

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

IN RE: ESTATE OF SIMON BERNSTEIN,
Deceased

Case No.: 50 2012 CP 004391 NB
JUDGE JOHN L. PHILIPS

WILLIAM STANSBURY,
Petitioner

v.

TED BERNSTEIN, Trustee of the Shirley
Bernstein Trust Agreement dated
May 20, 2008

**AMENDED PETITION TO DETERMINE THE WHEREABOUTS OF MISSING
TANGIBLE PERSONAL PROPERTY AND FOR PAYMENT OF RESTITUTION
TO THE ESTATE OF SIMON BERNSTEIN**

COMES NOW, William E. Stansbury ("Stansbury"), creditor of the Estate of Simon Bernstein, and Plaintiff in a lawsuit against the Estate of Simon Bernstein (the "Estate"), et al., by and through his undersigned counsel, and pursuant to Fla. Prob. R. 5.025 (2015), files this Amended Petition to Determine the Whereabouts of Missing Tangible Personal Property belonging to the Estate and for Payment of Restitution to the Estate of Simon Bernstein ("Amended Petition"), and states as follows:

1. Stansbury expressly incorporates by reference as if fully restated herein the facts, arguments and Exhibits set forth in the Petition to Determine the Whereabouts of Missing Tangible Personal Property belonging to the Estate and for Payment of Restitution to the Estate of Simon Bernstein (the "Original Petition") previously filed by Stansbury.

2. In addition to the items identified as missing in the Original Petition, there are a substantial number of jewelry items that were known to exist after the death of Shirley Bernstein

and before the death of Simon Bernstein that do not appear in the most recent Inventory of the Estate of Simon Bernstein filed by Personal Representative Brian M. O'Connell.

3. More specifically, in 2009, for the Policy Period 8/10/2009-8/10/2010, Simon and Shirley Bernstein renewed a policy of insurance that covered items of jewelry owned by them. The policy included an itemized description of each piece of jewelry insured under the policy along with the amount for which each item was insured. Presumably each item was insured for its then-appraised fair market value. The aggregate value represented by the total of the coverage amounts for each jewelry item equals \$613,932. The Declarations Page and itemized property endorsement are attached hereto as **Composite Exhibit "1."**

4. Shirley died four months later on December 8, 2010. Under the terms of Shirley's Will, Article I, Simon was bequeathed all of Shirley's "personal effects, jewelry, collections, household furnishings and equipment . . ." Article I of Shirley's Will is attached as **Exhibit "2."** After Shirley's death all of the jewelry became Simon's property and part of his estate.

5. Simon died on September 13, 2012. The Co-Personal Representatives of Simon's Estate, Donald Tescher and Robert Spallina, filed an Inventory of the property of the Estate of Simon Bernstein on June 11, 2013 (the "T&P Inventory") and it reflected jewelry items valued at \$63,205. Tescher and Spallina have since resigned as Co-Personal Representatives of the Estate. A copy of the T&P Inventory is attached as **Composite Exhibit "3."** The current Personal Representative, Brian M. O'Connell, filed the most recent Inventory (the "Recent Inventory"), and it also reports the same jewelry valued at \$63,205. The Recent Inventory is attached as **Composite Exhibit "4."**

6. The discrepancy between the value of the itemized pieces of jewelry insured by Simon and Shirley in 2010 and the jewelry reported in the estate property Inventories is

significant. This missing jewelry constitutes a staggering diminution of \$550,727, representing approximately 50% of the Estate's total value of \$1,121,325, as reported in the Recent Inventory!

19. When the Court hears evidence relating the whereabouts of the tangible personal property as issue as raised in the Original Petition, along with evidence relating to the missing jewelry, those responsible should be required by the Court to make restitution to the Estate of Simon Bernstein, jointly and severally, or have Judgment entered against them.

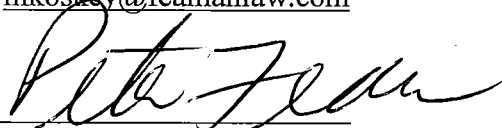
WHEREFORE, Petitioner, WILLIAM STANSBURY, requests that this Court conduct an evidentiary hearing to determine the whereabouts of the missing items of personal property, including the missing jewelry, and if not found, that the Court Order the culpable parties to make full restitution to the Estate of Simon Bernstein, or for the entry of a Final Judgment for the value of the missing property, together with Petitioner's costs, reasonable attorney fees incurred in the bringing of this Petition, and such other relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been forwarded via e-mail service through the Florida E-portal system to those listed on the attached service list, on this 10th day of February, 2016.

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By: _____


Peter M. Feaman
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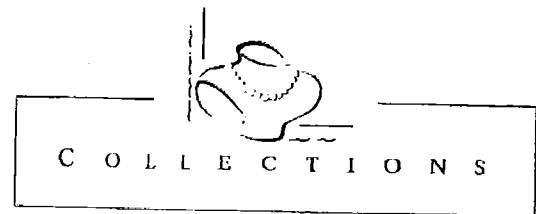
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American Home Assurance Co.
Name of Issuing Company

Renewal Declarations Page

Declarations Page

Your Declarations Page shows at a glance the coverage you have and your premium. Your Declarations Page is part of your policy. Please read your policy carefully, including your Declarations Page and any attached Endorsements, for a description of your coverage.

Policy Number:

PCG 0001332360

Policy Period: 08/10/2009 - 08/10/2010

At 12:01 A.M. standard time at your mailing address shown below

Name of Insured and Mailing Address:

Simon & Shirley Bernstein
7020 Lions Head Lane
Boca Raton, FL 33496

Agency Name, Address, Phone # & Code:

MarketScout Corporation-IL
40 W222 LaFox Rd Suite Q2
St. Charles, IL 60175

(630) 377-9430

0053923

YOU WILL BE BILLED SEPARATELY FOR ANY PREMIUM DUE.

The kind of losses that are covered and any special limits or deductibles that apply are explained in detail in your Policy.

Summary of Coverage

Class	Scheduled Items Amount of Coverage	Blanket Items Amount of Coverage	Blanket Items Single Article Limit	Premium
JEWELRY				

Citizens Property Insurance Corporation Emergency Assessment:

\$80.00

Total Premium:

\$8,061.00

ENDORSEMENTS ATTACHED TO THIS POLICY:

PCP (03/06), PCG-GLBA (03/06), PCP-AEFL (03/06)

PCP-DEC-FL (09/07)



Schedule of Items

Endorsement Effective Date : 08/10/09

Policy Number: PCG 0001332360

JEWELRY

Item Description	Amount Insured
1 1 LDS 18K YG DIA BANGLE BRACELET 4.70 CT	\$22,045
2 LDS 18K YG ROLEX WATCH PRESIDENT MODEL	\$12,175
3 LDS 18K YGDiamond AND PEARL RING	\$14,995
4 1 PR 18K YG DIAMOND & PEARLEARRINGS 1.50 CTS	\$16,406
5 18K YG & WG DIAMOND RING	\$19,097
6 18K WG DIAMOND & JADE RING SET	\$4,357
7 18K YG & PLAT DIAMOND RUBY SAPP EMERALD RING	\$16,406
8 18K YG LAPIS & DIAMOND MARQUISE SHAPE	\$3,460
9 18K YG PLAT DIA DOME RING 71 ROUND DIAMONDS	\$9,869
10 PR 18K YG DIAMOND HOOP EARRINGS 4.48 CTS	\$13,842
11 18K YG AND WG MOBE PEARL & DIAMOND RING	\$2,820
12 18K YG PLAT MULTI COLOR DIAMOND CLUSTER RING	\$30,503
13 14K YG PLAT DIAMOND CLUSTER RING 2.25 CTS	\$6,023
14 18K YG & WG BLACK OPAL & DIAMOND RING	\$23,454
15 18K YG 3/8" WIDE DOG COLLAR NECKLACE 38.5 DWT	\$3,717
16 18K YG GARNET & DIAMOND PENDANT	\$13,202
17 18K YG COMMEMORATIVE ISRAEL MEDALLION PEND WATCH	\$8,587
18 18K WG CHOPARD LDS DIA BANGLE BRACELET WATCH	\$17,302
19 18K YG & DIAMOND W/ GREEN ENAMEL BANGLE BRACELET	\$7,691
20 18K YG BANGLE BRACELET SET W/ OPALS RUBY SAP DIA	\$8,587
21 18K YG 27" OVAL AND TWIST LINK NECKLACE	\$3,460
22 18K YG TWISTED LINK& ROPE BAR LINK NKLC 15 1/2	\$3,844
23 18K YG & WG 36" DOUBLE ROPE CIRCLE WG ROPE SQUARE	\$4,486
24 1 JADE BEAD NECKLACE 1 JADE PENDANT	\$6,153
25 LADIES DIAMOND RING 1 ROUND 4.77 CT & 2 TAPERED BAGUETTE .60 TOTAL WEIGHT SET IN PLATINUM	\$51,652
26 ONE PAIR DIA/PLATINUM EARRINGS 2.07 CTW H/SI	\$17,174
27 18K DIAMOND NECKLACE	\$12,303
28 18KT LADIES DIAMOND NECKLACE SET WITH ROUND BRILLIANT CUT PAVE DIAMONDS 5.81 CTSVS1 CLARITY, F-G COLOR	\$13,072
29 RING SET IN PLATINUM, MTG RECTANGLE CUT DIAMOND 7.17 CARAT WEIGHT, COLOR H, CLARITY SI-2, WITH TWO TRILLIANTS DIAMONDS 1.45 CARAT	\$247,250

TOTAL JEWELRY AMOUNT COVERED \$613,932

WILL OF

SHIRLEY BERNSTEIN

I, SHIRLEY BERNSTEIN, of Palm Beach County, Florida, hereby revoke all my prior Wills and Codicils and make this Will. My spouse is SIMON L. BERNSTEIN ("*SIMON*"). My children are TED S. BERNSTEIN ("*TED*"), PAMELA B. SIMON, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN.

ARTICLE I. TANGIBLE PERSONAL PROPERTY

I give such items of my tangible personal property to such persons as I may designate in a separate written memorandum prepared for this purpose. I give to SIMON, if SIMON survives me, my personal effects, jewelry, collections, household furnishings and equipment, automobiles and all other non-business tangible personal property other than cash, not effectively disposed of by such memorandum, and if SIMON does not survive me, I give this property to my children who survive me, divided among them as they agree, or if they fail to agree, divided among them by my Personal Representatives in as nearly equal shares as practical, and if neither SIMON nor any child of mine survives me, this property shall pass with the residue of my estate.

ARTICLE II. RESIDENCES

I give to SIMON, if SIMON survives me, my entire interest in any real property used by us as a permanent or seasonal residence, subject to any mortgage or other lien. If SIMON does not survive me, such interest shall pass with the residue of my estate.

ARTICLE III. RESIDUE OF MY ESTATE

I give all the residue of my estate to the Trustee then serving under my revocable Trust Agreement dated today, as may be amended and restated from time to time (the "*Existing Trust*"), as Trustee without bond, but I do not exercise any powers of appointment held by me except as provided in the later paragraph titled "Death Costs." The residue shall be added to and become a part of the Existing Trust, and shall be held under the provisions of said Agreement in effect at my death, or if this is not permitted by applicable law or the Existing Trust is not then in existence, under the provisions of said Agreement as existing today. If necessary to give effect to this gift, but not otherwise, said Agreement as existing today is incorporated herein by reference.

LAST WILL
OF SHIRLEY BERNSTEIN

Shirley BERNSTEIN

TESCHER & SPALLINA, P.A.

EXHIBIT

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IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL
IN RE: ESTATE OF PROBATE DIVISION
SIMON BERNSTEIN File No. 502012CP004391IZXXXXSB
Deceased.

AMENDED INVENTORY

The undersigned co-personal representatives of the estate of SIMON BERNSTEIN, deceased, who died on September 13, 2012, and whose social security number is XXX-XX-5211, submits this Amended Inventory of all the property of the estate, that has come into the hands, possession, control, or knowledge of these personal representatives:

REAL ESTATE IN FLORIDA – Exempt (Protected) Homestead:

Description

NONE

REAL ESTATE IN FLORIDA – Non-Exempt Homestead:

Description

Estimated Fair Market Value

NONE

(Whether homestead property is exempt from the claims of creditors, whether it is properly devised and whether it is a probate asset may have to be determined by appropriate proceedings.)

OTHER REAL ESTATE IN FLORIDA:

Description

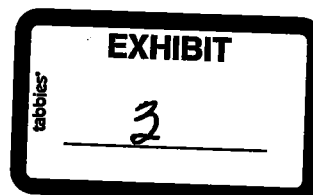
Estimated Fair Market Value

NONE

\$

Total Real Estate in Florida – Except Exempt (Protected) Homestead

\$



PERSONAL PROPERTY WHEREVER LOCATED:

<u>Description</u>	<u>Estimated Fair Market Value</u>
Legacy Bank of Florida - Acct. Ending 2587	\$384.25
Wells Fargo - Acct. Ending 1945	1,599.49
Sabadell Bank - Acct. Ending 9414	15,153.18
JP Morgan (4788015220)	77,491.27
JP Morgan (W32585007)	519,266.37
LIC Holdings, Inc. (33% ownership)	UNDETERMINED
Furniture, furnishings, household goods and personal effects	51,135.00
Jewelry	63,205.00
US Life Proceeds	50,800.08
Monarch Life Proceeds	4,000.00
Cincinnati Life Proceeds	7,685.00
Promissory Note from Bernstein Family Realty, LLC (not including accrued interest)	365,000.00
TOTAL OF ALL PERSONAL PROPERTY AND FLORIDA REAL ESTATE \$ <u>1,155,719.40</u>	

All real estate located outside the State of Florida owned by the decedent of which the personal representative is aware, if any, is described on a schedule attached hereto. [If none, so indicate]


NONE


NOTICE: Each residuary beneficiary in a testate estate or heir in an intestate estate has the right to request a written explanation of how the inventory value of any asset was determined, including whether the personal representative obtained an independent appraisal for that asset and from whom the appraisal was obtained. Any other beneficiary may request this information regarding all assets distributed to or proposed to be distributed to that beneficiary.




Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true to the best of my knowledge and belief.

Signed on this 28th day of Dec, 2013.



ROBERT L. SPALLINA, Esq.
Attorney for Personal Representative
Florida Bar No. 497381
Teschler & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Telephone: (561) 997-7008
Primary: rspallina@tescherspallina.com
Secondary: kmoran@tescherspallina.com

ROBERT L. SPALLINA, Co-Personal
Representative

DONALD R. TESCHER, Co-Personal
Representative

IN THE CIRCUIT COURT FOR PALM BEACH
COUNTY, FLORIDA PROBATE DIVISION

IN RE: ESTATE OF

SIMON L. BERNSTEIN
Deceased.

FILE NO: 502012CP004391XXXXSB

**INVENTORY BY BRIAN M. O'CONNELL, AS
SUCCESSOR PERSONAL REPRESENTATIVE**

The undersigned Successor Personal Representative of the estate of SIMON L. BERNSTEIN, deceased, who died September 12, 2012 submits this inventory of all the property of the estate, that has come into the hands, possession, control, or knowledge of this Personal Representative:¹

REAL ESTATE IN FLORIDA – Exempt (Protected) Homestead: NONE

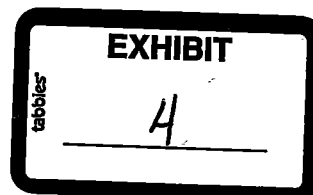
REAL ESTATE IN FLORIDA – Non Exempt Homestead: NONE

(Whether or not homestead property is exempt from the claims of creditors, is properly devised and is a probate asset may have to be determined by appropriate proceedings.)

OTHER REAL ESTATE IN FLORIDA: NONE

Total Real Estate in Florida – Except Exempt (Protected) Homestead \$ 0.00

¹ This Inventory reports all assets which have come into the possession and knowledge of the undersigned as Successor Personal Representative as of this date. The undersigned plans on conducting discovery as to possible additional assets and an Amended Inventory will be filed, if necessary.



PERSONAL PROPERTY WHEREVER LOCATED:

Description	Estimated Fair Market Value
Sabadell Bank – estate checking account # 15346	\$ 11,735.84
JP Morgan – estate checking account	25,531.59
JP Morgan – estate inherited IRA account # 8004	559,217.78
Promissory Note dated July 1, 2008, payable to Decedent by Bernstein Family Realty LLC	365,000.00
Jewelry (as of 5/14/13 appraisal by A. Matteini & Co.)	63,205.00
Furniture & furnishings (as of 1/22/13 appraisal by Robert A. Hittel)	51,135.00
Reimbursements owed to the Estate by Bernstein Family Realty LLC for expenses and legal fees per Schedule D of the T&S Accounting and per Schedule E of the Amended Accounting of Curator	25,500.00
Reimbursements owed to the Estate by the Simon Bernstein Insurance Trust for legal fees per Schedule D of the T&S Accounting and per Schedule E of the Amended Accounting of Curator	20,000.00
LIC Holdings, Inc. (Company stock held at corporate office per Schedule E of the Amended Accounting of Curator)	Unknown
Objection to the Final Accounting of Personal Representative for the time period of September 13, 2012 through February 28, 2014, dated August 13, 2014	Unknown
Claim for insurance proceeds pending under <u>Simon Bernstein Irrevocable Trust DTD 6/21/95 v. Heritage Union Life Insurance Company</u> , Case Number 13 cv 3643 (N.D. Ill., E. Div.)	Unknown
Total Personal Property – Wherever Located	\$1,121,325.21

TOTAL OF ALL PERSONAL PROPERTY AND FLORIDA REAL ESTATE
(Except exempt (protected) homestead) \$ 1,121,325.21

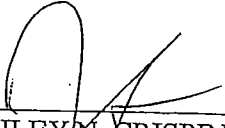
All real estate located outside the State of Florida owned by the decedent of which the Personal Representative is aware, if any, is described on a schedule attached hereto, [If none, so indicate]

NONE KNOWN AT THIS TIME.

NOTICE: Each residuary beneficiary in a testate estate or heir in an intestate estate has the right to request a written explanation of how the inventory value of any asset was determined, including whether the Personal Representative obtained an independent appraisal for that asset and, if so, a copy of the appraisal. Any other beneficiary may request this information regarding all assets distributed to or proposed to be distributed to that beneficiary.

Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true to the best of my knowledge and belief.

Signed on December 1, 2014.

 94238

ASHLEY N. CRISPIN

Florida Bar # 37495

FOR CIKLIN, LUBITZ, MARTENS, & O'CONNELL

515 North Flagler Drive, 20th Floor

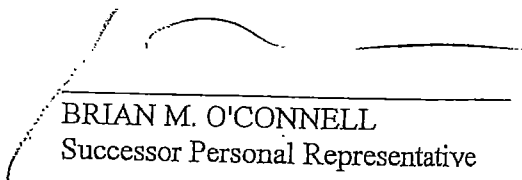
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Telephone No. (561) 832-5900

Facsimile: (561) 833-4209

Primary e-mail: service@ciklinlubitz.com

Secondary email: probateservice@ciklinlubitz.com

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BRIAN M. O'CONNELL

Successor Personal Representative

[Print or Type Names Under All Signature Lines]