WITH THE MEDICAL EXAMINER'S OFFICE. DELRAY COMMUNITY HOSPITAL WAS CONTACTED AND A HOLD WAS PLACED ON SIMON'S BODY AND ~~RECEIVED~~ WAS EMAILED.

THIS REPORT IS FOR INFORMATION PURPOSES.

D/S HAUGH #8826

TRANS: 9/14/12 DG#4495

DICT: 9/13/12 @ 1700 HRS.

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printed by Employee Id #: 9205 on January 31, 2013 12:03:53PM

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**EXHIBIT 4 - TRIPP SCOTT CONFLICT LETTER**



CHRISTINE P. YATES  
Direct Dial: 954 760 4916  
Email: [cty@trippscott.com](mailto:cty@trippscott.com)

February 13, 2013

**VIA EMAIL**

Mr. and Mrs. Eliot Bernstein  
2753 NW 34<sup>th</sup> St.  
Boca Raton, FL 33434

***Re: Revised Representation and Conflict Waiver***

Dear Eliot and Candice:

This letter shall confirm that Tripp Scott, P.A. (hereinafter the "Firm") represents your three children, Joshua Ennio Zander Bernstein, Jacob Noah Archie Bernstein and Daniel Elijsa Abe Ottomo Bernstein (hereinafter collectively referred to as the "Children") as beneficiaries of the Estate of Shirley Bernstein, the Estate of Simon Bernstein and as beneficiaries of any irrevocable trusts created by Shirley and/or Simon Bernstein, including the Irrevocable Trust f/b/o Joshua Ennio Zander Bernstein, Irrevocable Trust f/b/o Jacob Noah Archie Bernstein and Irrevocable Trust f/b/o Daniel Elijsa Abe Ottomo Bernstein created by Simon Bernstein in 2006. Enclosed is a revised Retainer Agreement clarifying the scope of this Firm's representation of your children.

**The Firm *no longer represents you in any individual capacity and we have advised you to seek other counsel immediately so your legal rights and interests may be preserved.***

In addition, we wish to advise you of this Firm's potential conflict of interest in its prior representation of you and your children. Accordingly, we must obtain your acknowledgement and waiver of this conflict due to the Firm's prior representation of you and consent to our continued representation of your children.

In light of the fact that loyalty is an essential element in a lawyer's relation to a client, Florida's Rules of Professional Conduct (the "**Rules**") prohibit a lawyer from representing a client if such representation will be "directly adverse" to the interests of another client unless (1) the lawyer reasonably believes the representation will not be adversely affected; and (2) the client consents after consultation.

The Firm does not believe that the representation of the both of you and your children in connection with your interests as beneficiaries under the Estate of Shirley Bernstein and the Estate of Simon Bernstein and as beneficiaries of any trusts created by Shirley and/or Simon Bernstein adversely affected the Firm's responsibilities to and relationship with you or your children. However, we have mutually agreed that we will discontinue representation of the two of you, and will limit our Firm's representation solely to that of the Children. We have advised you to obtain independent legal counsel, other than the Firm, regarding the representation of your interests, including but not limited to, any claims in connection with Estate of Shirley Bernstein, the Estate of Simon Bernstein and as beneficiaries of the irrevocable trusts created by Simon Bernstein.

668859v5 995508.0001  
110 Southeast Sixth Street, Fifteenth Floor • Fort Lauderdale, Florida 33301  
Post Office Box 14245 • Fort Lauderdale, Florida 33302  
Tel 954.525.7500 • Fax 954.761.8475 • [www.trippscott.com](http://www.trippscott.com)

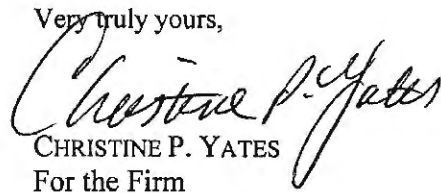
Fort Lauderdale • Tallahassee

To document your acknowledgement to our discontinued representation of you and the revised scope of our representation of the Children in connection with their interests as beneficiaries under the Estate of Shirley Bernstein, the Estate of Simon Bernstein and as beneficiaries of any trusts created by Shirley and/or Simon Bernstein, including the Irrevocable Trust f/b/o Joshua Ennio Zander Bernstein, Irrevocable Trust f/b/o Jacob Noah Archie Bernstein and Irrevocable Trust f/b/o Daniel Elijsha Abe Ottomo Bernstein created by Simon Bernstein in 2006, subject to the conditions set forth herein, please execute this letter on the space provided below.

**We have not been authorized by you to perform any substantive factual or legal research as to any of your individual claims and we strongly encourage you to retain counsel to do such research and protect your interests.**

We agree that this letter may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such separate counterparts shall together constitute but one and the same instrument, and a legible facsimile copy of this letter and any signatures hereon shall be considered for all purposes as originals.

Very truly yours,

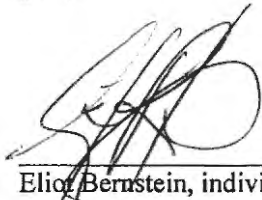


CHRISTINE P. YATES  
For the Firm

CPY/jej

**ACKNOWLEDGEMENT AND WAIVER OF CONFLICT**

The undersigned acknowledge that Christine P. Yates and Tripp Scott, P.A. represent Joshua Bernstein, Jacob Bernstein and Daniel Bernstein with respect to the matters described above and have discontinued their representation of Eliot Bernstein and Candice Bernstien. We hereby (1) waive any conflict of interest that may have existed due to the Attorneys' representation of us and our children as beneficiaries of the Estate of Shirley Bernstein and the Estate of Simon Bernstein and as beneficiaries of any trusts created by Shirley and/or Simon Bernstein; (2) agree to seek independent legal counsel to represent our interests in the Estate of Shirley Bernstein, the Estate of Simon Bernstein and as beneficiaries of the trusts created by Shirley and/or Simon Bernstein; and (3) acknowledge and consent to the continued representation by Tripp Scott, P.A. of Joshua Ennio Zander Bernstein, Jacob Noah Archie Bernstein and Daniel Elijsha Abe Ottomo Bernstein as beneficiaries of the Estate of Shirley Bernstein, the Estate of Simon Bernstein, as beneficiaries of any trusts created by Shirley and/or Simon Bernstein, including the Irrevocable Trust f/b/o Joshua Ennio Zander Bernstein, Irrevocable Trust f/b/o Jacob Noah Archie Bernstein and Irrevocable Trust f/b/o Daniel Elijsha Abe Ottomo Bernstein created by Simon Bernstein in 2006.



Eliot Bernstein, individually and as  
as natural guardian of Joshua Bernstein,  
Jacob Bernstein and Daniel Bernstein



Candice Bernstein, individually and as  
as natural guardian of Joshua Bernstein,  
Jacob Bernstein and Daniel Bernstein

**TRIPP SCOTT, P.A.**  
110 S.E. 6<sup>TH</sup> STREET, 15<sup>TH</sup> FLOOR  
FORT LAUDERDALE, FL 33301  
(954) 525-7500

**RETAINER AGREEMENT**

**Representation of the minor Children of Eliot Bernstein as  
Beneficiaries of the Estates of Shirley and Simon Bernstein as  
Beneficiaries of any Trusts created under the Will or Revocable Trust of Shirley or  
Simon Bernstein; and as Beneficiaries of the 2006 Irrevocable Trusts created by  
Simon Bernstein**

We are pleased that you have asked Tripp Scott, P.A. to provide legal services in connection with the above listed matter. The purpose of this agreement is to set forth our mutual understanding regarding the basis upon which we have agreed to undertake such representation.

**FEES**

We will provide our legal services on the basis of hourly rates in effect at the time the legal services are rendered. Those rates currently range up to \$425.00 per hour for attorneys, with paralegals billing at a rate of up to \$160.00 per hour. Law clerks are billed at the rate of \$110.00 per hour. My time is currently billed at \$350.00 per hour. If other attorneys or professionals in the firm work on this matter, their time will be billed on the basis of their hourly rate as well. All of the above rates are for the current calendar year and are subject to change thereafter. Unless otherwise specified, any additional services requested to be provided by our firm beyond the scope of the above matter will be billed to you in accordance with our hourly rates in effect at the time those services are rendered, and subject to the terms set forth in this agreement. Please note that telephone calls are billed at a minimum of two-tenths (0.20) of an hour no matter how short its duration. Additionally, client understands that our representation may involve the discussion of tax and property issues of the client and certain options may be discussed, or a plan entertained, that is not implemented. This time is considered billable and payment is expected upon service.

In connection with your estate planning, you agree to pay us a retainer in the amount of \$0.00. You will receive monthly statements and said fees will be credited from your retainer balance. You understand that the retainer amount stated in this agreement is in no way a guarantee or cap on the amount of legal fees that could be expended and will not be refunded to you in the event our representation is terminated by either you, the client, or the attorney.

**COSTS**

Costs and expenses that are incurred by Tripp Scott, P.A. on your behalf, including, but not limited to, mailing and postage, telecopy charges, long distance telephone costs, photocopying charges, etc., will be billed to you with our statement for fees on a monthly basis.

In addition to the fee retainer, you agree to deposit with us the sum of \$ N/A; to be applied towards costs. The cost deposit is also due upon execution of this agreement. Whenever the costs deposit falls below \$0.00, you may be asked to replenish said deposit so that at all times there is a credit balance to apply towards costs expended on your behalf. No other professional will be engaged without your pre-approval.

At the conclusion of our legal services, the balance of the cost retainer, if any, will be refunded to you provided all fees have been paid. You agree that the remaining cost deposit, if any, may be applied to the final fee balance.

#### **BILLING**

We ask that you stay current with our office on a monthly basis. However, if a balance remains outstanding with our office for over thirty (30) days, Tripp Scott, P.A., shall have the right to cease work on your file until such time that the balance is paid in full. Additionally, if said fees are not kept current within the thirty (30) day period, we reserve the right to request an additional non-refundable retainer. Tripp Scott, P.A., shall, at its own discretion, have the right to withdraw from representing you in this matter at any time if:

- (A) You do not make payments required within thirty (30) days after billing;
- (B) You have misrepresented or failed to disclose material facts;
- (C) You fail to follow our advice;
- (D) A dispute between client and attorney arise which cannot be worked out with a good faith effort and in an amicable way; and
- (E) Any other reason as deemed appropriate by the attorney.

To protect our fees and costs until they are paid, it is specifically agreed by you, the client, that the undersigned attorney shall have and is hereby granted all general, possessory and retaining liens and all equitable special and attorney's charging liens upon the client's documents, property (both real and personal, regardless of homestead), or money in the client's possession or money or property in another's possession for the client's benefit for the payment of all sums due under this agreement, and upon property or funds received by you, the client, by settlement, judgment, or otherwise. Any such liens shall also include liens upon the client's interest in any estate, trust, guardianship or other asset held in fiduciary capacity or trust, constructive or otherwise, within the jurisdiction of the court for any balance due, owing and unpaid. Any such liens shall relate back to the date of this agreement and shall be superior in dignity to any other liens subsequent to the date thereof. It is agreed by the client that the attorney will file a lien and a Notice of Lis Pendens with regard to the client's interest in any real property (regardless of homestead as you, the client, expressly have waived your homestead exemption under this agreement) upon which a lien may be claimed.

You agree to pay interest at the rate of 1% per month or 12% per annum on any bill, or portion thereof, which remains unpaid for more than thirty (30) days after billing. Also, client agrees that their file will only be released by the attorney upon payment of all fees and costs due and owing Tripp Scott, P.A.

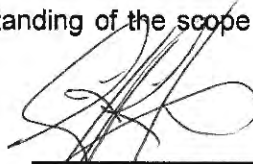
#### **SPECIAL CONSIDERATIONS FOR BENEFICIARIES**

Please be advised, the trustee is generally entitled to pay attorney's fees and costs from the trust assets, but in the event that a claim or defense based upon a breach of trust is made against the trustee, we have the right to seek a pre-hearing order prohibiting the payments. If the order is granted, the trustee must cease using the trust assets to pay attorney's fees and costs and must make those payments personally. Following this pre-evidentiary hearing, the court will determine the merit of the underlying claim or defense of breach of trust at which point the trustee will either be required to refund any payments of costs or fees to the trust, or will be entitled to seek an order permitting a refund of payments made personally by them.

**ACCEPTANCE**

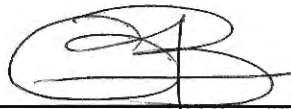
This agreement is consistent with our understanding of the scope and terms of representation and fees.

Dated: 2/13/13



ELLIOT BERNSTEIN, as Natural  
Guardian of Joshua Ennio Zander Bernstein,  
Jacob Noah Archie Bernstein and Daniel  
Elijsha Abe Ottomo Bernstein

Dated: 2/13/13



CANDICE MICHELLE BERNSTEIN, as Natural  
Guardian of Joshua Ennio Zander Bernstein,  
Jacob Noah Archie Bernstein and Daniel  
Elijsha Abe Ottomo Bernstein

TRIPP SCOTT, P.A.  
110 S.E. 6<sup>TH</sup> STREET, 15<sup>TH</sup> FLOOR  
FORT LAUDERDALE, FL 33301  
(954) 525-7500

By: 

CHRISTINE P. YATES, ESQ.

668885v3 995508.0001



## **Eliot Ivan Bernstein**

---

**From:** hotmail\_c29fa7bfa63d83c9@live.com on behalf of Marc R. Garber  
<marcrgarber@gmail.com>  
**Sent:** Thursday, June 13, 2013 11:51 AM  
**To:** Eliot Bernstein  
**Subject:** FW: Bernstein - E/O Shirley Bernstein & E/O Leon Bernstein: FW: Bernstein - E/O Shirley Bernstein & E/O Leon Bernstein: Status

Regards,

**MARC R. GARBER**

---

From: marcrgarber@gmail.com  
To: cty@trippscott.com  
Subject: RE: Bernstein - E/O Shirley Bernstein & E/O Leon Bernstein: FW: Bernstein - E/O Shirley Bernstein & E/O Leon Bernstein: Status  
Date: Thu, 13 Jun 2013 11:02:40 -0400

Christine:

I had difficulty sleeping, as I was sorting through our conversation. What troubles me has troubled me in prior situations. Spallina is not the first "bully lawyering" situation I have seen or heard about. "If you scream loud enough and pound the table hard and often, the other side will cave". It troubles me that many times this approach works. Sometimes it becomes a fee and time matter, other situations result in the good lawyer becoming tired of dealing with "hard headed" uncompromising opponent. I have heard some people actually seek out a bully lawyer for these reasons. The reasons include the fact that they win using this approach. Further, and as you implied, with all the time you expended, Spallina gave us very little, in terms of everything; from documents to involvement in the administration.

It truly troubles me that Spallina continues to spin his web of deceit, and I believe this conduct is further circumstantial evidence that "something is very wrong". I am very glad Eliot filed whatever he filed and I do hope he prevails. I also hope Spallina is removed and perhaps punished for all he is doing. It also troubles me that once he learns of your withdrawal, Spallina will celebrate his victory. If I was licensed in Florida, I would take this on pro bono. Simply out of principal, and I would make certain a probate judge learns of Spallina's behavior. Unfortunately, I am not a Florida lawyer. If Eliot is able to get his motions before a probate judge, I hope he asks and you agree to testify as to how Spallina treated you. A judge may take real notice of that testimony.

Thanks,

Marc

Regards,

**MARC R. GARBER**

---

Date: Thu, 13 Jun 2013 13:05:50 +0000

From: cty@TrippScott.com

Subject: RE: Bernstein - E/O Shirley Bernstein & E/O Leon Bernstein: FW: Bernstein - E/O Shirley Bernstein & E/O Leon Bernstein: Status

To: marcrgarber@gmail.com; iviewit@iviewit.tv; iviewit@gmail.com

Marc, it was nice to speak with you yesterday. As we discussed, the reasons for the the termination of my representation were due to the insufficiency of funds in the trust accounts and the the corresponding increase in litigation that would need to be filed in order to move this case forward. It is always a difficult decision as an attorney to proceed with litigation, using all funds in a trust to do so without a guarantee of results. This leaves the attorney in a difficult position with the trust beneficiary, their client. Also, I was concerned that attorney/client communications via email were being filed in court proceedings by Eliot in his case. I want to be able to be assured that information on behalf of my client's remains confidential.

Thank you again for you time in speaking with me yesterday.



110 SE Sixth Street, Suite 1500  
Fort Lauderdale, FL 33301  
954-525-7500

**Christine T. Yates**

*Director*

Direct: (954) 760-4916

Fax: (954) 761-8475

[cty@trippscott.com](mailto:cty@trippscott.com)

---

**From:** Marc Garber [mailto:marcrgarber@gmail.com]

**Sent:** Saturday, June 08, 2013 11:15 AM

**To:** Christine Yates

**Subject:** Fwd: FW: Bernstein - E/O Shirley Bernstein & E/O Leon Bernstein: Status

Christine please call me about this. Marc Garber. 856 236 6567

----- Forwarded message -----

From: "Eliot Ivan Bernstein" <[iviewit@iviewit.tv](mailto:iviewit@iviewit.tv)>

Date: Jun 8, 2013 10:12 AM

Subject: FW: Bernstein - E/O Shirley Bernstein & E/O Leon Bernstein: Status

To: "Marc R. Garber, Esquire @ Flaster Greenberg P.C." <[marc.garber@flastergreenberg.com](mailto:marc.garber@flastergreenberg.com)>, "Marc R. Garber Esq. @ Flaster Greenberg P.C." <[marcrgarber@verizon.net](mailto:marcrgarber@verizon.net)>, "Marc R. Garber Esq." <[marcrgarber@gmail.com](mailto:marcrgarber@gmail.com)>

Cc:

What is going on here? Give me a call when you get a sec.

---

**From:** Christine Yates [mailto:[cty@TrippScott.com](mailto:cty@TrippScott.com)]

**Sent:** Friday, June 7, 2013 11:57 AM

**To:** 'Eliot Ivan Bernstein'; 'Eliot Ivan Bernstein'

**Cc:** Ibis A. Hernandez

**Subject:** Bernstein - E/O Shirley Bernstein & E/O Leon Bernstein: Status

Eliot and Candace, first I am glad that you are feeling better Eliot.

I have made no progress with Spallina in regards to obtaining documents and in my last call with him and Mark Manceri, Mr. Spallina reiterated his position that the mortgage on the property you are currently residing in was what your father wanted, and that any information regarding the trust of your father would have to be addressed to your brother as trustee.

At this time, in order to receive the information you want, I believe you will need to institute legal proceedings against the estate and trust. Since a new course of action will need to be undertaken, at this time, I will be withdrawing as counsel for your children, and believe that you should now hire separate litigation counsel for them. I will be happy to assist your new counsel in providing them with any information and thank you for the opportunity you gave me to assist you.

110 SE Sixth Street, Suite 1500  
Fort Lauderdale, FL 33301  
954-525-7500

**Christine T. Yates**

*Director*

Direct: (954) 760-4916

Fax: (954) 761-8475

[cty@trippscott.com](mailto:cty@trippscott.com)

---

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**SEE EXHIBIT 5 – ELIOT/TED/SPALLINA LETTERS REGARDING THE INSURANCE  
FRAUD SCHEMES**

## Eliot Bernstein

---

**From:** Ted Bernstein <tbernstein@lifeinsuranceconcepts.com>  
**Sent:** Thursday, December 6, 2012 9:59 AM  
**To:** Lisa Friedstein (lisa.friedstein@gmail.com); 'Jill lantoni'; Eliot Bernstein (iviewit@gmail.com); Eliot Bernstein (iviewit@iviewit.tv); Pamela Simon  
**Cc:** Ted Bernstein  
**Subject:** Life Insurance - agreement  
**Attachments:** Simon Bernstein Irrv Trust-set ag1.pdf

Hello,

Good news; the Heritage Union Life Insurance company is ready to make payment on the policy that insured Dad. There was an exhaustive search for the original trust document from 1995, which is the beneficiary of the policy owned by Dad. Since we have not been able to locate it, the attached agreement will permit the insurance company to make payment to a Trust account that will then distribute the proceeds in equal parts to the 5 of us. Robert Spallina recommended that I distribute this document so it can be reviewed by each of you, signed and then it can be submitted to the carrier. Please sign the document where applicable. Then email to me the signature page and Fedex the original to Robert Spallina's office. Once we have all signatures, the carrier should release proceeds quickly.

**TESCHER & SPALLINA, P.A.**

Boca Village  
Corporate Center I  
4855 Technology Way  
Suite 720  
Boca Raton, Florida 33431

Call me with any questions.

Ted

.....



**Life Insurance Concepts**

950 Peninsula Corporate Circle, Suite 3010  
Boca Raton, FL 33487  
**Tel:** 561.988.8984  
**Toll Free:** 866.395.8984  
**Fax:** 561.988.0833

**Email:** [Tbernstein@lifeInsuranceConcepts.com](mailto:Tbernstein@lifeInsuranceConcepts.com)  
[www.LifeInsuranceConcepts.com](http://www.LifeInsuranceConcepts.com)

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## **SETTLEMENT AGREEMENT AND MUTUAL RELEASE**

This Settlement Agreement and Mutual Release is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2012, at Chicago, Illinois by and between each of the following defined entities and individuals.

### **PARTIES DEFINED**

"TED", as defined herein, refers to and means Ted S. Bernstein an individual residing in Boca Raton, Florida, his heirs, successors and/or assigns.

"PAM", as defined herein, refers to and means Pamela B. Simon an individual residing in Chicago, Illinois, her heirs, successors and/or assigns.

"ELIOT" as defined herein, refers to and means Eliot I. Bernstein, an individual residing in Boca Raton, Florida, his heirs, successors and/or assigns.

"JILL" as defined herein, refers to and means Jill M. Iantoni, an individual residing in Highland Park, Illinois, her heirs, successors and/or assigns.

"LISA" as defined herein, refers to and means Lisa S. Friedstein residing in Highland Park, Illinois, an individual, her heirs, successors and/or assigns.

"ALLY" as defined herein, refers to and means Alexandra L. Bernstein residing in White Plains, New York, an individual, her heirs, successors and/or assigns.

"ERIC" as defined herein, refers to and means Eric D. Bernstein residing in Boca Raton, Florida, an individual, his heirs, successors and/or assigns.

"MICHAEL" as defined herein, refers to and means Michael A. Bernstein residing in Boca Raton, Florida, an individual, his heirs, successors and/or assigns.

“MOLLY” as defined herein, refers to and means Molly N. Simon residing in Chicago Illinois, an individual, her heirs, successors and/or assigns.

“THE ELIOT CHILDREN” as defined herein, refers to and means Joshua, Jacob and Daniel Bernstein residing in Boca Raton, Florida, all individual(s), their heirs, successors and/or assigns.

“THE JILL CHILD” as defined herein, refers to and means Julia Iantoni residing in Highland Park, Illinois, an individual, her heirs, successors and/or assigns.

“THE LISA CHILDREN” as defined herein, refers to and means Max and Carley Friedstein residing in Highland Park, Illinois, an individual(s), both heirs, successors and/or assigns.

### **DEFINITIONS**

"Agreement", as defined herein, refers to and means, this Settlement Agreement and Mutual Release.

“Party” or “Parties”, shall refer to and mean an individual defined above whom shall sign on and be bound by this Settlement Agreement, and Parties shall refer to the individuals collectively.

“Trust”, as defined herein refers to and means the Simon L. Bernstein Irrevocable Insurance Trust dtd 6/21/95.

### **RECITAL'S**

WHEREAS, the Parties are all of the children and grandchildren of the marriage of Simon L. Bernstein and Shirley Bernstein;

WHEREAS, Simon L. Bernstein established the Trust in 1995 for the benefit of his wife,

Shirley Bernstein, and their children, the Parties;

WHEREAS, Shirley Bernstein predeceased Simon L. Bernstein, and Simon L. Bernstein passed away on September 13, 2012;

WHEREAS, after a diligent search by the Parties, an executed copy of the Trust can not be found;

WHEREAS, the Trust is the beneficiary of life insurance policy number 1009208 issued by Heritage Union Life Insurance Company (the "Insurer") on the life of Simon L. Bernstein (the "Policy");

WHEREAS, the Parties desire to achieve the intent of Simon L. Bernstein on or about the date of the Trust and resolve any and all disputes and controversies that have arisen or may arise regarding the distribution of the death benefit proceeds of the Policy.

#### **WITNESSETH**

NOW THEREFORE, in consideration of the following covenants, promises and obligations, as well as other good and valuable consideration, the sufficiency of which is hereby acknowledged; it is agreed by and between the Parties as follows:

#### **COVENANTS**

1. TED is appointed and hereby accepts the appointment to act as Trustee of the Trust.
2. That TED, as Trustee, shall open a bank account in the name of the Trust (the "Trust Account").
3. That TED, as Trustee shall deposit or direct the Insurer to deposit the death benefit proceeds of the Policy into the Trust Account.
4. That TED, as Trustee, shall pay expenses of the Trust including the cost of filing a tax return from the proceeds in the Trust Account.
5. That TED, as Trustee, shall distribute all remaining proceeds in the Trust Account equally (in 20% shares) to each of TED, PAM, ELIOT, JILL and LISA.



6. That TED, as Trustee, upon completing the distribution in ¶5 above and the filing of the tax return contemplated in ¶4 above shall close the Trust Account.
7. Upon receipt of the Settlement Agreement executed by all Parties and upon fulfillment of all of the covenants and obligations contained in ¶1 through ¶6 above, TED, PAM, ELIOT, JILL, AND LISA, ALLY, ERIC, MICHAEL, MOLLY, THE ELIOT CHILDREN, THE JILL CHILD AND THE LISA CHILDREN and each of them in their own individual capacity, shall respectively acquit, release, and forever discharge TED, both individually and as Trustee, and each and every other Party from any and all claims, demands, liabilities, obligations, causes and causes of action of whatever kind or nature, known or unknown, suspected or unsuspected by each of them, which each of them now owns or holds or at any time heretofore owned or held as against each other arising out of any matter related to or associated with the Policy and/or the Trust, and without limiting the generality of the foregoing, all claims, demands, liabilities, obligations, causes and causes of action arising out of or in any way connected with: a) the receipt of the death benefit proceeds of the Policy by the Trust; b) arising out of or in any way connected to the operation and management of the Trust, or the actual terms of the Trust in the event it should be located subsequent to the date of this Agreement regardless as to whether all of the covenants and obligations of this Agreement have been executed to completion.
8. All demands and notices given hereunder shall be sent by mail addressed to the respective Parties with a copy to David B. Simon, The Simon Law Firm, 303 E. Wacker Dr., Suite 210, Chicago, IL 60601-5210.
9. The Parties hereby represent to one another that they have full power and authority to enter into this Settlement Agreement and carry out their obligations hereunder. All Parties further represent that this Settlement Agreement has been duly executed and delivered.
10. This Settlement Agreement embodies the entire understanding of the Parties. All prior correspondence, conversations, memoranda and agreements have been merged into and replaced by this Settlement Agreement.
11. If a Party breaches this Settlement Agreement, the breaching Party shall reimburse the non-breaching Parties for all reasonable costs, attorney's fees, and expenses incurred by them in enforcing the terms and provisions of the Settlement Agreement.
12. This Settlement Agreement shall (i) be governed and construed in accordance with the laws of the State of Illinois and all claims or controversies arising out of this Settlement Agreement shall be brought within the exclusive jurisdiction of the State of Illinois; (ii) inure to the benefit of and be binding upon the Parties themselves, as well as their respective heirs, executors, predecessors, successors and assigns.
13. All Parties have been represented by counsel, or have had the opportunity to seek the advice of counsel, and if they have sought counsel then such counsel has reviewed this Settlement Agreement and recommended that their respective clients enter into it.
14. This Settlement Agreement may be executed in one or more counterparts, all of which, when taken together, shall constitute an original. Facsimile signatures of the Parties shall as valid and binding as original signatures.

15. Should any provision contained in this Agreement be deemed illegal or unenforceable as a matter of law, the remainder of this Agreement shall remain binding and continue in full force and effect.
16. The signatories state that they have read and understand this Settlement Agreement and that they intend to be legally bound by the same.

Agreed and accepted this date and year first written above.

**TED S. BERNSTEIN**

\_\_\_\_\_  
**Witness:** \_\_\_\_\_

**Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PAMELA B. SIMON**

\_\_\_\_\_  
**Witness:** \_\_\_\_\_

**Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**LISA S. FRIEDSTEIN**

\_\_\_\_\_  
**Witness:** \_\_\_\_\_

**Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ERIC BERNSTEIN**

\_\_\_\_\_  
**Witness:** \_\_\_\_\_

**Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**MOLLY N. SIMON**

\_\_\_\_\_  
**Witness:** \_\_\_\_\_

**Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**THE JILL CHILD**

\_\_\_\_\_  
**Jill Iantoni, Parent**

\_\_\_\_\_  
**Guy Iantoni, Parent**

**Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ELIOT I. BERNSTEIN**

\_\_\_\_\_  
**Witness:** \_\_\_\_\_

**Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**JILL M. IANTONI**

\_\_\_\_\_  
**Witness:** \_\_\_\_\_

**Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ALEXANDRA L. BERNSTEIN**

\_\_\_\_\_  
**Witness:** \_\_\_\_\_

**Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**MICHAEL BERNSTEIN**

\_\_\_\_\_  
**Witness:** \_\_\_\_\_

**Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**THE ELIOT CHILDREN**

\_\_\_\_\_  
Eliot I. Bernstein, Parent

\_\_\_\_\_  
Candace Bernstein, Parent

**Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**THE LISA CHILDREN**

\_\_\_\_\_  
Lisa Friendstein, Parent

\_\_\_\_\_  
Jeffrey Friedstein, Parent

**Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

JAN. 8. 2013 10:13AM

NO. 603 P. 1

**Reassure America Life  
Insurance Company****J. L. McDonald, ALHC, LTCP  
Vice President****12750 Merit Drive  
Suite 500  
Dallas, TX 75251****Telephone (972) 776-8535  
Fax (260) 435-8773****January 8, 2013****Mr. Robert Spallina  
Attorney at Law  
Tescher & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way, Suite 720  
Boca Raton, FL 33431****Re: Simon Bernstein, Dec's  
Policy # 1009208****Dear Mr. Spallina:**

This will acknowledge your letters the most recent of which is dated December 21, 2012.

In as much as the above policy provides a large death benefit in excess of \$1.6 million dollars and the fact that the trust document cannot be located, we respectfully request a court order to enable us to process the claim.

Please let us know how we may assist you in this process.

Sincerely,

**Jim McDonald, ALHC, LTCP  
Vice President  
Claims Oversight**

# FAX

To: Robert Spallina  
Company:  
Fax: 915619977308

From: Kellie Walker  
Phone:

---

## NOTES:

Insured Simon Bernstein #1009208

## CONFIDENTIALITY

This fax and any attachments are confidential and may also be privileged. If you are not the named recipient, or have otherwise received this communication in error, please notify the sender immediately, and do not disclose its contents to any other person, use them for any purpose, or store or copy them in any medium. Thank you for your cooperation.

---

Date and time of transmission: Tuesday, January 15, 2013 11:49:30 AM

Number of pages including this cover sheet: 02

## Eliot Bernstein

---

**From:** Ted Bernstein <tbernstein@lifeinsuranceconcepts.com>  
**Sent:** Friday, January 18, 2013 6:04 PM  
**To:** 'Jill Iantoni'; Lisa Friedstein (lisa.friedstein@gmail.com); Eliot Bernstein (iviewit@gmail.com); 'Pam Simon'  
**Subject:** UPDATE > HERITAGE INSURANCE POLICY

Hello > I hope everyone is well.

Heritage Life Insurance company has made a decision concerning dad's life insurance policy. They will require a court order to pay the proceeds, based on the large face amount of the policy (\$1.7MM). They have sent a letter to Robert Spallina. The letter was sent by a senior attorney within the company. It is short and to the point.

From here, this should be simple and straightforward. Assuming that we (5 children) agree to create an agreement, we will need to hire a Palm Beach attorney to draft the agreement that will be submitted to the judge. It is my understanding that the agreement can be drafted to reflect our agreement to split the proceeds among the 5 of us or in such a way that would enable one or more of us to effectively refuse our individual share in favor of our children. I am not sure, but I believe that disclaiming our share in favor of our children will put that share at risk of creditors of dad's estate. Seems to me that we should do whatever we can to keep the proceeds out of the reach of potential creditors.

As the successor trustee of the trust that cannot be found, I will be happy to act as trustee of a trust that would receive the proceeds under the new agreement, created by us. Once the court order is issued, the insurance company should pay quickly and I will distribute the proceeds immediately.

Please let me know that you will agree to be a party to the agreement between us (and possibly the grandchildren who will need to acknowledge and agree to the language). If you could do that in the next day or so, we can then decide the most cost effective way to get the agreement created and submitted. It makes no sense at this point to leave the proceeds at the insurance company.

Call me with any questions or maybe we should establish a call between the 5 of us.

Take care...

Ted

## Eliot Ivan Bernstein

---

**From:** Ted Bernstein <tbernstein@lifeinsuranceconcepts.com>  
**Sent:** Tuesday, January 22, 2013 5:14 PM  
**To:** 'Pam Simon'  
**Cc:** Lisa Friedstein; Jill Iantoni; Christine Yates; Eliot Bernstein Ivan  
**Subject:** RE: Heritage Policy

I believe we do, just waiting on Eliot and Christine for the time.

---

**From:** Pam Simon [<mailto:pambsimon@icloud.com>]  
**Sent:** Tuesday, January 22, 2013 3:26 PM  
**To:** Ted Bernstein  
**Cc:** Lisa Friedstein; Jill Iantoni; Christine Yates; Eliot Bernstein Ivan  
**Subject:** Re: Heritage Policy

hi all - do we have a thursday time and call in number ? trying to maneuver my calendar? thanks pam

On Jan 22, 2013, at 12:33 PM, Ted Bernstein <[tbernstein@lifeinsuranceconcepts.com](mailto:tbernstein@lifeinsuranceconcepts.com)> wrote:

Robert,

We are in the midst of arranging a phone call between myself, Pam, Eliot, Christine Yates, Jill and Lisa. We were hoping to have that call today but Christine cannot make it until Thursday. I think it is imperative for this call to occur prior to anything else being done, including your call with their legal department. This way, we can establish whether there is going to be an agreement among the 5 of us, or not.

I completely agree with your assessment below of the options available here.

Please feel free to call me to discuss.

Ted

**From:** Robert Spallina [<mailto:rspallina@tescherspallina.com>]  
**Sent:** Tuesday, January 22, 2013 12:16 PM  
**To:** Ted Bernstein; Lisa Friedstein; Pam Simon; Jill Iantoni; Christine Yates  
**Cc:** Kimberly Moran  
**Subject:** Heritage Policy

I received a letter from the company requesting a court order to make the distribution of the proceeds consistent with what we discussed. I have traded calls with their legal department to see if I can convince them otherwise. I am not optimistic given how long it has taken them to make a decision. Either way I would like to have a fifteen minute call to discuss this with all of you this week. There are really only two options: spend the money on getting a court order to have the proceeds distributed among the five of you (not guaranteed but most likely probable), or have the proceeds distributed to the estate and have the money added to the grandchildren's shares. As none of us can be sure exactly what the 1995 trust said (although an educated guess would point to children in light of the document prepared by Al Gortz in 2000), I think it is important that we discuss further prior to spending more money to pursue this option. Hopefully I will have spoken with their legal department by Thursday. I would propose a 10:30 call on Thursday EST. Please advise if this works for all of you.

Robert L. Spallina, Esq.

TESCHER & SPALLINA, P.A.

4855 Technology Way, Suite 720

Boca Raton, Florida 33431

Telephone: 561-997-7008

Facsimile: 561-997-7308

E-mail: [rspallina@tescherspallina.com](mailto:rspallina@tescherspallina.com)

If you would like to learn more about TESCHER & SPALLINA, P.A., please visit our website at [www.tescherspallina.com](http://www.tescherspallina.com)

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**From:** Ted Bernstein [mailto:tbernstein@lifeinsuranceconcepts.com]  
**Sent:** Sunday, January 27, 2013 7:26 PM  
**To:** 'Pam Simon'  
**Cc:** Jill Iantoni; lisa friedstein; Eliot Ivan Bernstein  
**Subject:** RE: DO NOT FORWARD THIS > UPDATE > HERITAGE INSURANCE

Keep in mind that this is the policy that lapsed for more than 6 months and was miraculously re-instated a few months before Dad died. It is in our best interest to get this claim paid as soon as possible.

With that being said, I am going to suggest that we get the agreement we were going to use to the point where it is ready to present to the court. We already have an agreement in existence that simply needs to be tailored to our circumstances. Robert Spallina can clean it up to reflect what we said on Thursday and then it can be reviewed by each person and their legal counsel. The only way this does not make sense is if one or more of us are intending to not be part of an agreement stating that 5 children will be equal beneficiaries. Based on what I heard on Thursday, the only sensible option is to ensure these proceeds are not included in Dad's estate. With an agreement, each of us has the ability to do what is best for his or her family, without impacting anyone else.

This way, the work can begin that needs to be done while we are trying to schedule the call around the 6 of us.

Let me know if you see any reason to wait but tomorrow I will ask Robert Spallina to fit the agreement to our circumstances and begin to circulate it. If anyone is going to use a guardian for their minor child or children, it is probably a good idea to start that process too.

Ted

## Eliot Ivan Bernstein

---

**From:** Eliot Ivan Bernstein <iviewit@iviewit.tv>  
**Sent:** Tuesday, February 5, 2013 1:10 PM  
**To:** Robert L. Spallina, Esq. ~ Attorney at Law @ Tescher & Spallina, P.A. (rspallina@tescherspallina.com); Ted Bernstein; Pamela Beth Simon (psimon@stpcorp.com); Lisa Friedstein; Jill M. Iantoni (jilliantoni@gmail.com); Jill M. Iantoni (lantoni\_jill@ne.bah.com); Christine P. Yates ~ Director @ Tripp Scott (CTY@trippscott.com)  
**Subject:** Eliot Heritage policy Analysis

### Tracking:

#### Recipient

#### Read

Robert L. Spallina, Esq. ~ Attorney at Law @ Tescher & Spallina, P.A. (rspallina@tescherspallina.com)

Ted Bernstein

Pamela Beth Simon (psimon@stpcorp.com)

Read: 2/5/2013 1:11 PM

Lisa Friedstein

Jill M. Iantoni (jilliantoni@gmail.com)

Jill M. Iantoni (lantoni\_jill@ne.bah.com)

Christine P. Yates ~ Director @ Tripp Scott (CTY@trippscott.com)

Marc R. Garber Esq. (marcgarber@gmail.com)

Marc R. Garber Esq. @ Flaster Greenberg P.C. (marcgarber@verizon.net)

Marc R. Garber, Esquire @ Flaster Greenberg P.C.

This is my analysis on the Heritage payout thus far. First, I would like to review the insurance policy as well as the official statements respecting investment returns, use of returns to pay premiums and loans taken from the policy. I understand Ted and Pam have the policy, and do not understand why Mr. Spallina thinks it is curious that I also want to review these materials. Second, I understand the expressed concerns that if the proceeds are paid to the estate then the proceeds would be subject to the claims of creditors of the estate. It is my understanding that the "plan" is to have the proceeds payable to a trust to avoid creditor claims; however, I have also been counseled that if a trust is utilized an estate creditor can challenge the trust transaction as a fraudulent conveyance used to avoid the creditor's claim.

We have been told that Dad designated his 1995 trust as his beneficiary with Heritage. We were also told that that trust cannot be located. I would also like to review an affidavit that indicates the precise steps that were taken and by whom and with whom to locate the 1995 trust, and I would imagine that Heritage will require the same. Heritage, we were told, is now saying that the proceeds may have to go to the State under the applicable escheat laws, so Mr. Spallina is telling us that if Heritage accepts a new trust with all potential beneficiaries agreeing to the mechanism, that Heritage may pay the proceeds to this new trust and not to the State. I have been told that the reason the law requires a trust document (and not simply statements from someone who claims they saw the trust) is that it demonstrates Dad's desires, and because Dad had the right to change his mind and thus the beneficiaries under the trust, nothing short of the actual 1995 trust document may be sufficient to Heritage.

Last, because the 1995 trust document cannot be located, the proceeds should go to the beneficiaries under {Article IV 2j} and [Article III] of Dad's will, which picks up insurance proceeds under failed beneficiary designations. Under Dad's will and trust, these amounts, like the rest of his estate goes to his grandchildren in equal parts. Thus, to the extent it is decided to use a new trust to avoid the escheat laws, the only beneficiaries that may be acceptable to me is the

grandchildren. As I stated above, I and my siblings should remain concerned that any estate creditor could challenge the transaction as a fraudulent conveyance. Also, having the 5 children as beneficiaries with each having the right to disclaim in favor of their children (i.e., Dad's grandchildren) is not acceptable for 2 reasons. First, such a scheme is not consistent with Dad's wishes under his will and trust agreement. Whatever Dad may have provided under the 1995 trust is both unknown and not relevant as stated above. The second reason is simple economics. My kids would get a 33% distribution under the proper method, but only 20% under the other scheme.

Regards,

Eliot I. Bernstein

Inventor

(561) 245.8588 (o)

(561) 886.7628 (c)

(561) 245-8644 (f)

[iviewit@iviewit.tv](mailto:iviewit@iviewit.tv)

<http://www.iviewit.tv>

Also, check out

Eliot's Testimony at the NY Senate Judiciary Committee Hearings Professional Video courtesy of NY Senate, my fav part at end

[http://www.youtube.com/watch?v=7oHKs\\_crYIs](http://www.youtube.com/watch?v=7oHKs_crYIs)

Eliot's Testimony at the NY Senate Judiciary Committee Hearings Professional Video Handheld Camera View, my favorite version at the very end

<http://youtu.be/3Q9MzqZv4lw>

and

Christine Anderson New York Supreme Court Attorney Ethics Expert Whistleblower Testimony, FOX IN THE HENHOUSE and LAW WHOLLY VIOLATED TOP DOWN EXPOSING JUST HOW WALL STREET / GREED STREET / FRAUD STREET MELTED DOWN AND WHY NO PROSECUTIONS OR RECOVERY OF STOLEN FUNDS HAS BEEN MADE. Anderson in US Fed Court Fingers, US Attorneys, DA's, ADA's, the New York Attorney General and "Favored Lawyers and Law Firms" @

<http://www.youtube.com/watch?v=6BIK73p4Ueo>

and finally latest blog

<http://iviewit.tv/wordpress/?p=594>

Eliot Part 1 - The Iviewit Inventions @

<http://www.youtube.com/watch?v=LOn4hwemqW0>

Iviewit Inventor Eliot Bernstein Guest on Les Winston DisBar the Florida Bar Show #1

<http://youtu.be/i1Ao1BYvyoQ>

Iviewit Inventor Eliot Bernstein Guest on Les Winston DisBar the Florida Bar Show #2

<http://youtu.be/OaXys6bImFI>

Iviewit Inventor Eliot Bernstein Guest on Les Winston DisBar the Florida Bar Show #3

<http://youtu.be/9R1PNnJVVGU>

Iviewit Inventor Eliot Bernstein Guest on Les Winston DisBar the Florida Bar Show #4

<http://youtu.be/rUHCZFkro08>

**From:** Ted Bernstein [mailto:tbernstein@lifeinsuranceconcepts.com]  
**Sent:** Wednesday, February 6, 2013 3:49 PM  
**To:** Eliot Bernstein (iviewit@gmail.com)  
**Cc:** 'Pam Simon'; Jill Iantoni; Lisa Friedstein (lisa.friedstein@gmail.com); ROBERT SPALLINA (rspallina@tescherspallina.com)  
**Subject:** Heritage policy

Eliot,

I have pasted your analysis re the Heritage policy below. The email did not get to me, not sure why.

The problem with your analysis is that it is not factually correct and therefore, you are drawing conclusions that are incorrect.

Dad's desires concerning the policy are crystal clear. There has never been a question concerning his desire. He named his irrevocable trust as beneficiary of the policy and he never changed that. He was the owner. He could have changed it as often as he wanted. He never did, not ever.

In 1995, Dad did not have 10 grandchildren. Therefore, it was never his intent, concerning this policy, to leave it to all of his grandchildren.

He chose Robert Spallina and Don Tescher to be his estate and tax attorneys as well as his personal representatives. Robert Spallina has told us on several occasions what Dad's wishes were for this policy. Dad was well aware of this policy. He was intimately aware of who owned it and who he named as beneficiary. When he was considering a life settlement, all of this information was part of those discussions.

As Robert has stated, Heritage's policy when it comes to a lost irrevocable trust, is to not pay the proceeds to the estate. What you are saying here is not correct: *"Last, because the 1995 trust document cannot be located, the proceeds should go to the beneficiaries under {Article IV 2j} and [Article III] of Dad's will, which picks up insurance proceeds under failed beneficiary designations. Under Dad's will and trust, these amounts, like the rest of his estate goes to his grandchildren in equal parts"*

You are drawing conclusions for Heritage when you say, "nothing short of the actual 1995 trust document may be sufficient to Heritage." Why don't we let Heritage speak for Heritage, which I believe has already been done?

There is no fraudulent conveyance. These proceeds are not part of Dad's estate, they never were and Heritage has stated they do not intend to pay these proceeds to the estate of a person who clearly did not want them in his estate.

In late July of 2012, Dad executed his planning documents. He could have easily changed the beneficiary of the Heritage policy to be included in his estate. He was the owner, he could have done that with one change form. He did not. If he did not want to be bothered to do it himself, he could have asked Robert, his PR, to do it. People do this every day. Dad did not. Therefore, the proceeds remaining OUT of his estate, NOT payable to his grandchildren (who received everything else), is consistent with Dad's wishes. This policy is not in the domain of his will and trust agreement. To bring proceeds of a life insurance policy into the estate of a man who sold life insurance his entire career would go against everything Dad told every client he ever sold life insurance to during his career. It is unimaginable.

Therefore, the economic analysis is not correct. It simply is not necessary to address as it was never an option in this scenario.

This needs to be brought to resolution. Not only is it simple, it is black and white. Is your counsel involved in this matter for you? If so, has she spoken with Robert and communicated what you have said?

We are going to do what is necessary to have the proceeds paid where they were intended to be paid, as quickly as possible now. If you think I am factually incorrect about any of this, please either call me or email me and explain where I may be wrong. It goes without saying, this is not my expertise. I am processing the same information that everyone else is working with and this is how I see it.

Ted

## Eliot Bernstein

---

**From:** Robert Spallina <rspallina@tescherspallina.com>  
**Sent:** Friday, February 8, 2013 8:41 PM  
**To:** Pam Simon  
**Cc:** Eliot Bernstein; Ted Bernstein; Lisa Sue Friedstein; Jill Iantoni; Jill M. Iantoni; Christine P. Yates ~ Director @ Tripp Scott  
**Subject:** Re: Heritage Policy

The law does not REQUIRE a trust to pay proceeds. The terms of lost wills and trusts are routinely proved up through parole evidence. The lawyer I spoke with at Heritage told me that this happens once every ten days and the estate is rarely if ever the beneficiary of the proceeds on a lost trust instrument. I have NEVER heard of proceeds being paid to the probate court.

Your father changed himself to the owner of the policy because he wanted to have the RIGHT to change beneficiaries despite the fact that it causes inclusion of the proceeds in his estate for estate tax purposes. Very near to his death he requested beneficiary change forms but never actually changed the beneficiaries. I will give you one guess who he thought of including and it was none of his grandchildren. I counseled him not to do this and the form was never executed.

As for your father's intent, that is the most important thing and the court will always look to carry that out. The fact that he changed his dispositive documents to include only his grandchildren lends credibility to the fact that he intended that the insurance proceeds would go to his five children. He knew that the trust provided for his children some of whom he knew needed the money. Additionally we had a conference call prior to his death with all of you where he discussed his plans regarding his estate and your mother's estate with all of you. This should be of no surprise to anyone.

Bottom line is that we do not need to have the trust for the carrier to pay the proceeds. The carrier is looking for a court order to pay them to a successor trustee who will distribute them among the beneficiaries.

I do not and have never had a copy of the policy.

Lets stop making this more difficult than it is. Your father told me that the trust provided that the proceeds were going to his children. Pam saw him execute the trust with the same attorney that prepared her own trust a copy of which I have and will offer up to fill in the boilerplate provisions. We have an SS-4 signed by your mother to obtain the EIN. There is not one shred of evidence that the trust was terminated which is the only circumstance that would require payment of the proceeds to the estate.

The fact that your father requested change forms prior to death and didn't execute them speaks to the existence of the trust and that he intended that you all receive an equal share of the proceeds.

I hope that this helps to guide you and unite you in your decision.

Have a nice weekend.

Sent from my iPhone

On Feb 8, 2013, at 7:41 PM, "Pam Simon" <[psimon@stpcorp.com](mailto:psimon@stpcorp.com)> wrote:

Yad - bad news - we don't have copies of the policy - dad probably took it when he emptied his office / probably the trust too! The carrier seems to be the only one with a copy. As to the other items, we should do a call cause the premise is off. Have a good weekend.  
Pam

On Feb 8, 2013, at 5:48 PM, "Eliot Bernstein" <[iviewit@gmail.com](mailto:iviewit@gmail.com)> wrote:

Thanks for your response to my analysis of the Heritage matter; however, I believe your comments assume I do not understand the trust concept and its utility, and your analysis is based on the theory of estate planning using trusts and not the importance of having the actual trust document. I started by again requesting a copy of the Heritage policy. I need to review the policy's provisions respecting how death benefit proceeds are dealt in situations where a beneficiary designation fails. This is a simple request. You and Pam indicated that you each have a copy of the policy. Robert said he has a copy of the policy. PLEASE send a copy to me. I assure you that nothing will transpire until I have reviewed the policy.

I have been advised that in situations where a beneficiary designation fails, an insurer will in almost all situations pay the proceeds into the probate court and ask the court to determine to whom the proceeds are payable and ask for a release. The position I took in my prior email is clear; that a probate court will likely decide that the proceeds will go to the grand children through the estate and the pour over trust. This analysis troubles you because the Heritage proceeds would thus be considered an estate asset and subject to creditor claims. I understand your concerns. But unless the 1995 trust document is located, and unless the Heritage policy provides otherwise, this is how it most likely will play out.

Your comments about Dad's desires and his estate planning experience are simply not relevant; however, I could understand that you may wish to make this argument to the probate court. All of the meetings, time and energy being spent trying to come up with a way to convince Heritage to pay the benefits pursuant to what Robert believes the 1995 trust said is wasted energy, unless Heritage agrees to pay the proceeds pursuant to some form of settlement and release agreement. If you want me to even consider such an arrangement, in addition to reviewing the Heritage policy, I will require a letter from Heritage specifically stating that Heritage may make the proceeds payment under such an arrangement. It should be easy to get such a letter if Heritage is willing to consider such an arrangement.

Now that you know my position, I will respond to your comments respecting my analysis in my prior email. We all know that like you and Pam, Dad spent his career in the insurance business. I also spent years in the insurance business. In fact, Dad was one of the best and most innovated at it. Just look at his and your company's (LIC) web site for confirmation. As an expert, Dad understood all the benefits of designating a trust as the beneficiary under a life policy. You keep the proceeds out of the estate and probate process, and the proceeds are not subject to creditor claims. You and Pam and even I understand these concepts too. So does Mr. Spallina, as an expert estates lawyer. All of us (you, Pam, Robert and me) also know that having the actual trust document is essential to ensuring that the insurance proceeds are actually paid to the trust. The reason why insurers will not make payment pursuant to a missing trust document is that the insured had the right and ability to make changes to the trust document, including the beneficiaries thereunder until the day he died. You commented that Mr. Spallina said it is Heritage's policy not to make payments to an estate in situations where a trust is lost. Is that your experience with insurance companies? Perhaps Heritage's position is that it will pay the proceeds to the court (not the estate) and the judge determines how the proceeds are distributed. My friends in the business tell me that this is precisely

what insurance companies do, albeit through the probate court. That is also why Mr. Spallina included that clause I mentioned in Dad's will, so any such proceeds flow through to Dad's pour over trust as a backup. Most wills include such a clause even though many people employ a trust. Trusts do get lost or are revoked. Beneficiary designations fail for a variety of reasons.

Your comments regarding the many times Dad dealt with the Heritage policy in recent years interests me. In 2012 Dad did redo his estate plan with Mr. Spallina. In the last couple of years Dad and you (and perhaps Robert) dealt with reinstating the Heritage policy and considered a life payment buyout. In all those occasions, Dad could have changed the beneficiaries, but you state he did not. I understand, but fail to see the relevance, based on the above analysis. But because you are in the business and counsel your clients to use trusts, why did you not request a copy of the 1995 trust from Dad during those events? Why didn't Mr. Spallina require that Dad give him a copy during the 2012 estate planning overhaul, and insist on having a copy? Mr. Spallina told us that he and Dad met often and discussed Dad's financial affairs. Mr. Spallina knew and knows that having the actual trust document was essential, and I am find it hard to believe he did not insist on including a copy with Dad's 2012 estate planning documents. If I were Dad's estates lawyer and Dad did not provide me a requested copy, I would have copies of letters requesting the trust document, at the very least to protect myself against any claims. And why did Dad not make sure that you all had copies?

I also find it curious that no one has come forth to state the steps that were taken to locate the 1995 trust. Who took the steps, where did they look, and who did they speak with. I was not permitted to go into Dad's house after he died, so who took the contents of Dad's safe? Who looked at the contents of Dad's safe deposit box?-

You start by stating that Dad did not have 10 Grandchildren in 1995, so it was not his then desire to name them as beneficiaries. But absent the actual trust document, it is possible he named his then living grandchildren. BUT, the 1995 trust document cannot be located, so we will never know.

My fraudulent conveyance analysis is based on the above comments. A creditor would argue that the named beneficiary was the 1995 trust. It was lost. In those cases, insurers pay death benefits to the probate court. The proceeds thus become part of the estate even if the judge decides that the proceeds go through the pour over trust. You are in the insurance business Ted. I am surprised you do not know this. Thus I remain concerned that if Heritage agrees to pay the proceeds in trust pursuant to some form of settlement and release (which is your plan to avoid creditors issues) that a creditors lawyer will seek to reach those proceeds on the fraudulent conveyance theory. Obviously, you and Robert are trying awfully hard to get Heritage to do this for the very reason of avoiding creditors' claims. More facts to help a creditor's lawyer reach the proceeds.

So I would suggest my economic analysis is correct when you consider the law and not just Dad's desires. Again, the law requires an actual trust document, not the concept of a trust. It is required because the trust document can be changed and is the best and only evidence of where the proceeds should go. Unfortunately, Dad intent or desires likely are not relevant. He knew this, which again is why I am shocked that Dad did not give copies to each of you.

Eliot I. Bernstein



Inventor  
Iviewit Holdings, Inc. – DL  
Iviewit Holdings, Inc. – DL (yes, two identically named)  
Iviewit Holdings, Inc. – FL  
Iviewit Technologies, Inc. – DL  
Uviewit Holdings, Inc. - DL  
[Uview.com](#), Inc. – DL  
[Iviewit.com](#), Inc. – FL  
[Iviewit.com](#), Inc. – DL  
I.C., Inc. – FL  
[Iviewit.com](#) LLC – DL  
Iviewit LLC – DL  
Iviewit Corporation – FL  
Iviewit, Inc. – FL  
Iviewit, Inc. – DL  
Iviewit Corporation  
2753 N.W. 34th St.  
Boca Raton, Florida 33434-3459  
(561) 245.8588 (o)  
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[iviewit@iviewit.tv](mailto:iviewit@iviewit.tv)  
<http://www.iviewit.tv>  
<http://iviewit.tv/inventor/index.htm>  
<http://iviewit.tv/wordpress>  
<http://www.facebook.com/#!/iviewit>  
<http://www.myspace.com/iviewit>  
<http://iviewit.tv/wordpresseliot>  
<http://www.youtube.com/user/eliotbernstein?feature=mhum>  
<http://www.TheDivineConstitution.com>

Also, check out

Eliot's Testimony at the NY Senate Judiciary Committee Hearings Professional Video  
courtesy of NY Senate, my fav part at end  
[http://www.youtube.com/watch?v=7oHKs\\_crYIs](http://www.youtube.com/watch?v=7oHKs_crYIs)

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Handheld Camera View, my favorite version at the very end  
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and

Christine Anderson New York Supreme Court Attorney Ethics Expert Whistleblower  
Testimony, FOX IN THE HENHOUSE and LAW WHOLLY VIOLATED TOP DOWN  
EXPOSING JUST HOW WALL STREET / GREED STREET / FRAUD STREET  
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FUNDS HAS BEEN MADE. Anderson in US Fed Court Fingers, US Attorneys, DA's,  
ADA's, the New York Attorney General and "Favored Lawyers and Law Firms" @  
<http://www.youtube.com/watch?v=6BIK73p4Ueo>

and finally latest blog  
<http://iviewit.tv/wordpress/?p=594>

Eliot Part 1 - The Iviewit Inventions @  
<http://www.youtube.com/watch?v=LOn4hwemqW0>

## Eliot Ivan Bernstein

---

**From:** Eliot Ivan Bernstein <iviewit@iviewit.tv>  
**Sent:** Friday, February 8, 2013 6:47 PM  
**To:** Ted Bernstein; Theodore S. Bernstein (TBernstein@lifeinsuranceconcepts.com); Pamela Beth Simon (psimon@stpcorp.com); Lisa Sue Friedstein (lisa@friedsteins.com); Jill Iantoni; Jill M. Iantoni (lantoni\_jill@ne.bah.com); Robert L. Spallina, Esq. ~ Attorney at Law @ Tescher & Spallina, P.A. (rspallina@tescherspallina.com); Christine P. Yates ~ Director @ Tripp Scott (CTY@trippscott.com); Irina Roach (idr@trippscott.com)  
**Subject:** Heritage Policy

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Eliot I. Bernstein

Inventor

Iviewit Holdings, Inc. – DL

Iviewit Holdings, Inc. – DL (yes, two identically named)

Iviewit Holdings, Inc. – FL

Iviewit Technologies, Inc. – DL

Uviewit Holdings, Inc. - DL

Uview.com, Inc. – DL

Iviewit.com, Inc. – FL

Iviewit.com, Inc. – DL

I.C., Inc. – FL

Iviewit.com LLC – DL

Iviewit LLC – DL

Iviewit Corporation – FL

Iviewit, Inc. – FL

Iviewit, Inc. – DL

Iviewit Corporation

2753 N.W. 34th St.

Boca Raton, Florida 33434-3459

(561) 245.8588 (o)

(561) 886.7628 (c)

(561) 245-8644 (f)

**From:** Ted Bernstein [mailto:tbernstein@lifeinsuranceconcepts.com]

**Sent:** Thursday, February 14, 2013 8:33 AM

**To:** 'Eliot Ivan Bernstein'; Robert L. Spallina, Esq. ~ Attorney at Law @ Tescher & Spallina, P.A.; Pamela Beth Simon; JILL BERNSTEIN IANTONI; Jill M. Iantoni; Lisa S. Friedstein; Christine P. Yates ~ Director @ Tripp Scott

**Subject:** RE: Eliot Representation

Robert,

Please move forward as we discussed in the last group phone call in which we decided to have Heritage pay your trust account or a trust that you would act as Trustee. Heritage has stated that they will pay based on a court order showing that there is consensus among the 1995 Trust beneficiaries. Let's get this done.

Ted

**From:** Eliot Ivan Bernstein [mailto:iviewit@iviewit.tv]

**Sent:** Wednesday, February 13, 2013 8:52 AM

**To:** Robert L. Spallina, Esq. ~ Attorney at Law @ Tescher & Spallina, P.A.; Ted Bernstein; Pamela Beth Simon; JILL BERNSTEIN IANTONI; Jill M. Iantoni; Lisa S. Friedstein; Christine P. Yates ~ Director @ Tripp Scott

**Subject:** Eliot Representation

I will be seeking independent counsel for myself personally, as Candice and I have chosen to have Christine represent our children on the Heritage matter and perhaps other matters to avoid any conflicts. In the interim, please copy me and Christine on all correspondences involving the estates of Simon and Shirley until further notice of who my personal attorney will be. Eliot



I  VIEW  IT TECHNOLOGIES, INC.  
Surf with Vision

Eliot I. Bernstein

Inventor

Iviewit Holdings, Inc. – DL

**EXHIBIT 6 - BLANK COPY OF ALLEGED TRUST**

S.B. Lexington, Inc.

(Employer)

EMPLOYEE DEATH BENEFIT PLAN AND TRUST

"PLAN AND TRUST"  
BENEFICIARY DESIGNATION

Simon L. Bernstein

(PLEASE PRINT OR TYPE NAME OF MEMBER OR AUXILIARY MEMBER)

I hereby designate, in accordance with the terms of said Plan and Trust as it is or may be amended:

NAME OF BENEFICIARY

Simon Bernstein Irrevocable  
Insurance Trust

RELATIONSHIP

as Primary Beneficiary

as Contingent Beneficiary/ies

as the person(s) to receive at my death the Death Benefit stipulated in the S.B. Lexington, Inc. Employee Death Benefit and Trust and the Adoption Form adopted by my Employer.

Signature: 

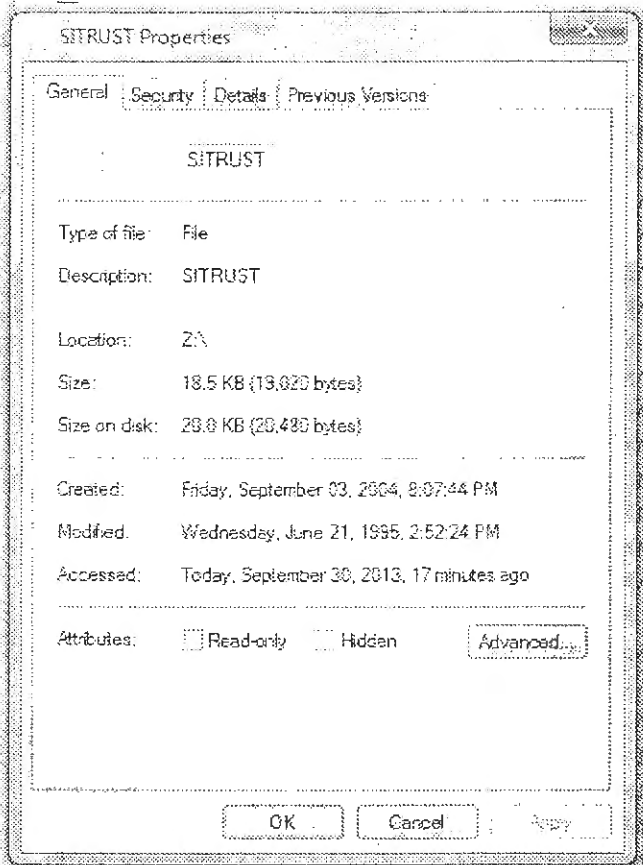
Date: 8-26-95

MEMBER OR AUXILIARY MEMBER

Instructions:

- (1) This form should be filed by the Trustee. A photo copy should be retained by the Member or Auxiliary Member.
- (2) This recommendation of beneficiary shall be effective upon receipt by the Trustee.
- (3) Where more than one beneficiary is designated, the proportion to be paid to each should be indicated, and if desired, provision for a contingent beneficiary if a first-named beneficiary predeceases the Member or Auxiliary Member can be included.
- (4) This designation of beneficiary may be changed or revoked at any time by written instruction to the Trustee or by filing a new designation with the Trustee.
- (5) This designation of beneficiary shall be disregarded if received by the Trustee after the death of the Member or Auxiliary Member.

BT000001



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BT000002

IRREVOCABLE TRUST AGREEMENT

I, Simon L. Bernstein, am entering into this Agreement at Boca Raton, Florida on June 1, 1995 with my wife, Shirley Bernstein, as Trustee. I am transferring to the Trustee \$10 and other property and may from time to time again contribute cash or other property to the Trustee. This instrument and the trusts hereby evidenced shall be known as the "Simon Bernstein Irrevocable Insurance Trust, dated June 1, 1995". It is therefore agreed as hereinafter provided.

ARTICLE ONE

1.01 I have caused or will cause the policies of insurance listed in Exhibit A hereto attached to be made payable to the Trustee as Beneficiary hereof. The term "policies" may include annuity contracts, accident policies and any retirement plan or contract under which death benefits can be made payable to the Trustee.

1.02 I or any person may transfer by will or otherwise any other property to the Trustee to be administered as provided in this instrument and may subject the proceeds of any insurance policies to the terms of this instrument by designating the Trustee as beneficiary thereof.

ARTICLE TWO

2.01 This instrument and the Trusts created hereby shall be construed and governed by the laws of Illinois in force from time to time.

**BT000003**



### ARTICLE THREE

The Trustee shall pay to me during my life the income of the Trust, and such portions of the principle as I may request from time to time by a written instrument delivered to the Trustee; provided, however, that if I become incapacitated the Trustee shall, as long as such incapacity continues, pay such amounts from the income and from principal as the Trustee may deem necessary for the support and education of the Group consisting of my then living children or their descendants and me. The Trustee may make unequal payments which shall not be considered advancements. Any income not thus paid shall be added to the principal of the Trust.

### ARTICLE FOUR

4.01 I reserve during my lifetime all rights under any insurance policies held hereunder including the rights to change the beneficiary, pledge or collect the cash surrender values and to receive all dividends. If any policy is surrendered or if the beneficiary of any policy is changed, this trust shall be revoked with respect to such policy upon acceptance of such surrender or change of beneficiary by the insurance company. During my lifetime the Trustee shall have no responsibility with respect to any policies except to hold any policies received in safekeeping and to deliver them upon my written request.

4.02 Upon being advised of my death the Trustee shall collect the proceeds of any policy(ies) on my life payable to the Trustee and may exercise any available optional method of settlement.

**BT000004**

4.03 Payment to the Trustee shall discharge the liability of the insurance company so paying, which need not see to the application of any payment. The Trustee may compromise claims arising in connection with any policy, and need not engage in litigation to enforce payment without indemnification for any resulting expense.

#### ARTICLE FIVE

5.01 After my death, the Trustee shall pay such amounts as my personal representative may request in writing for the purpose of paying all or part of the expenses of my funeral, the administration of my estate, my enforceable debts, and federal, state and estate taxes payable by reason of my death.

5.02 In making the payments required under this Article, the Trustee may use proceeds of insurance on my life to the extent other assets are not available but it shall in no event use assets not includable in my gross estate under the Internal Revenue Code.

#### ARTICLE SIX

6.01 After my death, for purposes of Article Seven, the "Trust Estate" shall consist of the principal together with any accrued and undistributed income of the Trust at the time of my death, plus any property added thereto by my Will or payable to the Trustee by reason of my death, reduced by any gifts herein before made and by the payment of debts admitted and administrative expenses and as provided in Article Five.

#### ARTICLE SEVEN

7.01 Upon my death, the Trustee shall divide the property

**BT000005**

of the Trust into as many separate Trusts as there are children of mine who survive me and children of mine who predecease me leaving descendants who survive me. These Trusts shall be designated respectively by the names of my children. Each Trust shall be administered and distributed in the following manner:

A) The Trustee shall pay from the net income of each Trust such amounts as the Trustee may deem appropriate to anyone or more persons living from time to time of the Group consisting of the Child for whom the Trust is named, that Child's spouse if any and descendants of such Child, and the spouses of any such descendants. The members of this Group are herein referred to as the Income Beneficiaries. Any income not thus paid shall be added to principal.

B) In addition, the Trustee shall pay from time to time to any one or more of the income beneficiaries of each Trust such amounts from the principal of such Trust as the Trustee may deem necessary for their support and education.

C) The Trustee may make unequal payments of income or principal which shall not be considered advancements.

#### ARTICLE EIGHT

Whenever the termination of any Trust under this instrument, the Trustee is directed to distribute any share of the Trust, except any distribution pursuant to the exercise of the power of appointment, (to any person who is under the age of twenty-five (25) years or is incapacitated, the Trustee shall hold the share of such person hereinafter called the Beneficiary, in a separate Trust for the following purposes:

A) The Trustee shall pay all the net income to the Beneficiary in such amounts of the principal as the Trustee deems necessary for his support and education; provided however, that if and so long as the Beneficiary has not attained majority or is incapacitated, the Trustee may withhold such amounts of income as the Trustee determines not to be necessary for the support and education of the Beneficiary and any amounts thus withheld shall be added to principal.

BT000006

B) After the beneficiary has attained the age of twenty-five (25) years, he may withdraw all of the principal and accumulated net income of such Trust.

As of the date of this Agreement I currently have five children living, namely: Ted S. Bernstein, Pamela B. Simon, Jill Bernstein, Lisa Bernstein Friedstein, and Eliot Bernstein.

#### ARTICLE NINE

For purposes under this instrument:

A) Adoption of a child shall have the same effect as if such child had been born to the adopting parents, but only if such child was a minor at the time of the adoption;

B) The word "spouse" includes a widow or widower.

C) Except where distribution is directed to the "descendants per stirpes" of a person, the word "descendants" includes descendants of every degree, whenever born, whether or not a parent or more remote ancestor of such descendant is living. Where distribution is directed to any person's descendants per stirpes who are living at a designated point of time, the stirpes shall begin with the children of such person, whether or not any child of his is then living. "Descendants of my parents" shall include only descendants of the marriage of such parents.

D) A person shall be considered "incapacitated" (1) if and as long as he is adjudicated disabled because he is unable to manage his estate or financial matters or (2) if two doctors familiar with his physical and mental condition certify to the Trustee in writing that the person is unable to transact ordinary business, and until there is a like certification to the Trustee that such incapacity has ended.

E) Where appropriate, words of the masculine gender include the feminine, the words used in a plural or collective sense include the singular and vice versa.

F) The word "Trustee" includes any successor Trustee or Trustees.

G) Except as otherwise provided in this instrument, income accrued or collected but not distributed at the termination of any beneficial interest hereunder shall be treated as if it had accrued or had

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collected after the termination of such interest. The Trustee may charge any such income with any accrued taxes, expenses or compensation which it considers proper.

H) In determining what amounts are necessary for the support of any person, the Trustee shall take into account (1) the standard of living to which such person is accustomed; (2) his obligations, if any, to support others; (3) the obligation, if any, and the ability of others to support him; and (4) other income available for his support so far as known to the Trustee

I) Whenever the Trustee deems it to be in the best interests of a beneficiary to whom the Trustee is directed or authorized to pay income or principal, the Trustee may apply such income or principal for the benefit of the beneficiary, or distribute it for the beneficiary's use to anyone with whom the beneficiary is residing, or to his guardian, conservator or near adult relative.

J) In determining whether any testamentary power of appointment has been exercised, the Trustee may rely on an instrument admitted to probate in any jurisdiction as the will on the donee of the power. If the Trustee has no written notice of the existence of such a will within three months after the death of the donee of the power, the Trustee may assume that the donee died intestate. This paragraph shall not limit any right of any person against anyone to whom the Trustee has distributed property in reliance thereon.

K) The term "gross estate" refers to the amount described by this term in the Internal Revenue Code in force from time to time.

L) The word "persons" includes corporations.

M) If any distribution, other than a distribution made pursuant to a power of withdrawal of appointment, is a taxable distribution for generation-skipping tax purposes, the Trustee may, out of the principal of the trust from which the distribution is made, either pay any tax attributable to the distribution or increase the distribution to the extent determined by the Trustee to be sufficient to enable the distributee to pay any such tax. In the event of a taxable termination for generation-skipping tax purposes, the Trustee shall, out of the principal of the Trust or share to which such termination relates, pay any tax attributable to the termination without compensating adjustments.

## ARTICLE TEN

In addition to the powers from time to time conferred on the Trustee by the Illinois Trusts and Trustees Act, the Trustee shall have the following powers exercisable in the Trustee's discretion except:

A) To charge or not to charge against income an allowance for depreciation;

B) To receive in cash the proceeds of any policies payable to the Trustee;

C) To make secure or unsecured loans of trust funds to my estate;

D) To borrow money from any source, including but not limited to, the banking department of a successor corporate trustee;

E) If at any time after my death the principal of a trust required to be held under the terms of this Agreement is less than \$10,000.00 in value, to distribute the principal and any accrued or undistributed income of the Trust to its income beneficiary, and that Trust shall thereupon terminate, notwithstanding any provisions in this Agreement to the contrary;

F) To purchase insurance policies on my life and as to any insurance policies owned by the Trustee on my life, the Trustee shall have the following additional powers:

1) To continue the policies in force and to pay the premiums thereon out of income and/or principal

2) To obtain the cash surrender value of the policies;

3) To convert the policies to paid-up insurance;

4) To borrow money on the security of the policies for any purpose, including but not limited to, the payment of the premiums thereon, and to mortgage, pledge and assign

**BT000009**

the policies for such purposes;

5) To make the Trustee and Trustee hereunder the beneficiary of the policies and to hold the policy proceeds in Trust hereunder;

6) To exercise any and all options and privileges under the policies; and

7) To deal with the policies in any other way the Trustee deems necessary or advisable for the proper management, investment and distribution of the Trusts;

G) When there is a trust under this Agreement and another trust under this Agreement or under another document, each having the same beneficiary or beneficiaries and terms which are substantially identical as to the distribution of income and principal and the same Inclusion Ration, to transfer all of the assets of such Trust under this Agreement to the Trustee or Trustees of the substantially identical Trust, and thereupon such Trust under this Agreement shall terminate;

H) To maximize the value of the GST Exemption which is available to my estate and to segregate by allocation to a separate Trust all or part of any asset in order to reflect a partial disclaimer or differences in tax attributes, consistent with the rules governing such attributes and considering the differences in such attributes and all other factors the Trustee believes pertinent; and

I) To do all other acts to accomplish the proper management, investment and distribution of the Trusts.

#### ARTICLE ELEVEN

The following provisions shall apply to each trust created by this Agreement:

A) If for any reason Shirley Bernstein does not continue to act as Trustee, David B. Simon is appointed successor Trustee. If for any reason neither of the foregoing individuals nor any successor Trustee appointed as hereinafter provided acts or continues to act as Trustee, a successor Trustee shall be appointed as provided in the Illinois Trusts and Trustees Act and shall be any corporation situated in the United States and authorized under the laws of the United States or of any state thereof to administer Trusts and with capital,

BT000010

surplus and undivided profits of at least fifty million dollars.

B) If any individual Trustee becomes incapable of properly managing his or her affairs, as determined unanimously by the group consisting of his or her physician and my then living and competent children, that determination shall be deemed to constitute his or her resignation as Trustee.

C) The income beneficiaries of the Trusts or, in the case of any legally disabled beneficiary, a living and competent parent or child, or guardian or conservator if the beneficiary has no living and competent parent or child, may at any time approve the Trustee's accounts, with the same effect as if a court having jurisdiction over the Trusts approve the accounts.

#### ARTICLE TWELVE

A. The Trustee need not litigate to collect policy proceeds or other property to which the Trustee may be entitled, unless indemnified to the Trustee's satisfaction against all resulting expense and liability.

B. The trustee's receipt and release shall release and discharge an insurance company or other person for payment made and shall bind every beneficiary of the Trusts.

#### ARTICLE THIRTEEN

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Illinois.

IN WITNESS WHEREOF, I and the Trustee have executed this Agreement.

\_\_\_\_\_  
\_\_\_\_\_

Subscribed and Sworn to before  
me this \_\_\_\_ day of \_\_\_\_\_, 199\_.

**BT000011**



Notary Public

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**BT000012**

IRREVOCABLE TRUST AGREEMENT

I, S., am entering into this Agreement at \_\_\_\_\_, \_\_\_\_\_ on \_\_\_\_\_, 199\_ with my wife, Shirley, as Trustee. I am transferring to the Trustee \$10 and other property and may from time to time again contribute cash or other property to the Trustee. This instrument and the trusts hereby evidenced shall be known as the "S. Irrevocable Insurance Trust, dated \_\_\_\_\_, 199\_". It is therefore agreed as hereinafter provided.

ARTICLE ONE

1.01 I have caused or will cause the policies of insurance listed in Exhibit A hereto attached to be made payable to the Trustee as Beneficiary hereof. The term "policies" may include annuity contracts, accident policies and any retirement plan or contract under which death benefits can be made payable to the Trustee.

1.02 I or any person may transfer by will or otherwise any other property to the Trustee to be administered as provided in this instrument and may subject the proceeds of any insurance policies to the terms of this instrument by designating the Trustee as beneficiary thereof.

ARTICLE TWO

2.01 This instrument and the Trusts created hereby shall be construed and governed by the laws of Illinois in force from time to time.

### ARTICLE THREE

The Trustee shall pay to me during my life the income of the Trust, and such portions of the principle as I may request from time to time by a written instrument delivered to the Trustee; provided, however, that if I become incapacitated the Trustee shall, as long as such incapacity continues, pay such amounts from the income and from principal as the Trustee may deem necessary for the support and education of the Group consisting of my then living children or their descendants and me. The Trustee may make unequal payments which shall not be considered advancements. Any income not thus paid shall be added to the principal of the Trust.

### ARTICLE FOUR

4.01 I reserve during my lifetime all rights under any insurance policies held hereunder including the rights to change the beneficiary, pledge or collect the cash surrender values and to receive all dividends. If any policy is surrendered or if the beneficiary of any policy is changed, this trust shall be revoked with respect to such policy upon acceptance of such surrender or change of beneficiary by the insurance company. During my lifetime the Trustee shall have no responsibility with respect to any policies except to hold any policies received in safekeeping and to deliver them upon my written request.

4.02 Upon being advised of my death the Trustee shall collect the proceeds of any policy(ies) on my life payable to the Trustee and may exercise any available optional method of settlement.

4.03 Payment to the Trustee shall discharge the liability of the insurance company so paying, which need not see to the application of any payment. The Trustee may compromise claims arising in connection with any policy, and need not engage in litigation to enforce payment without indemnification for any resulting expense.

#### ARTICLE FIVE

5.01 After my death, the Trustee shall pay such amounts as my personal representative may request in writing for the purpose of paying all or part of the expenses of my funeral, the administration of my estate, my enforceable debts, and federal, state and estate taxes payable by reason of my death.

5.02 In making the payments required under this Article, the Trustee may use proceeds of insurance on my life to the extent other assets are not available but it shall in no event use assets not includable in my gross estate under the Internal Revenue Code.

#### ARTICLE SIX

6.01 After my death, for purposes of Article Seven, the "Trust Estate" shall consist of the principal together with any accrued and undistributed income of the Trust at the time of my death, plus any property added thereto by my Will or payable to the Trustee by reason of my death, reduced by any gifts herein before made and by the payment of debts admitted and administrative expenses and as provided in Article Five.

#### ARTICLE SEVEN

7.01 Upon my death, the Trustee shall divide the property

of the Trust into as many separate Trusts as there are children of mine who survive me and children of mine who predecease me leaving descendants who survive me. These Trusts shall be designated respectively by the names of my children. Each Trust shall be administered and distributed in the following manner:

A) The Trustee shall pay from the net income of each Trust such amounts as the Trustee may deem appropriate to anyone or more persons living from time to time of the Group consisting of the Child for whom the Trust is named, that Child's spouse if any and descendants of such Child, and the spouses of any such descendants. The members of this Group are herein referred to as the Income Beneficiaries. Any income not thus paid shall be added to principal.

B) In addition, the Trustee shall pay from time to time to any one or more of the income beneficiaries of each Trust such amounts from the principal of such Trust as the Trustee may deem necessary for their support and education.

C) The Trustee may make unequal payments of income or principal which shall not be considered advancements.

#### ARTICLE EIGHT

Whenever the termination of any Trust under this instrument, the Trustee is directed to distribute any share of the Trust, except any distribution pursuant to the exercise of the power of appointment, (to any person who is under the age of twenty-five (25) years or is incapacitated, the Trustee shall hold the share of such person hereinafter called the Beneficiary, in a separate Trust for the following purposes:

A) The Trustee shall pay all the net income to the Beneficiary in such amounts of the principal as the Trustee deems necessary for his support and education; provided however, that if and so long as the Beneficiary has not attained majority or is incapacitated, the Trustee may withhold such amounts of income as the Trustee determines not to be necessary for the support and education of the Beneficiary and any amounts thus withheld shall be added to principal.

B) After the beneficiary has attained the age of twenty-five (25) years, he may withdraw all of the principal and accumulated net income of such Trust.

As of the date of this Agreement I currently have \_\_\_\_\_  
children living, namely:

#### ARTICLE NINE

For purposes under this instrument:

A) Adoption of a child shall have the same effect as if such child had been born to the adopting parents, but only if such child was a minor at the time of the adoption;

B) The word "spouse" includes a widow or widower.

C) Except where distribution is directed to the "descendants per stirpes" of a person, the word "descendants" includes descendants of every degree, whenever born, whether or not a parent or more remote ancestor of such descendant is living. Where distribution is directed to any person's descendants per stirpes who are living at a designated point of time, the stirpes shall begin with the children of such person, whether or not any child of his is then living. "Descendants of my parents" shall include only descendants of the marriage of such parents.

D) A person shall be considered "incapacitated" (1) if and as long as he is adjudicated disabled because he is unable to manage his estate or financial matters or (2) if two doctors familiar with his physical and mental condition certify to the Trustee in writing that the person is unable to transact ordinary business, and until there is a like certification to the Trustee that such incapacity has ended.

E) Where appropriate, words of the masculine gender include the feminine, the words used in a plural or collective sense include the singular and vice versa.

F) The word "Trustee" includes any successor Trustee or Trustees.

G) Except as otherwise provided in this instrument, income accrued or collected but not distributed at the termination of any beneficial interest hereunder shall be treated as if it had accrued or had collected after the termination of such interest. The Trustee may charge any such income with any accrued

taxes, expenses or compensation which it considers proper.

H) In determining what amounts are necessary for the support of any person, the Trustee shall take into account (1) the standard of living to which such person is accustomed; (2) his obligations, if any, to support others; (3) the obligation, if any, and the ability of others to support him; and (4) other income available for his support so far as known to the Trustee

I) Whenever the Trustee deems it to be in the best interests of a beneficiary to whom the Trustee is directed or authorized to pay income or principal, the Trustee may apply such income or principal for the benefit of the beneficiary, or distribute it for the beneficiary's use to anyone with whom the beneficiary is residing, or to his guardian, conservator or near adult relative.

J) In determining whether any testamentary power of appointment has been exercised, the Trustee may rely on an instrument admitted to probate in any jurisdiction as the will on the donee of the power. If the Trustee has no written notice of the existence of such a will within three months after the death of the donee of the power, the Trustee may assume that the donee died intestate. This paragraph shall not limit any right of any person against anyone to whom the Trustee has distributed property in reliance thereon.

K) The term "gross estate" refers to the amount described by this term in the Internal Revenue Code in force from time to time.

L) The word "persons" includes corporations.

M) If any distribution, other than a distribution made pursuant to a power of withdrawal of appointment, is a taxable distribution for generation-skipping tax purposes, the Trustee may, out of the principal of the trust from which the distribution is made, either pay any tax attributable to the distribution or increase the distribution to the extent determined by the Trustee to be sufficient to enable the distributee to pay any such tax. In the event of a taxable termination for generation-skipping tax purposes, the Trustee shall, out of the principal of the Trust or share to which such termination relates, pay any tax attributable to the termination without compensating adjustments.

## ARTICLE TEN

In addition to the powers from time to time conferred on the Trustee by the Illinois Trusts and Trustees Act, the Trustee shall have the following powers exercisable in the Trustee's discretion except:

A) To charge or not to charge against income an allowance for depreciation;

B) To receive in cash the proceeds of any policies payable to the Trustee;

C) To make secure or unsecured loans of trust funds to my estate;

D) To borrow money from any source, including but not limited to, the banking department of a successor corporate trustee;

E) If at any time after my death the principal of a trust required to be held under the terms of this Agreement is less than \$\_\_\_\_\_ in value, to distribute the principal and any accrued or undistributed income of the Trust to its income beneficiary, and that Trust shall thereupon terminate, notwithstanding any provisions in this Agreement to the contrary;

F) To purchase insurance policies on my life and as to any insurance policies owned by the Trustee on my life, the Trustee shall have the following additional powers:

1) To continue the policies in force and to pay the premiums thereon out of income and/or principal

2) To obtain the cash surrender value of the policies;

3) To convert the policies to paid-up insurance;

4) To borrow money on the security of the policies for any purpose, including but not limited to, the payment of the premiums thereon, and to mortgage, pledge and assign the policies for such purposes;



5) To make the Trustee and Trustee hereunder the beneficiary of the policies and to hold the policy proceeds in Trust hereunder;

6) To exercise any and all options and privileges under the policies; and

7) To deal with the policies in any other way the Trustee deems necessary or advisable for the proper management, investment and distribution of the Trusts;

G) When there is a trust under this Agreement and another trust under this Agreement or under another document, each having the same beneficiary or beneficiaries and terms which are substantially identical as to the distribution of income and principal and the same Inclusion Ration, to transfer all of the assets of such Trust under this Agreement to the Trustee or Trustees of the substantially identical Trust, and thereupon such Trust under this Agreement shall terminate;

H) To maximize the value of the GST Exemption which is available to my estate and to segregate by allocation to a separate Trust all or part of any asset in order to reflect a partial disclaimer or differences in tax attributes, consistent with the rules governing such attributes and considering the differences in such attributes and all other factors the Trustee believes pertinent; and

I) To do all other acts to accomplish the proper management, investment and distribution of the Trusts.

#### ARTICLE ELEVEN

The following provisions shall apply to each trust created by this Agreement:

A) If for any reason Shirley Dawel, 2nd? does not continue to act as Trustee, Kim, Ted is appointed successor Trustee. If for any reason neither of the foregoing individuals nor any successor Trustee appointed as hereinafter provided acts or continues to act as Trustee, a successor Trustee shall be appointed as provided in the Illinois Trusts and Trustees Act and shall be any corporation situated in the United States and authorized under the laws of the United States or of any state thereof to administer Trusts and with capital, surplus and undivided profits of at least fifty million dollars.

BT000020

B) If any individual Trustee becomes incapable of properly managing his or her affairs, as determined unanimously by the group consisting of his or her physician and my then living and competent children, that determination shall be deemed to constitute his or her resignation as Trustee.

C) The income beneficiaries of the Trusts or, in the case of any legally disabled beneficiary, a living and competent parent or child, or guardian or conservator if the beneficiary has no living and competent parent or child, may at any time approve the Trustee's accounts, with the same effect as if a court having jurisdiction over the Trusts approve the accounts.

#### ARTICLE TWELVE

A. The Trustee need not litigate to collect policy proceeds or other property to which the Trustee may be entitled, unless indemnified to the Trustee's satisfaction against all resulting expense and liability.

B. The trustee's receipt and release shall release and discharge an insurance company or other person for payment made and shall bind every beneficiary of the Trusts.

#### ARTICLE THIRTEEN

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Illinois.

IN WITNESS WHEREOF, I and the Trustee have executed this Agreement.

\_\_\_\_\_  
\_\_\_\_\_

Subscribed and Sworn to before  
me this \_\_\_\_ day of \_\_\_\_\_, 199\_\_.

\_\_\_\_\_  
Notary Public

**BT000021**