

IN THE CIRCUIT COURT IN AND FOR THE 15TH JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA

IN RE: ESTATE OF:

PROBATE DIVISION

SIMON L. BERNSTEIN,

FILE NO: 502012CP4391XXXXSB

Deceased.

/

**SUCCESSOR PERSONAL REPRESENTATIVE'S MOTION FOR AUTHORIZATION
TO ENTER INTO AND APPROVAL OF SETTLEMENT AGREEMENT**

BRIAN M. O'CONNELL, as Successor Personal Representative of the Estate of SIMON L. BERNSTEIN ("Mr. O'Connell" and "Estate," respectively), moves this Court for authorization to enter into a Settlement Agreement and for Court approval of the Settlement Agreement, and states as follows:

1. There is currently pending in the Circuit Court, in and for Palm Beach County, Florida, case styled William E. Stansbury, Plaintiff –vs- Ted S. Bernstein; Donald Tescher and Robert Spallina, as co-personal representatives of the Estate of Simon L. Bernstein and as co-trustees of the Shirley Bernstein Trust Agreement dated May 20, 2008; LIC Holdings, Inc.; Arbitrage International Holdings, LLC; Bernstein Family Realty, LLC – Case number 502012CA 013933 MB Division AA ("Stansbury litigation").

2. Two of the named defendants in the Stansbury litigation are "Donald Tescher and Robert Spallina, as co-personal representatives of the Estate of Simon L. Bernstein."

3. On July 24, 2014, Mr. O'Connell was appointed as successor personal representative of the Estate, and, as such, is the appropriate party defendant for the Estate for purposes of the Stansbury litigation rather than Donald Tescher and Robert Spallina.

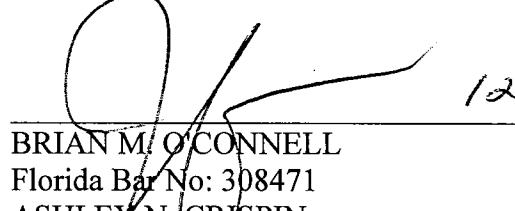
4. The parties to the Stansbury litigation have come to an agreement on all pending issues and have entered into a Settlement Agreement. A copy of the Settlement Agreement

(signed by the Plaintiff in the Stansbury litigation) is attached hereto as Exhibit "A" ("Settlement Agreement").

5. Mr. O'Connell has reviewed the terms and conditions of the Settlement Agreement and believes it is fair and equitable and is in the best interest of the Estate.

6. Based on Article V. paragraph E. of the Simon Bernstein Amended and Restated Trust dated July 25, 2012 ("Trust"), Mr. O'Connell will require that the Trust provide the necessary funds to the Estate in order to meet the financial obligations of the Settlement Agreement.

WHEREFORE, BRIAN M. O'CONNELL, as Personal Representative of the Estate of SIMON L. BERNSTEIN, moves this Court for authorization to enter into the Settlement Agreement attached hereto as Exhibit "A" and for Court approval of the Settlement Agreement, and requests attorneys' fees and costs and any other relief deemed just or proper by this Court.



12/24/14

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Peter Feaman, Esq. Peter M. Feaman, P.A. 3695 Boynton Beach Blvd., uite 9 Boynton Beach, FL 33436 <u>pfeaman@feamanlaw.com</u>	Jill Iantoni and Julia Iantoni, a Minor c/o Guy and Jill Iantoni, her Parents & Natural Guardians 2101 Magnolia Lane Highland Park, IL 60035 <u>jilliantoni@gmail.com</u>	Max Friedstein 2142 Churchill Lane Highland Park, IL 60035 Beneficiary
Eliot Bernstein and Joshua, Jacob and Daniel Bernstein, Minors c/o Eliot and Candice Bernstein, Parents and Natural Guardians 2753 N.W. 34 th St. Boca Raton, FL 33434 <u>iviewit@iviewit.tv</u>	Pamela Beth Simon 950 N. Michigan Ave., Apt. 2603 Chicago, IL 60611 <u>psimon@stpcorp.com</u>	Lisa Friedstein and Carley Friedstein, Minor c/o Jeffrey and Lisa Friedstein Parent and Natural Guardian 2142 Churchill Lane Highland Park, IL 60035 <u>Lisa@friedsteins.com</u> <u>Lisa.friedstein@gmail.com</u> Beneficiary
		Benjamin P. Brown, Esq. Matwiczyk & Brown LLP 625 N. Flagler Dr., #401 West Palm Beach, FL 33401 <u>bbrown@matbrolaw.com</u>

IN THE CIRCUIT COURT OF THE 15th
JUDICIAL CIRCUIT IN AND FOR PALM
BEACH COUNTY, FLORIDA

WILLIAM E. STANSBURY,

CASE NO: 50 2012 CA 013933 MB AA

Plaintiff,

vs.

TED S. BERNSTEIN; DONALD TESCHER and
ROBERT SPALLINA, as co-personal
representatives of the ESTATE OF SIMON L.
BERNSTEIN and as co-trustees of the SHIRLEY
BERNSTEIN TRUST AGREEMENT dated
May 20, 2008; LIC HOLDINGS, INC.;
ARBITRAGE INTERNATIONAL MANAGEMENT, LLC,
f/k/a ARBITRAGE INTERNATIONAL
HOLDINGS, LLC; BERNSTEIN FAMILY
REALTY, LLC,

Defendants.

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Agreement") is entered into this ____ day of
November, 2014, by and between Plaintiff, William Stansbury ("Stansbury"), and Ted S.
Bernstein, as Successor Trustee of the Simon L. Bernstein Trust (the "Simon Trustee"), on behalf
of and subject to the approval of Brian M. O'Connell, the current Personal Representative of the
Estate of Simon L. Bernstein (the "Simon PR"), and subject to the approval of the probate court
if necessary, under the following terms and conditions:

1. Stansbury will be paid \$340,000 (the "Payment") within 15 days of the approval
of this Agreement. The Payment will be made to "Peter M. Feaman Trust Account f/b/o William
Stansbury," conditioned upon delivery of a signed W-9.

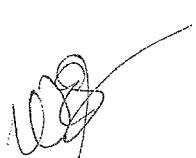


2. Upon receipt of the full settlement Payment, Stansbury will (i) dismiss with prejudice this pending civil action, Case No. 50 2012 CA 013933 MB AA; and (ii) withdraw and dismiss any claim made in the Estate of Simon L. Bernstein. The dismissals will be of the entire case, with prejudice, and will include all parties. Stansbury will be deemed to have released the Estate of Simon L. Bernstein and all individual beneficiaries of the Estate from any claims arising from or related to the allegations of the pending complaint in this civil action. Upon request of the Estate or Trustee, the parties will sign such additional settlement documents as are reasonable and customary in litigation of this type.

3. This Agreement is made by and between Stansbury, the Trustee, and the Successor Personal Representative of the Estate of Simon Bernstein in the hopes of avoiding the costs and uncertainty of protracted litigation, and to eliminate the only remaining creditor/claimant claim against the Estate.

4. This Agreement must be approved and accepted by Brian M. O'Connell, Successor Personal Representative of the Estate of Simon L. Bernstein. In addition, if Mr. O'Connell determines it to be necessary, this Agreement is subject to approval by the probate court. Upon Mr. O'Connell's determination that court approval is not necessary, or upon entry of an order approving this Agreement, the terms of this settlement will be fully binding and enforceable against the parties.

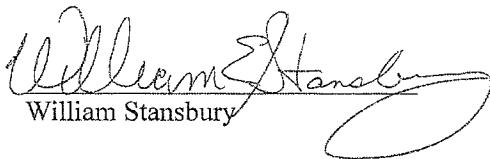
5. In the event either Mr. O'Connell does not approve and accept this Agreement, or if necessary, the Court does not enter a final non-appealable Order approving this Agreement, then this Agreement shall be null and void and of no force and effect. In such event, this Agreement, any offer by either party, and any and all settlement discussions by and between the



parties shall **not** be useable or admissible in any manner or any fashion in any civil action, including this civil action by Stansbury against the Estate of Simon L. Bernstein.

6. Between the time of execution of this Agreement and its approval or rejection, the parties agree to a complete standstill in the pending litigation such that no one will be forced to incur any additional attorneys' fees. If necessary, to avoid a claim of lack of prosecution, the parties will notify the trial court; otherwise, no one will take any action in connection with the civil action.

AGREED TO BY THE PARTIES:


William Stansbury

PETER FEAMAN, P.A.
By: _____
Peter Feaman, Esq.
Counsel to Plaintiff

SIMON BERNSTEIN AMENDED
AND RESTATED TRUST dtd 7-25-12

MRACHEK, FITZGERALD, ROSE
KONOPKA, THOMAS & WEISS, P.A.

By: _____
Ted S. Bernstein
Successor Trustee

By: _____
Alan B. Rose, Esq.
Counsel to Trustee

AGREED TO, APPROVED AND ACCEPTED BY:

ESTATE OF SIMON L. BERNSTEIN

By: _____
Brian M. O'Connell
Successor Personal Representative