Special Instructions

PART OF AN ESTATE MUST BE FILED BY THE DUE DATE OF FORM 1041 (INCLUDING EXTENSIONS, IF ANY) FOR THE FIRST TAX YEAR OF THE RELATED ESTATE (OR FILING TRUST).

SIGN, DATE AND SEPARATELY MAIL FORM 8855 TO THE FOLLOWING ADDRESS:

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE CENTER
OGDEN, UT 84201

BY SIGNING THIS CONSENT FORM, YOU ARE ALSO CONSENTING TO HAVE US ELECTRONICALLY FILE, WHEN POSSIBLE, ANY STATE TAX RETURNS THAT DO NOT REQUIRE A SEPARATE AUTHORIZATION FORM, IF APPLICABLE.

2011 **Form 1041-V**

Department of the Treasury
Internal Revenue Service

114081 08-18-11

LHA

▼ Detach Here and Mail With Your Payment and Return. ▼ Form **1041-V** (2011)

Department of the Treasury
Internal Revenue Service

OMB No. 1545-0092
2011

Form 1041-V Payment Voucher

- ▶ Use this voucher when making a payment with Form 1041
- ▶ Do not staple this voucher or your payment to Form 1041
- ▶ Make your check or money order payable to the "United States Treasury."
- ▶ Write your employer identification number (EIN) on your check or money order.

Enter the amount of your payment ▶	13,221 00

1019

30-6283128
SHIRLEY BERNSTEIN ESTATE
TED BERNSTEIN, EXECUTOR
7020 LIONS HEAD LANE
BOCA RATON, FL 33496

306283128 WV SHIR 05 2 201112 610

Form **8879-F**

Department of the Treasury
Internal Revenue Service

IRS e-file Signature Authorization for Form 1041

For calendar year 2011, or fiscal year beginning _____ , 2011, ending _____ ,20 ____.

▶ See instructions. Do not send to the IRS. Keep for your records.

OMB No. 1545-0967

2011

Name of estate or trust
SHIRLEY BERNSTEIN ESTATE

Employer identification number
30-6283128

Name and title of fiduciary
TED BERNSTEIN, EXECUTOR

Part I Tax Return Information (Whole Dollars Only)

1	Total income (Form 1041, line 9)	1	58,942.
2	Income distribution deduction (Form 1041, line 18)	2	
3	Taxable income (Form 1041, line 22)	3	58,320.
4	Total tax (Form 1041, line 23)	4	12,741.
5	Tax due or overpayment (Form 1041, line 27 or 28)	5	12,741.

Part II Declaration and Signature Authorization of Fiduciary (Be sure to get a copy of the estate's or trust's return)

Under penalties of perjury, I declare that I am a fiduciary of the above estate or trust and that I have examined a copy of the estate's or trust's 2011 electronic income tax return and accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. I further declare that the amounts in Part I above are the amounts shown on the copy of the estate's or trust's electronic income tax return. I consent to allow my electronic return originator (ERO), transmitter, or intermediate service provider to send the estate's or trust's return to the IRS and to receive from the IRS **(a)** an acknowledgment of receipt or reason for rejection of the transmission, **(b)** the reason for any delay in processing the return or refund, and **(c)** the date of any refund. If applicable, I authorize the U.S. Treasury and its designated Financial Agent to initiate an electronic funds withdrawal (direct debit) entry to the financial institution account indicated in the tax preparation software for payment of the estate's or trust's federal taxes owed on this return, and the financial institution to debit the entry to this account. To revoke a payment, I must contact the U.S. Treasury Financial Agent at **1-888-353-4537** no later than 2 business days prior to the payment (settlement) date. I also authorize the financial institutions involved in the processing of the electronic payment of taxes to receive confidential information necessary to answer inquiries and resolve issues related to the payment. I have selected a personal identification number (PIN) as my signature for the estate's or trust's electronic income tax return and, if applicable, the estate's or trust's consent to electronic funds withdrawal.

Fiduciary's PIN: check one box only

[X] I authorize CBIZ GOLDSTEIN LEWIN (ERO firm name) to enter my PIN 40013 (do not enter all zeros) as my signature on the estate's or trust's 2011 electronically filed income tax return.

[ ] As a fiduciary or officer representing the fiduciary of the estate or trust, I will enter my PIN as my signature on the estate's or trust's 2011 electronically filed income tax return.

Signature of fiduciary or officer representing the fiduciary ▶ _____ Date ▶ _____

Part III Certification and Authentication

ERO's EFIN/PIN. Enter your six-digit EFIN followed by your five-digit self-selected PIN. 65885645050 (do not enter all zeros)

I certify that the above numeric entry is my PIN, which is my signature on the 2011 electronically filed income tax return for the estate or trust indicated above. I confirm that I am submitting this return in accordance with the requirements of Pub. 3112, IRS *e-file* Application and Participation, and Pub. 1437, Procedures for the Form 1041 *e-file* Program, U.S. Income Tax Returns for Estates and Trusts for Tax Year 2011.

ERO's signature ▶ _____ Date ▶ _____

ERO Must Retain This Form - See Instructions
Do Not Submit This Form to the IRS Unless Requested To Do So

EXTENSION GRANTED TO 09/17/2012

Form **1041** Department of the Treasury - Internal Revenue Service

U.S. Income Tax Return for Estates and Trusts

2011

For calendar year 2011 or fiscal year beginning , 2011 and ending , OMB No. 1545-0092

A Check all that apply:
- [X] Decedent's estate
- [ ] Simple trust
- [ ] Complex trust
- [ ] Qualified disability trust
- [ ] ESBT (S portion only)
- [ ] Grantor type trust
- [ ] Bankruptcy estate-Ch. 7
- [ ] Bankruptcy estate-Ch. 11
- [ ] Pooled income fund

Name of estate or trust (If a grantor type trust, see the instructions.)
SHIRLEY BERNSTEIN ESTATE

Name and title of fiduciary
TED BERNSTEIN, EXECUTOR

Number, street, and room or suite no. (If a P.O. box, see the instructions.)
7020 LIONS HEAD LANE

City or town, state, and ZIP code
BOCA RATON FL 33496

C Employer identification number: 30 6283128

D Date entity created: 12/09/2010

E Nonexempt charitable and split-interest trusts, check applicable box(es), see instructions.
- [ ] Described in sec. 4947(a)(1).
- Check here if not a private foundation ▶ [ ]
- [ ] Described in sec. 4947(a)(2)

B Number of Schedules K-1 attached ▶ 0

F Check applicable boxes: [X] Initial return [ ] Final return [ ] Amended return [ ] Change in fiduciary [ ] Change in fiduciary's name [ ] Change in trust's name [ ] Change in fiduciary's address

G Check here if the estate or filing trust made a section 645 election ▶ [X]

Income	1	Interest income SEE STATEMENT 1	1	21,088.
	2a	Total ordinary dividends SEE STATEMENT 2	2a	18,335.
	b	Qualified dividends allocable to: (1) Beneficiaries 0. (2) Estate or trust 13,283.		
	3	Business income or (loss). Attach Schedule C or C-EZ (Form 1040)	3	
	4	Capital gain or (loss). Attach Schedule D (Form 1041)	4	19,494.
	5	Rents, royalties, partnerships, other estates and trusts, etc. Attach Schedule E (Form 1040)	5	25.
	6	Farm income or (loss). Attach Schedule F (Form 1040)	6	
	7	Ordinary gain or (loss). Attach Form 4797	7	
	8	Other income. List type and amount	8	
	9	**Total income.** Combine lines 1, 2a, and 3 through 8 ▶	9	58,942.
Deductions	10	Interest. Check if Form 4952 is attached ▶ [X]	10	22.
	11	Taxes	11	
	12	Fiduciary fees	12	
	13	Charitable deduction (from Schedule A, line 7)	13	
	14	Attorney, accountant, and return preparer fees	14	
	15a	Other deductions **not** subject to the 2% floor (attach schedule)	15a	
	b	Allowable miscellaneous itemized deductions subject to the 2% floor SEE STATEMENT 4	15b	0.
	16	Add lines 10 through 15b ▶	16	22.
	17	Adjusted total income or (loss). Subtract line 16 from line 9 17 58,920.		
	18	Income distribution deduction (from Schedule B, line 15). Attach Schedules K-1 (Form 1041)	18	
	19	Estate tax deduction including certain generation-skipping taxes (attach computation)	19	
	20	Exemption	20	600.
	21	Add lines 18 through 20 ▶	21	600.
Tax and Payments	22	Taxable income. Subtract line 21 from line 17. If a loss, see instructions	22	58,320.
	23	**Total tax** (from Schedule G, line 7)	23	12,741.
	24	**Payments:** a 2011 estimated tax payments and amount applied from 2010 return	24a	
	b	Estimated tax payments allocated to beneficiaries (from Form 1041-T)	24b	
	c	Subtract line 24b from line 24a	24c	
	d	Tax paid with Form 7004 (see instructions)	24d	
	e	Federal income tax withheld. If any is from Form(s) 1099, check ▶ [ ]	24e	
		Other payments: f Form 2439 ; g Form 4136 ; Total ▶	24h	
	25	**Total payments.** Add lines 24c through 24e, and 24h ▶	25	
	26	Estimated tax penalty (see instructions)	26	
	27	**Tax due.** If line 25 is smaller than the total of lines 23 and 26, enter amount owed **	27	12,741.
	28	**Overpayment.** If line 25 is larger than the total of lines 23 and 26, enter amount overpaid	28	
	29	Amount of line 28 to be: **a Credited to 2012 estimated tax** ▶ ; **b Refunded** ▶	29	

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature of fiduciary or officer representing fiduciary | Date | EIN of fiduciary if a financial institution

May the IRS discuss this return with the preparer shown below (see instr.)? [X] Yes [ ] No

Paid Preparer Use Only

Print/Type preparer's name	Preparer's signature	Date	Check [ ] if self-employed	PTIN
GERALD R. LEWIN				P01266202

Firm's name ▶ CBIZ GOLDSTEIN LEWIN — Firm's EIN ▶ 34-1900735

Firm's address ▶ 1675 N. MILITARY TRAIL, FIFTH FLOOR, BOCA RATON, FL 33486 — Phone no. (561) 994-5050

LHA 110801 01-06-12

For Paperwork Reduction Act Notice, see the separate instructions. Form **1041** (2011)

**STMT 3 STMT 6 STMT 7

Form **7004**
(Rev. November 2011)
Department of the Treasury
Internal Revenue Service

Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns

▶ File a separate application for each return.
▶ See separate instructions.

OMB No. 1545-0233

Print or Type

Name: SHIRLEY BERNSTEIN TRUST

Identifying number: 46-6235212

Number, street, and room or suite no. (If P.O. box, see instructions.): 7020 LIONS HEAD LANE

City, town, state, and ZIP code (If a foreign address, enter city, province or state, and country (follow the country's practice for entering postal code)): BOCA RATON, FL 33496

Note. *File request for extension by the due date of the return for which the extension is granted. See instructions before completing this form.*

Part I Automatic 5-Month Extension

1a Enter the form code for the return that this application is for (see below) 05

Application Is For:	Form Code	Application Is For:	Form Code
Form 1065	09	Form 1041 (estate other than a bankruptcy estate)	04
Form 8804	31	Form 1041 (trust)	05

Part II Automatic 6-Month Extension

b Enter the form code for the return that this application is for (see below) .....

Application Is For:	Form Code	Application Is For:	Form Code
Form 706-GS(D)	01	Form 1120-ND (section 4951 taxes)	20
Form 706-GS(T)	02	Form 1120-PC	21
Form 1041 (bankruptcy estate only)	03	Form 1120-POL	22
Form 1041-N	06	Form 1120-REIT	23
Form 1041-QFT	07	Form 1120-RIC	24
Form 1042	08	Form 1120S	25
Form 1065-B	10	Form 1120-SF	26
Form 1066	11	Form 3520-A	27
Form 1120	12	Form 8612	28
Form 1120-C	34	Form 8613	29
Form 1120-F	15	Form 8725	30
Form 1120-FSC	16	Form 8831	32
Form 1120-H	17	Form 8876	33
Form 1120-L	18	Form 8924	35
Form 1120-ND	19	Form 8928	36

2 If the organization is a foreign corporation that does not have an office or place of business in the United States, check here ..... ▶ ☐

3 If the organization is a corporation and is the common parent of a group that intends to file a consolidated return, check here ..... ▶ ☐
If checked, attach a schedule, listing the name, address, and Employer Identification Number (EIN) for each member covered by this application.

Part III All Filers Must Complete This Part

4 If the organization is a corporation or partnership that qualifies under Regulations section 1.6081-5, check here ..... ▶ ☐

5a The application is for calendar year _____, or tax year beginning JANUARY 1, 2011, and ending DECEMBER 31, 2011

b **Short tax year.** If this tax year is less than 12 months, check the reason:
☒ Initial return ☐ Final return ☐ Change in accounting period ☐ Consolidated return to be filed

6	Tentative total tax	6	0.
7	Total payments and credits (see instructions)	7	0.
8	**Balance due.** Subtract line 7 from line 6 (see instructions)	8	0.

LHA **For Privacy Act and Paperwork Reduction Act Notice, see separate Instructions.**
119741
11-28-11

Form **7004** (Rev. 11-2011)

Schedule A Charitable Deduction. Do not complete for a simple trust or a pooled income fund.

1	Amounts paid or permanently set aside for charitable purposes from gross income (see instructions)	1	
2	Tax-exempt income allocable to charitable contributions (see instructions)	2	
3	Subtract line 2 from line 1	3	
4	Capital gains for the tax year allocated to corpus and paid or permanently set aside for charitable purposes	4	
5	Add lines 3 and 4	5	
6	Section 1202 exclusion allocable to capital gains paid or permanently set aside for charitable purposes (see instructions)	6	
7	**Charitable deduction.** Subtract line 6 from line 5. Enter here and on page 1, line 13	7	

Schedule B Income Distribution Deduction

1	Adjusted total income (see instructions)	1	58,920.
2	Adjusted tax-exempt interest	2	8,593.
3	Total net gain from Schedule D (Form 1041), line 15, column (1) (see instructions)	3	
4	Enter amount from Schedule A, line 4 (minus any allocable section 1202 exclusion)	4	
5	Capital gains for the tax year included on Schedule A, line 1 (see instructions)	5	
6	Enter any gain from page 1, line 4, as a negative number. If page 1, line 4, is a loss, enter the loss as a positive number	6	-19,494.
7	**Distributable net income.** Combine lines 1 through 6. If zero or less, enter -0-	7	48,019.
8	If a complex trust, enter accounting income for the tax year as determined under the governing instrument and applicable local law — 8		
9	Income required to be distributed currently	9	
10	Other amounts paid, credited, or otherwise required to be distributed	10	
11	Total distributions. Add lines 9 and 10. If greater than line 8, see instructions	11	0.
12	Enter the amount of tax-exempt income included on line 11	12	
13	Tentative income distribution deduction. Subtract line 12 from line 11	13	
14	Tentative income distribution deduction. Subtract line 2 from line 7. If zero or less, enter -0-	14	39,426.
15	**Income distribution deduction.** Enter the smaller of line 13 or line 14 here and on page 1, line 18	15	0.

Schedule G Tax Computation (see instructions)

1	Tax: a Tax on taxable income (see instructions)	1a	12,822.		
	b Tax on lump-sum distributions. Attach Form 4972	1b			
	c Alternative minimum tax (from Schedule I (Form 1041), line 56)	1c			
	d **Total.** Add lines 1a through 1c ▶			1d	12,822.
2a	Foreign tax credit. Attach Form 1116	2a	81.		
b	General business credit. Attach Form 3800	2b			
c	Credit for prior year minimum tax. Attach Form 8801	2c			
d	Bond credits. Attach Form 8912	2d			
3	**Total credits.** Add lines 2a through 2d ▶			3	81.
4	Subtract line 3 from line 1d. If zero or less, enter -0-			4	12,741.
5	Recapture taxes. Check if from: ☐ Form 4255 ☐ Form 8611			5	
6	Household employment taxes. Attach Schedule H (Form 1040)			6	
7	**Total tax.** Add lines 4 through 6. Enter here and on page 1, line 23 ▶			7	12,741.

Other Information

		Yes	No
1	Did the estate or trust receive tax-exempt income? If "Yes," attach a computation of the allocation of expenses. Enter the amount of tax-exempt interest income and exempt-interest dividends ▶ $ 8,593.	X	
2	Did the estate or trust receive all or any part of the earnings (salary, wages, and other compensation) of any individual by reason of a contract assignment or similar arrangement?	X	
3	At any time during calendar year 2011, did the estate or trust have an interest in or a signature or other authority over a bank, securities, or other financial account in a foreign country? See the instructions for exceptions and filing requirements for Form TD F 90-22.1. If "Yes," enter the name of the foreign country ▶		X
4	During the tax year, did the estate or trust receive a distribution from, or was it the grantor of, or transferor to, a foreign trust? If "Yes," the estate or trust may have to file Form 3520. See instructions		X
5	Did the estate or trust receive, or pay, any qualified residence interest on seller-provided financing? If "Yes," see the instructions for required attachment		X
6	If this is an estate or a complex trust making the section 663(b) election, check here (see instructions) ▶ ☐		
7	To make a section 643(e)(3) election, attach Schedule D (Form 1041), and check here (see instructions) ▶ ☐		
8	If the decedent's estate has been open for more than 2 years, attach an explanation for the delay in closing the estate, and check here ▶ ☐		
9	Are any present or future trust beneficiaries skip persons? See instructions	X	

Part II Income Distribution Deduction on a Minimum Tax Basis (continued)

43	Tentative income distribution deduction on a minimum tax basis. Subtract line 31 from line 37. If zero or less, enter -0-			43	39,853.
44	**Income distribution deduction on a minimum tax basis.** Enter the smaller of line 42 or line 43. Enter here and on line 26			44	0.

Part III Alternative Minimum Tax

45	Exemption amount			45	$22,500
46	Enter the amount from line 29	46	59,347.		
47	Phase-out of exemption amount	47	$75,000		
48	Subtract line 47 from line 46. If zero or less, enter -0-	48	0.		
49	Multiply line 48 by 25% (.25)			49	0.
50	Subtract line 49 from line 45. If zero or less, enter -0-			50	22,500.
51	Subtract line 50 from line 46			51	36,847.
52	Go to Part IV of Schedule I to figure line 52 if the estate or trust has qualified dividends or has a gain on lines 14a and 15 of column (2) of Schedule D (Form 1041) (as refigured for the AMT, if necessary). Otherwise, if line 51 is - • $175,000 or less, multiply line 51 by 26% (.26). • Over $175,000, multiply line 51 by 28% (.28) and subtract $3,500 from the result			52	5,975.
53	Alternative minimum foreign tax credit (see instructions)			53	81.
54	Tentative minimum tax. Subtract line 53 from line 52			54	5,894.
55	Enter the tax from Form 1041, Schedule G, line 1a (minus any foreign tax credit from Schedule G, line 2a)			55	12,741.
56	**Alternative minimum tax.** Subtract line 55 from line 54. If zero or less, enter -0-. Enter here and on Form 1041, Schedule G, line 1c			56	0.

Part IV Line 52 Computation Using Maximum Capital Gains Rates

Caution: *If you did not complete Part V of Schedule D (Form 1041), the Schedule D Tax Worksheet, or the Qualified Dividends Tax Worksheet, see the instructions before completing this part.*

57	Enter the amount from line 51			57	36,847.
58	Enter the amount from Schedule D (Form 1041), line 22, line 13 of the Schedule D Tax Worksheet, or line 4 of the Qualified Dividends Tax Worksheet, whichever applies (as refigured for the AMT, if necessary)	58	32,777.		
59	Enter the amount from Schedule D (Form 1041), line 14b, column (2) (as refigured for the AMT, if necessary). If you did not complete Schedule D for the regular tax or the AMT, enter -0-	59			
60	If you did not complete a Schedule D Tax Worksheet for the regular tax or the AMT, enter the amount from line 58. Otherwise, add lines 58 and 59 and enter the **smaller** of that result or the amount from line 10 of the Schedule D Tax Worksheet (as refigured for the AMT, if necessary)	60	32,777.		
61	Enter the **smaller** of line 57 or line 60			61	32,777.
62	Subtract line 61 from line 57			62	4,070.
63	If line 62 is $175,000 or less, multiply line 62 by 26% (.26). Otherwise, multiply line 62 by 28% (.28) and subtract $3,500 from the result ▶			63	1,058.
64	Maximum amount subject to the 0% rate	64	$2,300		
65	Enter the amount from line 23 of Schedule D (Form 1041), line 14 of the Schedule D Tax Worksheet, or line 5 of the Qualified Dividends Tax Worksheet in the Instructions for Form 1041, whichever applies (as figured for the regular tax). If you did not complete Schedule D or either worksheet for the regular tax, enter -0-	65	25,543.		
66	Subtract line 65 from line 64. If zero or less, enter -0-	66	0.		
67	Enter the **smaller** of line 57 or line 58	67	32,777.		
68	Enter the **smaller** of line 66 or line 67	68			
69	Subtract line 68 from line 67	69	32,777.		
70	Multiply line 69 by 15% (.15) ▶			70	4,917.
	If line 59 is zero or blank, skip lines 71 and 72 and go to line 73. Otherwise, go to line 71.				
71	Subtract line 67 from line 61	71			
72	Multiply line 71 by 25% (.25) ▶			72	
73	Add lines 63, 70, and 72			73	5,975.
74	If line 57 is $175,000 or less, multiply line 57 by 26% (.26). Otherwise, multiply line 57 by 28% (.28) and subtract $3,500 from the result			74	9,580.
75	Enter the **smaller** of line 73 or line 74 here and on line 52			75	5,975.

SCHEDULE D (Form 1041)
Department of the Treasury
Internal Revenue Service

Capital Gains and Losses

▶ Attach to Form 1041, Form 5227, or Form 990-T. See the Instructions for Schedule D (Form 1041) (also for Form 5227 or Form 990-T, if applicable).

OMB No. 1545-0092

2011

Name of estate or trust

SHIRLEY BERNSTEIN ESTATE

Employer identification number

30-6283128

Note: *Form 5227 filers need to complete only Parts I and II.*

Part I Short-Term Capital Gains and Losses - Assets Held One Year or Less

	(a) Description of property (Example: 100 shares 7% preferred of "Z" Co.)	(b) Date acquired (mo., day, yr.)	(c) Date sold (mo., day, yr.)	(d) Sales price	(e) Cost or other basis	(f) Gain or (loss) for the entire year Subtract (e) from (d)
1a						

b	Enter the short-term gain or (loss), if any, from Schedule D-1, line 1b	1b	
2	Short-term capital gain or (loss) from Forms 4684, 6252, 6781, and 8824	2	
3	Net short-term gain or (loss) from partnerships, S corporations, and other estates or trusts SEE STATEMENT 11	3	-1,144.
4	Short-term capital loss carryover. Enter the amount, if any, from line 9 of the 2010 Capital Loss Carryover Worksheet	4	( )
5	**Net short-term gain or (loss).** Combine lines 1a through 4 in column (f). Enter here and on line 13, column (3) on page 2 ▶	5	-1,144.

Part II Long-Term Capital Gains and Losses - Assets Held More Than One Year

	(a) Description of property (Example: 100 shares 7% preferred of "Z" Co.)	(b) Date acquired (mo., day, yr.)	(c) Date sold (mo., day, yr.)	(d) Sales price	(e) Cost or other basis	(f) Gain or (loss) for the entire year Subtract (e) from (d)
6a						

b	Enter the long-term gain or (loss), if any, from Schedule D-1, line 6b	6b	
7	Long-term capital gain or (loss) from Forms 2439, 4684, 6252, 6781, and 8824	7	
8	Net long-term gain or (loss) from partnerships, S corporations, and other estates or trusts SEE STATEMENT 12	8	20,626.
9	Capital gain distributions	9	
10	Gain from Form 4797, Part I	10	12.
11	Long-term capital loss carryover. Enter the amount, if any, from line 14 of the 2010 Capital Loss Carryover Worksheet	11	( )
12	**Net long-term gain or (loss).** Combine lines 6a through 11 in column (f). Enter here and on line 14a, column (3) on page 2 ▶	12	20,638.

Part III Summary of Parts I and II

Caution: *Read the instructions before completing this part.*

		(1) Beneficiaries'	(2) Estate's or trust's	(3) Total
13 Net short-term gain or (loss)	13		-1,144.	-1,144.
14 Net long-term gain or (loss):				
a Total for year	14a		20,638.	20,638.
b Unrecaptured section 1250 gain (see line 18 of the worksheet)	14b			
c 28% rate gain	14c			
15 Total net gain or (loss). Combine lines 13 and 14a ▶	15		19,494.	19,494.

Note: *If line 15, column (3), is a net gain, enter the gain on Form 1041, line 4 (or Form 990-T, Part I, line 4a). If lines 14a and 15, column (2), are net gains, go to Part V, and do not complete Part IV. If line 15, column (3), is a net loss, complete Part IV and the Capital Loss Carryover Worksheet, as necessary.*

Part IV Capital Loss Limitation

16 Enter here and enter as a (loss) on Form 1041, line 4 (or Form 990-T, Part I, line 4c, if a trust), the **smaller** of:		
a The loss on line 15, column (3) **or** b $3,000	16	( )

Note: *If the loss on line 15, column (3), is more than $3,000, or if Form 1041, page 1, line 22 (or Form 990-T, line 34), is a loss, complete the Capital Loss Carryover Worksheet in the instructions to figure your capital loss carryover.*

Part V Tax Computation Using Maximum Capital Gains Rates

Form 1041 filers. Complete this part **only** if both lines 14a and 15 in column (2) are gains, or an amount is entered in Part I or Part II and there is an entry on Form 1041, line 2b(2), **and** Form 1041, line 22, is more than zero.

Caution: *Skip this part and complete the **Schedule D Tax Worksheet** in the instructions if:*

- *Either line 14b, col. (2) or line 14c, col. (2) is more than zero, or*
- *Both Form 1041, line 2b(1), and Form 4952, line 4g are more than zero.*

Form 990-T trusts. Complete this part **only** if both lines 14a and 15 are gains, or qualified dividends are included in income in Part I of Form 990-T, **and** Form 990-T, line 34, is more than zero. Skip this part and complete the **Schedule D Tax Worksheet** in the instructions if either line 14b, col. (2) or line 14c, col. (2) is more than zero.

17 Enter taxable income from Form 1041, line 22 (or Form 990-T, line 34)			17	58,320.		
18 Enter the **smaller** of line 14a or 15 in column (2) but not less than zero	18	19,494.				
19 Enter the estate's or trust's qualified dividends from Form 1041, line 2b(2) (or enter the qualified dividends included in income in Part I of Form 990-T)	19	13,283.				
20 Add lines 18 and 19	20	32,777.				
21 If the estate or trust is filing Form 4952, enter the amount from line 4g; otherwise, enter -0- ▶	21	0.				
22 Subtract line 21 from line 20. If zero or less, enter -0-			22	32,777.		
23 Subtract line 22 from line 17. If zero or less, enter -0-			23	25,543.		
24 Enter the **smaller** of the amount on line 17 or $2,300			24	2,300.		
25 Is the amount on line 23 equal to or more than the amount on line 24? [X] **Yes.** Skip lines 25 and 26; go to line 27 and check the "No" box. [ ] **No.** Enter the amount from line 23			25			
26 Subtract line 25 from line 24			26			
27 Are the amounts on lines 22 and 26 the same? [ ] **Yes.** Skip lines 27 thru 30; go to line 31. [X] **No.** Enter the smaller of line 17 or line 22			27	32,777.		
28 Enter the amount from line 26 (If line 26 is blank, enter -0-)			28	0.		
29 Subtract line 28 from line 27			29	32,777.		
30 Multiply line 29 by 15% (.15)					30	4,917.
31 Figure the tax on the amount on line 23. Use the 2011 Tax Rate Schedule for Estates and Trusts (see the Schedule G instructions in the instructions for Form 1041)					31	7,905.
32 Add lines 30 and 31					32	12,822.
33 Figure the tax on the amount on line 17. Use the 2011 Tax Rate Schedule for Estates and Trusts (see the Schedule G instructions in the instructions for Form 1041)					33	19,377.
34 **Tax on all taxable income.** Enter the **smaller** of line 32 or line 33 here and on Form 1041, Schedule G, line 1a (or Form 990-T, line 36)					34	12,822.

Form **4952**

Department of the Treasury
Internal Revenue Service (99)

Investment Interest Expense Deduction

▶ Attach to your tax return.

OMB No. 1545-0191

2011

Attachment Sequence No. **51**

Name(s) shown on return

SHIRLEY BERNSTEIN ESTATE

Identifying number

30-6283128

Part I Total Investment Interest Expense

1	Investment interest expense paid or accrued in 2011 (see instructions) SEE STATEMENT 13	1	22.
2	Disallowed investment interest expense from 2010 Form 4952, line 7	2	
3	**Total investment interest expense.** Add lines 1 and 2	3	22.

Part II Net Investment Income

4a	Gross income from property held for investment (excluding any net gain from the disposition of property held for investment) STMT 14	4a	39,460.		
b	Qualified dividends included on line 4a	4b	13,283.		
c	Subtract line 4b from line 4a			4c	26,177.
d	Net gain from the disposition of property held for investment	4d	19,482.		
e	Enter the **smaller** of line 4d or your net capital gain from the disposition of property held for investment (see instructions) STMT 15	4e	19,482.		
f	Subtract line 4e from line 4d			4f	0.
g	Enter the amount from lines 4b and 4e that you elect to include in investment income (see instructions)			4g	
h	Investment income. Add lines 4c, 4f, and 4g			4h	26,177.
5	Investment expenses (see instructions)			5	
6	**Net investment income.** Subtract line 5 from line 4h. If zero or less, enter -0-			6	26,177.

Part III Investment Interest Expense Deduction

7	Disallowed investment interest expense to be carried forward to 2012. Subtract line 6 from line 3. If zero or less, enter -0-	7	0.
8	**Investment interest expense deduction.** Enter the **smaller** of line 3 or 6. See instructions	8	22.

RECOMPUTED FOR ALTERNATIVE MINIMUM TAX

Form **4952**

Department of the Treasury
Internal Revenue Service (99)

Investment Interest Expense Deduction

▶ Attach to your tax return.

OMB No. 1545-0191

2011

Attachment Sequence No. 51

Name(s) shown on return

SHIRLEY BERNSTEIN ESTATE

Identifying number

30-6283128

Part I Total Investment Interest Expense

1	Investment interest expense paid or accrued in 2011 (see instructions)		1	22.
2	Disallowed investment interest expense from 2010 Form 4952, line 7		2	
3	**Total investment interest expense.** Add lines 1 and 2		3	22.

Part II Net Investment Income

4a	Gross income from property held for investment (excluding any net gain from the disposition of property held for investment)	4a	39,460.		
b	Qualified dividends included on line 4a	4b	13,283.		
c	Subtract line 4b from line 4a			4c	26,177.
d	Net gain from the disposition of property held for investment	4d	19,482.		
e	Enter the **smaller** of line 4d or your net capital gain from the disposition of property held for investment (see instructions)	4e	19,482.		
f	Subtract line 4e from line 4d			4f	0.
g	Enter the amount from lines 4b and 4e that you elect to include in investment income (see instructions)			4g	
h	Investment income. Add lines 4c, 4f, and 4g			4h	26,177.
5	Investment expenses (see instructions)			5	
6	**Net investment income.** Subtract line 5 from line 4h. If zero or less, enter -0-			6	26,177.

Part III Investment Interest Expense Deduction

7	Disallowed investment interest expense to be carried forward to 2012. Subtract line 6 from line 3. If zero or less, enter -0-	7	0.
8	**Investment interest expense deduction.** Enter the **smaller** of line 3 or 6. See instructions	8	22.

REGULAR FORM 4952, LINE 8	22.
LESS RECOMPUTED FORM 4952, LINE 8	22.
INTEREST ADJUSTMENT - SCHEDULE I, LINE 2	0.

Form **8855**
(Rev. January 2009)
Department of the Treasury
Internal Revenue Service

Election To Treat a Qualified Revocable Trust as Part of an Estate

OMB No. 1545-1881

Part I Estate (or Filing Trust) Information

Name of estate (or the filing trust, if applicable (see instructions))	Employer identification number (see instructions)
SHIRLEY BERNSTEIN ESTATE	30-6283128
Name of executor (or the filing trustee, if applicable)	Type of entity prior to the election:
TED BERNSTEIN, EXECUTOR	[X] Domestic estate [ ] Foreign estate [ ] Domestic trust [ ] Foreign trust
Number, street, and room or suite no. (or P.O. box number if mail is not delivered to street address)	
7020 LIONS HEAD LANE	
City or town, state, and ZIP code (if a foreign address, see instructions)	Date of executor's appointment
BOCA RATON, FL 33496	01/01/2011

Under penalties of perjury, I, as executor (or filing trustee):

- Confirm that under applicable local law or the governing document, I have the authority to make this election for the estate (if executor) or trust (if filing trustee) and to agree to the conditions of the election;
- Elect the treatment provided under section 645 for the above-named estate (or filing trust, if applicable);
- Confirm that an agreement has been reached with the trustees of each qualified revocable trust (QRT) joining in the election to allocate the tax burden of the combined electing trusts and related estate, if any, for each tax year during the election period in a manner that reasonably reflects each entity's tax obligation;
- Agree to ensure that the related estate's (or filing trust's, if applicable) share of the tax obligations of the combined electing trust(s) and related estate, if any, is timely paid to the United States Treasury;
- Agree to accept responsibility for filing a complete, accurate, and timely income tax return, when required by law, for the combined electing trust(s) and related estate, if any, for each tax year during the election period;
- (If I am the filing trustee) confirm that if there is more than one QRT making this election, that I have been appointed by the trustees of each QRT making this election to be the filing trustee and I agree to accept the responsibility of filing the appropriate income tax return for the combined electing trust(s) for each tax year during the election period and all other responsibilities of the filing trustee;
- (If I am the filing trustee) represent that no executor has been appointed for a related estate and to the best of my knowledge and belief, one will not be appointed;
- (If I am the filing trustee) agree that, if an executor is appointed for the related estate after this Form 8855 is filed, that I will complete and file an amended Form 8855 if the late appointed executor agrees to the election, and I agree to cooperate with the executor in filing any amended returns required to be filed as a result of the executor's appointment; and
- Confirm to the best of my knowledge and belief, that all information contained in this election and any accompanying statements or schedules is true, correct, and complete.

Signature of executor (or filing trustee)	Date

Part II Decedent Information

Name of decedent	SSN of the decedent	Date of death
SHIRLEY BERNSTEIN	347-30-9749	12/09/2010

LHA **For Paperwork Reduction Act Notice, see page 4.** Form **8855** (1-2009)

110291
05-01-11

-1

Part III Qualified Revocable Trust Information

Name of trust
SHIRLEY BERNSTEIN TRUST

Employer identification number (see instructions)
46-6235212

Name of trustee
TED BERNSTEIN

Number, street, and room or suite no. (or P.O. box number if mail is not delivered to street address)
7020 LIONS HEAD LN

City or town, state, and ZIP code (if a foreign address, see instructions)
BOCA RATON, FL 33496

Under penalties of perjury, I, as trustee of the above-named trust:

- Confirm that under applicable local law or the governing instrument, I have the authority to make this election for the trust and to agree to the conditions of the election;
- Elect the treatment provided under section 645 for this trust;
- Agree to timely provide the executor (or filing trustee if there is no executor) with all the trust information necessary to permit the executor (or filing trustee, if applicable) to file a complete, accurate, and timely Form 1041 (or Form 1040-NR for a foreign estate) for the combined electing trust(s) and the related estate, if any, for each tax year during the election period;
- Confirm that an agreement has been reached with the trustees of each QRT joining in the election, and the executor of the related estate, if any, to allocate the tax burden of the combined electing trust(s) and related estate, if any, for each tax year during the election period in a manner that reasonably reflects each entity's tax obligation;
- Agree to ensure that this trust's share of the tax obligations of the combined electing trust(s) and related estate, if any, is timely paid to the United States Treasury;
- Confirm that if a filing trustee (and not an executor for a related estate) has completed Part I of this Form 8855, the trustee that completed Part I has been appointed the filing trustee, and to the best of my knowledge and belief, an executor has not been appointed to administer a related estate and one will not be appointed;
- Agree that if a filing trustee (and not an executor for a related estate) has completed Part I of this Form 8855 and an executor is appointed for the related estate after this Form 8855 is filed, that I will complete and file an amended Form 8855 if the later appointed executor agrees to the election, and I agree to cooperate with the executor in filing any amended returns required to be filed as a result of the executor's appointment; and
- Confirm to the best of my knowledge and belief, that all information of the electing trust contained in this election and any accompanying statements or schedules is true, correct, and complete.

Signature of trustee | Date

Name of trust | **Employer identification number** (see instructions)

Name of trustee

Number, street, and room or suite no. (or P.O. box number if mail is not delivered to street address)

City or town, state, and ZIP code (if a foreign address, see instructions)

Under penalties of perjury, I, as trustee of the above-named trust:

- Confirm that under applicable local law or the governing instrument, I have the authority to make this election for the trust and to agree to the conditions of the election;
- Elect the treatment provided under section 645 for this trust;
- Agree to timely provide the executor (or filing trustee if there is no executor) with all the trust information necessary to permit the executor (or filing trustee, if applicable) to file a complete, accurate, and timely Form 1041 (or Form 1040-NR for a foreign estate) for the combined electing trust(s) and the related estate, if any, for each tax year during the election period;
- Confirm that an agreement has been reached with the trustees of each QRT joining in the election, and the executor of the related estate, if any, to allocate the tax burden of the combined electing trust(s) and related estate, if any, for each tax year during the election period in a manner that reasonably reflects each entity's tax obligation;
- Agree to ensure that this trust's share of the tax obligations of the combined electing trust(s) and related estate, if any, is timely paid to the United States Treasury;
- Confirm that if a filing trustee (and not an executor for a related estate) has completed Part I of this Form 8855, the trustee that completed Part I has been appointed the filing trustee, and to the best of my knowledge and belief, an executor has not been appointed to administer a related estate and one will not be appointed;
- Agree that if a filing trustee (and not an executor for a related estate) has completed Part I of this Form 8855 and an executor is appointed for the related estate after this Form 8855 is filed, that I will complete and file an amended Form 8855 if the later appointed executor agrees to the election, and I agree to cooperate with the executor in filing any amended returns required to be filed as a result of the executor's appointment; and
- Confirm to the best of my knowledge and belief, that all information of the electing trust contained in this election and any accompanying statements or schedules is true, correct, and complete.

Signature of trustee | Date

SCHEDULE E (Form 1040)

Department of the Treasury Internal Revenue Service (99)

Supplemental Income and Loss

(From rental real estate, royalties, partnerships, S corporations, estates, trusts, REMICs, etc.)

▶ Attach to Form 1040, 1040NR, or Form 1041. ▶ See separate instructions.

OMB No. 1545-0074

2011

Attachment Sequence No. 13

Name(s) shown on return: SHIRLEY BERNSTEIN ESTATE

Your social security number: 30-6283128

A Did you make any payments in 2011 that would require you to file Form(s) 1099? (see instructions) ☐ Yes ☒ No

B If "Yes," did you or will you file all required Forms 1099? ☐ Yes ☐ No

Part I Income or Loss From Rental Real Estate and Royalties **Note.** If you are in the business of renting personal property, use **Schedule C** or **C-EZ** (see instructions). If you are an individual, report farm rental income or loss from **Form 4835** on page 2, line 40.

Caution. For each rental property listed on line 1, check the box in the last column only if you owned that property as a member of a qualified joint venture (QJV) reporting income not subject to self-employment tax.

	1 Physical address of each property-street, city, state, ZIP	Type-from list below	2 For each rental real estate property listed, report the number of days rented at fair rental value and days with personal use. See instructions.		Fair Rental Days	Personal Use Days	QJV
A	BERNSTEIN FAMILY INVESTMENTS LLLP -	6		A			
B	BERNSTEIN HOLDINGS LLC - ROYALTY	6		B			
C				C			

Type of Property:

1 Single Family Residence 3 Vacation/Short-Term Rental 5 Land 7 Self-Rental
2 Multi-Family Residence 4 Commercial 6 Royalties 8 Other (describe)

Income:		Properties A	B	C
3a Merchant card and third party payments. For 2011, enter -0-	3a	0.	0.	
b Payments not reported to you on line 3a	3b	36.	1.	
4 Total not including amounts on line 3a that are not income (see instructions)	4	36.	1.	
Expenses:				
5 Advertising	5			
6 Auto and travel (see instructions)	6			
7 Cleaning and maintenance	7			
8 Commissions	8			
9 Insurance	9			
10 Legal and other professional fees	10			
11 Management fees	11			
12 Mortgage interest paid to banks, etc. (see instructions)	12			
13 Other interest	13			
14 Repairs	14			
15 Supplies	15			
16 Taxes	16			
17 Utilities	17			
18 Depreciation expense or depletion	18			
19 Other (list) ▶	19			
20 Total expenses. Add lines 5 through 19	20			
21 Subtract line 20 from line 4. If result is a (loss), see instructions to find out if you must file **Form 6198**	21	36.	1.	
22 Deductible rental real estate loss after limitation, if any, on **Form 8582** (see instructions)	22	( )	( )	( )

23a Total of all amounts reported on line 3a for all rental properties	23a		
b Total of all amounts reported on line 3a for all royalty properties	23b		
c Total of all amounts reported on line 4 for all rental properties	23c		
d Total of all amounts reported on line 4 for all royalty properties	23d	37.	
e Total of all amounts reported on line 12 for all properties	23e		
f Total of all amounts reported on line 18 for all properties	23f		
g Total of all amounts reported on line 20 for all properties	23g		

24 **Income.** Add positive amounts shown on line 21. **Do not** include any losses	24	37.
25 **Losses.** Add royalty losses from line 21 and rental real estate losses from line 22. Enter total losses here	25	( )
26 **Total rental real estate and royalty income or (loss).** Combine lines 24 and 25. Enter the result here. If Parts II, III, IV, and line 40 on page 2 do not apply to you, also enter this amount on Form 1040, line 17, or Form 1040NR, line 18. Otherwise, include this amount in the total on line 41 on page 2	26	37.

Name(s) shown on return. Do not enter name and social security number if shown on page 1. | Your social security number

SHIRLEY BERNSTEIN ESTATE | 30-6283128

Caution. The IRS compares amounts reported on your tax return with amounts shown on Schedule(s) K-1.

Part II Income or Loss From Partnerships and S Corporations

Note. If you report a loss from an at-risk activity for which any amount is **not** at risk, you **must** check column (e) on line 28 and attach **Form 6198**. See instructions.

27 Are you reporting any loss not allowed in a prior year due to the at-risk or basis limitations, a prior year unallowed loss from a passive activity (if that loss was not reported on Form 8582), or unreimbursed partnership expenses? ☐ Yes ☒ No

If you answered "Yes," see instructions before completing this section.

28	(a) Name	(b) Enter P for partnership; S for S corporation	(c) Check if foreign partnership	(d) Employer identification number	(e) Check if any amount is not at risk
A	BERNSTEIN FAMILY INVESTMENTS LLLP	P		26-2124343	
B	BERNSTEIN HOLDINGS LLC	P		32-0234597	
C					
D					

	Passive Income and Loss		Nonpassive Income and Loss		
	(f) Passive loss allowed (attach **Form 8582** if required)	(g) Passive income from **Schedule K-1**	(h) Nonpassive loss from **Schedule K-1**	(i) Section 179 expense deduction from **Form 4562**	(j) Nonpassive income from **Schedule K-1**
A	12.				
B	0.				
C					
D					
29a Totals					
b Totals	12.				

30	Add columns (g) and (j) of line 29a	30	
31	Add columns (f), (h), and (i) of line 29b	31	(12.)
32	**Total partnership and S corporation income or (loss).** Combine lines 30 and 31. Enter the result here and include in the total on line 41 below	32	-12.

Part III Income or Loss From Estates and Trusts

33	(a) Name	(b) Employer identification number
A		
B		

	Passive Income and Loss		Nonpassive Income and Loss	
	(c) Passive deduction or loss allowed (attach **Form 8582** if required)	(d) Passive income from **Schedule K-1**	(e) Deduction or loss from **Schedule K-1**	(f) Other income from **Schedule K-1**
A				
B				
34a Totals				
b Totals				

35	Add columns (d) and (f) of line 34a	35	
36	Add columns (c) and (e) of line 34b	36	( )
37	**Total estate and trust income or (loss).** Combine lines 35 and 36. Enter the result here and include in the total on line 41 below	37	

Part IV Income or Loss From Real Estate Mortgage Investment Conduits (REMICs) - Residual Holder

38	(a) Name	(b) Employer identification number	(c) Excess inclusion from **Schedules Q**, line 2c (see instructions)	(d) Taxable income (net loss) from **Schedules Q**, line 1b	(e) Income from **Schedules Q**, line 3b

39	Combine columns (d) and (e) only. Enter the result here and include in the total on line 41 below	39	

Part V Summary

40	Net farm rental income or (loss) from **Form 4835**. Also, complete line 42 below	40	
41	**Total income or (loss).** Combine lines 26, 32, 37, 39, and 40. Enter the result here and on Form 1040, line 17, or Form 1040NR, line 18 ▶	41	25.
42	**Reconciliation of farming and fishing income.** Enter your **gross** farming and fishing income reported on Form 4835, line 7; Schedule K-1 (Form 1065), box 14, code B; Schedule K-1 (Form 1120S), box 17, code U; and Schedule K-1 (Form 1041), line 14, code F (see instructions)	42	
43	**Reconciliation for real estate professionals.** If you were a real estate professional (see instructions), enter the net income or (loss) you reported anywhere on Form 1040 or Form 1040NR from all rental real estate activities in which you materially participated under the passive activity loss rules	43	

2011 Income from Passthroughs

BERNSTEIN FAMILY INVESTMENTS LLLP
I.D. NUMBER: 26-2124343
TYPE: PARTNERSHIP

ACTIVITY INFORMATION:

BERNSTEIN FAMILY INVESTMENTS LLLP

OTHER PASSIVE ACTIVITY

RENTAL REAL ESTATE INCOME (LOSS)	-2.	
	-1,501.	
	-551.	
SEC 59(E)(2) -	-100.	
PASSIVE INCOME (LOSS)		-2,154.
DISALLOWED LOSS FROM FORM 8582		2,142.
ALLOWABLE PASSIVE LOSS FROM FORM 8582		-12.

TAX PREFERENCE ITEMS:

DEPRECIATION ADJUSTMENT	252.
ADJUSTED GAIN OR LOSS	-1.
OTHER AMT PREFERENCE ITEMS/ADJUSTMENTS	1,042.
GROSS INCOME FROM OIL AND GAS	3,411.
GROSS DEDUCTION FROM OIL AND GAS	767.

OTHER K-1 INFORMATION:

INTEREST INCOME	20,884.
ORDINARY DIVIDENDS	18,151.
QUALIFIED DIVIDENDS	13,154.
TAX-EXEMPT INTEREST	8,509.
SECTION 1231 GAIN (LOSS)	12.
NET SHORT-TERM CAPITAL GAIN (LOSS)	-1,133.
NET LONG-TERM CAPITAL GAIN (LOSS)	20,425.
INVESTMENT INTEREST EXPENSE - SCHEDULE A	22.
DEDUCTIONS RELATED TO PORTFOLIO INCOME	356.
ROYALTY	36.
INVESTMENT INCOME	39,071.
INVESTMENT EXPENSE	356.
UNRECAPTURED SECTION 1250 GAIN	1.
NONDEDUCTIBLE EXPENSES	4.

2011 Income from Passthroughs

BERNSTEIN HOLDINGS LLC
I.D. NUMBER: 32-0234597
TYPE: PARTNERSHIP

ACTIVITY INFORMATION:

BERNSTEIN HOLDINGS LLC

OTHER PASSIVE ACTIVITY

	-14.	
	-7.	
SEC 59(E)(2) -	-1.	
PASSIVE INCOME (LOSS)		-22.
DISALLOWED LOSS FROM FORM 8582		22.
ALLOWABLE PASSIVE LOSS FROM FORM 8582		0.

TAX PREFERENCE ITEMS:

DEPRECIATION ADJUSTMENT	3.
ADJUSTED GAIN OR LOSS	34.
OTHER AMT PREFERENCE ITEMS/ADJUSTMENTS	1.

OTHER K-1 INFORMATION:

INTEREST INCOME	204.
ORDINARY DIVIDENDS	184.
QUALIFIED DIVIDENDS	129.
TAX-EXEMPT INTEREST	84.
NET SHORT-TERM CAPITAL GAIN (LOSS)	-11.
NET LONG-TERM CAPITAL GAIN (LOSS)	201.
DEDUCTIONS RELATED TO PORTFOLIO INCOME	4.
ROYALTY	1.
INVESTMENT INCOME	389.
INVESTMENT EXPENSE	4.

2011 Income from Passthroughs

SUMMARY OF K-1 INFORMATION FOR ALL PASSTHROUGHS

OTHER K-1 INFORMATION:

INTEREST INCOME	21,088.
ORDINARY DIVIDENDS	18,335.
QUALIFIED DIVIDENDS	13,283.
TAX-EXEMPT INTEREST	8,593.
SECTION 1231 GAIN (LOSS)	12.
NET SHORT-TERM CAPITAL GAIN (LOSS)	-1,144.
NET LONG-TERM CAPITAL GAIN (LOSS)	20,626.
INVESTMENT INTEREST EXPENSE - SCHEDULE A	22.
DEDUCTIONS RELATED TO PORTFOLIO INCOME	360.
ROYALTY	37.
UNRECAPTURED SECTION 1250 GAIN	1.
NONDEDUCTIBLE EXPENSES	4.

INVESTMENT INTEREST EXPENSE:

INVESTMENT INCOME	39,460.
INVESTMENT EXPENSE	360.

TAX PREFERENCE ITEMS:

DEPRECIATION ADJUSTMENT	255.
ADJUSTED GAIN OR LOSS	33.
OTHER AMT PREFERENCE ITEMS/ADJUSTMENTS	1,043.
GROSS INCOME FROM OIL AND GAS	3,411.
GROSS DEDUCTION FROM OIL AND GAS	767.

Schedule of Mineral Interest Properties - Summary

Identifying Number 30-6283128	Taxable income including NOL carryover ... 58,320.
Name	Plus allowable depletion ..... 0.
	Minus cost depletion ..... 0.
	Taxable income before % depletion .....
SHIRLEY BERNSTEIN ESTATE	65% of taxable income .....

	Property Number	Property Description	Gross Income	Royalty Paid	Severance Tax
A	1	BERNSTEIN FAMILY INVESTMENTS LLLP	3,411.		
B					
C					
D					
E					
F	TOTAL		3,411.		

	Depreciation	Amortization	Operating Expense	Overhead Expense	IDC Expense	Dry Hole Costs
A			767.			
B						
C						
D						
E						
F			767.			

	Other Expenses	Net Income Before Depletion	% Depletion	% Depletion Limited to Net Income	% Depletion After Quantity Limitations	Adjusted Basis
A		2,644.				
B						
C						
D						
E						
F		2,644.				

	Beginning Recoverables	Production	Cost Depletion	Prior Year % Depletion Carryover	Greater of Cost or % Depletion	* Limited % Depletion
A						
B						
C						
D						
E						
F						

	* Allowable Depletion	Net Income After Depletion	% Depletion C/O To Next Year	Excess Depletion	Excess IDC	* Net Income for Excess IDC Calc.
A		2,644.				
B						
C						
D						
E						
F		2,644.				

* "Limited % Depletion" - has been limited to 65% of Taxable Income

* "Allowable Depletion" - Greater of "Percentage Depletion" or "Cost Depletion" after calculation for the 65% taxable income limitations or "Non-Oil & Gas Depletion"

* "Net Income for Excess IDC CALC" - has been reduced by "Allowable Depletion" and "Excess IDC" has been added back.

Total excess Intangible Drilling Cost

Less 65% of Net Income for Excess IDC Calculation

Excess Intangible Drilling Cost Preference

113701
05-01-11

Form **1116**

Department of the Treasury
Internal Revenue Service (99)

Foreign Tax Credit

(Individual, Estate, or Trust)
▶ Attach to Form 1040, 1040NR, 1041, or 990-T.

OMB No. 1545-0121

2011

Attachment Sequence No. **19**

Name

SHIRLEY BERNSTEIN ESTATE

Identifying number as shown on page 1 of your tax return

30-6283128

Use a separate Form 1116 for each category of income listed below. See **Categories of Income** in the instructions. Check only one box on each Form 1116. Report all amounts in U.S. dollars except where specified in Part II below.

a [X] Passive category income
b [ ] General category income
c [ ] Section 901(j) income
d [ ] Certain income re-sourced by treaty
e [ ] Lump-sum distributions

f Resident of (name of country) ▶ UNITED STATES

Note: *If you paid taxes to only one foreign country or U.S. possession, use column A in Part I and line A in Part II. If you paid taxes to more than one foreign country or U.S. possession, use a separate column and line for each country or possession.*

Part I Taxable Income or Loss From Sources Outside the United States (for Category Checked Above)

	Foreign Country or U.S. Possession A	B	C	Total (Add cols. A, B, and C.)
g Enter the name of the foreign country or U.S. possession ▶	OTHER COUNTRIES			
1a Gross income from sources within country shown above and of the type checked above: SEE SOURCE INCOME SUMMARY	1,954.			1a 1,954.
b Check if line 1a is compensation for personal services as an employee, your total compensation from all sources is $250,000 or more, and you used an alternative basis to determine its source (see instructions) ▶ [ ]				
Deductions and losses (*Caution: See instructions*):				
2 Expenses **definitely related** to the income on line 1a (attach statement) SEE STATEMENT 17	322.			
3 Pro rata share of other deductions **not definitely related**:				
a Certain itemized deductions or standard deduction				
b Other deductions (attach statement)				
c Add lines 3a and 3b				
d Gross foreign source income	1,954.			
e Gross income from all sources	60,110.			
f Divide line 3d by line 3e	.032507			
g Multiply line 3c by line 3f				
4 Pro rata share of interest expense:				
a Home mortgage interest (use worksheet on page 14 of the instructions)				
b Other interest expense				
5 Losses from foreign sources				
6 Add lines 2, 3g, 4a, 4b, and 5	322.			6 322.
7 Subtract line 6 from line 1a. Enter the result here and on line 15, page 2 ▶				7 1,632.

Part II Foreign Taxes Paid or Accrued

SEE STATEMENT 16

Country	Credit is claimed for taxes (you must check one) (h) [ ] Paid (i) [X] Accrued (j) Date paid or accrued	Foreign taxes paid or accrued: In foreign currency — Taxes withheld at source on: (k) Dividends	(l) Rents and royalties	(m) Interest	(n) Other foreign taxes paid or accrued	In U.S. dollars — Taxes withheld at source on: (o) Dividends	(p) Rents and royalties	(q) Interest	(r) Other foreign taxes paid or accrued	(s) Total foreign taxes paid or accrued (add cols. (o) through (r))
A									81.	81.
B										
C										
8 Add lines A through C, column (s). Enter the total here and on line 9, page 2 ▶									8	81.

LHA **For Paperwork Reduction Act Notice, see instructions.**

Form **1116** (2011)

111501
12-19-11

Part III Figuring the Credit

9	Enter the amount from line 8. These are your total foreign taxes paid or accrued for the category of income checked above Part I	9	81.	
10	Carryback or carryover (attach detailed computation)	10		
11	Add lines 9 and 10	11	81.	
12	Reduction in foreign taxes	12		
13	Taxes reclassified under high tax kickout	13		
14	Combine lines 11, 12, and 13. This is the total amount of foreign taxes available for credit			14 81.
15	Enter the amount from line 7. This is your taxable income or (loss) from sources outside the United States (before adjustments) for the category of income checked above Part I	15	1,632.	
16	Adjustments to line 15	16	0.	
17	Combine the amounts on lines 15 and 16. This is your net foreign source taxable income. (If the result is zero or less, you have no foreign tax credit for the category of income you checked above Part I. Skip lines 18 through 22. However, if you are filing more than one Form 1116, you must complete line 20.)	17	1,632.	
18	**Individuals:** Enter the amount from Form 1040, line 41, or Form 1040NR, line 39. **Estates and trusts:** Enter your taxable income without the deduction for your exemption SEE STATEMENT 18	18	40,191.	
	***Caution:** If you figured your tax using the lower rates on qualified dividends or capital gains, see instructions.*			
19	Divide line 17 by line 18. If line 17 is more than line 18, enter "1"			19 .040606
20	**Individuals:** Enter the amount from Form 1040, line 44. If you are a nonresident alien, enter the amount from Form 1040NR, line 42. **Estates and trusts:** Enter the amount from Form 1041, Schedule G, line 1a, or the total of Form 990-T, lines 36 and 37			20 12,822.
	***Caution:** If you are completing line 20 for separate categorye (lump-sum distributions), see instructions.*			
21	Multiply line 20 by line 19 (maximum amount of credit)			21 521.
22	Enter the **smaller** of line 14 or line 21. If this is the only Form 1116 you are filing, skip lines 23 through 27 and enter this amount on line 28. Otherwise, complete the appropriate line in Part IV ▶			22 81.

Part IV Summary of Credits From Separate Parts III

23	Credit for taxes on passive category income	23	81.	
24	Credit for taxes on general category income	24	0.	
25	Credit for taxes on certain income re-sourced by treaty	25	0.	
26	Credit for taxes on lump-sum distributions	26	0.	
27	Add lines 23 through 26			27 81.
28	Enter the **smaller** of line 20 or line 27			28 81.
29	Reduction of credit for international boycott operations			29
30	Subtract line 29 from line 28. This is your **foreign tax credit**. Enter here and on Form 1040, line 47; Form 1040NR, line 45; Form 1041, Schedule G, line 2a; or Form 990-T, line 40a ▶			30 81.

Form **1116**

Department of the Treasury
Internal Revenue Service (99)

ALT MIN TAX
Foreign Tax Credit

(Individual, Estate, or Trust)
▶ Attach to Form 1040, 1040NR, 1041, or 990-T.

OMB No. 1545-0121

2011

Attachment Sequence No. **19**

Name: SHIRLEY BERNSTEIN ESTATE

Identifying number as shown on page 1 of your tax return: 30-6283128

Use a separate Form 1116 for each category of income listed below. See **Categories of Income** in the instructions. Check only one box on each Form 1116. Report all amounts in U.S. dollars except where specified in Part II below.

a [X] Passive category income
b [ ] General category income
c [ ] Section 901(j) income
d [ ] Certain income re-sourced by treaty
e [ ] Lump-sum distributions

f Resident of (name of country) ▶ UNITED STATES

Note: *If you paid taxes to only one foreign country or U.S. possession, use column A in Part I and line A in Part II. If you paid taxes to more than one foreign country or U.S. possession, use a separate column and line for each country or possession.*

Part I Taxable Income or Loss From Sources Outside the United States (for Category Checked Above)

	Foreign Country or U.S. Possession A	B	C		Total (Add cols. A, B, and C.)
g Enter the name of the foreign country or U.S. possession ▶	OTHER COUNTRIES				
1a Gross income from sources within country shown above and of the type checked above:	1,954.			1a	1,954.
b Check if line 1a is compensation for personal services as an employee, your total compensation from all sources is $250,000 or more, and you used an alternative basis to determine its source (see instructions) ▶ [ ]					
Deductions and losses (*Caution: See instructions*):					
2 Expenses **definitely related** to the income on line 1a (attach statement)	322.				
3 Pro rata share of other deductions **not definitely related:**					
a Certain itemized deductions or standard deduction					
b Other deductions (attach statement)					
c Add lines 3a and 3b					
d Gross foreign source income	1,954.				
e Gross income from all sources	60,110.				
f Divide line 3d by line 3e	.032507				
g Multiply line 3c by line 3f					
4 Pro rata share of interest expense:					
a Home mortgage interest (use worksheet on page 14 of the instructions)					
b Other interest expense					
5 Losses from foreign sources					
6 Add lines 2, 3g, 4a, 4b, and 5	322.			6	322.
7 Subtract line 6 from line 1a. Enter the result here and on line 15, page 2 ▶				7	1,632.

Part II Foreign Taxes Paid or Accrued

Country	Credit is claimed for taxes (you must check one) (h) [ ] Paid (i) [X] Accrued — (j) Date paid or accrued	Foreign taxes paid or accrued: In foreign currency — Taxes withheld at source on: (k) Dividends	(l) Rents and royalties	(m) Interest	(n) Other foreign taxes paid or accrued	In U.S. dollars — Taxes withheld at source on: (o) Dividends	(p) Rents and royalties	(q) Interest	(r) Other foreign taxes paid or accrued	(s) Total foreign taxes paid or accrued (add cols. (o) through (r))
A									81.	81.
B										
C										
8 Add lines A through C, column (s). Enter the total here and on line 9, page 2 ▶									8	81.

LHA **For Paperwork Reduction Act Notice, see instructions.** Form **1116** (2011)

111501
12-19-11

ALT MIN TAX

Part III Figuring the Credit

9	Enter the amount from line 8. These are your total foreign taxes paid or accrued for the category of income checked above Part I	9	81.	
10	Carryback or carryover (attach detailed computation)	10		
11	Add lines 9 and 10	11	81.	
12	Reduction in foreign taxes	12		
13	Taxes reclassified under high tax kickout	13		
14	Combine lines 11, 12, and 13. This is the total amount of foreign taxes available for credit			14 81.
15	Enter the amount from line 7. This is your taxable income or (loss) from sources outside the United States (before adjustments) for the category of income checked above Part I	15	1,632.	
16	Adjustments to line 15	16	0.	
17	Combine the amounts on lines 15 and 16. This is your net foreign source taxable income. (If the result is zero or less, you have no foreign tax credit for the category of income you checked above Part I. Skip lines 18 through 22. However, if you are filing more than one Form 1116, you must complete line 20.)	17	1,632.	
18	**Individuals:** Enter the amount from Form 1040, line 41, or Form 1040NR, line 39. **Estates and trusts:** Enter your taxable income without the deduction for your exemption	18	44,129.	
	***Caution:** If you figured your tax using the lower rates on qualified dividends or capital gains, see instructions.*			
19	Divide line 17 by line 18. If line 17 is more than line 18, enter "1"			19 .036982
20	**Individuals:** Enter the amount from Form 1040, line 44. If you are a nonresident alien, enter the amount from Form 1040NR, line 42. **Estates and trusts:** Enter the amount from Form 1041, Schedule G, line 1a, or the total of Form 990-T, lines 36 and 37			20 5,975.
	***Caution:** If you are completing line 20 for separate categorye (lump-sum distributions), see instructions.*			
21	Multiply line 20 by line 19 (maximum amount of credit)			21 221.
22	Enter the **smaller** of line 14 or line 21. If this is the only Form 1116 you are filing, skip lines 23 through 27 and enter this amount on line 28. Otherwise, complete the appropriate line in Part IV ▶			22 81.

Part IV Summary of Credits From Separate Parts III

23	Credit for taxes on passive category income	23	81.	
24	Credit for taxes on general category income	24	0.	
25	Credit for taxes on certain income re-sourced by treaty	25	0.	
26	Credit for taxes on lump-sum distributions	26	0.	
27	Add lines 23 through 26			27 81.
28	Enter the **smaller** of line 20 or line 27			28 81.
29	Reduction of credit for international boycott operations			29
30	Subtract line 29 from line 28. This is your **foreign tax credit**. Enter here and on Form 1040, line 47; Form 1040NR, line 45; Form 1041, Schedule G, line 2a; or Form 990-T, line 40a ▶			30 81.

SHIRLEY BERNSTEIN ESTATE 30-6283128

Form 1116 **U.S. and Foreign Source Income Summary**

INCOME TYPE	TOTAL	U.S.	FOREIGN PASSIVE INCOME
Dividends/Distributions	18,335.	18,335.	
Interest	21,088.	21,088.	
Gross Capital Gains	20,638.	20,638.	
Business/Profession			
Rent/Royalty	49.	49.	
State/Local Refunds			
Partnership/S Corporation		-1,954.	1,954.
Trust/Estate			
Other Income			
Gross Income	60,110.	58,156.	1,954.
Less:			
Capital Losses	1,144.	1,144.	
Capital Gains and Qualified Dividends Tax Adjustment			
Total Income - Form 1116	58,966.	57,012.	1,954.
Deductions:			
Business/Profession Expenses			
Rent/Royalty Expenses	12.	12.	
Partnership/S Corporation Losses	12.	-310.	322.
Trust/Estate Losses			
Capital Losses			
Non-capital Losses			
Forfeited Interest			
Other Adjustments			
Total Deductions	24.	-298.	322.
Adjusted Gross Income	58,942.	57,310.	1,632.
Less Itemized Deductions:			
Specifically Allocated			
Home Mortgage Interest			
Other Interest	22.	22.	
Ratably Allocated			
Total Adjustments to Adjusted Gross Income	22.	22.	
Taxable Income Before Exemptions	58,920.	57,288.	1,632.

127741
05-23-11

Form **4797**
Department of the Treasury
Internal Revenue Service (99)

Sales of Business Property
(Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2))
▶ Attach to your tax return. ▶ See separate instructions.

OMB No. 1545-0184
2011
Attachment Sequence No. 27

Name(s) shown on return | Identifying number

SHIRLEY BERNSTEIN ESTATE | 30-6283128

1 Enter the gross proceeds from sales or exchanges reported to you for 2011 on Form(s) 1099-B or 1099-S (or substitute statement) that you are including on line 2, 10, or 20 1

Part I **Sales or Exchanges of Property Used in a Trade or Business and Involuntary Conversions From Other Than Casualty or Theft-Most Property Held More Than 1 Year** (see instructions)

2 (a) Description of property	(b) Date acquired (mo., day, yr.)	(c) Date sold (mo., day, yr.)	(d) Gross sales price	(e) Depreciation allowed or allowable since acquisition	(f) Cost or other basis, plus improvements and expense of sale	(g) Gain or (loss) Subtract (f) from the sum of (d) and (e)
BERNSTEIN FAMILY INVESTMENTS LLLP						12.

3	Gain, if any, from Form 4684, line 39	3	
4	Section 1231 gain from installment sales from Form 6252, line 26 or 37	4	
5	Section 1231 gain or (loss) from like-kind exchanges from Form 8824	5	
6	Gain, if any, from line 32, from other than casualty or theft	6	
7	Combine lines 2 through 6. Enter the gain or (loss) here and on the appropriate line as follows:	7	12.

Partnerships (except electing large partnerships) and S corporations. Report the gain or (loss) following the instructions for Form 1065, Schedule K, line 10, or Form 1120S, Schedule K, line 9. Skip lines 8, 9, 11, and 12 below.

Individuals, partners, S corporation shareholders, and all others. If line 7 is zero or a loss, enter the amount from line 7 on line 11 below and skip lines 8 and 9. If line 7 is a gain and you did not have any prior year section 1231 losses, or they were recaptured in an earlier year, enter the gain from line 7 as a long-term capital gain on the Schedule D filed with your return and skip lines 8, 9, 11, and 12 below.

8	Nonrecaptured net section 1231 losses from prior years (see instructions)	8	
9	Subtract line 8 from line 7. If zero or less, enter -0-. If line 9 is zero, enter the gain from line 7 on line 12 below. If line 9 is more than zero, enter the amount from line 8 on line 12 below and enter the gain from line 9 as a long-term capital gain on the Schedule D filed with your return (see instructions)	9	

Part II **Ordinary Gains and Losses** (see instructions)

10 Ordinary gains and losses not included on lines 11 through 16 (include property held 1 year or less):

11	Loss, if any, from line 7	11	
12	Gain, if any, from line 7 or amount from line 8, if applicable	12	
13	Gain, if any, from line 31	13	
14	Net gain or (loss) from Form 4684, lines 31 and 38a	14	
15	Ordinary gain from installment sales from Form 6252, line 25 or 36	15	
16	Ordinary gain or (loss) from like-kind exchanges from Form 8824	16	
17	Combine lines 10 through 16	17	
18	For all except individual returns, enter the amount from line 17 on the appropriate line of your return and skip lines a and b below. For individual returns, complete lines a and b below:		
a	If the loss on line 11 includes a loss from Form 4684, line 35, column (b)(ii), enter that part of the loss here. Enter the part of the loss from income-producing property on Schedule A (Form 1040), line 28, and the part of the loss from property used as an employee on Schedule A (Form 1040), line 23. Identify as from "Form 4797, line 18a." See instructions	18a	
b	Redetermine the gain or (loss) on line 17 excluding the loss, if any, on line 18a. Enter here and on Form 1040, line 14	18b	

LHA **For Paperwork Reduction Act Notice, see separate instructions.** Form **4797** (2011)

118011 12-27-11

17470913 144582 4001350.100 2011.04020 SHIRLEY BERNSTEIN ESTATE 40013501

Part III **Gain From Disposition of Property Under Sections 1245, 1250, 1252, 1254, and 1255** (see instructions)

19 (a) Description of section 1245, 1250, 1252, 1254, or 1255 property:	(b) Date acquired (mo., day, yr.)	(c) Date sold (mo., day, yr.)
A		
B		
C		
D		

These columns relate to the properties on lines 19A through 19D. ▶		Property A	Property B	Property C	Property D
20 Gross sales price (**Note:** See line 1 before completing.)	20				
21 Cost or other basis plus expense of sale	21				
22 Depreciation (or depletion) allowed or allowable	22				
23 Adjusted basis. Subtract line 22 from line 21	23				
24 Total gain. Subtract line 23 from line 20	24				
25 **If section 1245 property:**					
a Depreciation allowed or allowable from line 22	25a				
b Enter the **smaller** of line 24 or 25a	25b				
26 **If section 1250 property:** If straight line depreciation was used, enter -0- on line 26g, except for a corporation subject to section 291.					
a Additional depreciation after 1975 (see instructions)	26a				
b Applicable percentage multiplied by the **smaller** of line 24 or line 26a (see instructions)	26b				
c Subtract line 26a from line 24. If residential rental property **or** line 24 is not more than line 26a, skip lines 26d and 26e	26c				
d Additional depreciation after 1969 and before 1976	26d				
e Enter the **smaller** of line 26c or 26d	26e				
f Section 291 amount (corporations only)	26f				
g Add lines 26b, 26e, and 26f	26g				
27 **If section 1252 property:** Skip this section if you did not dispose of farmland or if this form is being completed for a partnership (other than an electing large partnership).					
a Soil, water, and land clearing expenses	27a				
b Line 27a multiplied by applicable percentage	27b				
c Enter the **smaller** of line 24 or 27b	27c				
28 **If section 1254 property:**					
a Intangible drilling and development costs, expenditures for development of mines and other natural deposits, mining exploration costs, and depletion (see instructions)	28a				
b Enter the **smaller** of line 24 or 28a	28b				
29 **If section 1255 property:**					
a Applicable percentage of payments excluded from income under section 126 (see instructions)	29a				
b Enter the **smaller** of line 24 or 29a (see instructions)	29b				

Summary of Part III Gains. Complete property columns A through D through line 29b before going to line 30.

30 Total gains for all properties. Add property columns A through D, line 24	30	
31 Add property columns A through D, lines 25b, 26g, 27c, 28b, and 29b. Enter here and on line 13	31	
32 Subtract line 31 from line 30. Enter the portion from casualty or theft on Form 4684, line 33. Enter the portion from other than casualty or theft on Form 4797, line 6	32	

Part IV **Recapture Amounts Under Sections 179 and 280F(b)(2) When Business Use Drops to 50% or Less** (see instructions)

		(a) Section 179	(b) Section 280F(b)(2)
33 Section 179 expense deduction or depreciation allowable in prior years	33		
34 Recomputed depreciation (see instructions)	34		
35 Recapture amount. Subtract line 34 from line 33. See the instructions for where to report	35		

Form **8582**

Department of the Treasury
Internal Revenue Service (99)

Passive Activity Loss Limitations

▶ See separate instructions.
▶ Attach to Form 1040 or Form 1041.

OMB No. 1545-1008

2011

Attachment Sequence No. **88**

Name(s) shown on return

SHIRLEY BERNSTEIN ESTATE

Identifying number

30-6283128

Part I 2011 Passive Activity Loss

Caution: *Complete Worksheets 1, 2, and 3 before completing Part I.*

Rental Real Estate Activities With Active Participation (For the definition of active participation, see **Special Allowance for Rental Real Estate Activities** in the instructions.)

1a	Activities with net income (enter the amount from Worksheet 1, column (a))	1a		
b	Activities with net loss (enter the amount from Worksheet 1, column (b))	1b		
c	Prior years unallowed losses (enter the amount from Worksheet 1, column (c))	1c		
d	Combine lines 1a, 1b, and 1c		1d	

Commercial Revitalization Deductions From Rental Real Estate Activities

2a	Commercial revitalization deductions from Worksheet 2, column (a)	2a		
b	Prior year unallowed commercial revitalization deductions from Worksheet 2, column (b)	2b		
c	Add lines 2a and 2b		2c	

All Other Passive Activities

3a	Activities with net income (enter the amount from Worksheet 3, column (a))	3a	12.	
b	Activities with net loss (enter the amount from Worksheet 3, column (b))	3b	-2,176.	
c	Prior years unallowed losses (enter the amount from Worksheet 3, column (c))	3c		
d	Combine lines 3a, 3b, and 3c		3d	-2,164.
4	Combine lines 1d, 2c, and 3d. If this line is zero or more, stop here and include this form with your return; all losses are allowed, including any prior year unallowed losses entered on line 1c, 2b, or 3c. Report the losses on the forms and schedules normally used		4	-2,164.

If line 4 is a loss and:
- Line 1d is a loss, go to Part II.
- Line 2c is a loss (and line 1d is zero or more), skip Part II and go to Part III.
- Line 3d is a loss (and lines 1d and 2c are zero or more), skip Parts II and III and go to line 15.

Caution: *If your filing status is married filing separately and you lived with your spouse at any time during the year, do not complete Part II or Part III. Instead, go to line 15.*

Part II Special Allowance for Rental Real Estate Activities With Active Participation

Note: *Enter all numbers in Part II as positive amounts. See instructions for an example.*

5	Enter the **smaller** of the loss on line 1d or the loss on line 4		5	
6	Enter $150,000. If married filing separately, see instructions	6		
7	Enter modified adjusted gross income, but not less than zero (see instructions)	7		
	Note: *If line 7 is greater than or equal to line 6, skip lines 8 and 9, enter -0- on line 10. Otherwise, go to line 8.*			
8	Subtract line 7 from line 6	8		
9	Multiply line 8 by 50% (.5). **Do not** enter more than $25,000. If married filing separately, see instructions		9	
10	Enter the **smaller** of line 5 or line 9		10	

If line 2c is a loss, go to Part III. Otherwise, go to line 15.

Part III Special Allowance for Commercial Revitalization Deductions From Rental Real Estate Activities

Note: *Enter all numbers in Part III as positive amounts. See the example for Part II in the instructions.*

11	Enter $25,000 reduced by the amount, if any, on line 10. If married filing separately, see instructions	11	
12	Enter the loss from line 4	12	
13	Reduce line 12 by the amount on line 10	13	
14	Enter the **smallest** of line 2c (treated as a positive amount), line 11, or line 13	14	

Part IV Total Losses Allowed

15	Add the income, if any, on lines 1a and 3a and enter the total	15	12.
16	**Total losses allowed from all passive activities for 2011.** Add lines 10, 14, and 15. See instructions to find out how to report the losses on your tax return SEE STATEMENT 23	16	12.

Caution: *The worksheets must be filed with your tax return. Keep a copy for your records.*

Worksheet 1 - For Form 8582, Lines 1a, 1b, and 1c (See instructions.)

Name of activity	Current year		Prior years	Overall gain or loss	
	(a) Net income (line 1a)	(b) Net loss (line 1b)	(c) Unallowed loss (line 1c)	(d) Gain	(e) Loss
Total. Enter on Form 8582, lines 1a, 1b, and 1c ▶					

Worksheet 2 - For Form 8582, Lines 2a and 2b (See instructions.)

Name of activity	(a) Current year deductions (line 2a)	(b) Prior year unallowed deductions (line 2b)	(c) Overall loss
Total. Enter on Form 8582, lines 2a and 2b ▶			

Worksheet 3 - For Form 8582, Lines 3a, 3b, and 3c (See instructions.)

Name of activity	Current year		Prior years	Overall gain or loss	
	(a) Net income (line 3a)	(b) Net loss (line 3b)	(c) Unallowed loss (line 3c)	(d) Gain	(e) Loss
	SEE ATTACHED STATEMENT FOR WORKSHEET 3				
Total. Enter on Form 8582, lines 3a, 3b, and 3c ▶	12.	-2,176.			

Worksheet 4 - Use this worksheet if an amount is shown on Form 8582, line 10 or 14 (See instructions.)

Name of activity	Form or schedule and line number to be reported on (see instructions)	(a) Loss	(b) Ratio	(c) Special allowance	(d) Subtract column (c) from column (a)
Total ▶					

Worksheet 5 - Allocation of Unallowed Losses (See instructions.)

Name of activity	Form or schedule and line number to be reported on (see instructions)	(a) Loss	(b) Ratio	(c) Unallowed loss
	SEE ATTACHED	STATEMENT FOR WORKSHEET 5		
Total ▶		2,164.	1.000000000	2,164.

Worksheet 6 - Allowed Losses (See instructions.)

Name of activity	Form or schedule and line number to be reported on (see instructions)	(a) Loss	(b) Unallowed loss	(c) Allowed loss
	SEE ATTACHED STATEMENT FOR WORKSHEET 6			
Total ▶		22.	22.	

Worksheet 7 - Activities With Losses Reported on Two or More Forms or Schedules (See instructions.)

Name of activity:	(a)	(b)	(c) Ratio	(d) Unallowed loss	(e) Allowed loss
Form or schedule and line number to be reported on (see instructions):					
1a Net loss plus prior year unallowed loss from form or schedule ▶					
b Net income from form or schedule ▶					
c Subtract line 1b from line 1a. If zero or less, enter -0- ▶					
Form or schedule and line number to be reported on (see instructions):					
1a Net loss plus prior year unallowed loss from form or schedule ▶					
b Net income from form or schedule ▶					
c Subtract line 1b from line 1a. If zero or less, enter -0- ▶					
Form or schedule and line number to be reported on (see instructions):					
1a Net loss plus prior year unallowed loss from form or schedule ▶					
b Net income from form or schedule ▶					
	SEE ATTACHED STATEMENT FOR WORKSHEET 7				
c Subtract line 1b from line 1a. If zero or less, enter -0- ▶					
	OVERALL				
Total ▶		2,154.	1.0000000	2,142.	12.

ALTERNATIVE MINIMUM TAX

Form **8582**

Department of the Treasury
Internal Revenue Service (99)

Passive Activity Loss Limitations

▶ See separate instructions.
▶ Attach to Form 1040 or Form 1041.

OMB No. 1545-1008

2011

Attachment Sequence No. **88**

Name(s) shown on return

SHIRLEY BERNSTEIN ESTATE

Identifying number

30-6283128

Part I 2011 Passive Activity Loss

Caution: *Complete Worksheets 1, 2, and 3 before completing Part I.*

Rental Real Estate Activities With Active Participation (For the definition of active participation, see **Special Allowance for Rental Real Estate Activities** in the instructions.)

1a	Activities with net income (enter the amount from Worksheet 1, column (a))	1a		
b	Activities with net loss (enter the amount from Worksheet 1, column (b))	1b		
c	Prior years unallowed losses (enter the amount from Worksheet 1, column (c))	1c		
d	Combine lines 1a, 1b, and 1c		1d	

Commercial Revitalization Deductions From Rental Real Estate Activities

2a	Commercial revitalization deductions from Worksheet 2, column (a)	2a		
b	Prior year unallowed commercial revitalization deductions from Worksheet 2, column (b)	2b		
c	Add lines 2a and 2b		2c	

All Other Passive Activities

3a	Activities with net income (enter the amount from Worksheet 3, column (a))	3a	28.	
b	Activities with net loss (enter the amount from Worksheet 3, column (b))	3b	-1,288.	
c	Prior years unallowed losses (enter the amount from Worksheet 3, column (c))	3c		
d	Combine lines 3a, 3b, and 3c		3d	-1,260.
4	Combine lines 1d, 2c, and 3d. If this line is zero or more, stop here and include this form with your return; all losses are allowed, including any prior year unallowed losses entered on line 1c, 2b, or 3c. Report the losses on the forms and schedules normally used		4	-1,260.

If line 4 is a loss and:
- Line 1d is a loss, go to Part II.
- Line 2c is a loss (and line 1d is zero or more), skip Part II and go to Part III.
- Line 3d is a loss (and lines 1d and 2c are zero or more), skip Parts II and III and go to line 15.

Caution: *If your filing status is married filing separately and you lived with your spouse at any time during the year, do not complete Part II or Part III. Instead, go to line 15.*

Part II Special Allowance for Rental Real Estate Activities With Active Participation

Note: *Enter all numbers in Part II as positive amounts. See instructions for an example.*

5	Enter the **smaller** of the loss on line 1d or the loss on line 4		5	
6	Enter $150,000. If married filing separately, see instructions	6		
7	Enter modified adjusted gross income, but not less than zero (see instructions)	7		
	Note: *If line 7 is greater than or equal to line 6, skip lines 8 and 9, enter -0- on line 10. Otherwise, go to line 8.*			
8	Subtract line 7 from line 6	8		
9	Multiply line 8 by 50% (.5). **Do not** enter more than $25,000. If married filing separately, see instructions		9	
10	Enter the **smaller** of line 5 or line 9		10	

If line 2c is a loss, go to Part III. Otherwise, go to line 15.

Part III Special Allowance for Commercial Revitalization Deductions From Rental Real Estate Activities

Note: *Enter all numbers in Part III as positive amounts. See the example for Part II in the instructions.*

11	Enter $25,000 reduced by the amount, if any, on line 10. If married filing separately, see instructions	11	
12	Enter the loss from line 4	12	
13	Reduce line 12 by the amount on line 10	13	
14	Enter the **smallest** of line 2c (treated as a positive amount), line 11, or line 13	14	

Part IV Total Losses Allowed

15	Add the income, if any, on lines 1a and 3a and enter the total	15	28.
16	**Total losses allowed from all passive activities for 2011.** Add lines 10, 14, and 15. See instructions to find out how to report the losses on your tax return SEE STATEMENT 27	16	28.

ALTERNATIVE MINIMUM TAX

Form 8582 (2011) SHIRLEY BERNSTEIN ESTATE 30-6283128 Page 2

Caution: *The worksheets must be filed with your tax return. Keep a copy for your records.*

Worksheet 1 - For Form 8582, Lines 1a, 1b, and 1c (See instructions.)

Name of activity	Current year		Prior years	Overall gain or loss	
	(a) Net income (line 1a)	(b) Net loss (line 1b)	(c) Unallowed loss (line 1c)	(d) Gain	(e) Loss
Total. Enter on Form 8582, lines 1a, 1b, and 1c ▶					

Worksheet 2 - For Form 8582, Lines 2a and 2b (See instructions.)

Name of activity	(a) Current year deductions (line 2a)	(b) Prior year unallowed deductions (line 2b)	(c) Overall loss
Total. Enter on Form 8582, lines 2a and 2b ▶			

Worksheet 3 - For Form 8582, Lines 3a, 3b, and 3c (See instructions.)

Name of activity	Current year		Prior years	Overall gain or loss	
	(a) Net income (line 3a)	(b) Net loss (line 3b)	(c) Unallowed loss (line 3c)	(d) Gain	(e) Loss
	SEE ATTACHED STATEMENT FOR WORKSHEET 3				
Total. Enter on Form 8582, lines 3a, 3b, and 3c ▶	28.	-1,288.			

Worksheet 4 - Use this worksheet if an amount is shown on Form 8582, line 10 or 14 (See instructions.)

Name of activity	Form or schedule and line number to be reported on (see instructions)	(a) Loss	(b) Ratio	(c) Special allowance	(d) Subtract column (c) from column (a)
Total ▶					

Worksheet 5 - Allocation of Unallowed Losses (See instructions.)

Name of activity	Form or schedule and line number to be reported on (see instructions)	(a) Loss	(b) Ratio	(c) Unallowed loss
	SEE ATTACHED	STATEMENT FOR WORKSHEET	5	
Total ▶		1,276.	1.000000000	1,260.

ALTERNATIVE MINIMUM TAX

Worksheet 6 - Allowed Losses (See instructions.)

Name of activity	Form or schedule and line number to be reported on (see instructions)	(a) Loss	(b) Unallowed loss	(c) Allowed loss
Total ▶				

Worksheet 7 - Activities With Losses Reported on Two or More Forms or Schedules (See instructions.)

Name of activity:	(a)	(b)	(c) Ratio	(d) Unallowed loss	(e) Allowed loss
Form or schedule and line number to be reported on (see instructions):					
1a Net loss plus prior year unallowed loss from form or schedule ▶					
b Net income from form or schedule ▶					
c Subtract line 1b from line 1a. If zero or less, enter -0- ▶					
Form or schedule and line number to be reported on (see instructions):					
1a Net loss plus prior year unallowed loss from form or schedule ▶					
b Net income from form or schedule ▶					
c Subtract line 1b from line 1a. If zero or less, enter -0- ▶					
Form or schedule and line number to be reported on (see instructions):					
1a Net loss plus prior year unallowed loss from form or schedule ▶					
b Net income from form or schedule ▶					
c Subtract line 1b from line 1a. If zero or less, enter -0- ▶	SEE ATTACHED STATEMENT FOR WORKSHEET 7				
Total ▶	OVERALL	1,288.	1.0000000	1,260.	28.

Form 8582 (2011)

119763 12-12-11

17470913 144582 4001350.100 2011.04020 SHIRLEY BERNSTEIN ESTATE 40013501

Form **8903**
(Rev. December 2010)
Department of the Treasury
Internal Revenue Service

Domestic Production Activities Deduction

▶ Attach to your tax return. ▶ See separate instructions.

OMB No. 1545-1984

Attachment Sequence No. **143**

Name(s) as shown on return

SHIRLEY BERNSTEIN ESTATE

Identifying number

30-6283128

			(a) Oil-related production activities	(b) All activities
	Note. Do not complete column (a), unless you have oil-related production activities. Enter amounts for all activities in column (b), including oil-related production activities.			
1	Domestic production gross receipts (DPGR)	1	526.	4,410.
2	Allocable cost of goods sold. If you are using the small business simplified overall method, skip lines 2 and 3	2	6.	2,116.
3	Enter deductions and losses allocable to DPGR (see instructions)	3	520.	2,294.
4	If you are using the small business simplified overall method, enter the amount of cost of goods sold and other deductions or losses you ratably apportion to DPGR. All others, skip line 4	4		
5	Add lines 2 through 4	5	526.	4,410.
6	Subtract line 5 from line 1	6		
7	Qualified production activities income from estates, trusts, and certain partnerships and S corporations (see instructions)	7		
8	Add lines 6 and 7. Estates and trusts, go to line 9, all others, skip line 9 and go to line 10	8		
9	Amount allocated to beneficiaries of the estate or trust (see instructions)	9		
10a	**Oil-related qualified production activities income.** Estates and trusts, subtract line 9, column (a), from line 8, column (a), all others, enter amount from line 8, column (a). If zero or less, enter -0- here	10a	0.	
b	**Qualified production activities income.** Estates and trusts, subtract line 9, column (b), from line 8, column (b), all others, enter amount from line 8, column (b). If zero or less, enter -0- here, skip lines 11 through 21, and enter -0- on line 22	10b		0.
11	Income limitation (see instructions): • Individuals, estates, and trusts. Enter your adjusted gross income figured without the domestic production activities deduction • All others. Enter your taxable income figured without the domestic production activities deduction (tax-exempt organizations, see instructions)	11		
12	Enter the smaller of line 10b or line 11. If zero or less, enter -0- here, skip lines 13 through 21, and enter -0- on line 22	12		
13	Enter 9% of line 12	13		
14a	Enter the smaller of line 10a or line 12	14a		
b	Reduction for oil-related qualified production activities income. Multiply line 14a by 3%	14b		
15	Subtract line 14b from line 13	15		
16	Form W-2 wages (see instructions)	16		
17	Form W-2 wages from estates, trusts, and certain partnerships and S corporations (see instructions)	17		
18	Add lines 16 and 17. Estates and trusts, go to line 19, all others, skip line 19 and go to line 20	18		
19	Amount allocated to beneficiaries of the estate or trust (see instructions)	19		
20	Estates and trusts, subtract line 19 from line 18, all others, enter amount from line 18	20		
21	Form W-2 wage limitation. Enter 50% of line 20	21		
22	Enter the smaller of line 15 or line 21	22		0.
23	Domestic production activities deduction from cooperatives. Enter deduction from Form 1099-PATR, box 6	23		
24	Expanded affiliated group allocation (see instructions)	24		
25	**Domestic production activities deduction.** Combine lines 22 through 24 and enter the result here and on Form 1040, line 35; Form 1120, line 25; or the applicable line of your return	25		

LHA **For Paperwork Reduction Act Notice, see separate instructions.** Form **8903** (Rev. 12-2010)

110911
05-01-11

17470913 144582 4001350.100 2011.04020 SHIRLEY BERNSTEIN ESTATE 40013501

Qualified Production Activity Income Schedule

Name
SHIRLEY BERNSTEIN ESTATE

Identifying Number:
30-6283128

Description	Domestic Production Gross Receipts (DPGR)	DPGR Ratio	Directly Allocable Expenses		Apportioned Expenses	Interest Expense Allocation/ Apportionment			Total Qualified Expenses	Qualified Production Activity Income
			Costs of Goods Sold	Other Costs		Allocable Assets	Assets Ratio	Interest Expense		
TOTALS	0.	#######	0.	0.					9,403.	0.
BERNSTEIN FAMILY INVESTMENTS LLLP	520.	.006834	5.	635.	0.				520.	0.
BERNSTEIN FAMILY INVESTMENTS LLLP	3,848.	.050570	2,154.	1,673.	78.				3,905.	-57.
BERNSTEIN HOLDINGS LLC	6.	.000079	7.	0.	0.				6.	0.
BERNSTEIN HOLDINGS LLC	36.	.000473	15.	23.	0.				36.	0.
NON-QUALIFIED ACTIVITIES	71,682.				0.				0.	
TOTAL	76,092.	1	2,181.	2,331.	78.				13,870.	
TOTAL FROM QUALIFIED ACTIVITIES	4,410.	1	2,181.	2,331.	78.				4,410.	0.

SHIRLEY BERNSTEIN ESTATE 30-6283128

FORM 1041 INTEREST INCOME STATEMENT 1

DESCRIPTION	U. S. INTEREST	OTHER TAXABLE INTEREST
BERNSTEIN FAMILY INVESTMENTS LLLP - ORDINARY INTEREST		20,884.
BERNSTEIN HOLDINGS LLC - ORDINARY INTEREST		204.
SUBTOTALS		21,088.
TOTAL TO FORM 1041, LINE 1		21,088.

FORM 1041 DIVIDEND INCOME STATEMENT 2

DESCRIPTION	U.S. INTEREST	QUALIFYING DIVIDENDS	ORDINARY DIVIDENDS
BERNSTEIN FAMILY INVESTMENTS LLLP		13,154.	4,997.
BERNSTEIN HOLDINGS LLC		129.	55.
SUBTOTALS		13,283.	5,052.
TOTAL TO FORM 1041, LINE 2A			18,335.

FORM 1041 TOTAL AMOUNT DUE OR REFUNDED STATEMENT 3

DESCRIPTION	AMOUNT
BALANCE OF TAX DUE	12,741.
LATE PAYMENT INTEREST	161.
LATE PAYMENT PENALTY	319.
TOTAL AMOUNT DUE OR REFUNDED	13,221.

STATEMENT(S) 1, 2, 3

SHIRLEY BERNSTEIN ESTATE 30-6283128

FORM 1041 MISCELLANEOUS DEDUCTIONS SUBJECT TO FLOOR LIMITATION STATEMENT 4

DESCRIPTION	DIRECT AMOUNT	INDIRECT AMOUNT
DIRECT - BERNSTEIN FAMILY INVESTMENTS LLLP	356.	
DIRECT - BERNSTEIN HOLDINGS LLC	4.	
TOTAL MISC. DEDUCTIONS SUBJ TO FLOOR		360.
LESS 2% AGI 58,342. X .02		1,167.
TOTAL TO FORM 1041, LINE 15B		0.

FORM 1041 NONTAXABLE INTEREST STATEMENT 5

DESCRIPTION	PRINCIPAL	INCOME
BERNSTEIN FAMILY INVESTMENTS LLLP - MUNICIPAL INTEREST, WITHIN STATE		8,509.
BERNSTEIN HOLDINGS LLC - MUNICIPAL INTEREST, WITHIN STATE		84.
SUBTOTALS		8,593.
TOTAL NONTAXABLE INTEREST		8,593.

FORM 1041 LATE PAYMENT INTEREST STATEMENT 6

DESCRIPTION	DATE	AMOUNT	BALANCE	RATE	DAYS	INTEREST
TAX DUE	04/15/12	12,741.	12,741.	.0300	153	161.
COMPOUNDED DAILY RATE FOR 0.0300 FOR 153 DAYS				.0126		
DATE FILED	09/15/12		12,902.			
TOTAL LATE PAYMENT INTEREST						161.

STATEMENT(S) 4, 5, 6

SHIRLEY BERNSTEIN ESTATE 30-6283128

FORM 1041 LATE PAYMENT PENALTY STATEMENT 7

DESCRIPTION	DATE	AMOUNT	BALANCE	MONTHS	PENALTY
TAX DUE	04/15/12	12,741.	12,741.	5	319.
DATE FILED	09/15/12				
TOTAL LATE PAYMENT PENALTY					319.

STATEMENT(S) 7

SHIRLEY BERNSTEIN ESTATE 30-6283128

FORM 1041 QUALIFYING DIVIDENDS STATEMENT 8

	BENEFICIARY	FIDUCIARY
1. TOTAL QUALIFYING DIVIDENDS		13,283.
2. PORTION SPECIFICALLY ALLOCATED		
3. QUALIFIED DIVIDENDS SUBTOTAL		13,283.
4. MULTIPLIED BY ORDINARY INCOME PERCENTAGE		1.0000000
5. TOTAL QUALIFIED DIVIDENDS INCLUDING ATTRIBUTABLE ESTATE TAX	0.	13,283.
6. LESS ATTRIBUTABLE ESTATE TAX (FIDUCIARY ONLY)		
TOTAL QUALIFYING DIVIDENDS		13,283.

STATEMENT(S) 8

SHIRLEY BERNSTEIN ESTATE 30-6283128

SCHEDULE I PASSIVE ACTIVITY LOSS STATEMENT 9

NAME OF ACTIVITY	FORM	NET INCOME (LOSS) AMT	NET INCOME (LOSS) REGULAR	ADJUSTMENT
BERNSTEIN FAMILY INVESTMENTS LLLP	FORM 4797	12.	12.	
BERNSTEIN FAMILY INVESTMENTS LLLP	SCH E	-28.	-12.	-16.
BERNSTEIN HOLDINGS LLC	SCH E	16.		16.
TOTAL TO SCHEDULE I, LINE 15				0.

SHIRLEY BERNSTEIN ESTATE 30-6283128

SCHEDULE I ADJUSTED TAX-EXEMPT INTEREST ALTERNATIVE MINIMUM TAX STATEMENT 10

ALLOCATION OF INDIRECT EXPENSES TO AMT TAX-EXEMPT INTEREST

1. TOTAL TAX-EXEMPT INTEREST (EXCLUDING PRIVATE ACTIVITY BONDS)	8,166.
2. GROSS INCOME (INCLUDING PRIVATE ACTIVITY BONDS)	39,887.
3. NET CAPITAL GAINS	
4. TOTAL GROSS INCOME (LINES 1 AND 2)	48,053.
5. ALLOCATION RATIO (LINE 1 / LINE 4)	.169937361
TOTAL INDIRECT SECTION 212 EXPENSES	
RATIO ATTRIBUTABLE TO TAX-EXEMPT	X .169937361
INDIRECT SECTION 212 EXPENSES ALLOCABLE TO TAX-EXEMPT	
ADJUSTED AMT TAX-EXEMPT INTEREST	
TOTAL TAX-EXEMPT	8,593.
LESS: PRIVATE ACTIVITY BONDS	427.
CHARITABLE CONTRIBUTION ATTRIBUTABLE TO TAX-EXEMPT	
EXPENSES DIRECTLY ATTRIBUTABLE TO TAX-EXEMPT	
INDIRECT SEC 212 EXPENSES ATTRIBUTABLE TO TAX-EXEMPT	
TOTAL TO SCHEDULE I, LINE 31	8,166.

SCHEDULE D NET SHORT-TERM GAIN OR LOSS FROM PARTNERSHIPS, S CORPORATIONS, AND FIDUCIARIES STATEMENT 11

DESCRIPTION OF ACTIVITY	GAIN OR LOSS
BERNSTEIN FAMILY INVESTMENTS LLLP	-1,133.
BERNSTEIN HOLDINGS LLC	-11.
TOTAL TO SCHEDULE D, PART I, LINE 3	-1,144.

SCHEDULE D NET LONG-TERM GAIN OR LOSS FROM PARTNERSHIPS, S CORPORATIONS, AND FIDUCIARIES STATEMENT 12

DESCRIPTION OF ACTIVITY	GAIN OR LOSS	28% GAIN
BERNSTEIN FAMILY INVESTMENTS LLLP	20,425.	
BERNSTEIN HOLDINGS LLC	201.	
TOTAL TO SCHEDULE D, PART II, LINE 8	20,626.	

SHIRLEY BERNSTEIN ESTATE 30-6283128

FORM 4952 INVESTMENT INTEREST EXPENSE STATEMENT 13

DESCRIPTION	AMOUNT
BERNSTEIN FAMILY INVESTMENTS LLLP	22.
TOTAL TO FORM 4952, LINE 1	22.

FORM 4952 GROSS INVESTMENT INCOME STATEMENT 14

DESCRIPTION	AMOUNT
INTEREST INCOME	21,088.
DIVIDEND INCOME	18,335.
FROM - BERNSTEIN FAMILY INVESTMENTS LLLP - ROYALTY	36.
FROM - BERNSTEIN HOLDINGS LLC - ROYALTY	1.
TOTAL TO FORM 4952, LINE 4A	39,460.

FORM 4952 NET CAPITAL GAIN FROM THE DISPOSITION OF PROPERTY HELD FOR INVESTMENT STATEMENT 15

DESCRIPTION	AMOUNT
GAIN OR LOSS FROM PASSTHROUGH ACTIVITIES	20,626.
LESS SHORT-TERM CAPITAL LOSS	-1,144.
TOTAL TO FORM 4952, LINE 4E	19,482.

SHIRLEY BERNSTEIN ESTATE 30-6283128

FORM 1116 SUMMARY OF FOREIGN TAXES PAID OR ACCRUED STATEMENT 16

PASSIVE INCOME

DATE PAID	DATE ACCRUED	TAX STATED IN FOREIGN CURRENCY	TAX STATED IN U.S. DOLLARS DIVIDEND	RENT/ROYALTY	INTEREST	OTHER
OTHER COUNTRIES		0.				80.
OTHER COUNTRIES		0.				1.
						81.
TOTAL TO FORM 1116, PART II, LINE 8						81.

FORM 1116 EXPENSES DIRECTLY ALLOCABLE TO FOREIGN INCOME STATEMENT 17

DESCRIPTION	COUNTRY	AMOUNT
BERNSTEIN FAMILY INVESTMENTS LLLP	OTHER COUNTRIES	322.
TOTAL TO FORM 1116, LINE 2		322.

SHIRLEY BERNSTEIN ESTATE 30-6283128

FORM 1116 WORKSHEET FOR LINE 18 (WORLDWIDE CAPITAL GAINS) STATEMENT 18

1.	ENTER THE TAXABLE INCOME BEFORE THE EXEMPTION DEDUCTION			58,920.
2.	ENTER YOUR WORLDWIDE 28% GAINS			
3.	MULTIPLY LINE 2 BY 0.2000			
4.	ENTER YOUR WORLDWIDE 25% GAINS			
5.	MULTIPLY LINE 4 BY 0.2857			
6.	ENTER YOUR WORLDWIDE 15% GAINS	32,777.		
7.	MULTIPLY LINE 6 BY 0.5714		18,729.	
8.	ENTER YOUR WORLDWIDE 0% GAINS			
9.	ADD LINES 3, 5, 7 AND 8			18,729.
10.	SUBTRACT LINE 9 FROM LINE 1. ENTER THE RESULT HERE AND ON FORM 1116, LINE 18			40,191.

SHIRLEY BERNSTEIN ESTATE 30-6283128

FORM 8582 OTHER PASSIVE ACTIVITIES - WORKSHEET 3 STATEMENT 19

NAME OF ACTIVITY	CURRENT YEAR NET INCOME	CURRENT YEAR NET LOSS	PRIOR YEAR UNALLOWED LOSS	OVERALL GAIN OR LOSS GAIN	OVERALL GAIN OR LOSS LOSS
BERNSTEIN FAMILY INVESTMENTS LLLP	12.	-2,154.			-2,142.
BERNSTEIN HOLDINGS LLC	0.	-22.			-22.
TOTALS	12.	-2,176.			-2,164.

FORM 8582 ALLOCATION OF UNALLOWED LOSSES - WORKSHEET 5 STATEMENT 20

NAME OF ACTIVITY	FORM OR SCHEDULE	LOSS	RATIO	UNALLOWED LOSS
BERNSTEIN FAMILY INVESTMENTS LLLP	SCH E	2,142.	.989833641	2,142.
BERNSTEIN HOLDINGS LLC	SCH E	22.	.010166359	22.
TOTALS		2,164.	1.000000000	2,164.

FORM 8582 ALLOWED LOSSES - WORKSHEET 6 STATEMENT 21

NAME OF ACTIVITY	FORM OR SCHEDULE	LOSS	UNALLOWED LOSS	ALLOWED LOSS
BERNSTEIN HOLDINGS LLC	SCH E	22.	22.	
TOTALS		22.	22.	

SHIRLEY BERNSTEIN ESTATE 30-6283128

FORM 8582 ACTIVITIES WITH LOSSES REPORTED ON 2 OR MORE DIFFERENT FORMS OR SCHEDULES - WORKSHEET 7 STATEMENT 22

GROUP NO.	NAME	FORM OR SCHEDULE NET LOSS	FORM OR SCHEDULE NET GAIN	OVERALL LOSS	RATIO	UNALLOWED LOSS	ALLOWED LOSS
1	BERNSTEIN FAMILY INVESTMENTS	0.	12.	0.	.000000000	0.	0.
1	BERNSTEIN FAMILY INVESTMENTS	2,154.	0.	2,154.	1.000000000	2,142.	12.
				2,154.	1.000000000	2,142.	12.

FORM 8582 SUMMARY OF PASSIVE ACTIVITIES STATEMENT 23

RREA	NAME	FORM OR SCHEDULE	GAIN/LOSS	PRIOR YEAR C/O	NET GAIN/LOSS	UNALLOWED LOSS	ALLOWED LOSS
	BERNSTEIN FAMILY INVESTMENTS LLLP	FORM 4797	12.		12.		
	BERNSTEIN FAMILY INVESTMENTS LLLP	SCH E	-2,154.		-2,154.	2,142.	12.
	BERNSTEIN HOLDINGS LLC	SCH E	-22.		-22.	22.	
TOTALS			-2,164.		-2,164.	2,164.	12.

PRIOR YEAR CARRYOVERS ALLOWED DUE TO CURRENT YEAR NET ACTIVITY INCOME

TOTAL TO FORM 8582, LINE 16 12.

SHIRLEY BERNSTEIN ESTATE 30-6283128

FORM 8582 ALTERNATIVE MINIMUM TAX STATEMENT 24
OTHER PASSIVE ACTIVITIES - WORKSHEET 3

NAME OF ACTIVITY	CURRENT YEAR NET INCOME	CURRENT YEAR NET LOSS	PRIOR YEAR UNALLOWED LOSS	OVERALL GAIN OR LOSS GAIN	OVERALL GAIN OR LOSS LOSS
BERNSTEIN FAMILY INVESTMENTS LLLP	12.	-1,288.			-1,276.
BERNSTEIN HOLDINGS LLC	16.	0.		16.	
TOTALS	28.	-1,288.		16.	-1,276.

FORM 8582 ALTERNATIVE MINIMUM TAX STATEMENT 25
ALLOCATION OF UNALLOWED LOSSES - WORKSHEET 5

NAME OF ACTIVITY	FORM OR SCHEDULE	LOSS	RATIO	UNALLOWED LOSS
BERNSTEIN FAMILY INVESTMENTS LLLP	SCH E	1,276.	1.000000000	1,260.
TOTALS		1,276.	1.000000000	1,260.

FORM 8582 ALTERNATIVE MINIMUM TAX STATEMENT 26
ACTIVITIES WITH LOSSES REPORTED ON 2 OR MORE DIFFERENT FORMS OR SCHEDULES - WORKSHEET 7

GROUP NO.	NAME	FORM OR SCHEDULE NET LOSS	FORM OR SCHEDULE NET GAIN	OVERALL LOSS	RATIO	UNALLOWED LOSS	ALLOWED LOSS
1	BERNSTEIN FAMILY INVESTMENTS	0.	12.	0.	.000000000	0.	0.
1	BERNSTEIN FAMILY INVESTMENTS	1,288.	0.	1,288.	1.000000000	1,260.	28.
				1,288.	1.000000000	1,260.	28.

SHIRLEY BERNSTEIN ESTATE 30-6283128

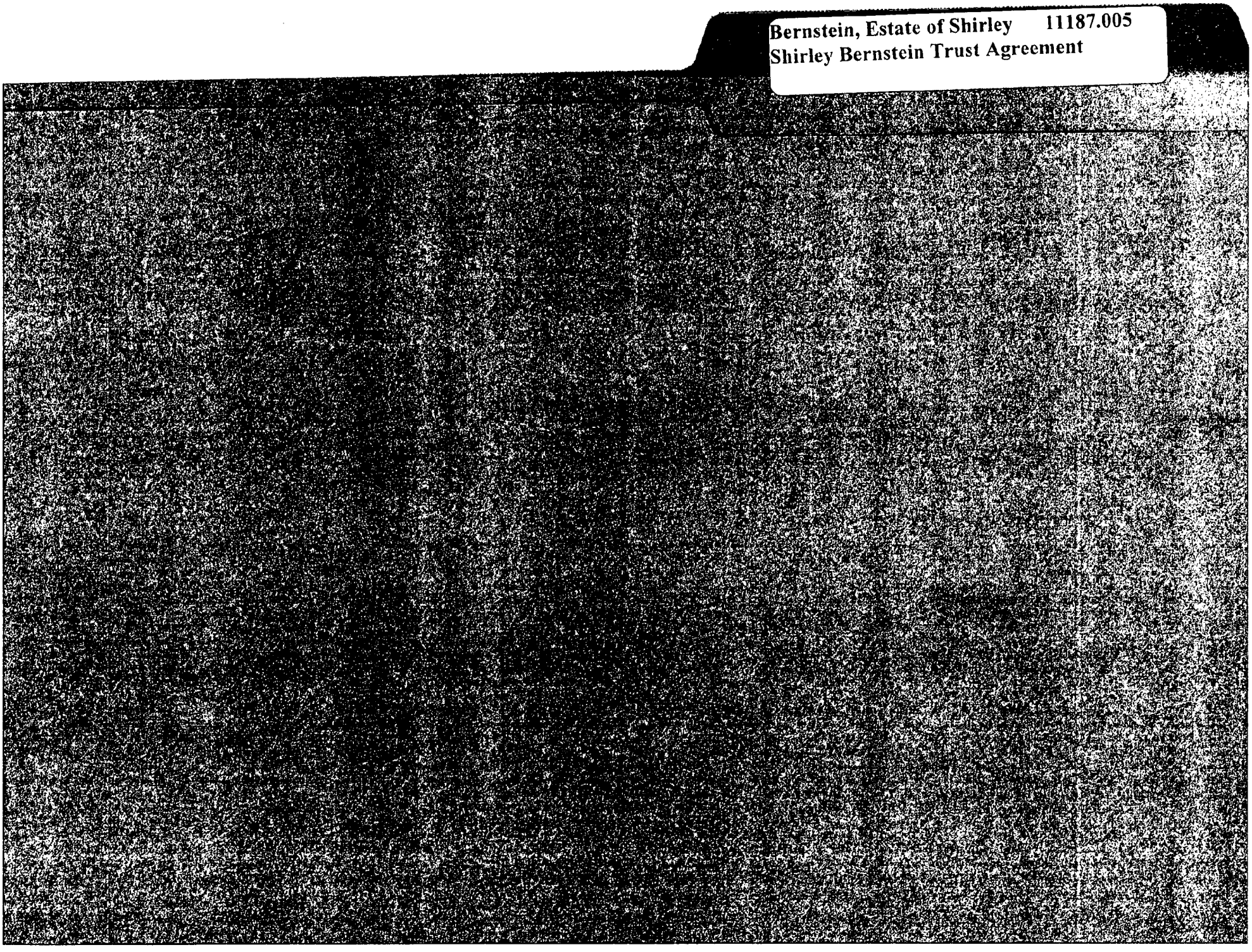
FORM 8582AMT SUMMARY OF PASSIVE ACTIVITIES - AMT STATEMENT 27

R R E A - NAME	FORM OR SCHEDULE	GAIN/LOSS	PRIOR YEAR C/O	NET GAIN/LOSS	UNALLOWED LOSS	ALLOWED LOSS
BERNSTEIN FAMILY INVESTMENTS LLLP	FORM 4797	12.		12.		
BERNSTEIN FAMILY INVESTMENTS LLLP	SCH E	-1,288.		-1,288.	1,260.	28.
BERNSTEIN HOLDINGS LLC	SCH E	16.		16.		
TOTALS		-1,260.		-1,260.	1,260.	28.

PRIOR YEAR CARRYOVERS ALLOWED DUE TO CURRENT YEAR NET ACTIVITY INCOME

TOTAL TO FORM 8582AMT, LINE 16 28.

TS002074


Bernstein, Estate of Shirley 11187.005
Shirley Bernstein Trust Agreement

Bernstein, Estate of Shirley 11187.005
Correspondence

Kimberly Moran

From: Kimberly Moran
Sent: Friday, December 27, 2013 10:44 AM
To: 'tbernstein@lifeinsuranceconcepts.com'
Cc: Robert Spallina; 'Lindsay Giles'
Subject: Shirley Bernstein Trust - IRS notice



DOC122713.pdf
(226 KB)

Hi Ted -

Attached is a copy of the IRS notice regarding the Shirley Bernstein Trust filing as an Estate under Section 645. Robert has advised for you to go ahead and pay the fees.

If you have any questions, please do not hesitate to contact us.

I wish you and your family a very Happy New Year!

Best regards,

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

IRS Department of the Treasury
Internal Revenue Service

OGDEN UT 84201-0038

SHIRLEY BERNSTEIN TR FILING AS AN
ESTATE UNDER SECTION 645
TED BERNSTEIN TTEE
880 BERKELEY ST
BOCA RATON FL 33487-2450

CUT OUT AND RETURN THE VOUCHER AT THE BOTTOM OF THIS PAGE IF YOU ARE MAKING A PAYMENT, EVEN IF YOU ALSO HAVE AN INQUIRY.

7

The IRS address must appear in the window.

0435542599

BODCD-SB

Use for payments

Letter Number: LTR0369C
Letter Date : 2013-11-27
Tax Period : 201212

466235212

SHIRLEY BERNSTEIN TR FILING AS AN
ESTATE UNDER SECTION 645
TED BERNSTEIN TTEE
880 BERKELEY ST
BOCA RATON FL 33487-2450

INTERNAL REVENUE SERVICE

OGDEN UT 84201-0038

466235212 BC SHIR 05 2 201212 670 00000000000

IRS Department of the Treasury
Internal Revenue Service

OGDEN UT 84201-0038

In reply refer to: 0435542599
Nov. 27, 2013 LTR 369C 1
46-6235212 201212 05
00010778
BODC: SB

SHIRLEY BERNSTEIN TR FILING AS AN
ESTATE UNDER SECTION 645
TED BERNSTEIN TTEE
880 BERKELEY ST
BOCA RATON FL 33487-2450

Taxpayer Identification Number: 46-6235212
Tax Period(s): Dec. 31, 2012

Form: 1041

Dear Taxpayer:

In reviewing the account shown above, we find that you didn't pay estimated tax as the law requires. Therefore, we are charging you an estimated tax penalty of $440.34.

In general, at least 90 percent (80 percent prior to 1987) of the income and self-employment tax shown on a return must have been prepaid by either having tax withheld from wages, sick pay, pension or annuity income, or paying estimated tax, or a combination of both. Also, we won't charge a penalty if we receive timely payments equaling 100 percent of the previous year's tax. Estimated tax payments are due in four installments; at least 22 1/2 percent (20 percent before December 31, 1987) of the total tax must be paid by the 15th day of the 4th, 6th, and 9th month of the tax year, and the 1st month of the following tax year. If an installment is underpaid, we charge a penalty on the amount of the underpayment. If an installment is late, we may charge a penalty also. If you don't receive your taxable income evenly throughout the year, it may be to your benefit to figure your required installment using the annualized income installment method.

If you use the annualized income installment method, complete Form 2210. Be sure to check box C, Part II, and complete Schedule AI. We are enclosing Form 2210 for your convenience.

If you do not agree with the assessed penalty, please complete the enclosed Form 2210 and return it to us in the enclosed envelope. We have enclosed a detailed penalty computation for your review.

You should receive a notice in four to six weeks reflecting the current status of your account.

If you have any questions, please call us toll free at 1-800-829-0115.

If you prefer, you may write to us at the address shown at the top of the first page of this letter.

0435542599
Nov. 27, 2013 LTR 369C 1
46-6235212 201212 05
00010779

SHIRLEY BERNSTEIN TR FILING AS AN
ESTATE UNDER SECTION 645
TED BERNSTEIN TTEE
880 BERKELEY ST
BOCA RATON FL 33487-2450

Whenever you write, please include this letter and, in the spaces below, give us your telephone number with the hours we can reach you. Keep a copy of this letter for your records.

Telephone Number ( )_____ Hours_____

We apologize for any inconvenience we may have caused you.

Sincerely yours,

Ginni L. Redfern
Program Manager, AM OPS 1

Enclosure(s):
Copy of this letter
Envelope
Penalty and/or Interest Computation
Form 2210 and Instructions
Publication 505

Form **2210**

Department of the Treasury
Internal Revenue Service

Underpayment of Estimated Tax by Individuals, Estates, and Trusts

▶ See separate instructions.
▶ Attach to Form 1040, 1040A, 1040NR, 1040NR-EZ, or 1041.

OMB No. 1545-0140

2012

Attachment Sequence No. **06**

Name(s) shown on tax return: SHIRLEY BERNSTEIN TR FILING AS AN

Identifying number: **-***5212

Do You Have To File Form 2210?

Complete lines 1 through 7 below. Is line 7 less than $1,000?
- Yes → **Do not file Form 2210.** You do not owe a penalty.
- No → Complete lines 8 and 9 below. Is line 6 equal to or more than line 9?
  - Yes → You do not owe a penalty. **Do not file Form 2210** (but if box **E** below applies, you must file page 1 of Form 2210 below).
  - No → You may owe a penalty. Does any box in Part II below apply?
    - Yes → You **must** file Form 2210. Does box **B, C,** or **D** apply?
      - Yes → You must figure your penalty.
      - No → You are **not** required to figure your penalty because the IRS will figure it and send you a bill for any unpaid amount. If you want to figure it, you may use Part III or Part IV as a worksheet and enter your penalty amount on your tax return, but **file only page 1 of Form 2210.**
    - No → **Do not file Form 2210.** You are not required to figure your penalty because the IRS will figure it and send you a bill for any unpaid amount. If you want to figure it, you may use Part III or Part IV as a worksheet and enter your penalty amount on your tax return (see page 2 of the instructions), but **do not File Form 2210.**

Part I Required Annual Payment

1	Enter your 2012 tax after credits from Form 1040, line 55 (see instructions if not filing Form 1040)		1	38,729
2	Other taxes, including self-employment tax (see page 2 of the instructions)		2	0
3	Refundable credits (see instructions)		3	(0)
4	Current year tax. Combine lines 1, 2, and 3. If less than $1000, **stop;** you do not owe a penalty. **Do not file Form 2210**		4	38,729
5	Multiply line 4 by 90% (.90)	5 34,856		
6	Withholding taxes. **Do not** include estimated tax payments. See page 3 of the instructions		6	0
7	Subtract line 6 from line 4. If less than $1,000, **stop;** you do not owe a penalty. **Do not** file Form 2210		7	38,729
8	Maximum required annual payment based on prior year's tax (see instructions)		8	0
9	**Required annual payment.** Enter the **smaller** of line 5 or line 8		9	34,856

Next: Is line 9 more than line 6?

- ☐ **No.** You **do not** owe a penalty. **Do not** file Form 2210 unless box **E** below applies.
- ☒ **Yes.** You may owe a penalty, but **do not** file Form 2210 unless one or more boxes in Part II below applies.
  - If box **B, C,** or **D** applies, you must figure your penalty and file Form 2210.
  - If box **A** or **E** applies (but not **B, C,** or **D**), file only page 1 of Form 2210. You are **not** required to figure your penalty; the IRS will figure it and send you a bill for any unpaid amount. If you want to figure your penalty, you may use Part III or IV as a worksheet and enter your penalty on your tax return, but **file only page 1 of Form 2210.**

Part II Reasons for Filing. Check applicable boxes. If none apply, **do not** file Form 2210.

- **A** ☐ You request a **waiver** (see instructions) of your entire penalty. You must check this box and file page 1 of Form 2210, but you are not required to figure your penalty.
- **B** ☐ You request a waiver (see instructions) of part of your penalty. You must figure your penalty and waiver amount and file Form 2210.
- **C** ☐ Your income varied during the year and your penalty is reduced or eliminated when figured using the **annualized income installment method.** You must figure the penalty using Schedule AI and file Form 2210.
- **D** ☐ Your penalty is lower when figured by treating the Federal income tax withheld from your wages as paid on the dates it was actually withheld, instead of in equal amounts on the payment due dates. You must figure your penalty and file Form 2210.
- **E** ☐ You filed or are filing a joint return for either 2011 or 2012, but not for both years, and line 8 above is smaller than line 5 above. You must file page 1 of Form 2210, but you are **not** required to figure your penalty (unless box **B, C,** or **D** applies).

Part IV Regular Method (See the instructions if you are filing Form 1040NR or 1040NR-EZ.)

Section A --Figure Your Underpayment		Payment Due Dates (a) 4/15/12	(b) 6/15/12	(c) 9/15/12	(d) 1/15/13
18 **Required installments.** If box C in Part II applies, enter the amounts from Schedule AI, line 25. Otherwise, enter 25% (.25) of line 9, Form 2210, in each column	18	8,714	8,714	8,714	8,714
19 Estimated tax paid and tax withheld (see page 3 of the instructions). For column (a) only, also enter the amount from line 19 on line 23. If line 19 is equal to or more than line 18 for all payment periods, stop here; you do not owe a penalty. **Do not file Form 2210 unless you checked a box in Part II**	19	0	0	0	0
Complete lines 20 through 26 of one column before going to the next column.					
20 Enter the amount, if any, from line 26 in previous column	20		0	0	0
21 Add lines 19 and 20	21		0	0	0
22 Add the amounts on line 24 and 25 in previous column	22		8,714	17,428	26,142
23 Subtract line 22 from line 21. If zero or less, enter -0-. For column (a) only, enter the amount from line 19	23	0	0	0	0
24 If line 23 is zero, subtract line 21 from line 22. Otherwise, enter -0-	24		8,714	17,428	
25 **Underpayment.** If line 18 is equal to or more than line 23, subtract line 23 from line 18. Then go to line 20 of the next column. Otherwise, go to line 26 ▶	25	8,714	8,714	8,714	8,714
26 Overpayment. If line 23 is more than line 18, subtract line 18 from line 23. Then go to line 20 of the next column.	26	0	0	0	

Section B -- Figure the Penalty (Use the Worksheet for form 2210, Part IV, Section B - Figure the Penalty in the instructions.)

27 **Penalty.** Enter the total penalty from line 14 of the Worksheet for Form 2210, Part IV, Section B - Figure the Penalty. Also include this amount on Form 1040, line 77; Form 1040A, line 46; Form 1040NR, line 74; Form 1040NR-EZ, line 26; or Form 1041, line 26. **Do not file Form 2210 unless you checked a box in Part II** ▶	27	

Supplemental Form 2210 Calculations

-*5212 - SHIRLEY BERNSTEIN TR FILING AS AN Tax Period: 2012/12

Part IV Regular Method Section B - Figure the Penalty (Form 2210)

Installment Period 1

Due Date	Amount Due	Payment Amount	Paid Date	Rate	From Date	To Date	Days	Penalty Amount
04/15/2012	8,714.03	8,714.03	04/15/2013	3.00%	04/15/2012	06/30/2012	76	54.28
				3.00%	07/01/2012	09/30/2012	92	65.71
				3.00%	10/01/2012	12/31/2012	92	65.71
				3.00%	01/01/2013	03/31/2013	90	64.46
				3.00%	04/01/2013	04/15/2013	15	10.74

Installment Period 2

Due Date	Amount Due	Payment Amount	Paid Date	Rate	From Date	To Date	Days	Penalty Amount
06/15/2012	8,714.02	8,714.02	04/15/2013	3.00%	06/15/2012	06/30/2012	15	10.71
				3.00%	07/01/2012	09/30/2012	92	65.71
				3.00%	10/01/2012	12/31/2012	92	65.71
				3.00%	01/01/2013	03/31/2013	90	64.46
				3.00%	04/01/2013	04/15/2013	15	10.74

Installment Period 3

Due Date	Amount Due	Payment Amount	Paid Date	Rate	From Date	To Date	Days	Penalty Amount
09/15/2012	8,714.03	8,714.03	04/15/2013	3.00%	09/15/2012	09/30/2012	15	10.71
				3.00%	10/01/2012	12/31/2012	92	65.71
				3.00%	01/01/2013	03/31/2013	90	64.46
				3.00%	04/01/2013	04/15/2013	15	10.74

Installment Period 4

Due Date	Amount Due	Payment Amount	Paid Date	Rate	From Date	To Date	Days	Penalty Amount
01/15/2013	8,714.02	8,714.02	04/15/2013	3.00%	01/15/2013	03/31/2013	75	53.72
				3.00%	04/01/2013	04/15/2013	15	10.74

Total Penalty **694.34**

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IRS Department of the Treasury
Internal Revenue Service

OGDEN UT 84201-0038

In reply refer to: 0435542599
Nov. 27, 2013 LTR 369C 1
46-6235212 201212 05
00010778
BODC: SB

SHIRLEY BERNSTEIN TR FILING AS AN
ESTATE UNDER SECTION 645
TED BERNSTEIN TTEE
880 BERKELEY ST
BOCA RATON FL 33487-2450

Taxpayer Identification Number: 46-6235212
Tax Period(s): Dec. 31, 2012

Form: 1041

Dear Taxpayer:

In reviewing the account shown above, we find that you didn't pay estimated tax as the law requires. Therefore, we are charging you an estimated tax penalty of $440.34.

In general, at least 90 percent (80 percent prior to 1987) of the income and self-employment tax shown on a return must have been prepaid by either having tax withheld from wages, sick pay, pension or annuity income, or paying estimated tax, or a combination of both. Also, we won't charge a penalty if we receive timely payments equaling 100 percent of the previous year's tax. Estimated tax payments are due in four installments; at least 22 1/2 percent (20 percent before December 31, 1987) of the total tax must be paid by the 15th day of the 4th, 6th, and 9th month of the tax year, and the 1st month of the following tax year. If an installment is underpaid, we charge a penalty on the amount of the underpayment. If an installment is late, we may charge a penalty also. If you don't receive your taxable income evenly throughout the year, it may be to your benefit to figure your required installment using the annualized income installment method.

If you use the annualized income installment method, complete Form 2210. Be sure to check box C, Part II, and complete Schedule AI. We are enclosing Form 2210 for your convenience.

If you do not agree with the assessed penalty, please complete the enclosed Form 2210 and return it to us in the enclosed envelope. We have enclosed a detailed penalty computation for your review.

You should receive a notice in four to six weeks reflecting the current status of your account.

If you have any questions, please call us toll free at 1-800-829-0115.

If you prefer, you may write to us at the address shown at the top of the first page of this letter.

0435542599
Nov. 27, 2013 LTR 369C 1 *
46-6235212 201212 05
00010779

SHIRLEY BERNSTEIN TR FILING AS AN
ESTATE UNDER SECTION 645
TED BERNSTEIN TTEE
880 BERKELEY ST
BOCA RATON FL 33487-2450

Whenever you write, please include this letter and, in the spaces below, give us your telephone number with the hours we can reach you. Keep a copy of this letter for your records.

Telephone Number ( )_____ Hours_____

We apologize for any inconvenience we may have caused you.

Sincerely yours,

Ginni L. Redfern
Program Manager, AM OPS 1

Enclosure(s):
Copy of this letter
Envelope
Penalty and/or Interest Computation
Form 2210 and Instructions
Publication 505

LAW OFFICES
TESCHER & SPALLINA, P.A.

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

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

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

SUPPORT STAFF
DIANE DUSTIN
KIMBERLY MORAN
SUANN TESCHER

November 7, 2013

VIA U.S. MAIL
Chris Prindle, V.P.
JP Morgan
2 S. Biscayne Blvd.
Floor 22
Miami, FL 33131

Re: Estate of Shirley Bernstein

Dear Chris:

Enclosed is a U.S. Treasury check payable to the Estate of Shirley Bernstein in the amount of $267.39. We are also enclosing a copy of the Successor Letters of Administration which reopened the Estate on October 29, 2013, and a copy of the death certificate of Mrs. Bernstein for your use in opening the estate account.

If you have any questions, please do not hesitate to contact me.

Sincerely,

ROBERT L. SPALLINA

RLS/km

Enclosures



United States Treasury 15-51 000 $ 699,573,637

Check No.

02 26 13 99 SAN FRANCISCO, CA 3158 47513028

3158 47513028 20092900 I05 2BERN OGDEN F-1041 REF

Pay to the order of

SHIRLEY BERNSTEIN ESTATE
TED BERNSTEIN EX
7020 LIONS HEAD LN
BOCA RATON FL 33496-5931

12/11
28

$****267*39

VOID AFTER ONE YEAR

REGIONAL DISBURSING OFFICER

454

043269

3128 2.21 INTEREST 100 DAYS

⑈3158⑈ ⑆000000518⑆ 475130282⑈ 050213

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

In Re: The Estate of Probate Division

SHIRLEY BERNSTEIN, File #: 502011CP000653XXXXSB

Decedent.
_____/

13 OCT 29 AM 9:56

SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH-FILED

SUCCESSOR
LETTERS OF ADMINISTRATION

TO ALL WHOM IT MAY CONCERN

WHEREAS, Shirley Bernstein, a resident of Palm Beach County, died on December 8, 2010, owning assets in the State of Florida, and

WHEREAS, Ted S. Bernstein, has been appointed as Successor Personal Representative of the estate of the decedent and have performed all acts prerequisite to issuance of Letters of Administration in the estate,

NOW, THEREFORE, I, the undersigned circuit judge, declare Ted S. Bernstein duly qualified under the laws of the State of Florida to act as personal representative of the estate of Shirley Bernstein, deceased, with full power to administer the estate according to law; to ask, demand, sue for, recover and receive the property of the decedent; to pay the debts of the decedent as far as the assets of the estate will permit and the law directs; and to make distribution of the estate according to law.

DONE and ORDERED in West Palm Beach, Palm Beach County, FL, on 10/29, 2013.

_____
Circuit Judge

STATE OF FLORIDA - PALM BEACH COUNTY
I hereby certify that the foregoing is a true copy as recorded in my office and the same is in full force and effect.
THIS 29 DAY OF OCT 2013
SHARON R. BOCK
CLERK & COMPTROLLER
By _____
DEPUTY CLERK

STATE OF FLORIDA

OFFICE of VITAL STATISTICS

CERTIFIED COPY

TYPE IN PERMANENT BLACK INK

LOCAL FILE NO. 6010-12823

FLORIDA CERTIFICATE OF DEATH

VOID IF ALTERED OR ERASED

DEMOGRAPHIC INFORMATION TO BE COMPLETED BY FUNERAL DIRECTOR

1. DECEDENT'S NAME (First, Middle, Last, Suffix): Shirley Bernstein
2. SEX: Female
3. DATE OF BIRTH (Month, Day, Year): June 29, 1939
4a. AGE-Last Birthday (Years): 71
4b. UNDER 1 YEAR: Months / Days
4c. UNDER 1 DAY: Hours / Minutes
5. DATE OF DEATH (Month, Day, Year): December 8, 2010
6. SOCIAL SECURITY NUMBER: 347-30-9749
7. BIRTHPLACE (City and State or Foreign Country): Chicago, Illinois
8. COUNTY OF DEATH: Palm Beach
9. PLACE OF DEATH (Check only one): HOSPITAL: ___ Inpatient X Emergency Room/Outpatient ___ Dead on Arrival; NON-HOSPITAL: ___ Hospice Facility ___ Nursing Home/Long Term Care Facility ___ Decedent's Home ___ Other (Specify)
10. FACILITY NAME (If not institution, give street address): Boca Raton Regional Hospital
11a. CITY, TOWN, OR LOCATION OF DEATH: Boca Raton
11b. INSIDE CITY LIMITS? X Yes ___ No
12. MARITAL STATUS (Specify): X Married ___ Married, but Separated ___ Widowed ___ Divorced ___ Never Married
13. SURVIVING SPOUSE'S NAME (If wife, give maiden name): Simon Bernstein
14a. RESIDENCE - STATE: Florida
14b. COUNTY: Palm Beach
14c. CITY, TOWN, OR LOCATION: Boca Raton
14d. STREET ADDRESS: 7020 Lions Head Lane
14e. APT. NO.:
14f. ZIP CODE: 33496
14g. INSIDE CITY LIMITS? ___ Yes X No
15a. DECEDENT'S USUAL OCCUPATION (Indicate type of work done during most of working life.) Do not use "Retired": Homemaker
15b. KIND OF BUSINESS/INDUSTRY: Own Home
16. DECEDENT'S RACE (Specify the race/races to indicate what decedent considered himself/herself to be. More than one race may be specified.): X White ___ Black or African American ___ American Indian or Alaskan Native (Specify tribe) ___ Asian Indian ___ Chinese ___ Filipino ___ Japanese ___ Korean ___ Vietnamese ___ Other Asian (Specify) ___ Native Hawaiian ___ Guamanian or Chamorro ___ Samoan ___ Other Pacific Isl. (Specify) ___ Other (Specify)
17. DECEDENT OF HISPANIC OR HAITIAN ORIGIN? (Specify if decedent was of Hispanic or Haitian Origin.) ___ Yes (If Yes, specify) X No ___ Mexican ___ Puerto Rican ___ Cuban ___ Central/South American ___ Other Hispanic (Specify) ___ Haitian
18. DECEDENT'S EDUCATION (Specify the decedent's highest degree or level of school completed at time of death.): ___ 8th or less ___ High school but no diploma X High school diploma or GED ___ College but no degree ___ College degree (Specify): ___ Associate ___ Bachelor's ___ Master's ___ Doctorate
19. WAS DECEDENT EVER IN U.S. ARMED FORCES? ___ Yes X No
20. FATHER'S NAME (First, Middle, Last, Suffix): Ennio Thomas
21. MOTHER'S NAME (First, Middle, Maiden Surname): Fae Povitsky
22a. INFORMANT'S NAME: Simon Bernstein
22b. RELATIONSHIP TO DECEDENT: Husband
23a. INFORMANT'S MAILING - STATE: Florida
23b. CITY OR TOWN: Boca Raton
23c. STREET ADDRESS: 7020 Lions Head Lane
23d. ZIP CODE: 33496
24. PLACE OF DISPOSITION (Name of cemetery, crematory, or other place): Gardens Memorial Park
25a. LOCATION - STATE: Florida
25b. LOCATION - CITY OR TOWN: Boca Raton
26a. METHOD OF DISPOSITION: ___ Burial X Entombment ___ Cremation ___ Donation ___ Removal from State ___ Other (Specify)
26b. IF CREMATION, DONATION OR BURIAL AT SEA, WAS MEDICAL EXAMINER APPROVAL GRANTED? ___ Yes ___ No
27a. LICENSE NUMBER (of Licensee): F019844
27b. SIGNATURE OF FUNERAL SERVICE LICENSEE OR PERSON ACTING AS SUCH
28. NAME OF FUNERAL FACILITY: Boca Raton Funeral Home
29a. FACILITY'S MAILING - STATE: Florida
29b. CITY OR TOWN: Boca Raton
29c. STREET ADDRESS: 9050 Kimberly Blvd. #65
29d. ZIP CODE: 33434

MEDICAL CERTIFIER

30. CERTIFIER: X Certifying Physician - To the best of my knowledge, death occurred at the time, date and place, and due to the cause(s) and manner stated. (Check one) ___ Medical Examiner - On the basis of examination, and/or investigation, in my opinion, death occurred at the time, date and place, due to the cause(s) and manner stated.
31a. (Signature and Title of Certifier): ► Kenneth Homer MD
31b. DATE SIGNED (mm/dd/yyyy): 12-16-2010
32. TIME OF DEATH (24 hr.): 1519
33. MEDICAL EXAMINER'S CASE NUMBER:
34a. LICENSE NUMBER (of Certifier): ME0007305
34b. CERTIFIER'S NAME: KENNETH Homer MD
35. NAME OF ATTENDING PHYSICIAN (If other than Certifier):
36a. CERTIFIER'S - STATE: Florida
36b. CITY OR TOWN: Fort Lauderdale
36c. STREET ADDRESS: 5601 N. Dixie Hwy. # 412
36d. ZIP CODE: 33334
37. SUBREGISTRAR - Signature and Date: ►
38a. LOCAL REGISTRAR - Signature: Debra Hobbs
38b. DATE FILED BY REGISTRAR (Mo., Day, Yr.): DEC 17 2010

State of Florida, Department of Health, Vital Statistics

Pearlie Brown
DEC 20 2010

GREAT SEAL OF THE STATE OF FLORIDA IN GOD WE TRUST

WARNING: THIS DOCUMENT IS PRINTED OR PHOTOCOPIED ON SECURITY PAPER WITH A WATERMARK OF THE GREAT SEAL OF THE STATE OF FLORIDA. DO NOT ACCEPT WITHOUT VERIFYING THE PRESENCE OF THE WATERMARK. THE DOCUMENT FACE CONTAINS A MULTI-COLORED BACKGROUND AND GOLD EMBOSSED SEAL. THE BACK CONTAINS SPECIAL LINES WITH TEXT AND SEALS IN THERMOCHROMIC INK.

FLORIDA DEPARTMENT OF HEALTH

DH FORM 1947 (08/04)

37118227

Kimberly Moran

From: Kimberly Moran
Sent: Friday, November 01, 2013 3:12 PM
To: 'tbernstein@lifeinsuranceconcepts.com'
Cc: Robert Spallina
Subject: Invoices

Dear Mr. Bernstein:

Attached are several CBIZ invoices. Robert wanted to follow up with you on these and ask if you have already taken care of them.

We have also attached invoices with regard to your mother's Estate, and Robert has asked that you forward a check in the amount of $835.27 payable to your father's Estate.

If you have any questions, please do not hesitate to contact us.

Hope all is well with you. ☺

Best regards,

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

Tescher & Spallina, P.A.

4855 Technology Way
Suite 720
Boca Raton, FL 33431
561-997-7008

EIN: 26-1543894

July 06, 2012 Invoice # 11187.005

Simon Bernstein
7020 Lions Head Lane
Boca Raton, FL 33496

In Reference To: Our File No. 11187.005
Estate of Shirley Bernstein

Additional charges:

		Amount
5/25/2012	Federal Express	30.58
	Total costs	$30.58
	Previous balance	$804.69
	Balance due	$835.27

Please make all checks payable to *"Tescher & Spallina, P.A."* and indicate your File Number on the check. Do not hesitate to contact us with any questions or difficulties. Thank you for the opportunity to be of service to you.

Tescher & Spallina, P.A.

4855 Technology Way
Suite 720
Boca Raton, FL 33431
561-997-7008

EIN: 26-1543894

May 31, 2012 Invoice # 11187.005

Simon Bernstein
7020 Lions Head Lane
Boca Raton, FL 33496

In Reference To: Our File No. 11187.005
Estate of Shirley Bernstein

Professional services

		Amount
	FOR LEGAL SERVICES RENDERED through May 31, 2012 to date in connection with the administration of the Estate of Shirley Bernstein, including preparation of estate closing documents and forwarding of same to client for signature.	788.00
	For professional services rendered	$788.00
	Additional charges:	
4/5/2012	Federal Express	16.69
	Total costs	$16.69
	Total amount of this bill	$804.69
	Balance due	$804.69

CBIZ MHM, LLC
PO Box 953152
St. Louis, MO 63195-3152
Ph: 561-994-5050 F: 561-241-0071

Shirley Bernstein Family Foundation, Inc.
950 Peninsula Corp Circle, Suite 3010
Boca Raton, FL 33487

Statement Date *4/30/2013*
Client No. *4002630.0*

Date	Description	Charge	Credit	Balance
	Balance Forward			627.31
4/30/2013	Finance Charge	9.14		636.45
		Current Balance	$	636.45

0 - 30	31- 60	61 - 90	91 - 120	Over 120		Balance
9.14	9.14	9.14	0.00	609.03	$	636.45

To ensure proper credit, please reflect invoice number on check, make check payable to: CBIZ MHM LLC (Boca GL) and remit payment to: PO Box 953152, St. Louis, MO 63195-3152.

Payments received are posted through April 30, 2013

CBIZ MHM, LLC
PO Box 953152
St. Louis, MO 63195-3152
Ph: 561-994-5050 F: 561-241-0071

Shirley Bernstein Family Foundation, Inc.
950 Peninsula Corp Circle, Suite 3010
Boca Raton, FL 33487

Statement Date *8/31/2013*
Client No. *4002630.0*

Date	Description	Charge	Credit	Balance
	Balance Forward			663.87
8/31/2013	Finance Charge	9.14		673.01
		Current Balance	$	673.01

0 - 30	31- 60	61 - 90	91 - 120	Over 120		Balance
9.14	9.14	9.14	9.14	636.45	$	673.01

To ensure proper credit, please reflect invoice number on check, make check payable to: CBIZ MHM LLC (Boca GL) and remit payment to: PO Box 953152, St. Louis, MO 63195-3152.

Payments received are posted through August 31, 2013

CBIZ MHM, LLC
PO Box 953152
St. Louis, MO 63195-3152
Ph: 561-994-5050 F: 561-241-0071

Arbitrage International Management LLC
950 Peninsula Corporate Circle, Suite 3010
Boca Raton, FL 33487

Statement Date *4/30/2013*
Client No. *4002147.0*

Date	Description	Charge	Credit	Balance
	Balance Forward			5,174.44
8/12/2010	Debit Memo	791.30		5,965.74
6/6/2011	Debit Memo	138.80		6,104.54
10/31/2011	Debit Memo	10,000.00		16,104.54
4/13/2012	Debit Memo	4,748.73		20,853.27
8/31/2012	Debit Memo	3,000.00		23,853.27
1/24/2013	Payment		5,000.00	18,853.27
3/11/2013	Payment		3,000.00	15,853.27
			Current Balance	$ 15,853.27

0 - 30	31 - 60	61 - 90	91 - 120	Over 120	Balance
0.00	(3,000.00)	0.00	(5,000.00)	23,853.27	$ 15,853.27

To ensure proper credit, please reflect invoice number on check, make check payable to: CBIZ MHM LLC (Boca GL) and remit payment to: PO Box 953152, St. Louis, MO 63195-3152.

Payments received are posted through April 30, 2013

CBIZ MHM, LLC
PO Box 953152
St. Louis, MO 63195-3152
Ph: 561-994-5050 F: 561-241-0071

Ted and Deborah Bernstein Family Foundation, Inc.
950 Peninsula Corp Circle, Ste 3010
Boca Raton, FL 33487

Statement Date *4/30/2013*
Client No. *4002631.0*

Date	Description	Charge	Credit	Balance
	Balance Forward			778.63
4/30/2013	Finance Charge	11.34		789.97

Current Balance $ 789.97

0 - 30	31 - 60	61 - 90	91 - 120	Over 120		Balance
11.34	11.34	11.34	0.00	755.95	$	789.97

To ensure proper credit, please reflect invoice number on check, make check payable to: CBIZ MHM LLC (Boca GL) and remit payment to: PO Box 953152, St. Louis, MO 63195-3152.

Payments received are posted through April 30, 2013

IRS Department of the Treasury
Internal Revenue Service

OGDEN UT 84201-0038

000954.156027.0004.001 1 AT 0.384 536

SHIRLEY BERNSTEIN ESTATE
TED BERNSTEIN EX
7020 LIONS HEAD LN
BOCA RATON FL 33496-5931

000954

CUT OUT AND RETURN THE VOUCHER AT THE BOTTOM OF THIS PAGE IF YOU ARE MAKING A PAYMENT, EVEN IF YOU ALSO HAVE AN INQUIRY.

The IRS address must appear in the window.

0433862931

BODCD-SB

Use for payments

Letter Number: LTR0168C
Letter Date : 2013-02-13
Tax Period : 201112

306283128

SHIRLEY BERNSTEIN ESTATE
TED BERNSTEIN EX
7020 LIONS HEAD LN
BOCA RATON FL 33496-5931

INTERNAL REVENUE SERVICE

OGDEN UT 84201-0038

306283128 WV BERN 05 2 201112 670 00000000000

IRS Department of the Treasury
Internal Revenue Service

OGDEN UT 84201-0038

In reply refer to: 0433862931
Feb. 13, 2013 LTR 168C 0
30-6283128 201112 05
00006876
BODC: SB

SHIRLEY BERNSTEIN ESTATE
TED BERNSTEIN EX
7020 LIONS HEAD LN
BOCA RATON FL 33496-5931

000954

Taxpayer Identification Number: 30-6283128
Tax Period(s): Dec. 31, 2011

Form: 1041

Dear Taxpayer:

Thank you for your inquiry dated Dec. 18, 2012.

We are pleased to inform you that your request to remove the penalty(s) has been granted. However, this action has been taken based solely on the fact this was the first time you were required to file a return. This type of penalty removal is a one-time consideration. The IRS will base decisions on removing any future penalty(s) on any information you provide that meets reasonable cause criteria.

We charge interest on any unpaid tax, regardless of whether you had reasonable cause.

If you have any questions, please call us toll free at 1-800-829-0115.

If you prefer, you may write to us at the address shown at the top of the first page of this letter.

Whenever you write, please include this letter and, in the spaces below, give us your telephone number with the hours we can reach you.

Also, you may want to keep a copy of this letter for your records.

Telephone Number ( )_____ Hours_____

Thank you for your cooperation.

0433862931
Feb. 13, 2013 LTR 168C 0
30-6283128 201112 05
00006877

SHIRLEY BERNSTEIN ESTATE
TED BERNSTEIN EX
7020 LIONS HEAD LN
BOCA RATON FL 33496-5931

Sincerely yours,

Sharon Davies

Sharon Davies
Accounts Management I

Robert Spallina

From: Robert Spallina
Sent: Friday, October 11, 2013 11:22 AM
To: 'Lisa Friedstein'
Cc: Donald Tescher; Pamela Beth Simon; Esq. Mark Manceri; Jill Iantoni; Ted Bernstein
Subject: RE: FW: Bernstein - Waivers

409441343

From: Lisa Friedstein [mailto:lisa.friedstein@gmail.com]
Sent: Friday, October 11, 2013 11:21 AM
To: Robert Spallina
Cc: Donald Tescher; Pamela Beth Simon; Esq. Mark Manceri; Jill Iantoni; Ted Bernstein
Subject: Re: FW: Bernstein - Waivers

Robert please send us the fed ex acct number... Thank you

—

Sent from Mailbox for iPhone

On Fri, Oct 11, 2013 at 10:19 AM, Robert Spallina <rspallina@tescherspallina.com> wrote:

Pursuant to our conversation, attached are the Waivers for your mother's estate which require notarization. Please execute in front of a notary ASAP and send them to our office at the address below. Please contact me with any questions.

Thank 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

If you would like to learn more about TESCHER & SPALLINA, P.A., please visit our website at www.tescherspallina.com

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From: Kimberly Moran
Sent: Friday, October 11, 2013 10:28 AM
To: Robert Spallina
Subject: Bernstein - Waivers

Kimberly Moran, Legal Assistant

Tescher & Spallina, P.A.

4855 Technology Way, Suite 720

Boca Raton, FL 33431

Tel: (561) 997-7008

Fax: (561) 997-7308

<Waiver of Acctg & Consent to Discharge (Jill Iantoni).pdf><Waiver of Acctg & Consent to Discharge (Lisa S. Friedstein).pdf><Waiver of Acctg & Consent to Discharge (Pamela B. Simon).pdf><Waiver of Acctg & Consent to Discharge (Ted S. Bernstein).pdf>

Robert Spallina

From: Myra [mrmlaw1@gmail.com]
Sent: Wednesday, October 02, 2013 3:01 PM
To: Robert Spallina
Subject: Estate of Shirley Bernstein

Mr. Spallina (FYI),

I contacted Sherry of Judge Colin's chambers to verify the time of the evidentiary Hearing scheduled for October 28, 2013 and she stated that the Hearing is now scheduled for 4:00 p.m. Mark is sending out a confirming letter to all interested persons..

Thank you.

Myra

Mark R. Manceri, P.A.
2929 E. Commercial Blvd., Suite 702
Fort Lauderdale, Florida 33308
E-mail: mrmlaw@comcast.net
(954) 491-7099
(954) 771-0545 (fax)

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Robert Spallina

From: Diana Banks [diana@lifeinsuranceconcepts.com]
Sent: Tuesday, July 19, 2011 3:43 PM
To: Robert Spallina
Subject: RE:
Attachments: imageac525c.jpg@74f6b937.fb7f4956; image001.jpg

He wont be in today. I will get with him tomorrow. thanks

Diana Banks - Vice President of Administration

. . . . . .

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: Diana@LifeInsuranceConcepts.com

www.LifeInsuranceConcepts.com

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From: Robert Spallina [mailto:rspallina@tescherspallina.com]
Sent: Tuesday, July 19, 2011 12:14 PM
To: Diana Banks
Subject: RE:

Did you talk to Si about this?

From: Diana Banks [mailto:diana@lifeinsuranceconcepts.com]
Sent: Thursday, July 14, 2011 4:27 PM
To: Robert Spallina
Subject:

Per Si's request please see attached.

Diana Banks - Vice President of Administration

. . . . . .



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Robert Spallina

From: Diana Banks [diana@lifeinsuranceconcepts.com]
Sent: Thursday, July 14, 2011 4:27 PM
To: Robert Spallina
Subject: RE: Bernstein Tax Information
Attachments: imageadcbd5.jpg@6c1c1d61.b260437d; image001.jpg

Robert, anything I need to be doing here? thanks

Diana Banks - Vice President of Administration

. . . . . .

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From: Robert Spallina [mailto:rspallina@tescherspallina.com]
Sent: Wednesday, July 13, 2011 4:59 PM
To: Craig, Janet; Diana Banks
Cc: Simon Bernstein; Worth, Hunt; Sigalos, Janet; Vereb, Patricia
Subject: RE: Bernstein Tax Information

Janet – you are correct. My recollection was that it was in the name of their father's trust but we finalized the LLC agreement with the three GC trusts and not their father's trust. I have all the paperwork so you do not need to send anything on that. There are no K-1s and to the extent that they still own the property there is no 1099. I know nothing about the promissory note that you mention so if you could email that paperwork if you receive it I can put it in the file. Thank you

---

From: Craig, Janet [mailto:Janet.Craig@opco.com]
Sent: Wednesday, July 13, 2011 4:37 PM
To: Robert Spallina; Diana Banks
Cc: Simon Bernstein; Worth, Hunt; Sigalos, Janet; Vereb, Patricia
Subject: RE: Bernstein Tax Information

Robert,

According to the records we received, the Trusts fbo Daniel, Joshua and Jake each hold a 1/3 interest in Bernstein Family Realty LLC. Total capital contribution from the three trusts totaled $100.00. We have requested that the trustee/trustee address be changed to us and also requested a value so we can update the market value on the system. The valuation is currently not important as the accounts are leaving, but the new Trustee should have this information. I was only asking IF we needed a K-1 and if not, for confirmation of that fact in writing.

In addition, in the Trust fbo Eric, Stanford listed a Promissory Note $250K @ 1.64% and carried it at $1.00. No other information has been available. Charlene Dykes at Stanford had asked the Houston's receiver's office for a copy but we have received nothing to date. Once again, this is not an issue for us as the account is leaving, but the new Trustee should be notified.

Hunt and I will send the documentation to you for review. If you would like a hard copy, I will need your address. If email is sufficient, please let me know.

Janet Craig, CTFA
Senior Vice President & Compliance Officer
Oppenheimer Trust Company
18 Columbia Turnpike
Florham Park, NJ 07932
Tel: 973-245-4635
Fax: 973-245-4699
Email: Janet.Craig@opco.com

From: Robert Spallina [mailto:rspallina@tescherspallina.com]
Sent: Wednesday, July 13, 2011 3:33 PM
To: Diana Banks; Craig, Janet
Cc: Simon Bernstein
Subject: RE: Bernstein Tax Information

Diana – the trusts will each need a k-1 from LIC prior to Sep 15 so the returns can be filed timely. I don't know why they are asking about Bernstein Family Realty, LLC. It has nothing to do with the GC trusts.

Janet – I would like all documentation sent to me for review prior to sending to the trustees and beneficiaries. Thank you.

From: Diana Banks [mailto:diana@lifeinsuranceconcepts.com]
Sent: Wednesday, July 13, 2011 3:08 PM
To: Robert Spallina
Subject: FW: Bernstein Tax Information

Robert, please see below. Si would like you to review and advise if what they are asking for is needed. Thank you, Diana

Diana Banks – Vice President of Administration

. . . . . .

Life!

Life Insurance Concepts
950 Peninsula Corporate Circle, Suite 3010
Boca Raton, FL 33487

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Toll Free: 866.395.8984
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From: Craig, Janet [mailto:Janet.Craig@opco.com]
Sent: Tuesday, July 12, 2011 10:22 AM
To: Diana Banks; Roraff, Victoria
Cc: Worth, Hunt; Sigalos, Janet; Vereb, Patricia
Subject: Bernstein Tax Information

Diana and Vicky,

I have been attempting to collect the final tax information required to file the 2010 Fiduciary tax returns for these 10 accounts. Please send me the tax information for the assets LIC Holdings and Bernstein Family Realty LLC (if there is any). Please let me know, in writing, if there is no tax information available for the Bernstein Family Realty LLC.

In order to close the accounts for Alexandra and Eric, who I believe are of age, I will need a written request from each of them stating their age, their desire to terminate the trust and transfer instructions. The assets in those two trusts will be payable to them outright, so they will need brokerage accounts in their individual names. They will still need to sign off on our standard release documents.

We will be preparing removal and release documents for the remaining eight trust accounts. Please let me know where we should send these documents, once they are prepared. We will also need transfer instructions in the name of each trust at the appropriate time.

Please let me know what information you require to facilitate this process. I will be in contact if we need additional information. Please feel free to forward this email as appropriate.

Janet Craig, CTFA
Senior Vice President & Compliance Officer
Oppenheimer Trust Company
18 Columbia Turnpike
Florham Park, NJ 07932
Tel: 973-245-4635
Fax: 973-245-4699
Email: Janet.Craig@opco.com
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Robert Spallina

From: Tamar [tspg@hgtrustlaw.com]
Sent: Wednesday, July 20, 2011 4:39 PM
To: Robert Spallina
Subject: RE: Trust of Shirley Bernstein

Dear Robert,

As a follow-up to my email and voicemail message that I left for you this afternoon, please send me a copy of Shirley's Trust and financial information relating to the Trust (as detailed in my email below). A telephone conversation in which your summarize the provisions for Pam Simon is not adequate for us to properly advise Pam in connection with her estate planning matters. We need to review a copy of the Trust instrument and related financial information. As a qualified beneficiary under the Florida statute, Pam is entitled to receive these items.

With best regards, Tamar

Tamar S.P. Genin
Heriaud & Genin, Ltd.
161 North Clark Street
Suite 3200
Chicago, IL 60601
Telephone: 312-616-1806
Fax: 312-616-1808
Email: tspg@hgtrustlaw.com

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From: Robert Spallina [mailto:rspallina@tescherspallina.com]
Sent: Wednesday, July 20, 2011 2:51 PM
To: Tamar
Subject: RE: Trust of Shirley Bernstein

Please call me

From: Tamar [mailto:tspg@hgtrustlaw.com]
Sent: Wednesday, July 20, 2011 3:14 PM
To: Robert Spallina
Subject: Trust of Shirley Bernstein

Dear Robert,

As you know, our firm represents Pamela Simon, who is one of the daughters of the late Shirley Bernstein, in connection with her estate planning matters.

This email is a follow up to my June 22nd letter requesting a copy of the Trust of Shirley Bernstein and relevant information about the assets and liabilities of the Trust.

I understand from our associate who spoke with you on Monday that Pam is a remainder beneficiary under Shirley's Trust following her father's death and she is given a limited power of appointment under Shirley's Trust. In order to properly advise our clients about their estate plans, it is our firm's practice to review any trust documents that name our clients as beneficiaries or that grant them any powers of appointment, and to request financial information pertaining to such trusts.

Therefore, in order for us to properly advise Pam regarding her estate planning matters, please send (or email) me a copy of Shirley's Trust and financial information relating to the Trust. At this time we expect that you have information about the assets and liabilities of Shirley's Trust, and perhaps a Trust accounting.

We are making these requests under Section 736.0813 of the Florida Statutes on behalf of Pam, as a qualified beneficiary of Shirley's Trust.

Thank you in advance for your prompt attention and response. I will follow up with any questions I have after reviewing the requested information.

With best regards,
Tamar

Tamar S.P. Genin
Heriaud & Genin, Ltd.
161 North Clark Street
Suite 3200
Chicago, IL 60601
Telephone: 312-616-1806
Fax: 312-616-1808
Email: tspg@hgtrustlaw.com

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Robert Spallina

From: Craig, Janet [Janet.Craig@opco.com]
Sent: Thursday, July 21, 2011 2:28 PM
To: 'Diana Banks'; Robert Spallina
Cc: Simon Bernstein; Worth, Hunt; Sigalos, Janet; Vereb, Patricia; Roraff, Victoria
Subject: RE: Bernstein Tax Information
Attachments: image001.jpg

We are working on the transfer paperwork for 8 of the 10 accounts. We will send them to Mr. Spallina when they are completed.

I have not received the documentation I requested to close out the other two accounts. I can't begin the process without a written request from the beneficiaries and transfer instructions.

Janet Craig, CTFA
Senior Vice President & Compliance Officer
Oppenheimer Trust Company
18 Columbia Turnpike
Florham Park, NJ 07932
Tel: 973-245-4635
Fax: 973-245-4699
Email: Janet.Craig@opco.com

From: Diana Banks [mailto:diana@lifeinsuranceconcepts.com]
Sent: Thursday, July 21, 2011 12:46 PM
To: Craig, Janet; 'Robert Spallina'
Cc: Simon Bernstein; Worth, Hunt; Sigalos, Janet; Vereb, Patricia
Subject: RE: Bernstein Tax Information

Janet, please advise of status of the Trust transfer. Thank you, Diana

Diana Banks - Vice President of Administration

. . . . . .

Life Insurance Concepts
950 Peninsula Corporate Circle, Suite 3010
Boca Raton, FL 33487
Tel: 561.988.8984
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Subject: RE: Bernstein Tax Information

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Diana – the trusts will each need a k-1 from LIC prior to Sep 15 so the returns can be filed timely. I don't know why they are asking about Bernstein Family Realty, LLC. It has nothing to do with the GC trusts.

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Subject: FW: Bernstein Tax Information

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Diana Banks – Vice President of Administration

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From: Craig, Janet [mailto:Janet.Craig@opco.com]
Sent: Tuesday, July 12, 2011 10:22 AM
To: Diana Banks; Roraff, Victoria
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Subject: Bernstein Tax Information

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Tel: 973-245-4635
Fax: 973-245-4699
Email: Janet.Craig@opco.com
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This communication and any attached files may contain information that is confidential or privileged. If this communication has been received in error, please delete or destroy it immediately. Please go to www.opco.com/EmailDisclosures

Heriaud & Genin, Ltd.

Attorneys At Law
161 North Clark Street - Suite 3200
Chicago, Illinois 60601
Fax: (312) 616-1808

Tamar S.P. Genin
(312) 616-1806
tspg@hgtrustlaw.com

June 22, 2011

Mr. Robert Spallina
Tescher & Spallina, P.A.
Boca Village
Corporate Center I
4855 Technology Way, Suite 720
Boca Raton, Florida 33431

Re: Administration of Will and Trust of Shirley Bernstein

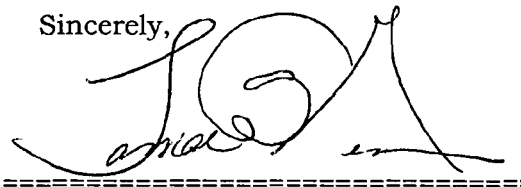
Dear Robert:

Our firm represents Pamela Simon for her estate planning. Pam is one of the daughters of Shirley Bernstein, who passed away in December. We understand your firm is administering Shirley's estate and trust. We are currently preparing an updated schedule of Pam's assets. We would like to factor in a projected value for Pam's remainder interest in her mother's trust and analyze whether Pam should make any revisions to her own estate plan in light of her mother's trust.

Please send a copy of the trust document and any relevant information about the assets and liabilities of the trust to our office. We have included an authorization signed by Pam to send information to us. For your convenience, we have enclosed a preaddressed return envelope.

If you have any questions regarding this matter, please contact me.

Sincerely,



Enclosures
cc: Pamela B. Simon
Nancy Bruggeman

==========

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AUTHORIZATION TO RELEASE INFORMATION
PAMELA B. SIMON

I authorize you to release to my attorneys, Heriaud & Genin, Ltd., 161 North Clark Street, Suite 3200, Chicago, Illinois 60601, any and all information they request on my behalf.

A photocopy of this document shall serve the same purpose as the original.

Dated: 6/15/11, 2011

PAMELA B. SIMON

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

On June 15, 2011, PAMELA B. SIMON personally appeared before me and acknowledged that this instrument was executed as such person's free act and deed.

Notary Public

My Commission Expires: 4/30/2012

OFFICIAL SEAL
MARY ANNE COTHERN
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES:04/30/12

Kimberly Moran

From: Kimberly Moran
Sent: Friday, September 21, 2012 4:28 PM
To: 'Jill Iantoni'; Iantoni, Guy T.
Cc: Robert Spallina
Subject: RE: Estate of Shirley Bernstein

This is to confirm a conference call with Jill and Guy Iantoni on Monday afternoon, 2:00PM EST. We will initiate the call from our offices.

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

From: Jill Iantoni [mailto:jilliantoni@gmail.com]
Sent: Friday, September 21, 2012 4:24 PM
To: Kimberly Moran; Iantoni, Guy T.
Subject: Re: Estate of Shirley Bernstein

Hi Kim,

We are confirming our call for Monday at 1pm Central Time. The number to call is 847.831.4915.

Thanks
Jil

On Fri, Sep 21, 2012 at 12:02 PM, Kimberly Moran <kmoran@tescherspallina.com> wrote:
Est

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

From: Jill Iantoni [mailto:jilliantoni@gmail.com]
Sent: Friday, September 21, 2012 11:57 AM

To: Kimberly Moran
Cc: Iantoni, Guy T.
Subject: Re: Estate of Shirley Bernstein

Est or cst?

Jill Iantoni
Iantoni_jill@ne.bah.com
Recruiting Services
Booz | Allen | Hamilton

On Sep 21, 2012, at 8:41 AM, "Kimberly Moran" <kmoran@tescherspallina.com> wrote:

How about Monday at 2:00PM? We can call you. Please let me know what telephone number to use.

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

From: Jill Iantoni [mailto:jilliantoni@gmail.com]
Sent: Friday, September 21, 2012 9:21 AM
To: Kimberly Moran
Cc: Iantoni, Guy T.
Subject: Re: FW: Estate of Shirley Bernstein

Hi Kim,
I had looked at the document the first time and really did not understand it. After the death of my father and gaining more exposure to this, I do have some questions on the document you are waiting for from me. Therefore, if we can schedule a time to talk with Robert for a few minutes.
thanks
Jill

On Tue, Sep 11, 2012 at 1:36 PM, Kimberly Moran <kmoran@tescherspallina.com> wrote:
Dear Guy and Jill:

It is very important that we receive the original signed Waiver so the Estate can be closed. I am attaching another copy so that you can re-print and sign if you do not have the original. Please mail the signed original to our office as soon as possible.

Thank you.

Regards,

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

From: Kimberly Moran
Sent: Thursday, September 06, 2012 3:06 PM
To: 'Guy Iantoni'
Subject: RE: Estate of Shirley Bernstein

Dear Guy:

I am still waiting for the original signed Waiver for filing with the Court. Please advise when to expect receipt.

Thank you.

Regards,

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

From: Guy Iantoni [mailto:guy@GTILife.net]
Sent: Monday, August 20, 2012 11:22 AM
To: Kimberly Moran
Subject: FW: Estate of Shirley Bernstein

See attached

From: Guy Iantoni
Sent: Sunday, August 12, 2012 11:16 AM
To: Kimberly Moran; Jill Iantoni
Subject: RE: Estate of Shirley Bernstein

Please see the attached.

Jill iantoni

From: Kimberly Moran [mailto:kmoran@tescherspallina.com]
Sent: Friday, August 10, 2012 3:05 PM
To: Jill Iantoni
Cc: Guy Iantoni
Subject: RE: Estate of Shirley Bernstein

Just wanted to follow up on the Waiver. Please let me know when to expect the signed original.

Thank you!

Sincerely,

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

From: Jill Iantoni [mailto:jilliantoni@gmail.com]
Sent: Thursday, August 02, 2012 11:52 AM
To: Kimberly Moran
Cc: guy@gtilife.net
Subject: Re: Estate of Shirley Bernstein

Thanks Kim. ***Guy*** if you can print this form out and bring home. I can complete and we will then put it in the mail, per Kim's request tomorrow/Thursday.

Jill

On Thu, Aug 2, 2012 at 10:45 AM, Kimberly Moran <kmoran@tescherspallina.com>

wrote:
Dear Ms. Iantoni:

As per our discussion, attached is the Waiver. Please sign the Waiver and return the original to our office for filing with the Court. This is part of the closing package, and once these Waivers are filed we will receive an Order of Discharge from the Court discharging your father from his duties as Personal Representative.

If you have any questions, please do not hesitate to contact us.

Sincerely,

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

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Kimberly Moran

From: Kimberly Moran
Sent: Tuesday, September 11, 2012 2:36 PM
To: 'jilliantoni@gmail.com'; 'Guy Iantoni'
Subject: FW: Estate of Shirley Bernstein
Attachments: Waiver of Acctg & Consent to Discharge (Jill Iantoni).pdf

Dear Guy and Jill:

It is very important that we receive the original signed Waiver so the Estate can be closed. I am attaching another copy so that you can re-print and sign if you do not have the original. Please mail the signed original to our office as soon as possible.

Thank you.

Regards,

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

From: Kimberly Moran
Sent: Thursday, September 06, 2012 3:06 PM
To: 'Guy Iantoni'
Subject: RE: Estate of Shirley Bernstein

Dear Guy:

I am still waiting for the original signed Waiver for filing with the Court. Please advise when to expect receipt.

Thank you.

Regards,

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

From: Guy Iantoni [mailto:guy@GTILife.net]
Sent: Monday, August 20, 2012 11:22 AM
To: Kimberly Moran
Subject: FW: Estate of Shirley Bernstein

See attached

From: Guy Iantoni
Sent: Sunday, August 12, 2012 11:16 AM
To: Kimberly Moran; Jill Iantoni
Subject: RE: Estate of Shirley Bernstein

Please see the attached.

Jill Iantoni

From: Kimberly Moran [mailto:kmoran@tescherspallina.com]
Sent: Friday, August 10, 2012 3:05 PM
To: Jill Iantoni
Cc: Guy Iantoni
Subject: RE: Estate of Shirley Bernstein

Just wanted to follow up on the Waiver. Please let me know when to expect the signed original.

Thank you!

Sincerely,

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

From: Jill Iantoni [mailto:jilliantoni@gmail.com]
Sent: Thursday, August 02, 2012 11:52 AM
To: Kimberly Moran
Cc: guy@gtilife.net
Subject: Re: Estate of Shirley Bernstein

Thanks Kim. ***Guy*** if you can print this form out and bring home. I can complete and we will then put it in the mail, per Kim's request tomorrow/Thursday.

Jill

On Thu, Aug 2, 2012 at 10:45 AM, Kimberly Moran <kmoran@tescherspallina.com> wrote:
Dear Ms. Iantoni:

As per our discussion, attached is the Waiver. Please sign the Waiver and return the original to our office for filing with the Court. This is part of the closing package, and once these Waivers are filed we will receive an Order of Discharge from the Court discharging your father from his duties as Personal Representative.

If you have any questions, please do not hesitate to contact us.

Sincerely,

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

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8/5/2013

Kimberly Moran

From: Kimberly Moran
Sent: Wednesday, August 29, 2012 10:01 AM
To: 'Guy Iantoni'
Subject: RE: Estate of Shirley Bernstein
Attachments: Waiver of Acctg & Consent to Discharge (Jill Iantoni).pdf

Dear Mr. Iantoni:

As per our discussion, my address is listed below. Please mail me the original signed Waiver for filing with the Court. I am attaching a blank Waiver in case you no longer have the original at your disposal.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

From: Guy Iantoni [mailto:guy@GTILife.net]
Sent: Monday, August 20, 2012 11:22 AM
To: Kimberly Moran
Subject: FW: Estate of Shirley Bernstein

See attached

From: Guy Iantoni
Sent: Sunday, August 12, 2012 11:16 AM
To: Kimberly Moran; Jill Iantoni
Subject: RE: Estate of Shirley Bernstein

Please see the attached.

Jill Iantoni

From: Kimberly Moran [mailto:kmoran@tescherspallina.com]
Sent: Friday, August 10, 2012 3:05 PM
To: Jill Iantoni
Cc: Guy Iantoni
Subject: RE: Estate of Shirley Bernstein

Just wanted to follow up on the Waiver. Please let me know when to expect the signed original.

Thank you!

Sincerely,

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720

8/5/2013

Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

From: Jill Iantoni [mailto:jilliantoni@gmail.com]
Sent: Thursday, August 02, 2012 11:52 AM
To: Kimberly Moran
Cc: guy@gtilife.net
Subject: Re: Estate of Shirley Bernstein

Thanks Kim. ***Guy*** if you can print this form out and bring home. I can complete and we will then put it in the mail, per Kim's request tomorrow/Thursday.

Jill

On Thu, Aug 2, 2012 at 10:45 AM, Kimberly Moran <kmoran@tescherspallina.com> wrote:
Dear Ms. Iantoni:

As per our discussion, attached is the Waiver. Please sign the Waiver and return the original to our office for filing with the Court. This is part of the closing package, and once these Waivers are filed we will receive an Order of Discharge from the Court discharging your father from his duties as Personal Representative.

If you have any questions, please do not hesitate to contact us.

Sincerely,

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

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Kimberly Moran

From: Kimberly Moran
Sent: Tuesday, August 21, 2012 12:33 PM
To: 'lisa.friedstein@gmail.com'
Subject: Estate of Shirley Bernstein - Waiver
Attachments: Waiver of Acctg & Consent to Discharge (Lisa S. Friedstein).pdf

Dear Lisa:

As per our discussion, attached is a copy of the Waiver. Please print, sign and return the original to our office.

Thank you so much! If you have any questions, please do not hesitate to contact us.

Sincerely,

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

Kimberly Moran

From: Kimberly Moran
Sent: Monday, August 20, 2012 10:09 AM
To: 'Guy Iantoni'
Subject: RE: Estate of Shirley Bernstein

OK – I do see the attachment. Please forward me the original signed Waiver so that it can be filed in Court.

Thank you!

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

From: Guy Iantoni [mailto:guy@GTILife.net]
Sent: Sunday, August 12, 2012 12:16 PM
To: Kimberly Moran; Jill Iantoni
Subject: RE: Estate of Shirley Bernstein

Please see the attached.

Jill Iantoni

From: Kimberly Moran [mailto:kmoran@tescherspallina.com]
Sent: Friday, August 10, 2012 3:05 PM
To: Jill Iantoni
Cc: Guy Iantoni
Subject: RE: Estate of Shirley Bernstein

Just wanted to follow up on the Waiver. Please let me know when to expect the signed original.

Thank you!

Sincerely,

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

From: Jill Iantoni [mailto:jilliantoni@gmail.com]
Sent: Thursday, August 02, 2012 11:52 AM
To: Kimberly Moran
Cc: guy@gtilife.net
Subject: Re: Estate of Shirley Bernstein

Thanks Kim. ***Guy*** if you can print this form out and bring home. I can complete and we will then put it in the mail, per Kim's request tomorrow/Thursday.

Jill

On Thu, Aug 2, 2012 at 10:45 AM, Kimberly Moran <kmoran@tescherspallina.com> wrote:
Dear Ms. Iantoni:

As per our discussion, attached is the Waiver. Please sign the Waiver and return the original to our office for filing with the Court. This is part of the closing package, and once these Waivers are filed we will receive an Order of Discharge from the Court discharging your father from his duties as Personal Representative.

If you have any questions, please do not hesitate to contact us.

Sincerely,

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

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Kimberly Moran

From: Kimberly Moran
Sent: Thursday, August 09, 2012 9:15 AM
To: 'Pam Simon'
Subject: RE: Estate of Shirley Bernstein

Thank you, but is it possible for you to mail me the original?

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

From: Pam Simon [mailto:psimon@stpcorp.com]
Sent: Wednesday, August 08, 2012 4:00 PM
To: Kimberly Moran
Cc: Robert Spallina
Subject: RE: Estate of Shirley Bernstein

Attached is the signed document as well as a letter signed by me explaining the understanding in which I signed the letter.

Thanks,
Pam Simon

Pam Simon
STP Enterprises, Inc.
"A.L.P.S.™ (A.L.P.S.™ = Arbitrage Life Payment System)
The nation's only client-driven life insurance payment plan"
303 East Wacker Drive, Suite 210
Chicago, IL 60601
Direct: (312) 819-7474, ext. 414
Fax: (312) 819-0773
E-mail: psimon@stpcorp.com
www.stpcorp.com
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From: Kimberly Moran [mailto:kmoran@tescherspallina.com]
Sent: Wednesday, August 01, 2012 1:38 PM
To: Pam Simon
Cc: Robert Spallina
Subject: Estate of Shirley Bernstein

Dear Ms. Simon:

As per our telephone conversation, attached is a clean copy of the Waiver. Please sign and return the original to our office.

If you have any questions, please do not hesitate to contact us.

Sincerely,

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

<hr

8/5/2013

Kimberly Moran

From: Jill Iantoni [jilliantoni@gmail.com]
Sent: Thursday, August 02, 2012 11:52 AM
To: Kimberly Moran
Cc: guy@gtilife.net
Subject: Re: Estate of Shirley Bernstein

Thanks Kim. ***Guy*** if you can print this form out and bring home. I can complete and we will then put it in the mail, per Kim's request tomorrow/Thursday.

Jill

On Thu, Aug 2, 2012 at 10:45 AM, Kimberly Moran <kmoran@tescherspallina.com> wrote:

Dear Ms. Iantoni:

As per our discussion, attached is the Waiver. Please sign the Waiver and return the original to our office for filing with the Court. This is part of the closing package, and once these Waivers are filed we will receive an Order of Discharge from the Court discharging your father from his duties as Personal Representative.

If you have any questions, please do not hesitate to contact us.

Sincerely,

Kimberly Moran, Legal Assistant

Tescher & Spallina, P.A.

4855 Technology Way, Suite 720

Boca Raton, FL 33431

Tel: (561) 997-7008

Fax: (561) 997-7308

8/2/2012

Kimberly Moran

From: Kimberly Moran
Sent: Thursday, August 02, 2012 11:49 AM
To: 'tbernstein@lifeinsuranceconcepts.com'
Subject: Estate of Shirley Bernstein
Attachments: Waiver of Acctg & Consent to Discharge (Ted S. Bernstein).pdf

Dear Mr. Bernstein:

Attached is a Waiver of Accounting and Consent to Discharge for your mother's estate. We are working on closing the estate and this is part of the closing package. Please sign the Waiver and return the original to our office for filing with the Court.

If you have any questions, please do not hesitate to contact us.

Sincerely,

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

8/2/2012

Kimberly Moran

From: Kimberly Moran
Sent: Thursday, August 02, 2012 11:46 AM
To: 'jilliantoni@gmail.com'; 'guy@gtilife.net'
Subject: Estate of Shirley Bernstein
Attachments: Waiver of Acctg & Consent to Discharge (Jill Iantoni).pdf

Dear Ms. Iantoni:

As per our discussion, attached is the Waiver. Please sign the Waiver and return the original to our office for filing with the Court. This is part of the closing package, and once these Waivers are filed we will receive an Order of Discharge from the Court discharging your father from his duties as Personal Representative.

If you have any questions, please do not hesitate to contact us.

Sincerely,

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

8/2/2012

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF SHIRLEY BERNSTEIN, Deceased.

File No. 502011CP000653XXXXSB

Probate Division

Division

WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE

The undersigned, Jill Iantoni, whose address is 2101 Magnolia Lane, Highland Park, IL 60035, and who has an interest in the above estate as beneficiary of the estate:

(a) Expressly acknowledges that the undersigned is aware of the right to have a final accounting;

(b) Waives the filing and service of a final or other accounting by the personal representative;

(c) Waives the inclusion in the Petition for Discharge of the amount of compensation paid or to be paid to the personal representative, attorneys, accountants, appraisers, or other agents employed by the personal representative, and the manner of determining that compensation;

(d) Expressly acknowledges that the undersigned has actual knowledge of the amount and manner of determining the compensation of the personal representative, attorneys, accountants, appraisers, or other agents; has agreed to the amount and manner of determining such compensation; and waives any objections to the payment of such compensation;

(e) Waives the inclusion in the Petition for Discharge of a plan of distribution;

(f) Waives service of the Petition for Discharge of the personal representative and all notice thereof upon the undersigned;

(g) Acknowledges receipt of complete distribution of the share of the estate to which the undersigned was entitled; and

(h) Consents to the entry of an order discharging the personal representative without notice, hearing or waiting period and without further accounting.

Signed on _____, 2012.

Beneficiary

By: _____
JILL IANTONI

Kimberly Moran

From: Kimberly Moran
Sent: Wednesday, August 01, 2012 2:38 PM
To: 'psimon@stpcorp.com'
Cc: Robert Spallina
Subject: Estate of Shirley Bernstein
Attachments: Waiver of Acctg & Consent to Discharge (Pamela B. Simon).pdf

Dear Ms. Simon:

As per our telephone conversation, attached is a clean copy of the Waiver. Please sign and return the original to our office.

If you have any questions, please do not hesitate to contact us.

Sincerely,

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

8/1/2012

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF SHIRLEY BERNSTEIN, Deceased.

File No. 502011CP000653XXXXSB

Probate Division

Division

WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE

The undersigned, Pamela B. Simon, whose address is 950 North Michigan Avenue, Suite 2603, Chicago, IL 60606, and who has an interest in the above estate as beneficiary of the estate:

(a) Expressly acknowledges that the undersigned is aware of the right to have a final accounting;

(b) Waives the filing and service of a final or other accounting by the personal representative;

(c) Waives the inclusion in the Petition for Discharge of the amount of compensation paid or to be paid to the personal representative, attorneys, accountants, appraisers, or other agents employed by the personal representative, and the manner of determining that compensation;

(d) Expressly acknowledges that the undersigned has actual knowledge of the amount and manner of determining the compensation of the personal representative, attorneys, accountants, appraisers, or other agents; has agreed to the amount and manner of determining such compensation; and waives any objections to the payment of such compensation;

(e) Waives the inclusion in the Petition for Discharge of a plan of distribution;

(f) Waives service of the Petition for Discharge of the personal representative and all notice thereof upon the undersigned;

(g) Acknowledges receipt of complete distribution of the share of the estate to which the undersigned was entitled; and

(h) Consents to the entry of an order discharging the personal representative without notice, hearing or waiting period and without further accounting.

Signed on _____, 2012.

Beneficiary

By: _____
PAMELA B. SIMON

Kimberly Moran

From: Diana Banks [diana@lifeinsuranceconcepts.com]
Sent: Wednesday, July 18, 2012 3:00 PM
To: Kimberly Moran
Subject: RE: Estate of Shirley Bernstein

Cells for each:

Jill 312.804.2318 – 847 894 8083 - Guy
Pam: 312.933.4267
Lisa 847.877.4633

Ted 213-2322

Diana Banks - Vice President of Administration

. . . . . .



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: Diana@LifeInsuranceConcepts.com

www.LifeInsuranceConcepts.com

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From: Kimberly Moran [mailto:kmoran@tescherspallina.com]
Sent: Wednesday, July 18, 2012 2:54 PM
To: Diana Banks
Subject: RE: Estate of Shirley Bernstein

Hi Diana – I just took the time to look at these numbers… I am trying to reach Jill Iantoni, Pamela Simon and Lisa Friedstein. Can I use the numbers you gave me for Guy, Scooter and Jeffrey to reach them?

Thanks.

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008

7/18/2012

Fax: (561) 997-7308

From: Diana Banks [mailto:diana@lifeinsuranceconcepts.com]
Sent: Wednesday, July 18, 2012 12:01 PM
To: Kimberly Moran
Subject: RE: Estate of Shirley Bernstein

☺ good luck!

Diana Banks - Vice President of Administration

. . . . . .



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: Diana@LifeInsuranceConcepts.com

www.LifeInsuranceConcepts.com

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From: Kimberly Moran [mailto:kmoran@tescherspallina.com]
Sent: Monday, July 16, 2012 10:49 AM
To: Diana Banks
Subject: RE: Estate of Shirley Bernstein

Thank you. I will call. Wish me luck!

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

From: Diana Banks [mailto:diana@lifeinsuranceconcepts.com]
Sent: Monday, July 16, 2012 10:43 AM
To: Kimberly Moran
Subject: RE: Estate of Shirley Bernstein

Jeffrey Friedstein- parent of Max and Carly Friedstein 847.831.1360
Guy Iantoni- parent of Julia Iantoni 847.894.8083
Scooter Simon- parent of Molly Simon 312.819.7474
Alexandra Bernstein 561.245.1393

7/18/2012

Eric Bernstein 561.213.2003
Michael Bernstein 561.445.6577

Diana Banks - Vice President of Administration

. . . . . .

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From: Kimberly Moran [mailto:kmoran@tescherspallina.com]
Sent: Tuesday, July 10, 2012 4:01 PM
To: Diana Banks
Subject: RE: Estate of Shirley Bernstein

Phone numbers would be best.

Thank you.

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

From: Diana Banks [mailto:diana@lifeinsuranceconcepts.com]
Sent: Tuesday, July 10, 2012 3:58 PM
To: Kimberly Moran
Subject: RE: Estate of Shirley Bernstein

I will give you contact information. I have been following up and have not received any responses. Thank you-Diana

Do you want phone numbers or email addresses?

Diana Banks - Vice President of Administration

7/18/2012



Life Insurance Concepts
950 Peninsula Corporate Circle, Suite 3010
Boca Raton, FL 33487
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Toll Free: 866.395.8984
Fax: 561.988.0833
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From: Kimberly Moran [mailto:kmoran@tescherspallina.com]
Sent: Tuesday, July 10, 2012 3:54 PM
To: Diana Banks
Subject: Estate of Shirley Bernstein

Hi Diana –

I had received the signed paperwork to close the Estate from Si, and had sent Waivers to each of his children for their signatures. I have only received back the signed Waiver from Eliot. Is it possible for you to follow up with them to send the signed Waivers back so we can close the Estate, or can I have contact information for them and I can follow up?

Let me know what works best for you.

Thank you so much.

Sincerely,

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

PAMELA B. SIMON
950 North Michigan Avenue
Apartment 2603
Chicago, Illinois 60611

June 21, 2012

Mr. Robert L. Spallina
Law Offices of Tescher & Spallina, P.A.
Boca Village Corporate Center 1
4855 Technology Way, Suite 720
Boca Raton, Florida 33431

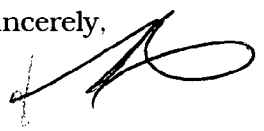
Dear Mr. Spallina:

As you requested enclosed is my signed Waiver of Accounting and Portions of Petition for Discharge; Waiver of Service of Petition for Discharge; and Receipt of Beneficiary and Consent to Discharge (the "Waiver"). Please note that I have signed the enclosed Waiver based on, and in reliance on, the statement made to me and my siblings during the joint telephone conference that we had with you and my father on May 10, 2012, that upon my father's death, whatever is left of my parents' assets will be divided equally between my parents' 10 grandchildren.

In addition, as you know, my husband, David Simon, called to your attention certain erroneous statements that you included in the Waiver, including reference to the fact that I have an interest in the Estate of Shirley Bernstein as a beneficiary, that I have received complete distribution of my share and that I have actual knowledge of the amount and manner of determining the compensation of the personal representative, attorneys, accountants, appraisers and other agents. In response, you sent an email to my husband on June 4, 2012, which stated that I am not entitled to anything under my mother's probate estate and my father is not taking a personal representative fee and your fee and the accountant's fee are reasonable. You did not, however, include the amount of your fee and the accountant's fee as required under the Waiver.

Although I do not feel comfortable signing the Waiver with erroneous statements included in it, as you instructed, I have signed the Waiver with the erroneous statements.

Sincerely,



Eliot Ivan Bernstein

From:	Eliot Ivan Bernstein [iviewit@iviewit.tv]
Sent:	Thursday, May 17, 2012 8:17 AM
To:	Robert L. Spallina, Esq. ~ Attorney at Law @ Tescher & Spallina, P.A. (atrspallina@tescherspallina.com)
Cc:	'Simon Bernstein'; 'Caroline Prochotska Rogers, Esquire (caroline@cprogers.com)'; Michele M. Mulrooney ~ Partner @ Venable LLP (mmulrooney@Venable.com); 'Andy Dietz'; 'Donna Dietz'
Subject:	Estate of Shirley Bernstein
Attachments:	Eliot I Bernstein.vcf; 20120515 Estate Simon Shirley Bernstein Doc.pdf

PRIVATE & CONFIDENTIAL

May 17, 2012

Robert L. Spallina, Esq.
Tescher & Spallina, P.A.
Boca Village Corporate Center I
4855 Technology Way
Suite 720
Boca Raton, FL 33431

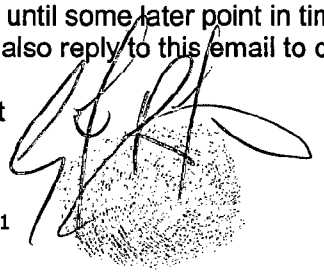
Hi Robert ~ attached is the Waiver of Accounting and Portions of Petition For Discharge; Waiver of Service of Petition for Discharge; and Receipt of Beneficiary and Consent to Discharge. As I mentioned in the phone call, I have not seen any of the underlying estate documents or my mother's will at this point, yet I sign this document after our family call so that my father can be released of his duties as Personal Representative and put whatever matters that were causing him stress to rest. For my trustees I would like the following individuals in the following order to be trustees:

1. Caroline Prochatska Rogers, Esq.
   3500 North Lake Shore Drive
   17th Floor
   Chicago, IL 60657
   (773) 804-9400 ext 19
   caroline@cprogers.com

2. Michele M. Mulrooney, Esq.
   mmulrooney@Venable.com
   (will get new address shortly)

3. Andrew & Donna Dietz
   2002 Circle Drive
   Hermosa Beach, California 90254
   (310) 410-0936 ext1271
   andyd@rockitcargo.com

Please send copies of all estate documents to Caroline and Michele and if my dad would like them to keep the information private and confidential, including from me, until some later point in time, you can arrange that with them directly with my approval granted herein. Please also reply to this email to confirm receipt, a hard copy of my signed document will be sent via mail.
Thank you for your efforts on behalf of my family ~ Eliot



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)
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 Part 1
http://www.youtube.com/watch?v=8Cw0gogF4Fs&feature=player_embedded

and Part 2 @ my favorite part
http://www.youtube.com/watch?v=Apc_Zc_YNIk&feature=related

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=6BlK73p4Ueo

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

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

Eliot for President in 2012 Campaign Speech 1 with No Top Teeth, Don't Laugh, Very Important
http://www.youtube.com/watch?v=DuIHQDcwQfM

Eliot for President in 2012 Campaign Speech 2 with No Top OR Bottom Teeth, Don't Laugh, Very Important
http://www.youtube.com/watch?v=jbOP3U1q6mM

Eliot for President in 2012 Campaign Speech 3 Very Important
https://www.facebook.com/iviewit?ref=tn_tnmn#!/note.php?note_id=319280841435989

Other Websites I like:

http://www.deniedpatent.com
http://exposecorruptcourts.blogspot.com
http://www.judgewatch.org/index.html
http://www.enddiscriminationnow.com
http://www.corruptcourts.org
http://www.makeourofficialsaccountable.com
http://www.parentadvocates.org
http://www.newyorkcourtcorruption.blogspot.com
http://cuomotarp.blogspot.com
http://www.disbarthefloridabar.com
http://www.trusteefraud.com/trusteefraud-blog
http://www.constitutionalguardian.com
http://www.americans4legalreform.com
http://www.judicialaccountability.org
www.electpollack.us
http://www.ruthmpollackesq.com
www.HireLyrics.org
www.Facebook.com/Roxanne.Grinage
www.Twitter.com/HireLyrics
www.YouTube.com/HireLyrics
www.YouTube.com/WhatIsThereLeftToDo
www.YouTube.com/RoxanneGrinage
www.BlogTalkRadio.com/Born-To-Serve
www.ireport.cnn.com/people/HireLyrics
http://www.VoteForGreg.us Greg Fischer
http://www.liberty-candidates.org/greg-fischer/
http://www.facebook.com/pages/Vote-For-Greg/111952178833067
http://www.killallthelawyers.ws/law (The Shakespearean Solution, The Butcher)

--
"We the people are the rightful master of both congress and the courts - not to overthrow the Constitution, but to overthrow the men who pervert the Constitution." - Abraham Lincoln

"Each time a person stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, these ripples build a current that can sweep down the mightiest walls of oppression and resistance." - Robert F. Kennedy

"Is life so dear or peace so sweet as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take, but as for me, give me liberty, or give me death!" - Patrick Henry

I live by the saying,

ELLEN G. WHITE
The greatest want of the world is the want of men, --men who will not be bought or sold; men who in their inmost souls are true and honest, men who do not fear to call sin by its right name; men whose conscience is as true to duty as the needle to the pole, men who will stand for the right though the heavens fall. -Education, p. 57(1903)

If you are one of these people, nice to know your friend ~ Eliot

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ROBERT L. SPALLINA
LAUREN A. GALVANI

SUPPORT STAFF
DIANE DUSTIN
KIMBERLY MORAN
SUANN TESCHER

May 10, 2012

psimon@STPcorp.com

VIA U.S. MAIL
Ms. Pamela Simon
950 North Michigan Avenue, Suite 2603
Chicago, IL 60606

Re: Estate of Shirley Bernstein

Dear Ms. Simon:

Enclosed for your signature is a Waiver of Accounting and Portions of Petition For Discharge; Waiver of Service of Petition for Discharge; and Receipt of Beneficiary and Consent to Discharge. It is necessary for each of the beneficiaries of your mother's Estate to sign this Waiver so that the Estate can be closed and your father can be released of his duties as Personal Representative. Please sign the Waiver and return it to our office in the enclosed, self-addressed envelope.

If you have any questions, please do not hesitate to contact us.

Sincerely,

ROBERT L. SPALLINA

RLS/km

Enclosure

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF SHIRLEY BERNSTEIN, Deceased.

File No. 502011CP000653XXXXSB

Probate Division

Division

WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE

The undersigned, Pamela B. Simon, whose address is 950 North Michigan Avenue, Suite 2603, Chicago, IL 60606, and who has an interest in the above estate as beneficiary of the estate:

(a) Expressly acknowledges that the undersigned is aware of the right to have a final accounting;

(b) Waives the filing and service of a final or other accounting by the personal representative;

(c) Waives the inclusion in the Petition for Discharge of the amount of compensation paid or to be paid to the personal representative, attorneys, accountants, appraisers, or other agents employed by the personal representative, and the manner of determining that compensation;

(d) Expressly acknowledges that the undersigned has actual knowledge of the amount and manner of determining the compensation of the personal representative, attorneys, accountants, appraisers, or other agents; has agreed to the amount and manner of determining such compensation; and waives any objections to the payment of such compensation;

(e) Waives the inclusion in the Petition for Discharge of a plan of distribution;

(f) Waives service of the Petition for Discharge of the personal representative and all notice thereof upon the undersigned;

(g) Acknowledges receipt of complete distribution of the share of the estate to which the undersigned was entitled; and

(h) Consents to the entry of an order discharging the personal representative without notice, hearing or waiting period and without further accounting.

Signed on _____, 2012.

Beneficiary

By: _____
PAMELA B. SIMON

LAW OFFICES
TESCHER & SPALLINA, P.A.

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

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ROBERT L. SPALLINA
LAUREN A. GALVANI

SUPPORT STAFF
DIANE DUSTIN
KIMBERLY MORAN
SUANN TESCHER

May 10, 2012

VIA U.S. MAIL
Mr. Ted Bernstein
880 Berkeley Street
Boca Raton, FL 33487

Re: Estate of Shirley Bernstein

Dear Mr. Bernstein:

Enclosed for your signature is a Waiver of Accounting and Portions of Petition For Discharge; Waiver of Service of Petition for Discharge; and Receipt of Beneficiary and Consent to Discharge. It is necessary for each of the beneficiaries of your mother's Estate to sign this Waiver so that the Estate can be closed and your father can be released of his duties as Personal Representative. Please sign the Waiver and return it to our office in the enclosed, self-addressed envelope.

If you have any questions, please do not hesitate to contact us.

Sincerely,

ROBERT L. SPALLINA

RLS/km

Enclosure

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF SHIRLEY BERNSTEIN, Deceased.

File No. 502011CP000653XXXXSB

Probate Division

Division

WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE

The undersigned, Ted S. Bernstein, whose address is 880 Berkeley Street, Boca Raton, Florida 33487, and who has an interest in the above estate as beneficiary of the estate:

(a) Expressly acknowledges that the undersigned is aware of the right to have a final accounting;

(b) Waives the filing and service of a final or other accounting by the personal representative;

(c) Waives the inclusion in the Petition for Discharge of the amount of compensation paid or to be paid to the personal representative, attorneys, accountants, appraisers, or other agents employed by the personal representative, and the manner of determining that compensation;

(d) Expressly acknowledges that the undersigned has actual knowledge of the amount and manner of determining the compensation of the personal representative, attorneys, accountants, appraisers, or other agents; has agreed to the amount and manner of determining such compensation; and waives any objections to the payment of such compensation;

(e) Waives the inclusion in the Petition for Discharge of a plan of distribution;

(f) Waives service of the Petition for Discharge of the personal representative and all notice thereof upon the undersigned;

(g) Acknowledges receipt of complete distribution of the share of the estate to which the undersigned was entitled; and

(h) Consents to the entry of an order discharging the personal representative without notice, hearing or waiting period and without further accounting.

Signed on _____, 2012.

Beneficiary

By: _____
TED BERNSTEIN

LAW OFFICES
TESCHER & SPALLINA, P.A.

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

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ROBERT L. SPALLINA
LAUREN A. GALVANI

SUPPORT STAFF
DIANE DUSTIN
KIMBERLY MORAN
SUANN TESCHER

May 10, 2012

VIA U.S. MAIL
Ms. Lisa S. Friedstein
2142 Churchill Lane
Highland Park, IL 60035

Re: Estate of Shirley Bernstein

Dear Ms. Friedstein:

Enclosed for your signature is a Waiver of Accounting and Portions of Petition For Discharge; Waiver of Service of Petition for Discharge; and Receipt of Beneficiary and Consent to Discharge. It is necessary for each of the beneficiaries of your mother's Estate to sign this Waiver so that the Estate can be closed and your father can be released of his duties as Personal Representative. Please sign the Waiver and return it to our office in the enclosed, self-addressed envelope.

If you have any questions, please do not hesitate to contact us.

Sincerely,

ROBERT L. SPALLINA

RLS/km

Enclosure

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF SHIRLEY BERNSTEIN, Deceased.

File No. 502011CP000653XXXXSB

Probate Division

Division

WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE

The undersigned, Lisa S. Friedstein, whose address is 2142 Churchill Lane, Highland Park, IL 60035, and who has an interest in the above estate as beneficiary of the estate:

(a) Expressly acknowledges that the undersigned is aware of the right to have a final accounting;

(b) Waives the filing and service of a final or other accounting by the personal representative;

(c) Waives the inclusion in the Petition for Discharge of the amount of compensation paid or to be paid to the personal representative, attorneys, accountants, appraisers, or other agents employed by the personal representative, and the manner of determining that compensation;

(d) Expressly acknowledges that the undersigned has actual knowledge of the amount and manner of determining the compensation of the personal representative, attorneys, accountants, appraisers, or other agents; has agreed to the amount and manner of determining such compensation; and waives any objections to the payment of such compensation;

(e) Waives the inclusion in the Petition for Discharge of a plan of distribution;

(f) Waives service of the Petition for Discharge of the personal representative and all notice thereof upon the undersigned;

(g) Acknowledges receipt of complete distribution of the share of the estate to which the undersigned was entitled; and

(h) Consents to the entry of an order discharging the personal representative without notice, hearing or waiting period and without further accounting.

Signed on _____, 2012.

Beneficiary

By: _____
LISA S. FRIEDSTEIN

LAW OFFICES
TESCHER & SPALLINA, P.A.

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

TEL: 561-997-7008
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ATTORNEYS
DONALD R. TESCHER
ROBERT L. SPALLINA
LAUREN A. GALVANI

SUPPORT STAFF
DIANE DUSTIN
KIMBERLY MORAN
SUANN TESCHER

May 10, 2012

VIA U.S. MAIL
Ms. Jill Iantoni
2101 Magnolia Lane
Highland Park, IL 60035

Re: Estate of Shirley Bernstein

Dear Ms. Iantoni:

Enclosed for your signature is a Waiver of Accounting and Portions of Petition For Discharge; Waiver of Service of Petition for Discharge; and Receipt of Beneficiary and Consent to Discharge. It is necessary for each of the beneficiaries of your mother's Estate to sign this Waiver so that the Estate can be closed and your father can be released of his duties as Personal Representative. Please sign the Waiver and return it to our office in the enclosed, self-addressed envelope.

If you have any questions, please do not hesitate to contact us.

Sincerely,

ROBERT L. SPALLINA

RLS/km

Enclosure

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF SHIRLEY BERNSTEIN, Deceased.

File No. 502011CP000653XXXXSB

Probate Division

Division

WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE

The undersigned, Jill Iantoni, whose address is 2101 Magnolia Lane, Highland Park, IL 60035, and who has an interest in the above estate as beneficiary of the estate:

(a) Expressly acknowledges that the undersigned is aware of the right to have a final accounting;

(b) Waives the filing and service of a final or other accounting by the personal representative;

(c) Waives the inclusion in the Petition for Discharge of the amount of compensation paid or to be paid to the personal representative, attorneys, accountants, appraisers, or other agents employed by the personal representative, and the manner of determining that compensation;

(d) Expressly acknowledges that the undersigned has actual knowledge of the amount and manner of determining the compensation of the personal representative, attorneys, accountants, appraisers, or other agents; has agreed to the amount and manner of determining such compensation; and waives any objections to the payment of such compensation;

(e) Waives the inclusion in the Petition for Discharge of a plan of distribution;

(f) Waives service of the Petition for Discharge of the personal representative and all notice thereof upon the undersigned;

(g) Acknowledges receipt of complete distribution of the share of the estate to which the undersigned was entitled; and

(h) Consents to the entry of an order discharging the personal representative without notice, hearing or waiting period and without further accounting.

Signed on _____, 2012.

Beneficiary

By: _____
JILL IANTONI

LAW OFFICES
TESCHER & SPALLINA, P.A.

BOCA VILLAGE CORPORATE CENTER 1
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

May 10, 2012

VIA U.S. MAIL
Mr. Eliot Bernstein
2753 NW 34th Street
Boca Raton, FL 33434

Re: Estate of Shirley Bernstein

Dear Mr. Bernstein:

Enclosed for your signature is a Waiver of Accounting and Portions of Petition For Discharge; Waiver of Service of Petition for Discharge; and Receipt of Beneficiary and Consent to Discharge. It is necessary for each of the beneficiaries of your mother's Estate to sign this Waiver so that the Estate can be closed and your father can be released of his duties as Personal Representative. Please sign the Waiver and return it to our office in the enclosed, self-addressed envelope.

If you have any questions, please do not hesitate to contact us.

Sincerely,

ROBERT L. SPALLINA

RLS/km

Enclosure

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF SHIRLEY BERNSTEIN, Deceased.

File No. 502011CP000653XXXXSB
Probate Division
Division

WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE

The undersigned, Eliot Bernstein, whose address is 2753 NW 34th Street, Boca Raton, FL 33434, and who has an interest in the above estate as beneficiary of the estate:

(a) Expressly acknowledges that the undersigned is aware of the right to have a final accounting;

(b) Waives the filing and service of a final or other accounting by the personal representative;

(c) Waives the inclusion in the Petition for Discharge of the amount of compensation paid or to be paid to the personal representative, attorneys, accountants, appraisers, or other agents employed by the personal representative, and the manner of determining that compensation;

(d) Expressly acknowledges that the undersigned has actual knowledge of the amount and manner of determining the compensation of the personal representative, attorneys, accountants, appraisers, or other agents; has agreed to the amount and manner of determining such compensation; and waives any objections to the payment of such compensation;

(e) Waives the inclusion in the Petition for Discharge of a plan of distribution;

(f) Waives service of the Petition for Discharge of the personal representative and all notice thereof upon the undersigned;

(g) Acknowledges receipt of complete distribution of the share of the estate to which the undersigned was entitled; and

(h) Consents to the entry of an order discharging the personal representative without notice, hearing or waiting period and without further accounting.

Signed on _____, 2012.

Beneficiary

By: _____
ELIOT BERNSTEIN

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

April 4, 2012

VIA FEDERAL EXPRESS
Simon Bernstein
7020 Lions Head Lane
Boca Raton, FL 33496

Re: Estate of Shirley Bernstein

Dear Mr. Bernstein:

Enclosed for your signature are the following documents:

1. Probate Checklist
2. Statement Regarding Creditors
3. Affidavit of No Florida Estate Tax Due (**notary required**)
4. Waivers of Accounting and Portions of Petition for Discharge; Waiver of Service of Petition for Discharge; and Receipt of Beneficiary and Consent to Discharge (one for you and each of your children)
5. Petition for Discharge

Please call me to discuss.

Sincerely,

ROBERT L. SPALLINA

RLS/km
Enclosures

FedEx

Shipment Receipt

Outbound Shipment
Address Information

Ship to:	**Ship from:**
Mr. Simon Berstein	Kimberly Moran
TESCHER & SPALLINA	TESCHER & SPALLINA
7020 LIONS HEAD LN	4855 Technology Way
	Suite 720
BOCA RATON, FL	BOCA RATON, FL
33496-5931	33431
US	US
5614779991	5619977008

Shipping Information
Tracking number: 798248469035
Date Created: 04/04/2012
Estimated shipping charges: 14.69

Package Information
Service type: Standard Overnight
Package type: FedEx Envelope
Number of packages: 1
Total weight: 1.00LBS
Declared value: 0.00 USD
Special Services: Process a return shipment,Residential Delivery
Pickup/Drop-off: Use an already scheduled pickup at my location

Billing Information
Bill transportation to: Tescher & Spallina-343

Your reference: Bernstein/11187.005
P.O. no.:
Invoice no.:
Department no.:

Return Shipment
Address Information

Ship to:	**Ship from:**
Kimberly Moran	Mr. Simon Berstein
TESCHER & SPALLINA	Life Insurance Concepts
4855 Technology Way	7020 LIONS HEAD LN
Suite 720	
BOCA RATON, FL	BOCA RATON, FL
33431	33496-5931
US	US
5619977008	5614779991

Shipping Information
Tracking number: 798248469002

Estimated shipping charges:

Package Information
Return label type: Print
Service type: Standard Overnight
Package type: FedEx Envelope
Number of packages: 1
RMA no.:
Total weight: 1LBS

Declared value: 0.00USD

Special Services:
Pickup/Drop-off: Use an already scheduled pickup at my location

Billing Information
Bill transportation to: Tescher & Spallina-343
Your reference: Bernstein 11187.005
P.O. no.:
Invoice no.:
Department no.:

Thank you for shipping online with Fedex ShipManager at fedex.com.

Please Note

FedEx will not be responsible for any claim in excess of $100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of $100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is $500, e.g., jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits. Consult the applicable FedEx Service Guide for details.
The estimated shipping charge may be different than the actual charges for your shipment. Differences may occur based on actual weight, dimensions, and other factors. Consult the applicable FedEx Service Guide or the FedEx Rate Sheets for details on how shipping charges are calculated.

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FLORIDA

IN RE: ESTATE OF SHIRLEY BERNSTEIN, Deceased.

PROBATE DIVISION

FILE NO.: 502011000653CPXXXXSB

DIVISION:

STATEMENT REGARDING CREDITORS

The undersigned, SIMON BERNSTEIN, as personal representative of the estate of Shirley Bernstein, deceased, alleges:

1. A Notice to Creditors in the estate of the decedent has been published as required by law, with the first publication occurring on March 18, 2011.

2. Diligent search has been made to ascertain the names and location or mailing addresses of all creditors of the decedent and of all other persons having claims or demands against the estate.

3. The names and, if known, the addresses of all creditors and other persons ascertained to have claims or demands against the estate and who have not filed a timely claim, or who have not had their claim included in a Personal Representative's Proof of Claim filed in this proceeding, are:

None

4. A copy of the Notice of Administration was served on each of the persons named on the attached schedule (if any) within three months after the first publication of the Notice of Administration, except as otherwise indicated on that schedule.

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 _____, 2012.

Attorney for Personal Representative:

ROBERT L. SPALLINA, ESQUIRE
Florida Bar No. 0497381
4855 Technology Way, Ste. 720
Boca Raton, FL 33431
561-997-7008

Personal Representative:

Simon Bernstein

Bar Form No. P-3.0831
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Reviewed October 1, 1998

FLORIDA
DEPARTMENT OF REVENUE

Affidavit of No Florida Estate Tax Due

(for decedents dying on or after January 1, 2000)

DR-312
N. 01/00

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL
IN RE: Estate of File No. 502011000653XXXSB
Shirley Bernstein, Deceased. Probate Division

(this space available for case style of estate probate proceeding)

(for official use only)

STATE OF FLORIDA
COUNTY OF PALM BEACH

I, the undersigned, SIMON BERNSTEIN (print name of personal representative), do hereby state:

1. I am the Personal Representative as defined in s. 198.01 or s. 731.201, Florida Statutes (F.S.), as the case may be, of the Estate of SHIRLEY BERNSTEIN (print name of decedent).
2. The decedent referenced above, whose Social Security Number is 347-30-9749, died on 12/08/2010 (date of death) and was domiciled, as defined in s. 198.015, F.S., at the time of death in the state of Florida.

   On date of death, the decedent was (check one): ☒ a U.S. citizen ☐ not a U.S. citizen
3. A federal estate tax return (federal Form 706 or 706-NA) is not required to be filed for the Estate.
4. The Estate does not owe Florida estate tax pursuant to Chapter 198, F.S.
5. I acknowledge personal liability for distribution in whole or in part of any of the Estate by having obtained release of such property from the lien of the Florida estate tax.

Under penalties of perjury, I declare that I have read this Affidavit and that the facts stated are true.

Executed this _____ day of _____, 20 12 .

Signature: _____

Print Name: SIMON BERNSTEIN

Mailing Address: 7020 Lions Head Lane, Boca Raton, FL, 33496 Telephone: _____

STATE OF _____
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me by _____
on this _____ day of _____, 20_____.

Personally known _____
Or Produced Identification _____
Type of Identification Produced _____

Signature of Notary: _____

(Print, Type, or Stamp Name of Notary)

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF SHIRLEY BERNSTEIN, Deceased.

File No. 502011CP000653XXXXSB

Probate Division

Division

WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE

The undersigned, Simon L. Bernstein, whose address is 7020 Lions Head Lane, Boca Raton, Florida 33496, and who has an interest in the above estate as beneficiary of the estate:

(a) Expressly acknowledges that the undersigned is aware of the right to have a final accounting;

(b) Waives the filing and service of a final or other accounting by the personal representative;

(c) Waives the inclusion in the Petition for Discharge of the amount of compensation paid or to be paid to the personal representative, attorneys, accountants, appraisers, or other agents employed by the personal representative, and the manner of determining that compensation;

(d) Expressly acknowledges that the undersigned has actual knowledge of the amount and manner of determining the compensation of the personal representative, attorneys, accountants, appraisers, or other agents; has agreed to the amount and manner of determining such compensation; and waives any objections to the payment of such compensation;

(e) Waives the inclusion in the Petition for Discharge of a plan of distribution;

(f) Waives service of the Petition for Discharge of the personal representative and all notice thereof upon the undersigned;

(g) Acknowledges receipt of complete distribution of the share of the estate to which the undersigned was entitled; and

(h) Consents to the entry of an order discharging the personal representative without notice, hearing or waiting period and without further accounting.

Signed on _____, 2012.

Beneficiary

By: _____
SIMON L. BERNSTEIN

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF SHIRLEY BERNSTEIN, Deceased.

File No. 502011CP000653XXXXSB

Probate Division

Division

WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE

The undersigned, Ted S. Bernstein, whose address is 880 Berkeley Street, Boca Raton, Florida 33487, and who has an interest in the above estate as beneficiary of the estate:

(a) Expressly acknowledges that the undersigned is aware of the right to have a final accounting;

(b) Waives the filing and service of a final or other accounting by the personal representative;

(c) Waives the inclusion in the Petition for Discharge of the amount of compensation paid or to be paid to the personal representative, attorneys, accountants, appraisers, or other agents employed by the personal representative, and the manner of determining that compensation;

(d) Expressly acknowledges that the undersigned has actual knowledge of the amount and manner of determining the compensation of the personal representative, attorneys, accountants, appraisers, or other agents; has agreed to the amount and manner of determining such compensation; and waives any objections to the payment of such compensation;

(e) Waives the inclusion in the Petition for Discharge of a plan of distribution;

(f) Waives service of the Petition for Discharge of the personal representative and all notice thereof upon the undersigned;

(g) Acknowledges receipt of complete distribution of the share of the estate to which the undersigned was entitled; and

(h) Consents to the entry of an order discharging the personal representative without notice, hearing or waiting period and without further accounting.

Signed on _____, 2012.

Beneficiary

By: _____
TED BERNSTEIN

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF SHIRLEY BERNSTEIN, Deceased.

File No. 502011CP000653XXXXSB

Probate Division

Division

WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE

The undersigned, Pamela B. Simon, whose address is 950 North Michigan Avenue, Suite 2603, Chicago, IL 60606, and who has an interest in the above estate as beneficiary of the estate:

(a) Expressly acknowledges that the undersigned is aware of the right to have a final accounting;

(b) Waives the filing and service of a final or other accounting by the personal representative;

(c) Waives the inclusion in the Petition for Discharge of the amount of compensation paid or to be paid to the personal representative, attorneys, accountants, appraisers, or other agents employed by the personal representative, and the manner of determining that compensation;

(d) Expressly acknowledges that the undersigned has actual knowledge of the amount and manner of determining the compensation of the personal representative, attorneys, accountants, appraisers, or other agents; has agreed to the amount and manner of determining such compensation; and waives any objections to the payment of such compensation;

(e) Waives the inclusion in the Petition for Discharge of a plan of distribution;

(f) Waives service of the Petition for Discharge of the personal representative and all notice thereof upon the undersigned;

(g) Acknowledges receipt of complete distribution of the share of the estate to which the undersigned was entitled; and

(h) Consents to the entry of an order discharging the personal representative without notice, hearing or waiting period and without further accounting.

Signed on _____, 2012.

Beneficiary

By: _____
PAMELA B. SIMON

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF SHIRLEY BERNSTEIN, Deceased.

File No. 502011CP000653XXXXSB

Probate Division

Division

WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE

The undersigned, Eliot Bernstein, whose address is 2753 NW 34th Street, Boca Raton, FL 33434, and who has an interest in the above estate as beneficiary of the estate:

(a) Expressly acknowledges that the undersigned is aware of the right to have a final accounting;

(b) Waives the filing and service of a final or other accounting by the personal representative;

(c) Waives the inclusion in the Petition for Discharge of the amount of compensation paid or to be paid to the personal representative, attorneys, accountants, appraisers, or other agents employed by the personal representative, and the manner of determining that compensation;

(d) Expressly acknowledges that the undersigned has actual knowledge of the amount and manner of determining the compensation of the personal representative, attorneys, accountants, appraisers, or other agents; has agreed to the amount and manner of determining such compensation; and waives any objections to the payment of such compensation;

(e) Waives the inclusion in the Petition for Discharge of a plan of distribution;

(f) Waives service of the Petition for Discharge of the personal representative and all notice thereof upon the undersigned;

(g) Acknowledges receipt of complete distribution of the share of the estate to which the undersigned was entitled; and

(h) Consents to the entry of an order discharging the personal representative without notice, hearing or waiting period and without further accounting.

Signed on _____, 2012.

Beneficiary

By: _____
ELIOT BERNSTEIN

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF SHIRLEY BERNSTEIN, Deceased.

File No. 502011CP000653XXXXSB

Probate Division

Division

WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE

The undersigned, Jill Iantoni, whose address is 2101 Magnolia Lane, Highland Park, IL 60035, and who has an interest in the above estate as beneficiary of the estate:

(a) Expressly acknowledges that the undersigned is aware of the right to have a final accounting;

(b) Waives the filing and service of a final or other accounting by the personal representative;

(c) Waives the inclusion in the Petition for Discharge of the amount of compensation paid or to be paid to the personal representative, attorneys, accountants, appraisers, or other agents employed by the personal representative, and the manner of determining that compensation;

(d) Expressly acknowledges that the undersigned has actual knowledge of the amount and manner of determining the compensation of the personal representative, attorneys, accountants, appraisers, or other agents; has agreed to the amount and manner of determining such compensation; and waives any objections to the payment of such compensation;

(e) Waives the inclusion in the Petition for Discharge of a plan of distribution;

(f) Waives service of the Petition for Discharge of the personal representative and all notice thereof upon the undersigned;

(g) Acknowledges receipt of complete distribution of the share of the estate to which the undersigned was entitled; and

(h) Consents to the entry of an order discharging the personal representative without notice, hearing or waiting period and without further accounting.

Signed on _____, 2012.

Beneficiary

By: _____
JILL IANTONI

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF SHIRLEY BERNSTEIN, Deceased.

File No. 502011CP000653XXXXSB

Probate Division

Division

WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE

The undersigned, Lisa S. Friedstein, whose address is 2142 Churchill Lane, Highland Park, IL 60035, and who has an interest in the above estate as beneficiary of the estate:

(a) Expressly acknowledges that the undersigned is aware of the right to have a final accounting;

(b) Waives the filing and service of a final or other accounting by the personal representative;

(c) Waives the inclusion in the Petition for Discharge of the amount of compensation paid or to be paid to the personal representative, attorneys, accountants, appraisers, or other agents employed by the personal representative, and the manner of determining that compensation;

(d) Expressly acknowledges that the undersigned has actual knowledge of the amount and manner of determining the compensation of the personal representative, attorneys, accountants, appraisers, or other agents; has agreed to the amount and manner of determining such compensation; and waives any objections to the payment of such compensation;

(e) Waives the inclusion in the Petition for Discharge of a plan of distribution;

(f) Waives service of the Petition for Discharge of the personal representative and all notice thereof upon the undersigned;

(g) Acknowledges receipt of complete distribution of the share of the estate to which the undersigned was entitled; and

(h) Consents to the entry of an order discharging the personal representative without notice, hearing or waiting period and without further accounting.

Signed on _____, 2012.

Beneficiary

By: _____
LISA S. FRIEDSTEIN

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF
SHIRLEY BERNSTEIN,
Deceased.

File No. 502011000653XXXX SB
Probate Division

PETITION FOR DISCHARGE
(full waiver)

Petitioner, SIMON BERNSTEIN, as personal representative of the above estate, alleges:

1. The decedent, Shirley Bernstein, a resident of Palm Beach County, died on December 8, 2010, and Letters of Administration were issued to petitioner on February 10, 2011.

2. Petitioner has fully administered this estate by making payment, settlement, or other disposition of all claims and debts that were presented, and by paying or making provision for the payment of all taxes and expenses of administration.

3. Petitioner has filed all required estate tax returns with the Internal Revenue Service and with the Department of Revenue of the State of Florida, and has obtained and filed, or file herewith, evidence of the satisfaction of this estate's obligations for both federal and Florida estate taxes, if any.

4. The only persons, other than petitioner, having an interest in this proceeding, and their respective addresses are:

NAME	ADDRESS	RELATIONSHIP	BIRTH DATE (if Minor)
Simon L. Bernstein	7020 Lions Head Lane Boca Raton, FL 33496	spouse	adult
Ted S. Bernstein	880 Berkeley Street Boca Raton, FL 33487	son	adult

Bar Form No. P-5.0550
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Reviewed October 1, 1998

Pamela B. Simon	950 North Michigan Avenue Suite 2603 Chicago, IL 60606	daughter	adult
Eliot Bernstein	2753 NW 34th Street Boca Raton, FL 33434	son	adult
Jill Iantoni	2101 Magnolia Lane Highland Park, IL 60035	daughter	adult
Lisa S. Friedstein	2142 Churchill Lane Highland Park, IL 60035	daughter	adult

5. Petitioner, pursuant to Section 731.302 of the Florida Probate Code, and as permitted by Fla. Prob. R. 5.400(f), files herewith waivers and receipts signed by all interested persons:

(a) acknowledging that they are aware of the right to have a final accounting;

(b) waiving the filing and service of a final accounting;

(c) waiving the inclusion in this petition of the amount of compensation paid or to be paid to the personal representative, attorneys, accountants, appraisers or other agents employed by the personal representative and the manner of determining that compensation;

(d) acknowledging that they have actual knowledge of the amount and manner of determining compensation of the personal representative, attorneys, accountants, appraisers, or other agents, and agreeing to the amount and manner of determining such compensation, and waiving any objections to the payment of such compensation;

(e) waiving the inclusion in this petition of a plan of distribution;

(f) waiving service of this petition and all notice thereof;

(g) acknowledging receipt of complete distribution of the share of the estate to which they are entitled; and

(h) consenting to the entry of an order discharging petitioner, as personal representative, without notice, hearing or waiting period and without further accounting.

Petitioner requests that an order be entered discharging petitioner as personal representative of this estate and releasing the surety on any bond which petitioner may have posted in this proceeding from any liability on it.

Bar Form No. P-5.0550
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Reviewed October 1, 1998

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 _____, 2012.

Personal Representative



_____

SIMON L. BERNSTEIN

Respectfully Submitted,
TESCHER & SPALLINA, P.A.

By:_____
ROBERT L. SPALLINA, ESQUIRE
Florida Bar No. 497381
4855 Technology Way, St. 720
Boca Raton, FL 33431
561-997-7008

N:\WPDATA\estates\Bernstein, Shirley\Pleadings\Closing Pleadings\Discharge Pet.wpd

Kimberly Moran

From: Robert Spallina
Sent: Monday, April 04, 2011 10:07 AM
To: Kimberly Moran
Subject: FW: Si Bernstein
Attachments: Rimer.pdf

From: Diana Banks [mailto:diana@lifeinsuranceconcepts.com]
Sent: Friday, April 01, 2011 10:11 AM
To: Robert Spallina
Subject: Si Bernstein

Hi Robert, please see attached and let me know what we should do. This is a bill for Si's son Eliot, the paperwork says Shirley is financially responsible for the bills. Should we offer them a settlement or have them take it up w/ Shirley's estate?

Diana Banks - Vice President of Administration

. . . . . .

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: Diana@LifeInsuranceConcepts.com

www.LifeInsuranceConcepts.com

This communication (including attachments) may contain privileged and confidential information intended only for the recipient(s) named above. If you are not the intended recipient(s), you are hereby notified that any viewing, copying, dissemination or distribution of this communication is prohibited and may be subject to legal action. Please contact the sender immediately by reply e-mail and delete all copies of the original message.

Stephen Rimer, bds, pa
DIPLOMATE AMERICAN BOARD OF ORAL & MAXILLOFACIAL SURGERY

March 28, 2011

Dear Simon Bernstein,

As requested, please find the enclosed documents that provide the information showing you as the financial obligator. Please find the check copies from the bank showing continual payment from your account, for your son Eliot Bernstein's oral surgery treatment.

Thank you for your cooperation in this matter.

Once again, our address is 825 Meadows Road Suite 121 Boca Raton, Fl 33486 to remit payment of the remaining balance of $24,078.00.

Sincerely,

Dr. Stephen Rimer

SR/ka

CORRECTIVE JAW SURGERY AND IMPLANTOLOGY ORTHOGNATHICS • PREPROSTHETICS • ORAL PATHOLOGY • DENTOALVEOLAR
Belle Terre, Suite 121 • 825 Meadows Road • Boca Raton, Florida 33486-2354 • (561) 368-3170 • Fax (561) 338-6231

PATIENT INFORMATION

NAME: MR./MRS./MS./DR. FIRST: Eliot LAST: Bernstein

DATE OF BIRTH: 9/30/63 AGE: 44 SS #: 361 62 2566

ADDRESS: 2753 N.W. 34th St

CITY: Boca Raton STATE: FL ZIP: 33434

HOME PHONE: (561) 245-8588 BUSINESS PHONE: (530) 526-5751

OCCUPATION: Inventor EMPLOYER: Invent Technologies

NAME OF PARENT/ SPOUSE: Candice Bernstein

EMERGENCY CONTACT: Shirley Bernstein

RELATIONSHIP: Mother PHONE NUMBER: 561-477-9991

PERSON RESPONSIBLE FOR ACCOUNT: Shirley Bernstein

YOUR GENERAL DENTIST: Seecharan

REFERRED TO DR. RIMER BY: Seecharan / Norm Feuerschuel

"IN YOUR OWN WORDS" WHY ARE YOU HERE TO SEE DR. RIMER? Fix teeth

---

DR. RIMER <u>DOES NOT PARTICIPATE</u> ON ANY INSURANCE PLANS, THEREFORE, PAYMENT IS DUE IN FULL WHEN SERVICES ARE RENDERED. WE WILL PROVIDE A PAID RECEIPT FOR YOU TO SUBMIT TO YOUR INSURANCE COMPANY. WE CANNOT ACCEPT RESPONSIBILTY FOR COLLECTING OR NEGOTIATING DISPUTED CLAIMS. INSURANCE REIMBURSEMENT IS A CONTRACT BETWEEN YOU AND YOUR INSURANCE COMPANY. IF LEGAL ACTION IS NECESSARY TO SETTLE THIS ACCOUNT, YOU WILL BE RESPONSIBLE FOR ALL COURT COSTS AND THE ATTORNEY'S FEES FOR COLLECTION. THANK YOU FOR YOUR COOPERATION.

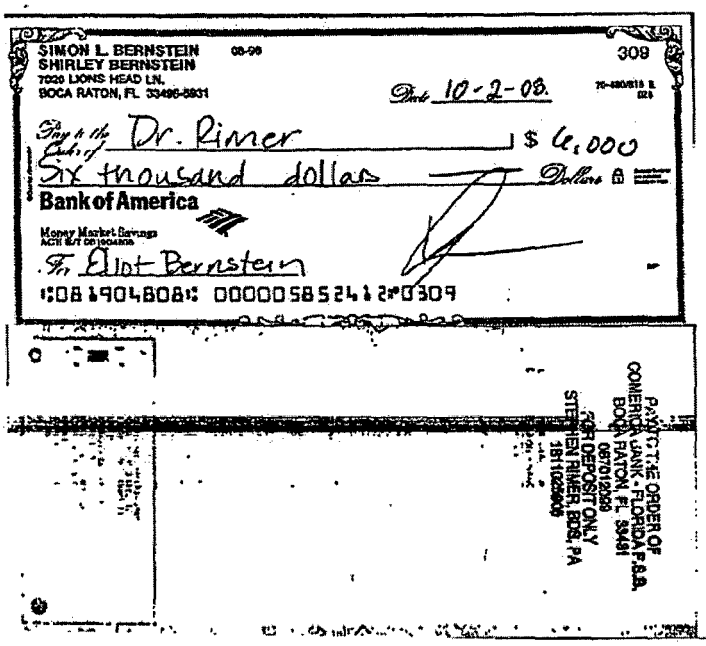
A DEPOSIT WILL BE REQUIRED IN ORDER TO SCHEDULE ANY TYPE OF SURGICAL SERVICES.

SIGNATURE OF RESPONSIBLE PARTY _____ DATE: 8/24/08

I AM WILLING TO GIVE CONSENT FOR SHOWING OF MY PHOTOS FOR EDUCATIONAL PURPOSES. SIGNATURE _____

K. CIVIN
Notary Public - State of Florida
My Comm. Expires Dec 22, 2014
Commission # EE 30041
Bonded Through National Notary Assn.

copies
Cora L Larkin to: Michelle D Folgate 03/25/2011 02:12 PM


SIMON L. BERNSTEIN
SHIRLEY BERNSTEIN
7020 LIONS HEAD LN.
BOCA RATON, FL 33496-5931

309

Date 10-2-08.

Pay to the Order of Dr. Rimer $ 6,000

Six thousand dollars

Bank of America

Money Market Savings

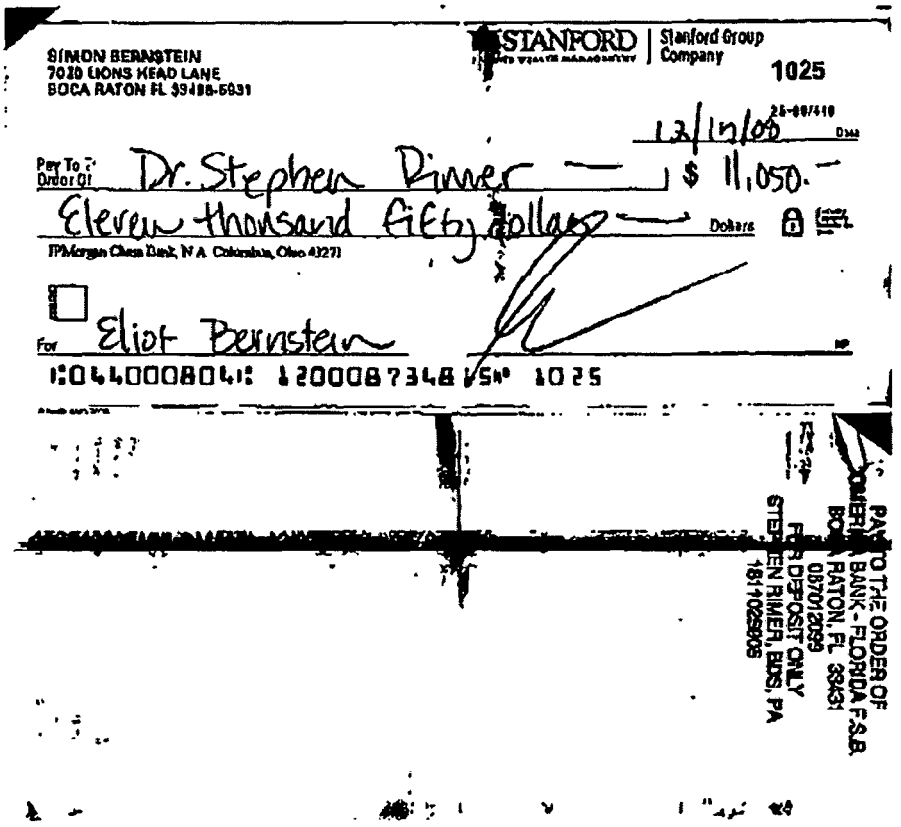
For Eliot Bernstein

⑆067012036⑆ 000005852412 0309

PAY TO THE ORDER OF
COMERICA BANK - FLORIDA F.S.B.
BOCA RATON, FL 33481
067012036
FOR DEPOSIT ONLY
STEPHEN RIMER, BDS, PA
1811626609

K. CIVIN
Notary Public - State of Florida
My Comm. Expires Dec 22, 2014
Commission # EE 30041
Bonded Through National Notary Assn.

Re: Fw: Research 1811025905
Cora L Larkin to: Michelle D Folgate 03/28/2011 11:30 AM



SIMON BERNSTEIN
7020 LIONS HEAD LANE
BOCA RATON FL 33496-5631

STANFORD | Stanford Group Company

1025

12/17/08

Pay To The Order Of Dr. Stephen Rimer — $ 11,050.—

Eleven thousand fifty dollars — Dollars

JPMorgan Chase Bank, N.A. Columbus, Ohio 43271

For Eliot Bernstein

⑆044000804⑆ 20008734⑈ 1025

PAY TO THE ORDER OF COMERICA BANK - FLORIDA F.S.B. BOCA RATON, FL 33431 057012099 FOR DEPOSIT ONLY STEPHEN RIMER, MDS, PA 1811025905

Comerica WEALTH MANAGEMENT

Cora Larkin | Florida Branch Operations | cllarkin@comerica.com
1675 North Military Trail, Sixth Floor, Boca Raton, Florida 33486 Tel: 561.961.6656 FAX: 561.961.6650

Please be aware that if you reply directly to this particular message, your reply may not be secure. Do not use browser e-mail to send us communications, which contain unencrypted confidential information such as passwords, account numbers or social security numbers. If you must provide this type of information, please visit http://www.comerica.com to submit a message using any of the secure "Contact Us" forms. In addition, you should not send, via e-mail, any inquiry or request that may be time-sensitive. If you have received this e-mail by mistake, please destroy or delete the message and advise the sender of the error by return e-mail.

K. CIVIN
Notary Public - State of Florida
My Comm. Expires Dec 22, 2014
Commission # EE 30041
Bonded Through National Notary Assn.

K. Civin

Red Coconut
BEACH HOTEL BORACAY



1 AVAILABILITY/PRICE 2 RESERVATION SUMMARY 3 GUARANTEES 4 FINAL CONFIRMATION

Personal Information

Ms. Joan Mapile
401 NE Mizner Blvd. #T301
Boca Raton , FL 33432

Company :
Tel/Fax : 1 786 213 4551 /
joanfpm88@yahoo.com

Room Description	Type of room	Number of adults	Number of nights	Number of children	Bedding preferences	No smoking	Arrival Date	Rates
ROOM 1	Premier-Room	2	2		Queen + Single Bed		April 18, 2011 - 1 pm	**16 720 PHP**

Options ✔ **CATICLAN-AIRRPORT-Land-Boat-Transfer 1600 PHP**

Total price	20 326 PHP *

Modify

*Breakfast is extra, Taxes included

General terms and conditions

TERMS & CONDITIONS
* Rates are subject to change without notice.
* Rates are quoted in Philippine Peso (PHP).
* Check in time is 14:00 hours & Check out time is 12:00 noon.
* Please note that children age 10 and older are charged the adult rate. Please include them in the number entered in the No. of Adults box.

* 50 Percent of the total amount will be charged on the day of booking and is non-refundable.

☑ I have read and I accept the general terms and conditions **Print** **Submit Reservation**

Red Coconut
BEACH HOTEL BORACAY



1 AVAILABILITY/PRICE 2 RESERVATION SUMMARY 3 GUARANTEES 4 FINAL CONFIRMATION

Booking Code

Your reservation code is MapQ5q16u311PhRe

You will receive very shortly this reservation code on your e-mail: joanfpm88@yahoo.com

Thank you for choosing Red Coconut Beach Hotel Boracay

Print

Close window

Kimberly Moran

From: Kimberly Moran
Sent: Thursday, August 25, 2011 10:34 AM
To: 'Diana Banks'
Subject: Estate of Shirley Bernstein - Inventory

Attachments: DOC082511.pdf



DOC082511.pdf
(49 KB)

Hi Diana -

Attached is the Inventory for the Estate of Shirley Bernstein. Please print it, have Mr. Bernstein sign it, and send the original to our office. We will file it with the court.

If you have any questions, please do not hesitate to contact us.

Best regards,

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF PROBATE DIVISION

SHIRLEY BERNSTEIN File No. 502011CP000653XXXX SB

Deceased.

INVENTORY

The undersigned personal representative of the estate of SHIRLEY BERNSTEIN, deceased, who died on December 8, 2010, and whose social security number is XXX-XX-9749, submits this 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	$

Bar Form No. P-3.0100
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Reviewed October 1, 1998

Estate of Shirley Bernstein
File No. 502011CP000653XXXX SB
INVENTORY

PERSONAL PROPERTY WHEREVER LOCATED:

Description	Estimated Fair Market Value
Furniture, furnishings, household goods and personal effects	$ 25,000.00 (est.)
TOTAL OF ALL PERSONAL PROPERTY AND FLORIDA REAL ESTATE$	$ 25,000.00

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 _____ day of _____, 2011.

ROBERT L. SPALLINA, Esq.
Attorney for Personal Representative
Florida Bar No. 497381
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Telephone: (561) 997-7008

SIMON BERNSTEIN, Personal Representative

Bar Form No. P-3.0100
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Reviewed October 1, 1998

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Inventory was furnished by U.S. certified mail to:

Florida Department of Revenue
5050 W. Tennessee St., Bldg. K
Tallahassee, FL 32399-0100

on this _____ day of _____, 2011.

TESCHER & SPALLINA, P.A.
Attorneys for the Personal Representative
of the Estate of Shirley Bernstein
4855 Technology Way, Suite 720
Boca Raton, Florida 33431
Telephone: (561) 997-7008

BY:_____
ROBERT L. SPALLINA, ESQ.
Florida Bar No. 497381

Bar Form No. P-3.0100
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Reviewed October 1, 1998

Robert Spallina

From: Robert Spallina
Sent: Wednesday, July 13, 2011 3:33 PM
To: 'Diana Banks'; 'Janet.Craig@opco.com'
Cc: Simon Bernstein
Subject: RE: Bernstein Tax Information
Attachments: image001.jpg

Diana – the trusts will each need a k-1 from LIC prior to Sep 15 so the returns can be filed timely. I don't know why they are asking about Bernstein Family Realty, LLC. It has nothing to do with the GC trusts.

Janet – I would like all documentation sent to me for review prior to sending to the trustees and beneficiaries. Thank you.

From: Diana Banks [mailto:diana@lifeinsuranceconcepts.com]
Sent: Wednesday, July 13, 2011 3:08 PM
To: Robert Spallina
Subject: FW: Bernstein Tax Information

Robert, please see below. Si would like you to review and advise if what they are asking for is needed. Thank you, Diana

Diana Banks - Vice President of Administration

. . . . . .

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: Diana@LifeInsuranceConcepts.com

www.LifeInsuranceConcepts.com

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From: Craig, Janet [mailto:Janet.Craig@opco.com]
Sent: Tuesday, July 12, 2011 10:22 AM
To: Diana Banks; Roraff, Victoria
Cc: Worth, Hunt; Sigalos, Janet; Vereb, Patricia
Subject: Bernstein Tax Information

Diana and Vicky,

I have been attempting to collect the final tax information required to file the 2010 Fiduciary tax returns for these 10 accounts. Please send me the tax information for the assets LIC Holdings and Bernstein Family Realty LLC (if there is any). Please let me know, in writing, if there is no tax information available for the Bernstein Family Realty LLC.

In order to close the accounts for Alexandra and Eric, who I believe are of age, I will need a written request from each of them stating their age, their desire to terminate the trust and transfer instructions. The assets in those two trusts will be payable to them outright, so they will need brokerage accounts in their individual names. They will still need to sign off on our standard release documents.

We will be preparing removal and release documents for the remaining eight trust accounts. Please let me know where we should send these documents, once they are prepared. We will also need transfer instructions in the name of each trust at the appropriate time.

Please let me know what information you require to facilitate this process. I will be in contact if we need additional information. Please feel free to forward this email as appropriate.

Janet Craig, CTFA
Senior Vice President & Compliance Officer
Oppenheimer Trust Company
18 Columbia Turnpike
Florham Park, NJ 07932
Tel: 973-245-4635
Fax: 973-245-4699
Email: Janet.Craig@opco.com
This communication and any attached files may contain information that is confidential or privileged. If this communication has been received in error, please delete or destroy it immediately. Please go to www.opco.com/EmailDisclosures

Robert Spallina

From: Robert Spallina
Sent: Tuesday, July 12, 2011 11:54 AM
To: Simon Bernstein
Cc: 'Diana Banks'
Subject: Estate of Shirley Bernstein

Si – I need a list of all of the assets that were actually titled in Shirley's name, not her revocable trust. There may not be much but we need to file an inventory with the court of her personal assets. Also, can you please get us caught up on our bills for the estate work. There is a current outstanding amount of $6,645.78. Thank 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

If you would like to learn more about TESCHER & SPALLINA, P.A., please visit our website at www.tescherspallina.com

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Kimberly Moran

From: Diana Banks [diana@lifeinsuranceconcepts.com]
Sent: Tuesday, February 08, 2011 11:06 AM
To: Kimberly Moran
Subject: Addresses

Pam Simon
950 North Michigan Avenue
Suite 2603
Chicago, IL 60606

Eliot Bernstein
2753 NW 34th
Boca Raton, Fl 33434

Jill Iantoni
2101 Magnolia Lane
Highland Park, Il 60035

Lisa Friedstein
2142 Churchill Lane
Highland Park, IL 60035

Let me know if you need anything else. Thanks, Diana

Diana Banks - Vice President of Administration

. . . . . .

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: Diana@LifeInsuranceConcepts.com

www.LifeInsuranceConcepts.com

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2/8/2011

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FLORIDA

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 MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC; BERNSTEIN FAMILY REALTY, LLC,

Defendants.
_____/

CIVIL DIVISION

CASE NO: 502012CA013933 MB AA

DIVISION: BLANC

ORDER ON MOTION TO WITHDRAW AS COUNSEL OF RECORD

THIS CAUSE came before the Court on January 28, 2014 on the Motion to Withdraw as Counsel of Record for Donald L. Tescher and Robert L. Spallina, as Co-Personal Representatives of the Estate of Simon Bernstein; and Bernstein Family Realty, LLC, filed by MARK R. MANCERI, P.A. and MARK R. MANCERI, ESQ., and the Court having reviewed the file, heard argument of counsel and being otherwise fully advised in the premises, it is hereupon ORDERED AND ADJUDGED, as follows:

1. The Motion is granted.

2. MARK R. MANCERI, P.A. and MARK R. MANCERI, ESQ. are hereby relieved as counsel of record for Donald L. Tescher and Robert L. Spallina, as Co-Personal Representatives of the Estate of Simon Bernstein; and Bernstein Family Realty, LLC.

3. The Co-Personal Representatives and Bernstein Family Realty, LLC shall have 30

days to obtain new counsel.

4. In the meantime, all future pleadings or documents shall be served upon Donald L. Tescher and Robert L. Spallina, as Co-Personal Representatives of the Estate of Simon Bernstein; and Bernstein Family Realty, LLC, at their last known address:

Donald R. Tescher
4855 Technology Way, Suite 720
Boca Raton, Florida 33431
E-mail: dtescher@tescherspallina.com

Robert L. Spallina
4855 Technology Way, Suite 720
Boca Raton, Florida 33431
E-mail: rspallina@tescherspallina.com

Bernstein Family Realty, LLC
c/o Janet Craig, CTFA, Senior Vice President & Compliance Office
Oppenheimer Trust Company
18 Columbia Turnpike
Florham Park, NJ 07932
E-mail: Janet.Craig@opco.com

DONE AND ORDERED in Chambers, at West Palm Beach, Palm Beach County, Florida, this _____ day of January, 2014.

PETER D. BLANC
CIRCUIT COURT JUDGE

Copies furnished to:
Mark R. Manceri, Esq.
Alan B. Rose, Esq.
Peter Feaman, Esq.
Donald R. Tescher, as Co-Per. Rep.
Robert L. Spallina, as Co. Per. Rep.
Bernstein Family Realty, LLC

Kimberly Moran

From: Kimberly Moran
Sent: Wednesday, January 22, 2014 1:45 PM
To: 'ARose@pm-law.com'; 'mrmlaw@comcast.net'; 'service@feamanlaw.com'; 'mkoskey@feamanlaw.com'; 'Janet.Craig@opco.com'
Cc: Robert Spallina
Subject: RE: SERVICE OF COURT DOCUMENT - CASE NO. 502012CA013933MBAA

Court Identity:	IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FLORIDA
Case No.	502012CA013933MBAA
Initial Parties:	IN RE: WILLIAM E. STANSBURY, Plaintiff, vs. TED S. BERNSTEIN, Individually and as TRUSTEE of the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008; DONALD R. TESCHER and ROBERT L. SPALLINA as Co-Personal Representatives of the ESTATE OF SIMON L. BERNSTEIN and as CO-TRUSTEES of the SIMON L. BERNSTEIN TRUST dated July 25, 2012; LIC HOLDINGS, INC.; ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC; BERNSTEIN FAMILY REALTY, LLC
Document Being Served:	CONSENT AND JOINDER TO MOTION TO WITHDRAW AS COUNSEL OF RECORD
Sender's Name	ROBERT L. SPALLINA, ESQ.
Sender's Firm	TESCHER & SPALLINA, P.A.
Sender's Phone Number:	561-997-7008

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

1/22/2014

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

WILLIAM E. STANSBURY,

Plaintiff.

vs.

TED S. BERNSTEIN, individually and as TRUSTEE of the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008; DONALD R. TESCHER and ROBERT L. SPALLINA as Co-Personal Representatives of the ESTATE OF SIMON L. BERNSTEIN and as Co-Trustees of the SIMON L. BERNSTEIN TRUST dated July 25, 2012; LIC HOLDINGS, INC.; ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC; BERNSTEIN FAMILY REALTY, LLC

Respondents.
_____/

CIVIL DIVISION

CASE NO. 502012CA013933 MB AA

DIVISION: BLANC

CONSENT AND JOINDER TO MOTION TO WITHDRAW AS COUNSEL OF RECORD

I, ROBERT L. SPALLINA, ESQ., as a co-personal representative of the Estate of Simon L. BERNSTEIN, and as counsel for the co-personal representative, Donald R. Tescher, of the Estate of Simon L. BERNSTEIN, hereby consent to and join in the Motion to Withdraw as Counsel of Record filed by Mark R. Manceri, Esq. and Mark. R. Manceri, P.A., on January 10, 2014, which motion has been set for hearing on January 28, 2014, at 8:45 a.m.

DATED this 22 day of January, 2014.

TESCHER & SPALLINA, P.A.

By: _____
ROBERT L. SPALLINA, ESQUIRE
Florida Bar No. 497381
4855 Technology Way, St. 720
Boca Raton, FL 33431
Telephone: 561-997-7008
rspallina@tescherspallina.com
kmoran@tescherspallina.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-mail to the designated address(es) and U.S. Mail, as noted, to all parties on the following Service List, this 22 day of January, 2014.

Robert L. Spallina, Esq.

SERVICE LIST

Peter M. Feaman, Esq.
Peter M. Feaman, P.A.
3615 West Boynton Beach Boulevard
Boynton Beach, Florida 33436

Alan B. Rose, Esq. (E-mail)
Page Mrachek Fitzgerald Rose Konopka & Dow PA
505 S Flagler Dr Ste 600
West Palm Beach, Florida 33401

Bernstein Family Realty, LLC
c/o Janet Craig, CTFA
Senior Vice President & Compliance Office
Oppenheimer Trust Company
18 Columbia Turnpike
Florham, NJ 07932

Mark R. Manceri, Esq. (E-mail)
Mark. R. Manceri, P.A.
2929 East Commercial Boulevard, Ste. 702
Fort Lauderdale, Florida 33308

Kimberly Moran

From: eservice@myflcourtaccess.com
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Court:	Fifteenth Judicial Circuit in and for Palm Beach County, Fl
Case #:	502012CA013933XXXXMB
Case Style:	STANSBURY, WILLIAM E VS ARBITRAGE INTERNATIONAL
Document Title:	Consent
Filer:	Robert L. Spallina 561-997-7008

Notice has been electronically mailed to:

Name	Primary Email	Alternate Email 1
Alan B Rose	arose@pm-law.com	mchandler@pm-law.com
Mark R Manceri	mrmlaw@comcast.net	mrmlaw1@gmail.co
Peter M. Feaman	service@feamanlaw.com	mkoskey@feamanlaw.com
Robert L. Spallina	rspallina@tescherspallina.com	kmoran@tescherspa.com

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Name	Primary Email	Alternate Email 1
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1/22/2014

SHARON R. BOCK
Clerk & Comptroller, Palm Beach County

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1 document is successfully submitted for filing to Trial Court for Palm Beach County, Florida Circuit Civil Division
Uniform Case # you have provided is 502012CA013933XXXXMB
Clerk Case # you have provided is 2012CA013933
Reference # for this filing is 9414158

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9414158	502012CA013933XXXXMB	2012CA013933	Received	Palm Beach	Circuit Civil	01/22/2014 12:12:25 PM	

Kimberly Moran

From: Kimberly Moran
Sent: Wednesday, January 22, 2014 1:27 PM
To: 'tbernstein@lifeinsuranceconcepts.com'; 'ARose@pm-law.com'; 'mrmlaw@comcast.net'; 'jilliantoni@gmail.com'; 'lisa.friedstein@gmail.com'; 'psimon@stpcorp.com'; 'iviewit@iviewit.tv'; Donald Tescher
Cc: Robert Spallina
Subject: RE: SERVICE OF COURT DOCUMENT - CASE NO. 502011CP000653XXXXSB

Court Identity:	IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FLORIDA
Case No.	50 2011CP000653XXXXSB
Initial Parties:	IN RE: ESTATE OF SHIRLEY BERNSTEIN
Document Being Served:	CONSENT AND JOINDER TO MOTION TO WITHDRAW AS COUNSEL OF RECORD
Sender's Name	ROBERT L. SPALLINA, ESQ.
Sender's Firm	TESCHER & SPALLINA, P.A.
Sender's Phone Number:	561-997-7008

Kimberly Moran, Legal Assistant
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Tel: (561) 997-7008
Fax: (561) 997-7308

1/22/2014

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF SHIRLEY BERNSTEIN,

Deceased.

_____/

ELIOT IVAN BERNSTEIN, PRO SE

Petitioner

vs.

TESCHER & SPALLINA, P.A., (and all parties, associates and of counsel); ROBERT L. SPALLINA (both personally and professionally); DONALD R. TESCHER (both personally and professionally); THEODORE STUART BERNSTEIN (as alleged personal representative, trustee, successor trustee) (both personally and professionally); et. al.

Respondents.

_____/

PROBATE DIVISION

CASE NO. 502011CP000653XXXXSB

DIVISION: IY (COLIN)

CONSENT AND JOINDER
TO MOTION TO WITHDRAW AS COUNSEL OF RECORD

I, ROBERT L. SPALLINA, ESQ., as counsel for the successor personal representative, Ted S. Bernstein, and as a respondent, both personally and professionally, hereby consent to and join in the Motion to Withdraw as Counsel of Record filed by Mark R. Manceri, Esq. and Mark. R. Manceri, P.A., on January 10, 2014, which motion has been set for hearing on January 23, 2014, at 8:45 a.m.

DATED this 22 day of January, 2014.

TESCHER & SPALLINA, P.A.

By: _____
ROBERT L. SPALLINA, ESQUIRE
Florida Bar No. 497381
4855 Technology Way, St. 720
Boca Raton, FL 33431
Telephone: 561-997-7008
rspallina@tescherspallina.com
kmoran@tescherspallina.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-mail to the designated address(es) and U.S. Mail, as noted, to all parties on the following Service List, this 27 day of January, 2014.

Robert L. Spallina, Esq.

SERVICE LIST

Theodore Stuart Bernstein (e-mail)
Life Insurance Concepts
950 Peninsula Corporate Circle, Suite 3010
Boca Raton, Florida 33487

Alan B. Rose, Esq. (E-mail)
Page Mrachek Fitzgerald Rose Konopka & Dow PA
505 S Flagler Dr Ste 600
West Palm Beach, Florida 33401

Eliot Bernstein (U.S. Mail)
2753 NW 34th Street
Boca Raton, Florida 33434

Lisa Sue Friedstein (U.S. Mail)
2142 Churchill Lane
Highland Park, Illinois 60035

Pamela Beth Simon (U.S. Mail)
950 North Michigan Avenue, Suite 2603
Chicago, Illinois 60611

Jill Iantoni (U.S. Mail)
2101 Magnolia Lane
Highland Park, Illinois 60035

Donald R. Tescher (E-mail)
4855 Technology Way, Suite 720
Boca Raton, Florida 33431

Mark R. Manceri, Esq. (E-mail)
Mark. R. Manceri, P.A.
2929 East Commercial Boulevard, Ste. 702
Fort Lauderdale, Florida 33308

Kimberly Moran

From: eservice@myflcourtaccess.com
Sent: Wednesday, January 22, 2014 12:43 PM
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Court:	Fifteenth Judicial Circuit in and for Palm Beach County, Fl
Case #:	502011CP000653XXXXSB
Case Style:	IN RE: Estate of Not Available
Document Title:	Motion
Filer:	Robert L. Spallina 561-997-7008

Notice has been electronically mailed to:

Name	Primary Email	Alternate Email 1
Mark R Manceri	mrmlaw@comcast.net	mrmlaw1@gmail.co
Robert L. Spallina	rspallina@tescherspallina.com	kmoran@tescherspa.com

Notice is not sent to:

Name	Primary Email	Alternate Email 1
Brandan J. Pratt	bpratt@huthpratt.com	luanne@huthpratt.c
Peter M. Feaman	service@feamanlaw.com	mkoskey@feamanlam

SHARON R. BOCK
Clerk & Comptroller, Palm Beach County

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- Administrative Order 2.312 Electronic Filing of Documents Read More ...

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Uniform Case # you have provided is 502011CP000653XXXXSB
Clerk Case # you have provided is 2011CP000653
Reference # for this filing is 9416201

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Filing #	UCN	Clerk Case #	Status	County	Division	Submission Date	Completion Date/Remarks
9416201	502011CP000653XXXXSB	2011CP000653	Received	Palm Beach	Probate	01/22/2014 12:42:54 PM	
9414158	502012CA013933XXXXMB	2012CA013933	Validating Filing	Palm Beach	Circuit Civil	01/22/2014 12:12:25 PM	

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FLORIDA

WILLIAM E. STANSBURY,	**CIVIL DIVISION**
Plaintiff,	**CASE NO: 502012CA013933 MB AA**
	DIVISION: BLANC

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.
_____/

MOTION TO WITHDRAW AS COUNSEL OF RECORD

COME NOW, Mark R. Manceri, Esq., and Mark R. Manceri, P.A., pursuant to Rule 2.505 of the Florida Rules of Judicial Administration and hereby file this their Motion to Withdraw as Counsel of Record and in support thereof state, as follows:

1. MARK R. MANCERI, P.A. was retained by Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives of the Estate of Simon Bernstein; and Bernstein Family Realty LLC (hereinafter the "Clients") to represent them in these proceedings.

2. MARK R. MANCERI, ESQ. of MARK R. MANCERI, P.A. was the attorney responsible for rendering the legal services to the Clients.

3. Professional consideration(s) has arisen which prevent(s) the continued

MARK R. MANCERI, P.A.● 2929 East Commercial Blvd.● Suite 702 ● Fort Lauderdale, FL 33308 ● (954) 491-7099

representation of the Clients.

4. The mailing and e-mail addresses and the telephone numbers of the Clients are as follows:

Donald R. Tescher, Co-Personal Representative, 4855 Technology Way, Suite 720, Boca Raton, Florida 33431, e-mail: dtescher@tescherspallina.com; telephone number (561) 997-7008.

Robert L. Spallina, Co-Personal Representative, 4855 Technology Way, Suite 720, Boca Raton, Florida 33431, e-mail: rspallina@tescherspallina.com; telephone number (561) 997-7008.

Bernstein Family Realty, LLC, c/o Janet Craig, CTFA, Senior Vice President & Compliance Office, Oppenheimer Trust Company, 18 Columbia Turnpike, Florham Park, NJ 07932, e-mail: Janet.Craig@opco.com; telephone number (973) 245-4635..

WHEREFORE, MARK R. MANCERI, P.A. and MARK R. MANCERI, ESQ., hereby request that this Honorable Court enter an Order consistent with the relief requested herein allowing MARK R. MANCERI, P.A. and MARK R. MANCERI, ESQ. to withdraw and any other relief this Honorable Court deems just, equitable and proper.

MARK R. MANCERI, P.A.
Attorney for Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives and Bernstein Family Realty, LLC
2929 East Commercial Blvd., Suite 702
Ft. Lauderdale, FL 33308
Telephone: (954) 491-7099
E-mail: mrmlaw@comcast.net
mrmlaw1@gmail.com

By: _____
Mark R. Manceri, Esq.
Florida Bar No. 444560

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-mail to the designated address(es) to all parties on the following Service List, this 10th day of January, 2014.

Mark R. Manceri, Esq.

SERVICE LIST

Peter M. Feaman, Esq.
Peter M. Feaman, P.A.
3615 West Boynton Beach Blvd.
Boynton Beach, Florida 33436

Alan B. Rose, Esq.
Page, Mrachek, Fitzgerald, et.al.
505 South Flagler Drive, Suite 600
West Palm Beach, Florida 33401

Donald R. Tescher, Co-Personal Representative
4855 Technology Way, Suite 720
Boca Raton, Florida 33431

Robert L. Spallina, Co-Personal Representative
4855 Technology Way, Suite 720
Boca Raton, Florida 33431

Bernstein Family Realty, LLC
c/o Janet Craig, CTFA
Senior Vice President & Compliance Office
Oppenheimer Trust Company
18 Columbia Turnpike
Florham Park, NJ 07932

IN THE CIRCUIT COURT FOR
PALM BEACH COUNTY, FLORIDA

PROBATE DIVISION
FILE NO.: 502012CP004391XXXXSB IY
DIVISION: COLIN

IN RE: ESTATE OF

SIMON BERNSTEIN

Deceased.
_____/

ORDER ON MOTION TO WITHDRAW AS COUNSEL OF RECORD

THIS CAUSE came before the Court on January 23, 2014 on the Motion to Withdraw as Counsel of Record for Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives of the Estate of Simon Bernstein, filed by MARK R. MANCERI, P.A. and MARK R. MANCERI, ESQ., and the Court having reviewed the file, heard argument of counsel and being otherwise advised in the premises, it is hereupon ORDERED AND ADJUDGED, as follows:

1. The Motion is granted.

2. MARK R. MANCERI, P.A. and MARK R. MANCERI, ESQ. are relieved as counsel of record for Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives of the Estate of Simon Bernstein.

3. All future pleadings or documents shall be served upon to Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives of the Estate of Simon Bernstein, at their last known address:

Donald R. Tescher, Co-Personal Representative
4855 Technology Way, Suite 720
Boca Raton, Florida 33431
E-mail: dtescher@tescherspallina.com

FILE NO.: 502012CP004391XXXXSB IY

Robert L. Spallina, Co-Personal Representative
4855 Technology Way, Suite 720
Boca Raton, Florida 33431
E-mail: rspallina@tescherspallina.com

DONE AND ORDERED in Chambers, at Delray Beach, Palm Beach County, Florida, this _____ day of January, 2014.

MARTIN H. COLIN
CIRCUIT COURT JUDGE

Copies furnished to:
Mark R. Manceri, Esq.
Peter M. Feaman, Esq.
Donald R. Tescher, Co-Per. Rep.
Robert L. Spallina, Co-Per. Rep.
All Interested Persons

SIGNED & DATED
JAN 23 2014
JUDGE MARTIN H. COLIN

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FLORIDA

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 MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC; BERNSTEIN FAMILY REALTY, LLC,

Defendants.
_____/

CIVIL DIVISION

CASE NO: 502012CA013933 MB AA

DIVISION: BLANC

NOTICE OF HEARING
(Motion Calendar)

TO: ALL PARTIES ON THE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that the matter, as stated below. in the above-styled case will be heard at the Palm Beach County Courthouse, 205 N. Dixie Highway, Room No. 11-A, West Palm Beach, Florida 33401, as follows:

MATTER/MOTION: Motion to Withdraw as Counsel of Record

FILED BY: Mark R. Mancer, Esq.

DATE AND TIME: January 28, 2014 at 8:45 a.m.

JUDGE: THE HONORABLE PETER D. BLANC

YOU WILL PLEASE GOVERN YOURSELVES ACCORDINGLY.

MARK R. MANCERI, P.A. • 2929 East Commercial Blvd. • Suite 702 • Fort Lauderdale, FL 33308 • (954) 491-7099

CASE NO: 502012CA013933 MB AA

MARK R. MANCERI, P.A.
Attorney for Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives
2929 East Commercial Blvd., Suite 702
Ft. Lauderdale, FL 33308
Telephone: (954) 491-7099
E-mail: mrmlaw@comcast.net
mrmlaw1@gmail.com

By: _____
Mark R. Manceri, Esq.
Florida Bar No. 444560

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-mail to the designated address(es) to all parties on the following Service List, this 13th day of January, 2014.

_____
Mark R. Manceri, Esq.

CASE NO: 502012CA013933 MB AA

SERVICE LIST

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3615 West Boynton Beach Blvd.
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Alan B. Rose, Esq.
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505 South Flagler Drive, Suite 600
West Palm Beach, Florida 33401

Donald R. Tescher, Co-Personal Representative
4855 Technology Way, Suite 720
Boca Raton, Florida 33431

Robert L. Spallina, Co-Personal Representative
4855 Technology Way, Suite 720
Boca Raton, Florida 33431

Bernstein Family Realty, LLC
c/o Janet Craig, CTFA
Senior Vice President & Compliance Office
Oppenheimer Trust Company
18 Columbia Turnpike
Florham Park, NJ 07932

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FLORIDA

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 MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC; BERNSTEIN FAMILY REALTY, LLC,

Defendants.
_____/

CIVIL DIVISION

CASE NO: 502012CA013933 MB AA

DIVISION: BLANC

MEMORANDUM OF LAW OF DEFENDANTS, DONALD TESCHER AND ROBERT SPALLINA, AS CO-PERSONAL REPRESENTATIVES OF THE ESTATE OF SIMON L. BERNSTEIN, FOR HEARING ON SEPTEMBER 30, 2013 AT 11:00 a.m.

COME NOW, Defendants, Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives of the Estate of Simon L. Bernstein (hereinafter the "Defendants"), by and through their undersigned counsel and hereby files this their Memorandum of Law of Defendants, Donald Tescher and Robert Spallina, as Co-Personal Representatives of the Estate of Simon L.

MARK R. MANCERI, P.A. • 2929 East Commercial Blvd. • Suite 702 • Fort Lauderdale, FL 33308 • (954) 491-7099

Bernstein, for Hearing on September 30, 2013 at 11:00 a.m. and in support thereof state, as follows:

INTRODUCTION

This Memorandum is being submitted pursuant to an Order of the Court dated July 9, 2013. The Plaintiff, William E. Stansbury, may be referred to herein as the "Plaintiff". Donald Tescher and Robert Spallina, as Co-Personal Representatives of the Estate of Simon Bernstein, may be referred to herein as the "Defendants". Copies of the Cases cited herein are included in the Table of Cases, which accompanies this Memorandum.

ARGUMENT

1. On June 18, 2013, the Defendants served their First Set of Interrogatories to the Plaintiff.

2. On July 17, 2013, the Plaintiff served his "Objections to First Set of Interrogatories to William E. Stansbury and Motion for Extension of Time". A copy of said Objection(s) is attached hereto as Exhibit "A" and incorporated herein by reference.

3. At the time the First Set of Interrogatories was propounded, the Plaintiff's First Amended Complaint dated February 12, 2013 was pending.

4. The Plaintiff, pursuant to an Order of the Court dated August 1, 2013 filed his Second Amended Complaint dated September 3, 2013. A copy of said Second Amended Complaint is attached hereto as Exhibit "B" and incorporated herein by reference.

5. The Second Amended Complaint contains the following Counts directed to the

Defendants:

- Count II - Breach of Oral Contract
- Count III - Fraud in the Inducement
- Count VI - Civil Conspiracy
- Count VII - Conversion
- Count VIII - Unjust Enrichment
- Count IX - Equitable Lien
- Count X - Constructive Trust

6. Paragraph 18 of the Second Amended Complaint reads, as follows:

Also in 2006, Simon Bernstein, acting on his behalf and on behalf of, and in concert with, Ted Bernstein, told Stansbury that Stansbury was being rewarded for his efforts and the explosive growth of the business, such that he would receive a 10% ownership interest in LIC Holdings, Inc. Simon Bernstein and Ted Bernstein, collectively, were majority shareholders while Stansbury was a minority shareholder in LIC Holdings, Inc.

7. As such, according to the Plaintiff, the time period relevant to his allegations began in 2006.

8. Paragraph 16 of the Second Amended Complaint reads, as follows:

Stansbury agreed to become an employee of LIC Holdings, Inc. and Arbitrage and agreed to a salary of 15% of net retained commissions received on all

products sold, including renewals. Stansbury at this time was responsible for, among other duties, calculating, on a monthly basis, the commissions due him in connection with new business generated in the current year and renewals on business generated in previous years.

9. Based on the Plaintiff's allegations, the subject matter of the Plaintiff's Second Amended Complaint is commissions allegedly generated by the Plaintiff from the sale of life insurance products by corporate entities of which the Plaintiff was allegedly a shareholder and actively involved in the business operations.

10. As stated by the Court in **Davich v. Norman Brothers Nissan, Inc.**, 739 So.2d 138 (Fla. 5th DCA 1998), at page 140 regarding the scope of discovery:

> The concept of relevancy is broader in the discovery context than in the trial context and a party may be permitted to discover relevant evidence that would be inadmissible at trial, so long as it may lead to the discovery of admissible evidence. (citations omitted). And of necessity, wide latitude should be permitted in seeking evidence of fraud since positive proof of the tort is generally not to be expected. (emphasis added).

11. As set forth in paragraph 5 above, the Plaintiff has alleged Fraud (Count III) and Civil Conspiracy (Count VI) against the Defendants. Pursuant to **Davich** supra, the Defendants are entitled to "wide latitude" with respect to their discovery.

12. The Plaintiff has objected to Interrogatories numbered 3, 4, 5, 7, 8, 9, 10 and 11.

The Plaintiff has the burden of sustaining his objections. See **Charles Sales Corp. v. Rovenger**, 88 So.2d 551 (Fla. 1956).

13. Interrogatories 3, 4, 5, 7 and 10 are objected to as being "overly broad". Notably, the Plaintiff has not alleged that the propounded discovery will cause him to incur an unreasonable financial or time burden. On it's face, an "overly broad" objection is legally insufficient. As the Court stated in **Carson v. City of Fort Lauderdale**, 173 So.2d 743 (Fla. 2nd DCA), at page 744:

> Objections to interrogatories must be sufficiently specific that the court may, in considering such objections with interrogatories propounded, ascertain therefrom their claimed objectionable character; general objections to interrogatories, as that they will require the party served to make research and compile data, or that they are unreasonably burdensome, oppressive and vexatious, or that they seek information which is easily available to the interrogating party as to the objecting party, or that they would cause annoyance, expense, and oppression to the objecting party without serving any relevant purpose to the issue, are insufficient. (emphasis added).

14. Additionally, an objection that discovery is "overly broad", standing alone, is an insufficient basis for certiorari relief. See **First City Developments of Florida, Inc. v. Hallmark of Hollywood Condominium Association, Inc.**, 545 So.2d 502 (Fla. 4th DCA 1989).

15. In addition to being "overly broad", the Plaintiff also objected to Interrogatories

8 and 11 as being "vague and ambiguous". Without any further substance or explanation such objection(s) are, on their face, also legally insufficient. See **Carson**, supra.

16. Lastly, the Plaintiff objects to Interrogatory number 9 on the basis of "work product".

17. Interrogatory number 9 reads, as follows:

> Please state whether you or anyone action [sic] on your behalf obtained statements from any person with knowledge of any issues or facts relating to the Amended Complaint filed by you in this cause dated February 12, 2013. If so, state (a) the names and addresses of the persons from who the statements were taken; (b) the date the statements were taken; (c) the names and addresses of the persons who took the statements, and/or who have custody of the statements; (d) whether the statements were written or oral; and (e) whether the statements were memorialized by recording device, court reporter, video, cd, stenographer, or otherwise.

18. Contrary to the Plaintiff's Objection, the information requested in Interrogatory number 9 is not work product. Nothing in Interrogatory number 9 asks for the strategy, mental impressions or personal notes of the Plaintiff's counsel. See **Dupree v. Better Way**, 86 So.2d 425 (Fla. 1956) and **Surf Drugs v. Vermette**, 236 So.2d 108 (Fla. 1970) for the proposition that the type of information requested in Interrogatory number 9 is not work product.

19. In **Surf Drugs**, the following Interrogatories, all at footnote 3, were found by the

Appellate Court to be outside of any claim of "work product":

- No. 27-State the exact names and addresses or information for the location of all persons known by you, your agents, or attorneys who were or purport to have been eyewitnesses to the within accident.

- No. 28-State the exact names and addresses or information for the location of all persons known by you, your agents, or attorneys who have any knowledge of the reasons for and/or cause of the death of Thelma Vermette.

- No. 29-State the exact and addresses, or information for the location of all persons known by you, your agents, or attorneys who have any knowledge of the Plaintiff's claim for the death of Thelma Vermette.

- No. 30-Do you or your attorneys, agents, servants or employees know of the existence of any photographs of the scene of the within accident, the instrumentalities involved, or of the persons involved? If so:

(a) State the name and addresses of the person or persons who took the various photographs.

(b) Indicate adjacent to each such person's name and address listed in (a) above, whether each photograph was taken independently of (photographer not employed by) your attorneys, agents, servants, or employees, or which photographs were taken at the request of your attorneys, agents, servants or employees, giving the date all photographs were taken.

(c) Indicate the subject matter of each photograph.

- No. 31–State whether you or any of your employees, agents, servants, or attorneys have obtained any written statements from anyone with regard to this incident.

- No. 35–Did the Plaintiff himself, or anyone on his behalf, inquire of, or have any conversations with any officer, director or employee of the Defendant, concerning the matters set forth in the Complaint; and if so, state the names and addresses of each such person, and state fully their relationship to the Plaintiff.

20. As the Court held in **Surf Drugs, Inc.**, at page 113: "We hold, therefore, that a party may be required to respond on behalf of himself, his attorney, agent, or employee and to divulge names and addresses of an person having relevant information as well as to indicate generally the type of information held by the person listed."

21. Similarly, the Court in **Dupree**, supra, found the following Interrogatory to be outside of any claim of work product, "Please set forth the names and addresses of any other persons believed by you or known by you or your attorney to have knowledge concerning the facts pertaining to the within accident."

22. Lastly, the Plaintiff has not yet answered Interrogatories 1, 2 and 6 despite the fact that the requested 30 day extension has expired.

CONCLUSION

Based on the foregoing, the Plaintiffs Objections must be overruled.

MARK R. MANCERI, P.A.
Attorney for Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives
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mrmlaw1@gmail.com

By: _____
Mark R. Manceri, Esq.
Florida Bar No. 444560

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-mail to the designated address(es) to all parties on the following Service List, this 18th day of September, 2013.

_____
Mark R. Manceri, Esq.

SERVICE LIST

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Peter M. Feaman, P.A.
3615 West Boynton Beach Blvd.
Boynton Beach, Florida 33436

Alan B. Rose, Esq.
Page, Mrachek, Fitzgerald, et.al.
505 South Flagler Drive, Suite 600
West Palm Beach, Florida 33401

EXHIBIT "A"

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

OBJECTIONS TO FIRST SET OF INTERROGATORIES
TO WILLIAM E. STANSBURY AND MOTION FOR EXTENSION OF TIME

COMES NOW Plaintiff, WILLIAM E. STANSBURY, by and through his undersigned counsel and moves for an extension of time to respond to Defendant, ESTATE OF SIMON L. BERNSTEIN's First Set of Interrogatories and requests an additional 30 days in which to respond to the Interrogatories not objected to, as follows:

1. Plaintiff, WILLIAM E. STANSBURY, objects to the following numbered Interrogatories:

3. List every incident or occurrence after January 1, 2006 in which you believe that the Decedent perpetrated a fraud upon you. Please identify the details of each incident or occurrence, including the nature, date and location of each incident or occurrence as well as the name, address and the phone number of all witnesses of each incident or occurrence.

Objection: This Interrogatory is overly broad. The fraud perpetrated by the decedent is described in the Amended Complaint and the Second Amended Complaint assuming that the Court allows Plaintiff to amend.

4. Please describe in detail your involvement in the Decedent's business affairs on or after January 1, 2006. Your answer should include, but not be limited to, a detailed description of all duties that you undertook in connection with performing services, paying bills, expenses, balancing check books, writing checks, and receiving deposits or other income. Describe in detail how you became involved in the Decedent's business affairs. The term "business" shall be deemed to include all of the named Corporate and LLC Defendants.

Objection: This Interrogatory is overly broad when it asks Plaintiff to "describe in detail your involvement in the Decedent's business affairs ..." for the last 7 years.

5. Describe in detail the circumstances relating to each and every business related meeting you attended on or after January 1, 2006 at which the Decedent was present.

Objection: This Interrogatory is overly broad.

7. State the substance of each and every communication between the Decedent and any other person regarding his alleged intent, on or after January 1, 2006, to transfer or pay any money or assets to you as a result of your involvement in his business affairs. For each such communication, state the date of the communication, the form of the communication (written, by telephone, or in person) and the names, addresses and telephone numbers of any other individuals who were either present for or who m ay have overheard all or part of the communication.

Objection: This Interrogatory is overly broad.

8. Identify each and every gift, check, cash payment, mortgage, loan or advance of $500.00 or more made by the Decedent to you, any member of your family, or any business of which you are or were an owner, investor, shareholder or creditor on or after January 1, 2006. For each such item, furnish the date, who the payment was made to, the amount, the form of the payment (in cash, check, property, etc.), the purpose of the payment, and whether it was ever repaid.

Objection: This Interrogatory is overly broad, vague and ambiguous

9. Please state whether you or anyone action [*sic*] on your behalf obtained statements from any person with knowledge of any issues or facts relating to the Amended Complaint filed by you in this cause dated February 12, 2013. If so, state (a) the names and addresses of the persons from whom the statements were taken; (b) the date the statements were taken; (c) the names and addresses of the persons who took the statements, and/or who have custody of the statements; (d) whether the statements were written or oral; and (e) whether the statements were memorialized by recording device, court reporter, video, cd, stenographer, or otherwise.

Objection: This is work product.

10. Identify by name, address and telephone number each person you requested to personally observe, meet or talk to the Decedent on or after January 1, 2006 relating to your involvement in his business affairs.

Objection: This Interrogatory is overly broad.

11. If, in furtherance of answering any of the above Interrogatories, you referred to any document or item, describe in detail each such document or item and state the Interrogatory number to which such document or item relates.

Objection: This Interrogatory is overly broad, vague and ambiguous.

2. As to the remaining Interrogatories (1, 2 and 6), Plaintiff requests an extension of 30 days to respond, no prejudice will result to Defendant as this cause is not yet at issue.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives of the Estate of Simon Bernstein* and *Bernstein Family Realty,* 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; at arose@pm-law.com and mchandler@pm-law.com to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc, Arbitrage International Management, LLC and the Shirley Bernstein Trust,* 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this 17th day of July, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
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pfeaman@feamanlaw.com

By: _____
Peter M. Feaman
Florida Bar No.: 0260347

EXHIBIT "B"

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: 50 2012 CA 013933 MB AA

v.

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.
_____/

SECOND AMENDED COMPLAINT

WILLIAM E. STANSBURY, by and through undersigned counsel, sues the Defendants and states:

1. This is an action for money damages in excess of $15,000, and for equitable relief.

2. Plaintiff (hereinafter referred to as "STANSBURY") is *sui juris*, and a resident of Palm Beach County, Florida.

3. Defendant TED S. BERNSTEIN ("TED BERNSTEIN"), is *sui juris*, and a resident of Palm Beach County, Florida.

4. SIMON L. BERNSTEIN ("SIMON BERNSTEIN") died on or about September 13, 2012, after the filing of the initial Complaint in this action. At the time of his death, SIMON BERNSTEIN was *sui juris*, and was a resident of Palm Beach County, Florida. Defendants

Donald R. Tescher and Robert L. Spallina are serving as co-personal representatives of the ESTATE OF SIMON L. BERNSTEIN (the "ESTATE")which ESTATE is presently open and pending in the Palm Beach County Circuit Court, *In re: Estate of Simon L. Bernstein*, Case No. 502012CP004391XXXXSB (the "Estate Proceeding"). In accordance with Section 733.705, Florida Statutes, STANSBURY hereby brings this independent action against the ESTATE with respect to his Statement of Claim that was filed and objected to in the Estate Proceeding.

5. Defendant, LIC HOLDINGS, INC. ("LIC Holdings") is a Florida corporation with its principal place of business in Palm Beach County, Florida.

6. Defendant, ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, formerly known as ARBITRAGE INTERNATIONAL HOLDINGS, LLC, ("ARBITRAGE") is a Florida limited liability company with its principal place of business in Palm Beach County, Florida.

7. Defendant, BERNSTEIN FAMILY REALTY, LLC is a Florida limited liability company doing business in Palm Beach County.

8. Defendant, the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008 ("SHIRLEY'S TRUST"), owns real property in Palm Beach County, Florida. Based upon information and belief, Donald R. Tescher and Robert L. Spallina are serving as co-trustees of SHIRLEY'S TRUST. This Court has personal jurisdiction over the trustees and the beneficiaries of SHIRLEY'S TRUST under Section 736.0202, Florida Statutes, as the principal place of administration of SHIRLEY'S TRUST is in Palm Beach County, Florida. This court has subject matter jurisdiction over this action under Section 736.0203, Florida Statutes. Venue is proper in Palm Beach County, Florida, under Section 736.0204, Florida Statutes, as the principal place of administration of SHIRLEY'S TRUST is in Palm Beach County, Florida and one or more of the beneficiaries of SHIRLEY'S TRUST reside in Palm Beach County, Florida.

9. The acts and incidents giving rise to the causes of action alleged herein arose in Palm Beach County, Florida.

General Allegations

10. STANSBURY has worked in the insurance industry for virtually all of his adult life. After 30 years, he had become well-known and highly regarded by major insurance companies, their principals and others throughout the insurance industry, at all levels thereof, as well as by professionals, including attorneys, CPA's, financial advisors, wealth managers and others who were involved in serving, or otherwise dealing with insurers, insurance brokers and life insurance products.

11. SIMON BERNSTEIN dealt at sophisticated levels of the insurance industry and specialized in developing and marketing insurance concepts suitable for persons of high net worth to incorporate into their wealth management and estate planning.

12. TED BERNSTEIN, the son of SIMON BERNSTEIN, was also actively involved in selling life insurance products in conjunction with attorneys, CPAs and other professionals, to be incorporated into high net worth individuals' financial and estate planning.

13. TED BERNSTEIN, acting on his behalf and on behalf of, and in concert with, SIMON BERNSTEIN, approached STANSBURY in 2003, urging STANSBURY to spearhead the marketing of a unique insurance concept, newly developed by a prominent law firm, which was designed for use in the financial and estate planning of high net worth individuals.

14. TED BERNSTEIN told STANSBURY that he knew of STANSBURY's expertise and reputation in the insurance and related industries and that STANSBURY was skilled at and accustomed to speaking and marketing insurance products to groups of professionals. He realized that STANSBURY, because of his knowledge, reputation and abilities, would be well suited to market this concept nationwide through prominent and experienced professionals.

15. In 2006, SIMON BERNSTEIN and TED BERNSTEIN (collectively, "BERNSTEIN" or the "BERNSTEINS") formed, as sole shareholders, Defendants LIC Holdings and ARBITRAGE for the purpose of marketing and selling certain life insurance products to high net worth individuals for their wealth management and estate planning needs.

16. STANSBURY agreed to become an employee of LIC Holdings, Inc. and ARBITRAGE and agreed to a salary of 15% of net retained commissions received on all products sold, including renewals. STANSBURY at this time was responsible for, among other duties, calculating, on a monthly basis, the commissions due him in connection with new business generated in the current year and renewals on business generated in previous years.

17. STANSBURY worked with diligence and skill, traveling throughout the United States, generating ever-increasing sales and generating very large commissions. By 2006, nationwide sales were resulting in substantial commissions on new policies and renewal commissions.

18. Also in 2006, SIMON BERNSTEIN, acting on his behalf and on behalf of, and in concert with, TED BERNSTEIN, told STANSBURY that STANSBURY was being rewarded for his efforts and the explosive growth of the business, such that he would receive a 10% ownership interest in LIC Holdings, Inc. SIMON BERNSTEIN and TED BERNSTEIN, collectively, were majority shareholders while STANSBURY was a minority shareholder in LIC Holdings, Inc.

19. STANSBURY has sued both LIC Holdings and ARBITRAGE because the BERNSTEINS represented that his employment relationship was with LIC Holdings, the company in which he owned a 10% interest, but STANSBURY'S W-2 statements were issued by ARBITRAGE as his employer.

20. In February of 2008, SIMON BERNSTEIN, acting on his behalf and on behalf of, and in concert with TED BERNSTEIN, approached STANSBURY and told him his time would

be better spent building the business rather than performing monthly calculations of income. The plan proposed was that, rather than STANSBURY performing computations on a monthly basis as to how much should be paid to him based upon 15% of the net retained commissions derived from both new policies sold and renewals from previous years, the BERNSTEINS and STANSBURY all would forego monthly payouts and defer compensation until the end of 2008, when year-end computations could be made. It was represented that in December, year-end computations would be made and salaries would be paid in December 2008 or January of 2009. It was specifically represented to STANSBURY that:

a) neither SIMON BERNSTEIN, TED BERNSTEIN nor STANSBURY would take any compensation during fiscal year 2008 but rather they all would wait until the year-end accounting was performed in December of 2008 or January, 2009;

b) SIMON BERNSTEIN, TED BERNSTEIN, and STANSBURY would each be paid a minimum salary of $1,000,000 at year end, and STANSBURY'S salary was to be applied against his earned commissions of 15%. Any compensation due STANSBURY over and above the $1,000,000 would be paid as a distribution on his stock ownership interest in LIC Holdings.

21. In January of 2008, STANSBURY was paid $420,018 for commissions earned on some 2007 sales. However, STANSBURY was not, and has never been, paid the commissions due him on sales in 2008 and thereafter, and he was not and has never been paid the renewal commissions due him on sales made in previous years that were paid to LIC Holdings or ARBITRAGE in 2008 and thereafter, other than a nominal payment of $30,000 made in 2010.

22. When STANSBURY was not paid as agreed in late 2008/2009 and thereafter, SIMON BERNSTEIN and TED BERNSTEIN, on behalf of and in concert with each other, stated to STANSBURY that salary and ownership distributions due and owing to SIMON BERNSTEIN, TED BERNSTEIN and STANSBURY would be deferred to a future time. This

deferral of payment was represented to be important because, as a result of the virtual collapse of the capital lending markets in 2008, it was necessary to retain the funds in the corporate bank accounts to demonstrate to potential lenders the financial stability of the companies.

23. The false statements set forth in paragraphs 18 through 21, above, were made by SIMON BERNSTEIN and TED BERNSTEIN, in concert with each other, with knowledge of their falsity and with the intention of never to fulfilling such promises.

24. Despite the representations to STANSBURY set forth above to the contrary, SIMON BERNSTEIN and TED BERNSTEIN, as officers and majority shareholders of LIC Holdings and ARBITRAGE, authorized LIC Holdings and/or ARBITRAGE to pay themselves $3,756,229.00 and $5,225,825.00, respectively, in 2008. Contrary to the representations made as set forth in paragraph 20, STANSBURY received no compensation for first year commissions and renewal commissions due him in 2008.

25. The net retained commissions by LIC Holdings and ARBITRAGE, not including renewals, for 2008 were approximately $13,442,549.00. As such, STANSBURY was entitled to, at the very minimum, 15% of $13,442,549.00, or $2,016,382.35.

26. Beginning late in 2007 or early in 2008, and continuing through at least 2012, LIC Holdings and/or ARBITRAGE became the alter ego of SIMON BERNSTEIN and TED BERNSTEIN, as officers and majority shareholders, in that they disregarded corporate structure and wrongfully diverted, converted and depleted corporate assets of LIC Holdings and ARBITRAGE for their own personal benefit and the benefit of Bernstein family trusts and other entities as more specifically set forth below. Those trusts have since invested some of these wrongfully diverted and converted corporate assets in real estate, also as more particularly set forth below. The wrongful action of SIMON BERNSTEIN and TED BERNSTEIN in diverting and converting corporate assets rendered LIC Holdings, and possibly ARBITRAGE, insolvent.

27. Throughout 2009, SIMON BERNSTEIN and TED BERNSTEIN continued to make false statements to STANSBURY to hide the fact that LIC Holdings and/or ARBITRAGE was their alter ego, in that they converted corporate property and corporate assets of LIC and/or ARBITRAGE for their own personal benefit in 2008, 2009 and thereafter, all to the exclusion and financial detriment of STANSBURY, all the while fraudulently representing to STANSBURY that no money was being paid as salary or distributions to SIMON BERNSTEIN, TED BERNSTEIN or STANSBURY because it was necessary to hold the funds in the corporate bank accounts to show to potential lenders the financial stability of the company.

28. STANSBURY relied upon these continuing misrepresentations of Defendants to his detriment. Because STANSBURY was told that potential funding sources for the business needed to see that capital of the company was available, he took no action when he did not receive any compensation for 2009 and was paid only $30,000 in 2010.

29. In order to continue their scheme to defraud, SIMON BERNSTEIN and TED BERNSTEIN failed and refused to account for renewal commissions and failed to supply any financial information to STANSBURY concerning LIC Holdings or ARBITRAGE.

30. In furtherance of their scheme to deprive STANSBURY of salary he had earned and shareholder distributions to which he was entitled, SIMON BERNSTEIN and TED BERNSTEIN intercepted mail addressed to STANSBURY, removing commission checks representing commissions due to STANSBURY, deposited the funds into their own accounts and otherwise converted the funds. SIMON BERNSTEIN and TED BERNSTEIN also opened STANSBURY's mail containing checks payable to him which were unrelated to them and the businesses.

31. In December, 2011 STANSBURY had been battling a painful and debilitating disease that could only be managed through the administration of potentially harmful

prescription medications. On December 22, 2011, the Defendants BERNSTEIN, with knowledge of STANSBURY's health issues and his debilitated condition, decided to take advantage of and deceive STANSBURY further. STANSBURY had for years been given K-1 statements reflecting his 10% ownership of LIC Holdings. At that time, TED BERNSTEIN told STANSBURY that the company accountant had discovered a potential significant taxable event which could cause STANSBURY, as one of the owners of LIC Holdings to pay taxes on phantom income. TED BERNSTEIN promised that if STANSBURY would sign a paper ceding his 10% interest in LIC Holdings, he would not have to pay the tax if in fact the tax was due. TED BERNSTEIN promised he would hold the paper, promising it would not become operative until STANSBURY and the Defendants BERNSTEIN discussed the situation further in the first quarter of 2012.

32. Because of the misrepresentations, willful concealments of material facts, duplicity and deceit practiced by Defendants upon STANSBURY, STANSBURY reasonably believed that Defendants had complied, or intended to comply with their obligations to STANSBURY under the contract between them. STANSBURY, therefore, was prevented from knowing for a period of years that the causes of action asserted herein existed.

33. By the second quarter of 2012, STANSBURY developed the belief that the BERNSTEINS' representations over the years were wholly false and he sought legal counsel.

34. STANSBURY has retained the law firm of Peter M. Feaman, P.A. and has agreed to pay it a reasonable fee for its services rendered herein.

COUNT I - ACCOUNTING
(Against LIC Holdings and ARBITRAGE, for Accounting)

35. STANSBURY hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, inclusive.

36. The relationship between STANSBURY and the Defendants, particularly as affected by Defendants' acts described in preceding paragraphs 19 through 27 created a situation where Defendants had sole access to receipts generated by STANSBURY's efforts, and to books and records reflecting said receipts and the other information from which can be calculated all moneys due to STANSBURY under his arrangement with Defendants.

37. The period of time during which STANSBURY has been deprived of monies due him spans approximately four and a half years. The various sources of revenue to Defendants of monies from which the amounts due STANSBURY may be calculated, the manner in which STANSBURY was to be paid, and the amount due STANSBURY all involve extensive and complicated accounts, and STANSBURY's remedy at law cannot be as full, adequate and expeditious as it is in equity.

WHEREFORE, Plaintiff STANSBURY prays for an adjudication of Plaintiff's right to a full and complete accounting from Defendants, LIC Holdings and ARBITRAGE, and for such orders of Court as will require such Defendants to provide STANSBURY with all records and copies of documents from January 1, 2006 to the present, in order to reveal his right to, and the amount of all sums: (a) received as commissions to which STANSBURY was entitled to a share; (b) due to STANSBURY, whether paid or not; (c) paid to STANSBURY, whether for commissions, salary, distributions, expenses or any other reason; (d) paid to each of the BERNSTEIN Defendants out of monies received as commissions; (e) deposits of any and all moneys received as commissions by any Defendants to any accounts, including the name of the entity whose account was involved, the number(s) of each such account; the address of the branch or other facility through which any Defendant dealt with such entity; (f) calculations as to moneys paid , to be paid, or not to be paid to STANSBURY, together with an award of court costs and such other and further relief as the Court may deem just and proper.

COUNT II - BREACH OF ORAL CONTRACT
(Against LIC Holdings, Inc., ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN)

38. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 37, inclusive.

39. The arrangement between STANSBURY and Defendants, as described in paragraphs 13 through 28 above, constituted a contract between them.

40. An express term of that contract involved the commitment of LIC Holdings and ARBITRAGE to calculate and pay to STANSBURY all sums due to him under the contract, whether as commissions, salary, distributions, expenses or any other reason.

41. The Defendants initially performed the duties required of them under said contract.

42. However, Defendants breached their contract with STANSBURY by withholding from STANSBURY monies due him under the contract for renewal commissions earned in 2007 and commissions and renewal commissions earned in 2008 and thereafter.

43. The withholding of such monies constitutes a material breach of the contract between STANSBURY and LIC Holdings and ARBITRAGE.

44. STANSBURY has sued both LIC Holdings and ARBITRAGE because the BERNSTEINS represented that his employment relationship was with LIC Holdings, the company in which he owned a 10% interest, but STANSBURY'S W-2 statements were issued by ARBITRAGE as his employer.

45. SIMON BERNSTEIN and TED BERNSTEIN are personally liable, jointly and severally, for the material breach of the oral employment contract with STANSBURY as LIC Holdings and/or ARBITRAGE were the alter ego of SIMON BERNSTEIN and TED

BERNSTEIN in that the BERNSTEINS depleted corporate assets for their personal benefit by causing the corporation or corporations to make exorbitant and inappropriate distributions to themselves, family members, and BERNSTEIN family trusts and other entities, at the expense of corporate creditors such as STANSBURY, to wit:

a) SIMON BERNSTEIN and TED BERNSTEIN caused LIC Holdings and/or ARBITRAGE to pay to them at least $3,756,229.00 and $5,225,825.00, respectively, in fiscal 2008 during which time STANSBURY, other than the amount referenced in paragraph 21, was paid nothing;

b) According to Palm Beach County public records, in December of 2007 TED BERNSTEIN purchased a property at 880 Berkeley Street, Boca Raton, Florida 33487, for $4,400,000;

c) According to Palm Beach County public records, on December 28, 2008, TED BERNSTEIN paid off the mortgage in the amount of $486,400.00 on a property he owned at 15807 Menton Bay Court, Saturnia Isles, Delray Beach, Florida 33446;

d) According to Palm Beach County public records, SIMON BERNSTEIN paid off the mortgage on property he and his wife owned, and subsequently transferred by quitclaim deed on May 20, 2008 to the trustee of SHIRLEY'S TRUST, at 7020 Lions Head Lane, Boca Raton, Florida, 33496. The amount of the mortgage pay-off is unknown, but in 2013 the property was listed for sale at $2,399,000;

e) According to Palm Beach County public records, on June 18, 2008, BERNSTEIN FAMILY REALTY, LLC acquired a property located at 2753 N.W. 34 Street, Boca Madera Unit 2, Boca Raton, Florida 33432 (the "Boca Madera Property). On July 8, 2008, SIMON BERNSTEIN loaned $365,000 to BERNSTEIN FAMILY REALTY, LLC. The specific

purpose of the loan is unknown, but SIMON BERNSTEIN received a mortgage on the Boca Madera Property to secure the loan;

f) According to Palm Beach County public records, on May 20, 2008 SIMON BERNSTEIN and his wife transferred by quitclaim deed to the trustee of SHIRLEY'S TRUST a 4,220 square foot oceanfront condominium unit in a complex known as "The Aragon" in Boca Raton, located at 2494 South Ocean Boulevard, Boca Raton, Florida. The mortgage on that property was paid off on September 27, 2010.

g) The legal descriptions for each of the above referenced properties are attached hereto as Exhibit "B."

46. There is due to STANSBURY from such Defendants all amounts due under said contract, together with prejudgment and post-judgment interest on said amounts.

WHEREFORE, Plaintiff prays for judgment against SIMON BERNSTEIN and TED BERNSTEIN declaring that Defendants, LIC Holdings, Inc. and ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, are or were the alter ego of SIMON BERNSTEIN and TED BERNSTEIN such that the corporate veil of LIC Holdings and/or ARBITRAGE should be pierced; for judgment against Defendants, LIC Holdings, Inc., ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, SIMON BERNSTEIN and TED BERNSTEIN, jointly and severally, in excess of $1,500,000.00 for the amounts due to Plaintiff under the terms of their contract, together with prejudgment and post-judgment interest; for his court costs herein expended and for such other relief as the Court may deem just and proper.

COUNT III - FRAUD IN THE INDUCEMENT- EMPLOYMENT AGREEMENT (Against SIMON BERNSTEIN and TED BERNSTEIN)

47. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 46, inclusive.

48. At all material times hereto, SIMON BERNSTEIN and TED BERNSTEIN were officers and majority shareholders of LIC Holdings and ARBITRAGE.

49. The statements set forth in paragraphs 18 through 24, above, made by SIMON BERNSTEIN and TED BERNSTEIN, on behalf of and in concert with each other, and as officers and majority shareholders of LIC Holdings and ARBITRAGE, were false statements of material fact that SIMON BERNSTEIN and TED BERNSTEIN knew to be false at the time they were made, as SIMON BERNSTEIN and TED BERNSTEIN never intended to authorize LIC Holdings or ARBITRAGE to pay to STANSBURY the amounts due him as evidenced by the fact that the accountant for LIC Holdings and ARBITRAGE prepared financial worksheets for 2008 showing that the BERNSTEINS would receive compensation, but STANSBURY would not, for fiscal 2008, in direct contravention to their statements and promises to STANSBURY.

50. SIMON BERNSTEIN and TED BERNSTEIN intended for STANSBURY to rely on such statements that he would be ultimately be paid for his productivity in order to induce him into continuing his productive and revenue-generating sales activity as an employee of LIC Holding and/or ARBITRAGE and fraudulently created for STANSBURY the false expectation that STANSBURY would be paid as agreed.

51. STANSBURY in fact relied to his detriment on these false statements and was induced thereby to remain in his employment relationship with LIC Holdings and ARBITRAGE as he continued to sell, with the expectation of payment, products and generate revenue for LIC Holdings and/or ARBITRAGE until 2012, and was further induced not to pursue from LIC Holdings and/ARBITRAGE his right to payment of all amounts due him until after SIMON BERNSTEIN and TED BERNSTEIN had diverted and converted corporate assets for their personal benefit, rendering LIC Holdings, and possibly ARBITRAGE, insolvent.

52. STANSBURY was injured thereby as he was not and has not been compensated for his revenue-generating sales and other performance, and did not seek alternative employment, as a proximate result of his detrimental reliance on these false statements.

WHEREFORE, Plaintiff prays for judgment against Defendants SIMON BERNSTEIN and TED BERNSTEIN, jointly and severally, for damages in excess of $1,500,000.00 together with prejudgment and post-judgment interest; for the imposition of an equitable lien and constructive trust on the Bernstein real estate described in paragraph 45 and Exhibit "B" as more fully set forth in Counts VII and VIII of this Second Amended Complaint; for his court costs herein expended; and for such other relief as the Court may deem just and proper. STANSBURY reserves the right to move to amend to request punitive damages in accordance with Florida Law.

COUNT IV - FRAUD IN THE INDUCEMENT - CEDING OF LIC HOLDINGS OWNERSHIP INTEREST (Against Ted Bernstein and LIC Holdings, Inc.)

53. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 52, inclusive.

54. In the fourth quarter of 2011, TED BERNSTEIN embarked upon a plan to defraud from STANSBURY his 10% ownership interest in LIC Holdings, Inc. As set forth in paragraph 31 above, Defendant TED BERNSTEIN fraudulently induced STANSBURY to prepare and sign a document giving up his 10% interest in and to LIC Holdings, Inc.

55. The ceding of his shares in LIC Holdings, Inc. was procured by fraud and STANSBURY relied upon the representations made by BERNSTEIN with regard to signing the document apparently ceding his stock.

56. It was reasonable for STANSBURY to rely on the representations made by BERNSTEIN because at that time STANSBURY was unaware of the breaches of fiduciary duty and breaches of the oral contract that had taken place.

57. As a result of STANSBURY's reliance, STANSBURY has been damaged by the loss of 10% of the shares of LIC Holdings and the rights and remedies to a shareholder related thereto.

WHEREFORE, Plaintiff prays for a judgment for damages against Defendants BERNSTEIN and LIC Holdings, Inc. for the damages caused by the fraudulent conduct of BERNSTEIN as described herein, together with reasonable costs, pre-judgment interest and any other relief this Court deems just and proper.

COUNT V - CIVIL CONSPIRACY
(Against Simon Bernstein and Ted Bernstein)

58. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, and Counts III and IV, paragraphs 47 through 57, inclusive.

59. SIMON BERNSTEIN and TED BERNSTEIN, individually and as officers and majority shareholders of LIC Holdings and ARBITRAGE, knowingly, willfully, intentionally, and maliciously conspired, agreed, combined and confederated with each other to make fraudulent, false and misleading statements to STANSBURY intended to induce STANSBURY to continue his employment relationship with LIC Holdings and/or ARBITRAGE during 2008 and thereafter, without ever intending to authorize payment to STANSBURY for the amounts he was due, a relationship that generated substantial revenue for LIC Holdings and/or ARBITRAGE and, ultimately, SIMON BERNSTEIN and TED BERNSTEIN.

60. SIMON BERNSTEIN and TED BERNSTEIN, individually and as officers and majority shareholders of LIC Holdings and ARBITRAGE, knowingly, willfully, intentionally, and maliciously conspired, agreed, combined and confederated with each other to make fraudulent, false and misleading statements to STANSBURY intended to induce STANSBURY to delay pursuing his right to payment for all amounts due him until such time after SIMON BERNSTEIN and TED BERNSTEIN had converted and diverted corporate assets rendering LIC Holdings, and possibly ARBITRAGE, insolvent and uncollectible.

61. SIMON BERNSTEIN and TED BERNSTEIN, individually and as officers and majority shareholders of LIC Holdings and ARBITRAGE, knowingly, willfully, intentionally, and maliciously conspired, agreed, combined and confederated with each other to fraudulently induce STANSBURY, through false and misleading statements, to surrender and cede, without fair value payment, his 10% interest in LIC Holdings.

62. The numerous fraudulent, false and misleading statements made by SIMON BERNSTEIN and TED BERNSTEIN were all overt acts in furtherance of the conspiracy.

63. STANSBURY was injured thereby in that, as a proximate result of the conspiratorial conduct of SIMON BERNSTEIN and TED BERNSTEIN, he continued in his employment with LIC Holdings and/or ARBITRAGE, without payment of the compensation due him, he delayed pursuit of his right to collect the amounts due him, and ceded his 10% interest in LIC Holdings.

WHEREFORE, Plaintiff prays for judgment against Defendants, SIMON BERNSTEIN and TED BERNSTEIN, jointly and severally, for damages in excess of $1,500,000.00 together with prejudgment and post-judgment interest; for the imposition of an equitable lien and constructive trust on the Bernstein real estate described in paragraph 45 and Exhibit "B" as more fully set forth in Counts VII and VIII of this Second Amended Complaint;

for his court costs herein expended; and for such other relief as the Court may deem just and proper. STANSBURY reserves the right to move to amend to request punitive damages in accordance with Florida Law.

COUNT V - CIVIL THEFT
(Against ARBITRAGE INTERNATIONAL MARKETING, LLC)

64. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 63, inclusive.

65. This is an action for Civil Theft under Chapter 772, Florida Statutes, more specifically §772.11, Fla.Stat.

66. In February, 2012 and March, 2012, Defendant ARBITRAGE intercepted two separate checks made payable to William STANSBURY intended as payment to STANSBURY for matters arising wholly outside his business transactions with the BERNSTEINS, LIC Holdings and ARBITRAGE.

67. Notwithstanding that the checks made payable to William STANSBURY was for sums due STANSBURY by a third party not in connection with the aforesaid business transactions, ARBITRAGE and/or someone acting on its behalf, caused the negotiation of STANSBURY's checks, wrongfully endorsing the checks and retaining the sums that should have been payable to STANSBURY.

68. As a result of the foregoing, Defendant ARBITRAGE has been guilty of criminal theft by conversion with the criminal intent to steal his money and deprive STANSBURY of his possession and use thereof.

69. Written demand for payment of all amounts due STANSBURY has been made to Defendants, more than 30 days preceding the filing of this Complaint, to no avail. A copy of the demand letter is attached hereto as Exhibit "A."

WHEREFORE, Plaintiff prays for judgment against Defendant, ARBITRAGE for three times the full amount of the checks made payable to STANSBURY, together with pre-judgment interest and post-judgment interest, attorneys' fees, court costs and any other relief this Court deems just and proper.

COUNT VII - CONVERSION

70. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 63, inclusive.

71. Further, during 2012, Defendants TED BERNSTEIN, SIMON BERNSTEIN, LIC Holdings, Inc., ARBITRAGE, or someone acting on their behalves, received and cashed in excess of $30,000.00 worth of commission checks otherwise payable to Plaintiff.

WHEREFORE, Plaintiff prays for judgment for damages against Defendant, ABRITRAGE, SIMON BERNSTEIN, LIC Holdings, Inc. and TED BERNSTEIN, together with pre-judgment interest and post-judgment interest, court costs and any other relief this Court deems just and proper.

COUNT VIII - UNJUST ENRICHMENT
(LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN)

72. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, paragraphs 1 through 65, above.

73. STANSBURY conferred a benefit on LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN by continuing his employment relationship with LIC Holdings and/or ARBITRAGE as a direct and proximate result of the fraudulent representations of SIMON BERNSTEIN and TED BERNSTEIN, as more fully set forth in Count III herein.

74. STANSBURY's continued employment resulted in the generation of substantial revenue for LIC Holdings and/or ARBITRAGE, which was then diverted and converted by the BERNSTEINS for their own personal use to the financial detriment of STANSBURY.

75. LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN, as officers and majority shareholders of LIC Holdings and ARBITRAGE, had knowledge of the benefit of STANSBURY's continued employment with LIC Holdings and/or ARBITRAGE as they fraudulently induced STANSBURY to continue his productive employment activity while never intending to pay him the compensation he was due.

76. LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN accepted the revenues generated by STANSBURY in his capacity as employee.

77. There exists no adequate remedy at law as the conduct of the BERNSTEINS in diverting and converting the corporate assets of LIC Holdings and/or ARBITRAGE has resulted in the insolvency of LIC Holdings and possibly ARBITRAGE.

78. The circumstances are such that it would be inequitable for LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN to retain the benefits of the STANSBURY's productive revenue-generating labor without paying fair value for it.

WHEREFORE, Plaintiff prays for judgment against Defendants, LIC Holdings, Inc., ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, SIMON BERNSTEIN and TED BERNSTEIN, jointly and severally, in an amount in excess of $1,500,000.00 which the evidence shows Plaintiff is entitled for the fair value of the services Plaintiff provided to LIC Holdings and ARBITRAGE , together with prejudgment and post-judgment interest; for his court costs herein expended and for such other relief as the Court may deem just and proper.

COUNT IX - EQUITABLE LIEN
(As to SIMON BERNSTEIN, TED BERNSTEIN, BERNSTEIN FAMILY REALTY, LLC and SHIRLEY BERNSTEIN TRUST AGREEMENT)

79. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, the allegations set forth in paragraphs 1 through 34, paragraph 45 and Counts III and VII, above.

80. STANSBURY has alleged essential facts in his General Allegations and Count III that show that SIMON BERNSTEIN and TED BERNSTEIN committed fraud by fraudulently inducing STANSBURY to continue in an employment relationship that proved to be highly lucrative for SIMON BERNSTEIN and TED BERNSTEIN.

81. STANSBURY has alleged essential facts in his General Allegations and Count VII that show that SIMON BERNSTEIN and TED BERNSTEIN were unjustly enriched by STANSBURY's uncompensated continued employment with LIC Holdings and/or ARBITRAGE.

82. The conduct of the BERNSTEINS in depleting the corporate assets of LIC Holdings and ARBITRAGE for their personal benefit by causing the corporation or corporations to make exorbitant and inappropriate distributions to themselves, family members, and BERNSTEIN FAMILY REALT, LLC and SHIRLEY BERNSTEIN TRUST AGREEMENT, at the expense of corporate creditors such as STANSBURY, rendered LIC Holdings and possibly ARBITRAGE insolvent. Therefore STANSBURY has no adequate remedy at law.

83. BERNSTEIN FAMILY REALTY, LLC and SHIRLEY BERNSTEIN TRUSTA AGREEMENT were the transferees of some of the corporate assets of LIC Holdings and/or

ARBITRAGE wrongfully diverted and converted by the BERNSTEIN and thus are proper parties to this action and this Count.

84. An equitable lien on the real estate described in paragraph 45 herein and Exhibit "B" attached hereto is justified as an equitable remedy for the wrongful conduct of the BERNSTEINS.

WHEREFORE, Plaintiff prays for the Court to declare and establish an equitable lien in favor of Plaintiff in an amount equal to the funds wrongfully diverted, on the property described in paragraph 45 and Exhibit "B" attached hereto, and on all other assets of the Defendants named in this Count IX, or third parties as yet unknown, which assets have been purchased wholly or in part, improved or benefitted by the diverted funds due Plaintiff, together with his costs herein expended, and such other and further relief as this Court may deem just and proper.

COUNT X - CONSTRUCTIVE TRUST
(As to SIMON BERNSTEIN, TED BERNSTEIN, BERNSTEIN FAMILY REALTY, LLC and SHIRLEY BERNSTEIN TRUST AGREEMENT)

85. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 79 through 84 above.

WHEREFORE, Plaintiff prays for the Court to declare and establish a constructive trust in favor of Plaintiff on the property described in paragraph 45 and Exhibit "B" attached hereto in an amount equal to the funds wrongfully diverted and on all assets of Defendants or third parties as yet unknown, which assets have been purchased wholly or partly, improved or mortgaged by the diversion of said funds due Plaintiff. Plaintiff further prays for an award of court costs and such other and further relief as the Court may deem just and proper.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives,* 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; at arose@pm-law.com and mchandler@pm-law.com to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc. and Arbitrage International Management, LLC,* 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this 3rd day of September, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
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By: _____
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June 20, 2012

Via Certified Mail, Return Receipt Requested

PERSONAL and CONFIDENTIAL
Mr. Ted Bernstein, President
LIC Holdings, Inc.
950 Peninsula Corp Circle
Suite 3010
Boca Raton, FL 33487

Re: William (Bill) Stansbury

Dear Mr. Bernstein:

The undersigned represents William (Bill) Stansbury and we are writing this letter on his behalf. Mr. Stansbury received your proposed letter agreement reflecting LIC Holdings' proposal to indemnify its shareholders concerning policies sold under the Cambridge Financing Program. As a result of your proposal, Mr. Stansbury has reviewed with me in detail his dealings with you and your companies over the past 4 to 5 years.

After reviewing the facts with Mr. Stansbury, some of which will be summarized below, I was shocked that he had not consulted legal counsel until now. Be that as it may, and based upon the facts presented to us, we believe you have engaged in fraud, civil theft, breaches of fiduciary duties, and breach of contract, just to name a few. The purpose of this letter is to a). respond to your indemnity proposal and b). request that you pass this letter on to your counsel immediately in the off-chance that these very serious matters can be resolved prior to the filing of legal action. The issues can be summarized as follows:

1. The first issue concerns you and your company's failure to pay salary compensation to Mr. Stansbury. Mr. Stansbury has been making inquiries concerning this for the past 5 months, but to no avail. Mr. Stansbury's claim for unpaid salary arises from three categories:

EXHIBIT A

a. Failure to pay salary based on net retained commissions.

i. Based upon reports prepared by your company for the period of 2007 through 2011, LIC Holdings, Inc. and/or Arbitrage International Holdings, n/k/a Arbitrage International Management, LLC, received $35,384,246.00 in net retained commissions. According to Mr. Stansbury's salary arrangement, he is entitled to 15% of those net retained commissions, which amounts to $5,307,636.90. During this time period, Mr. Stansbury's salary compensation was $2,844,910.00. The shortfall in salary owed to Mr. Stansbury is $2,462,726.90.

ii. There is salary compensation owed to Mr. Stansbury as a result of bridge loans in 2008. You received a $2,000,000.00 settlement in 2010 resulting from the resolution of a lawsuit involving Global Secured Capital. Mr. Stansbury is entitled to 15% of those funds, which is $300,000.00.

iii. In addition, you received $507,891.00 in commissions in connection with the Biviano matter. Mr. Stansbury is entitled to 15% of those funds, which is $76,183.65.

iv. In April of 2012, you received three commissions totaling approximately $200,000.00 in the Levine, Wiss and Berley matters. Mr. Stansbury has been requesting payment of this for weeks, again to no avail. Mr. Stansbury is due salary compensation for these items in the amount of $30,000.00.

Therefore, Mr. Stansbury's total claim for salary arising out of net retained commissions is approximately $2,868,910.55.

The liability for payment of this salary is not limited to LIC Holdings, Inc. or Arbitrage International Management, LLC. This liability also flows to you individually as a result of your breaches of your fiduciary duty owed to Mr. Stansbury and utter failure to abide by corporate governance standards, which conduct is more particularly described below.

b. Mr. Stansbury is also due unpaid salary based on 15% of all renewal commissions since 2008. Mr. Stansbury's salary claim for renewal commissions cannot as yet be determined with specificity due to the fact that you and your office have been opening mail directed to Mr. Stansbury and negotiating checks made payable to him by falsifying his endorsement and depositing those checks into accounts which only you control. This conduct constitutes civil theft and breach of fiduciary duty. We believe this claim amounts to hundreds of thousands of dollars.

c. Salary compensation for 2008. Mr. Stansbury has recently learned that you and Mr. Simon Bernstein received $8,982,124.00 in salary in 2008. By contrast, Mr. Stansbury received $420,018.00, paid to him in January 2008, based on policies sold in 2007. He received zero (no salary compensation) for his 2008 production. It is obvious that you and Simon treated your corporations as personal ATM machines, while completely ignoring your fiduciary

responsibilities to your employee and minority shareholder, Mr. Stansbury. It further appears that after the exorbitant salaries were paid to you, you then loaned the money back to the corporation at an interest rate significantly above market rates in order to meet the cash flow needs of the various entities, again, clearly disregarding your corporate governance responsibilities.

2. Indemnification issues.

Mr. Stansbury has been served with three lawsuits from Phoenix Insurance Company and one from Mr. Wright seeking indemnification as a result of agent misconduct which was in no way attributable to the conduct of Mr. Stansbury. Although all of these matters have been settled, because he was the qualifying agent of record for other policies, he could be the subject of future litigation for refunds of commissions paid. All of these commissions were paid over to you or your companies.

The Indemnification Agreement which you sent to Mr. Stansbury is completely insufficient. You have a duty as a matter of law to indemnify Mr. Stansbury. Your offer of future indemnity is contingent upon "all" commissions that have been received by LIC's present or past shareholders be turned over to LIC. This is nothing short of extortion. Further, your second paragraph states that LIC is "presently insolvent" and has a "negative net worth." You then conclude with the sentence that with the indemnification agreement in place, LIC "may" have sufficient funds to meet its current obligations. Therefore, a simple indemnification from LIC Holdings to Mr. Stansbury is insufficient. Any such indemnification would have to be personally guaranteed by you and Mr. Simon Bernstein.

3. Unauthorized interception of U.S. Mail.

I have been given the understanding that your office has been opening mail directed to Mr. Stansbury personally. This is a federal offense and also constitutes a breach of the fiduciary duty you owe to Mr. Stansbury as an employee and minority shareholder.

There has been no accounting to Mr. Stansbury for any of the checks which may have been sent to him personally on which his signature has been forged, the checks cashed and placed out of the reach of Mr. Stansbury. In 2012, Mr. Stansbury has been receiving checks from Phoenix Life Insurance Company and TransAmerica Life Insurance Company. Mr. Stansbury has been holding these checks. They have now been remitted to the undersigned as attorney for Mr. Stansbury. This office is holding these funds in a separate interest-bearing trust account pending the resolution of this matter.

With regard to all of the other insurance companies for whom Mr. Stansbury is listed as the qualifying agent, he has now informed those companies that all future renewal commissions paid to him personally be sent to Mr. Stansbury at his home address. These funds will then be remitted to the undersigned counsel of record for Mr. Stansbury. We will place these funds in a separate interest-bearing trust account as well. Any attempts by you to contact these insurance

companies will be considered a tortious interference of his business relationship and such activity will be added as a claim in any future legal proceedings.

4. Shareholder status.

Mr. Stansbury has been a 10% shareholder of LIC Holdings, Inc., pursuant to the terms of a Shareholders Agreement. On behalf of Mr. Stansbury, demand is hereby made, pursuant to Florida Statute 607.1602, for inspection of the corporate records including the following:

I. Minutes of the Board of Directors meetings from January 1, 2008 to the present.

II. Minutes of Shareholders' meetings from January 1, 2008 to the present.

III. Records of any actions taken by the Shareholders and/or the Board of Directors without a meeting, from January 1, 2008 to the present.

IV. Accounting and financial records of LIC Holdings, Inc., Arbitrage International Management, LLC, formerly known as Arbitrage International Holdings, LLC, and all other subsidiary or affiliated companies under your control, including, without limitation, income tax returns, general ledgers, balance sheets, profit and loss statements, stock books, bank statements, loan agreements or guarantees, and any other financial books and records from January 1, 2008 to the present.

Mr. Stansbury is seeking to inspect these records in good faith and for the purpose of determining if misappropriation of corporate assets for improper purposes has previously taken or is presently taking place.

I have been made aware of a letter dated December 22, 2011 in which Mr. Stansbury purportedly "ceded" his shares of stock in LIC Holdings, Inc. back to the company. This letter was obtained under false pretenses and is not recognized by Mr. Stansbury as validly conveying his ownership interest in LIC Holdings, Inc.

Please have your legal counsel contact us within ten (10) days. Should we fail to receive a response within that time, Mr. Stansbury will take legal action to protect his rights and interests.

Very truly yours,

PETER M. FEAMAN, P.A.

By: Peter M. Feaman

Peter M. Feaman

PMF/mk
cc: William Stansbury
CC Riggs (e-mail)

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Ted Bernstein, Pres.
LIC Holdings, Inc.
950 Peninsula Cap. Cir.
Suite 3010
Boca Raton, FL 33487

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee

B. Received by (Printed Name) | C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7011 0110 0000 6015 5239

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

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739 So.2d 138
Milan DAVICH, Jr., Appellant,
v.
NORMAN BROTHERS NISSAN, INC., etc., et al., Appellees.

No. 98-1608.
District Court of Appeal of Florida, Fifth District.
July 16, 1999.
Rehearing Denied August 17, 1999.

[739 So.2d 139]

Charles L. Steinberg, Orlando, for Appellant.

W. Scott Powell and Larry M. Roth, of Roth, Edwards & Smith, P.A., Maitland, for Appellees.

UPON MOTION FOR REHEARING

PETERSON, J.

The appellant, Milan Davich, Jr., has moved for rehearing and clarification regarding certain discovery issues. We grant the motion, withdraw our previous opinion, and issue the following in its place.

Milan Davich, Jr., appeals a final summary judgment dismissing his complaint against Norman Brothers, Inc. (Norman Brothers) and Nissan Motor Company in USA (Nissan) for equitable rescission, violation of the Florida Deceptive and Unfair Trade Practices Act, section 501.201, et seq., Florida Statutes (1991) (FDUTPA), and fraud and deceit.

This controversy began when Davich discovered that the new black 1991 Nissan Sentra automobile that he had purchased from Norman Brothers appeared to have paint damage. Davich contends the paint damage existed at the time of purchase and was caused by acid rain fallout. The paint damage is undetectable without careful inspection and went unnoticed until Davich attempted to eliminate the "water spots" on the paint by polishing it a short time after the purchase. Norman Brothers and Nissan attempted to replace Davich's vehicle but were unable to find an undamaged vehicle of the same particular color and model. Finally, Nissan offered to replace the vehicle with the next year's model, if Davich would pay for mileage charges and the increase in price of the

[739 So.2d 140]

next year's model. Davich rejected this offer, opining that he should not be forced to pay for Norman Brothers' deceit. Davich then brought the instant suit.

Davich alleged in count IV of his complaint that there was a conspiracy between Nissan and Norman Brothers from 1991 until the Fall of 1992 to sell cars damaged by acid rain fallout to the general public, that such damage was concealed from the public, and that Davich was a victim of this conspiracy. Based on such allegations, Davich sought discovery from Nissan of all documentation pertaining to the sale of Nissan vehicles to its dealers, including Norman Brothers, for the time period in question where the paint was either damaged or affected by a foreign substance consistent with acid rain, fall out, or other environmental damage. The trial court ordered a limited production of the documentation requested by Davich, restricting discovery to 1990 and 1991 vehicles sold by Nissan to Norman Brothers on or before March 23, 1991, the date Davich took delivery of his car. We find that the trial court erred in limiting the production of the documentation regarding vehicles sold by Nissan to Norman Brothers for the time period requested, i.e., 1990 to Fall of 1992, because this evidence is relevant to Davich's contention that Nissan and Norman Brothers were aware of acid rain damage to many of its vehicles but conspired to sell them as new and undamaged.

Discovery in civil cases must be relevant to the subject matter of the case and must be admissible or reasonably calculated to lead to admissible evidence. *Allstate Ins. Co. v. Langston,* 655 So.2d 91 (Fla.1995); Fla. R. Civ. P. 1.280(b)(1). The concept of relevancy is broader in the discovery context than in the trial context and a party may be permitted to discover relevant evidence that would be inadmissible at trial, so long as it may lead to the discovery of admissible evidence. *Amente v. Newman,* 653 So.2d 1030 (Fla.1995); *see also Balas v. Ruzzo,* 703 So.2d 1076 (Fla. 5th DCA 1997), *rev. denied,* 719 So.2d 286 (Fla.1998). And of necessity, wide latitude should be permitted in seeking evidence of fraud since positive proof of the tort is generally not to be expected. *Suntogs of Miami, Inc. v. Burroughs Corp.,* 433 So.2d 581 (Fla. 3d DCA 1983) (in fraud action against seller of computer system for alleged misrepresentations as to compatibility of computer with software package, information as to possible problems another buyer had with similar system was relevant and discoverable, as reasonably calculated to lead to discovery of admissible evidence, even though information itself may have been inadmissible at trial; information went to material element of fraud claim that seller and its agents had actual or constructive knowledge of problems with system prior to sale in question), *quashed on other grounds,* 472 So.2d 1166 (Fla.1985); *Continental Mortgage Investors v. Village By The Sea, Inc.,* 252 So.2d 833 (Fla. 4th DCA 1971) (in a mortgage foreclosure action, discovery was permitted as to details of the lender's prior transactions with others when usury was a possible defense and those prior transactions might have shown a general modus operandi). See also *Saunders v. Florida Keys Elec. Co-op. Ass'n,* 471 So.2d 88 (Fla. 3d DCA 1985) (evidence of similar incidents is relevant for discovery and admissible at trial for purposes of showing existence of a danger or defect and notice or knowledge thereof), *rev. denied,* 482 So.2d 348 (Fla. 1986); *Volusia County Bank v. Bigelow,* 45 Fla. 638, 33 So. 704, 707 (1903) ("Fraud assumes so many shapes, disguises, and subterfuges that courts always afford a latitude of evidence by admitting anything at all connected with the transaction in which it is alleged to exist, in order that it may be detected and exposed, for the safety of society and the benefit of morals"); *West Florida Land Co. v. Studebaker,* 37 Fla. 28, 19 So. 176 (1896) (where fraud in the purchase or sale of property is in issue, other frauds of like character, committed

[739 So.2d 141]

by the same parties at or near the same time are admissible).

Additionally, discovery should not be limited to production of documentation, and we direct the trial court on remand to allow Davich to utilize all forms of discovery, including depositions, interrogatories, and requests for admission if such forms are helpful to Davich in attempting to prove his allegations of fraud and conspiracy.

Discovery regarding Nissan sales to other dealers in the U.S.A., however, is not relevant to Davich's claim of conspiracy between Nissan and Norman Brothers, and we find the trial court properly restricted discovery as to other dealers.

We vacate the summary judgment based on our conclusion that the trial court abused its discretion in denying Davich the opportunity to obtain possible support for his actions under FDUTPA and for fraud and deceit. We also vacate the judgment because genuine issues of material fact continue to exist including, inter alia, whether Norman Brothers, in selling a new car, impliedly and falsely represented that the paint finish was undamaged[1], whether Davich's car was damaged by acid rain, whether Norman Brothers violated the FDUTPA[2] by concealing such alleged damage[3], and whether Norman Brothers fraudulently concealed such alleged condition[4]. All these issues were raised by Davich and a review of the record fails to resolve them.

Notwithstanding, we are concerned about the sustainability of Davich's request for equitable rescission. Davich continues to drive the Nissan and had accumulated considerable

mileage on it by the time of the hearing in 1995. The car has also been damaged by hail for which Davich received insurance payments but did not carry out any repairs. If, upon remand, Davich is able to prevail on his fraud counts, rescission would not be the proper remedy because the parties could not be placed in their pre-sale positions due to the damage and depreciation of the vehicle. *Bush v. Palm Beach Imports, Inc.*, 610 So.2d 68 (Fla. 4th DCA 1992).

Lastly, we find no merit in the appellee's position that the economic loss rule bars Davich's counts for fraud. Davich is contending that he was fraudulently induced into entering the contract of purchase. Fraudulent inducement is not barred by the economic loss rule. *HTP, Ltd. v. Lineas Aereas Costarricenses,* 685 So.2d 1238 (Fla.1996); *La Pesca Grande Charters, Inc. v. Moran,* 704 So.2d 710 (Fla. 5th DCA 1998).

We vacate the judgment and remand for further proceedings consistent with this opinion.

[739 So.2d 142]

JUDGMENT VACATED; REMANDED.

COBB and GRIFFIN, JJ., concur.

Notes:

1. *Orange Motors of Coral Gables, Inc. v. Dade County Dairies, Inc.,* 258 So.2d 319 (Fla. 3rd DCA 1972) (every buyer has the right to assume his new car, with the exception of minor adjustments, will be mechanically new and factory furnished, operate perfectly, and be free of substantial defects, especially in view of the high powered advertising techniques of the auto industry), *cert. denied,* 263 So.2d 831 (Fla.1972).

2. We further direct the trial court to allow Davich to amend Count IV to add a FDUTPA violation claim against Nissan as well.

3. *Delgado v. J.W. Courtesy Pontiac GMC-Truck, Inc.,* 693 So.2d 602 (Fla. 2d DCA 1997) (buyers stated claim under FDUTPA by alleging that purchase of vehicle from seller was a consumer transaction and that seller's failure to disclose fact that vehicle had been damaged and repaired constituted a deceptive act); *Suris v. Gilmore Liquidating, Inc.,* 651 So.2d 1282 (Fla. 3d DCA 1995) (automobile buyer created a jury question concerning the deceptive or misleading nature of dealer's acts under FDUTPA by alleging that dealer misrepresented true price of car, as well as value of trade-in).

4. *Nessim v. DeLoache,* 384 So.2d 1341 (Fla. 3d DCA 1980) (issue of fraud is not ordinarily a proper subject for summary judgment because, being a subtle matter, fraud requires a full explanation of facts and circumstances of alleged wrong to permit determination whether they collectively constitute fraud, and for that reason such determination is seldom one that can be made in a legally sufficient manner without trial).

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88 So.2d 551
CHARLES SALES CORP., a Florida corporation, Petitioner,
v.
Ben ROVENGER, Respondent.
Supreme Court of Florida, Special Division A.
June 15, 1956.

Page 552

Kommel & Rogers, Miami Beach, for petitioner.

Patton & Kanner, Miami, for respondent.

HOBSON, Justice.

This is a petition for certiorari filed by Charles Sales Corporation, defendant below, to review an order of the circuit court, sitting in chancery, overruling certain objections to interrogatories propounded by the plaintiff. For an understanding of the matter involved, it is first necessary to review what has thus far transpired in the case.

The plaintiff in this equity suit seeks an accounting, to determine and recover money due under certain alleged employment contracts with the defendant. The complaint alleges that from July, 1951, to November, 1952, the parties agreed that the plaintiff, as a salesman for defendant, was to receive a commission to be calculated on a sliding scale of percentages based upon gross profits to the defendant corporation. It is alleged that in November, 1952, the plaintiff discovered that the defendant had not paid the proper rate of commission based upon the gross profit derived from the sale of certain articles. It is further alleged that the defendant admitted the improper calculation of the commissions and agreed to give the plaintiff an accounting, and that although the promised accounting was never rendered, the defendant in July, 1953, paid the plaintiff $2,000 on account of the extra amount due him.

In November, 1952, the complaint continued, the parties expressed dissatisfaction with the terms of the employment because of the necessity for the many computations upon individual sales, and a new agreement was entered for the year 1953, whereunder the plaintiff was to be paid a weekly salary and expense account plus 20% of the net profits before the computation of corporate income taxes at the end of the calendar year. The plaintiff states that during 1953 he received $5,000 on account of his right to 20% of the profits but that he never received the promised accounting.

It is further alleged that at the end of the year 1953 the parties altered the salary and expense account agreement but adhered to the 20% commission agreement, and that plaintiff received a payment of $2,000 in 1954 on account of his commissions but never received the promised accounting.

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An accounting is sought in equity because of the alleged complexity of the transactions extending over a long period of time, the necessity of discovering facts known only to defendant, and the fiduciary relationship which existed between the parties.

Defendant moved to dismiss the complaint for failure to state a claim cognizable in equity and because plaintiff had an adequate remedy at law. The motion was denied, and defendant answered, denying that the contracts of employment were those set forth in the complaint and alleging that the sums paid to the plaintiff during 1953 and 1954 in addition to salary were bonuses voluntarily given.

Defendant also filed a counterclaim, which need not concern us here.

Subsequently, plaintiff propounded to defendant the interrogatories in question, requesting, in substance, that defendant state the following:

(a) The cost for the period from July 1, 1951 to November 30, 1952, of every item sold by the defendant through the agency of the plaintiff, the preferential discounts obtained by defendant from its suppliers and the percentage of profit derived by the defendant from each sale.

(b) For the period from January 1, 1953 to December 31, 1953, and also for the period from January 1, 1954 to December 31, 1954.

1. Gross sales (with supporting schedules)

2. Returned sales and allowances (with supporting schedules)

3. Net sales

4. Costs of goods sold, indicating:

a. Inventory as of January 1, 1953, 1954

b. Merchandise purchased

c. Inventory as of December 31, 1953, 1954

5. Gross profit on sales

6. Selling expenses (with supporting schedules)

7. Net profit on operations before computation of corporate income taxes.

To these interrogatories defendant filed objections which, when stripped of verbiage, reveal two main grounds: (1) that the interrogatories are oppressive and unduly burdensome, and (2) that they are irrelevant to the issue in the cause, which is the nature of the contract of employment between plaintiff and defendant. As stated above, these objections were overruled, after hearing, by the order challenged here.

30 F.S.A. Rule 1.27, 1954, Florida Rules of Civil Procedure, under which the interrogatories were propounded, is similar to Rule 33 of the Federal Rules of Civil Procedure, 28 U.S.C.A., and contains similar cross-references to other rules which make it clear that the permissible scope of discovery by interrogatories to parties as wide as that available by deposition upon oral examination. Thus 'any matter, not privileged, which is relevant to the subject matter involved in the pending action' may be inquired into. Rules 1.27 and 1.21(b), 1954 Florida Rules of Civil Procedure. It will be noted that the test is relevancy to the subject matter of the action rather than to the precise issues framed by the pleadings. See 4 Moore's Federal Practice, Sec. 33.15, p. 2296 and Gutowitz v. Pennsylvania R. Co., D.C.E.D.Pa.1945, 7 F.R.D. 144. With this broad scope of discovery, however, safetyvalves must be and are provided. On seasonable objection by the party interrogated, the court may enter an appropriate protective order. Dilatory tactics by the use of such objections are not to be encouraged, and the trial court has a wide discretion in its treatment of discovery problems which we will not ordinarily disturb.

In the case before us, we cannot say that, as a matter of law, the interrogatories, or any of them, showed on their face that the party interrogated required

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the protection of the court from 'annoyance, expense, embarrassment, or oppression' under Rules 1.27 or 1.24(b). The burden of proving the validity of objections is, of course, upon the objecting party. Kainz v. Anheuser-Busch, Inc., D.C.N.D.Ill.1954, 15 F.R.D. 242; Pappas v. Loew's Inc., D.C.M.D.Pa.1953, 13 F.R.D. 471; Mall Tool Co. v. Sterling Varnish Co., D.C.W.D.Pa.1951, 11 F.R.D. 576; Glick v. McKesson & Robbins, Inc., D.C.W.D.Mo.1950, 10 F.R.D. 477; Bowles v. Safeway Stores, Inc., D.C.W.D.Mo.1945, 4 F.R.D. 469; Blanc v. Smith, D.C.S.D. Iowa 1943, 3 F.R.D. 182. We have before us no record of what transpired below at the hearing on the objections. We are

therefore unable to determine what, if any, showing was made by the defendants as to the size of its business, or the magnitude of the task of furnishing the information sought by the plaintiff. The record thus falls far short of that which would be required to show an abuse of discretion upon this aspect of the case.

Since there is no claim of privilege, the only point remaining to be considered is that of relevancy of the interrogatories at the present stage of the litigation. The defendant petitioner contends that the plaintiff is prematurely seeking discovery as to items of account before it has been established that he is entitled to an accounting. Is such discovery 'relevant to the subject matter' of the action? This resolves itself into the broader question of the propriety of allowing discovery before trial as to the relief sought.

The Supreme Court of the United States had occasion to consider this question in 1933 in Sinclair Refining Co. v. Jenkins Petroleum Process Co., 289 U.S. 689, 53 S.Ct. 736, 737, 77 L.Ed. 1449. Professor Moore quotes the following enlightening language from the opinion in that case, which, he states, is still good law under the Federal Rules (4 Moore's Federal Practice, Sec. 26.18, p. 1072):

'The remedy of discovery is as appropriate for proof of a plaintiff's damages as it is for proof of other facts essential to his case. * * *

* * *

* * *

'There are times when a suit is triable in separate parts, one affecting the right of liability, and the other affecting the measure of recovery. In suits of that order a discovery as to damages will commonly be postponed till the right or liability has been established or declared. * * *

'A different situation is presented where the action is at law and is triable by judge and jury. There interlocutory judgments are unknown * * *. In such circumstances damages may be proved with the aid of a discovery, if the complication of accounts of other practical impediments make it necessary that the evidence be sifted in advance. * * *

* * *

* * *

'To hold that the plaintiff in an action at law may have discovery of damages is not to say that the remedy will be granted as of course, or that protection will not be given to his adversary against impertinent intrusion. * * * It is all a matter of discretion. * * *'

As an example of a suit triable in separate parts, Professor Moore refers to a patent infringement suit where the plaintiff seeks an injunction and an accounting. In such a suit, the court will not ordinarily permit the plaintiff to obtain discovery as to the accounting until after the question of whether the plaintiff has a right to an accounting has been determined. See Zenith Radio Corp. v. Dictograph Products Co., Inc., D.C.D.Del.1947, 6 F.R.D. 597, and the numerous federal cases in accord cited in 4 Moore Section 26.18, p. 1072, n. 2.

Is the instant case, like a patent case, triable in two separate parts? In Manning v. Clark, Fla., 56 So.2d 521, 523, we said, speaking of the ordinary equity suit for an accounting:

'It is well settled that in suits for an accounting, where the answer does not admit the allegations of the complaint

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and there is no consent to entry of a decree, the proper practice is for the court to determine the initial question of plaintiff's right to an accounting, and an accounting may then be decreed if the finding is in favor of plaintiff upon the preliminary issue. Warden v. Richardson, 203 Okl. 474, 223 P.2d 338; Ewalt v. Hudson, Mo.App., 223 S.W.2d 132; Larson v. Crescent Planing Mill Co., Mo.App., 218 S.W.2d 814; Jackson v. Elmont Cemetery, Sup., 80 N.Y.S.2d 407; Harris v. Young, 298 Ill. 319,

131 N.E. 670; 1 Am.Jur. 306; 1 C.J.S., Accounting, § 40, p. 680.'

It thus appears that the question must be answered in the affirmative, and that discovery as to the accounting must be deferred until the preliminary issue of the right to the accounting is settled.

Plaintiff contends, however, that he must prove, among other things, the complicated nature of the account, to remain in equity, and that the interrogatories are directed to this end. But a review of the interrogatories reveals that they are directed to actual money amounts, not to the nature of the contracts or the number of sales or character of the records kept. The complicated nature of the accounts may be subjected to discovery and proved without seeking compilations of figures which anticipate the accounting and which will be useless if the plaintiff cannot prevail upon the preliminary issue. We are constrained to hold, therefore, that the order overruling the objections at this stage of the case was in error.

Certiorari is granted, the challenged order is quashed, and the cause is remanded for further proceedings not inconsistent with this opinion, without prejudice to the plaintiff to propound further interrogatories or employ other methods of discovery not in conflict with the principles we have stated above.

So ordered.

DREW, C. J., THORNAL, J., and PRUNTY, Associate Justice, concur.

Page 743
173 So.2d 743

Arthur G. CARSON and Myrtis E. Carson, et al., Appellants,
v.
The CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida, Appellee.

Nos. 5407, 5409.
District Court of Appeal of Florida, Second District.
April 7, 1965.

Carl V. Wisner, Jr., Ft. Lauderdale, for appellants.

C. Shelby Dale, City Atty., and James E. Edwards, Asst. City Atty., Ft. Lauderdale, for appellee.

ALLEN, Judge.

This is an interlocutory appeal filed by plaintiff-appellants seeking review of a pretrial order of the circuit court sustaining objections to interrogatories and requests for admissions propounded by the plaintiffs in this action in equity.

The defendant-City was served with 205 written interrogatories and 59 requests for admissions. The objections to both the

Page 744

interrogatories and requests for admissions were identical, and were phrased as follows:

'1. The Requests are absurdly onerous and burdensome.

'2. The Requests call for numerous admissions of fact, mixed with conclusions of law, statements of ultimate fact, matters within the knowledge exclusively of the Plaintiffs, technical and scientific research and conclusions, and require an enormous amount of research.

'3. It is not clear whether the time period stated is the period to answer or the period when the facts were supposed to be true.

'4. The Defendant has already fully answered the complaint under the rules.

'5. The Requests go far beyond simple statements of fact and admissions of documents and require elaborate and complicated conclusions which are the province of the Chancellor, after hearing all the evidence. * * *

'6. Plaintiffs are seeking to cast most the entire burden of proving their case on the Defendant.

'7. If it is the intention of the Plaintiffs that the period of time stated in the request relates to the time when the facts were supposed to be true, then the Plaintiffs have not set a time in which to reply to the admissions, contrary to Rule 1.30 of the Florida Rules of Civil Procedure.'

On the basis of the above and an accompanying affidavit of an assistant city engineer to the effect that answers to the interrogatories and requests would require a considerable amount of research and expense, the trial court found all of the inquiries to be improper. The order rested largely on Objection Number 2, supra. It was enterd without prejudice to the plaintiffs proposing other interrogatories. This appeal followed.

It is well recognized that in matters was entered without prejudice to the plaintiffs with wide discretion, and their treatment of problems arising thereunder ordinarily will not be disturbed. Charles Sales Corp. v. Rovenger, Fla.1956, 88 So.2d 551. Equally well recognized, however, is that the burden of proving the validity of objections is upon the objecting party. Id.

The extent of this burden has not been developed in Florida case law, but in view of the

fact that the federal rules dealing with interrogatories and requests for admissions are almost identical with our state rules pertaining to such inquiries, decisions of the federal courts, as well as comments by text writers on the federal rules, are in point. Accordingly, we look to them in ascertaining the application of our state rules, i. e., Rules 1.27 and 1.30, Fla.R.Civ.P., 30 F.S.A.

With respect to objections to interrogatories, Professor Moore, in his work on federal practice, 4 Moore, Federal Practice, § 33.27, at 2336 (2d ed. 1963), has this to say:

'Objections to interrogatories must be sufficiently specific that the court may, in considering such objections with interrogatories propounded, ascertain therefrom their claimed objectionable character; general objections to interrogatories, as that they will require the party served to make research and compile data, or that they are unreasonably burdensome, oppressive and vexatious, or that they seek information which is easily available to the interrogating party as to the objecting party, or that they would cause annoyance, expense, and oppression to the

Page 745

objecting party without serving any relevant purpose to the issue, are insufficient.'

In United States v. Nysco Laboratories, Inc., 26 F.R.D. 159, 161 (E.D.N.Y.1960), the federal district court observed that under Rule 33, Fed.R.Civ.P., 28 U.S.C.A., written objections to interrogatories may be served 'thereto.' The court then went on:

'The word 'thereto' refers to a particular interrogatory or class of interrogatories, not to the interrogatories in general. In other words, the objections must be specific and supported by a detailed explanation why the interrogatory or class of interrogatories are objectionable.' (Emphasis added.)

See also Woods v. Kornfield, 9 F.R.D. 196 (M.D.Pa.1949); and Bowles v. Safeway Stores, Inc., 4 F.R.D. 469 (W.D.Mo.1945).

We are of the view that Rules 1.27 and 1.30, Fla.R.Civ.P., 30 F.S.A., contemplate the same burden being imposed on an objecting party. Clearly, the 'blanket' objections filed by the City did not sustain that burden. However, as noted by the court in the Nysco case, supra, the court may, even though the method of procedure is improper, examine the interrogatories and objections and make its rulings thereon in the interest of expediency. Such a step, the court goes on to say, would entail the court's selecting from among the propounded interrogatories (or requests for admissions), the particular questions to which the general objections applied.

This brings us to what we deem to be the problem at bar, that is, whether the plaintiffs' interrogatories and requests for admissions could be stricken in their entirety without any designation as to the applicability of the objections. Submission of supplemental memoranda on this point was requested of the parties.

The City cites us to Elgin Cooperative Credit Assn. v. American Employers Ins. Co. v. Doran, 17 Fed.Rules Serv. 33.318, Case 1, (D.C.Neb.1952). The court there allowed a rejection in toto of interrogatories on the ground that the few that might have been allowed to stand were presented 'in relation' to the objectionable questions, therefore they fell together.

In the cause before us, there was no finding that all of the propounded interrogatories and requests for adminissions were inextricably intertwined so that they had to stand or fall together. Therefore, we conclude that the trial court erred in rejecting plaintiffs' interrogatories and requests for admissions in their entirety without designating the applicability of the written objections thereto.

Reversed and remanded for further proceedings not inconsistent herewith.

SMITH, C. J., and SHANNON, J., concur.

Page 502
545 So.2d 502
14 Fla. L. Weekly 1545

FIRST CITY DEVELOPMENTS OF FLORIDA, INC., a Florida corporation; First City Developments Corp. of Boston, a Massachusetts corporation; and First City Financial Corp., Ltd. of Vancouver, a Canadian corporation, Petitioners,

v.

The HALLMARK OF HOLLYWOOD CONDOMINIUM ASSOCIATION, INC., Respondent.

No. 89-0217.
District Court of Appeal of Florida,
Fourth District.
June 28, 1989.

Douglas C. Broeker of Fowler, White, Burnett, Hurley, Banick & Strickroot, P.A., Miami, for petitioners.

Alan S. Becker of Becker, Poliakoff & Streitfeld, P.A., Fort Lauderdale, for respondent.

POLEN, Judge.

This cause is before us on a petition for writ of certiorari. The petition contests the propriety of the trial court's order overruling petitioners' objections to respondent's interrogatories, request for production of documents, and request for admissions. Although the same order deals with other issues, such as the sufficiency of service of process on petitioners, those issues are the subject of a separate, non-final appeal, and will not be treated in this opinion.

Petitioners' objections to the discovery sought by respondent fell generally into the following categories: attorney-client privilege, work product, trade secrets, or that the discovery was overly broad and burdensome. We find that the trial court departed from the essential requirements of law, and we therefore grant the petition in part.

The first of petitioners' arguments, that the trial court ruled on the matter without notice or hearing, is without merit. Once petitioners filed their objections to discovery, it was unnecessary for respondent to file a motion to compel. While such a motion would have been permissible,

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it was equally permissible for respondent to notice the petitioners' objections for hearing, as was done in this matter. There is no rule of procedure or law that requires the trial court to have oral argument as to such objections; rather, the trial court may simply review the discovery sought, the objections thereto, and rule on said objections without the necessity of a hearing.

As to the propriety of the trial court's denial of petitioners' objections to discovery in total, the trial court departed from the essential requirements of law. Clearly, objections such as attorney-client privilege or work product are viable objections, although the petitioners have the burden of proving such privileges apply, should it become an issue before the trial court. Further, to the extent petitioners objected to discovery on the basis that it would require disclosure of trade secrets, we find that to require such disclosure would result in a "cat out of the bag" situation that would not be reparable on a plenary appeal. Martin-Johnson, Inc. v. Savage, 509 So.2d 1097 (Fla.1987).

Lastly, we turn our attention to petitioners' objections that some of the discovery sought was "overly broad" or "burdensome." Such objections, standing alone, would not constitute a basis for granting certiorari relief. Hartford Accident & Indemnity Company v. U.S.C.P. Co., 515 So.2d 998 (Fla. 4th DCA 1987). More importantly, such words of art have little meaning without substantive support. Is this objection raised because petitioners would be required to produce a railroad boxcar full of

documents, or are they merely objecting to the production of a half-inch thick file folder? Since the trial court has to consider petitioners' other objections, it is incumbent upon petitioners to quantify for the trial court the manner in which such discovery might be overly broad or burdensome. They must be able to show the volume of documents, or the number of man-hours required in their production, or some other quantitative factor that would make it so.

We grant certiorari, quash the order of the trial court, and remand this cause for further consideration of petitioners' objections to the discovery sought, consistent with this opinion.

DOWNEY and GARRETT, JJ., concur.

Page 425
86 So.2d 425
Claude DUPREE, Petitioner,
v.
BETTER WAY, Inc., a Florida corporation; William Lackey; Raymond Malschick andPhil Seldin, d/b/a Raphil's, also known as Raphil's Delicacy Shop; and AmosCharles Roundtree, Respondents.
Supreme Court of Florida, Division B.
March 28, 1956.

Kelner & Lewis, Miami Beach, for petitioner.

Ross & Reinhardt, Miami, for Better Way, Inc., and William Lackey. Wicker & Smith and Harry G. Hinckley, Jr., Miami, for Raphil's Delicacy Shop and Amos Charles Roundtree.

ROBERTS, Justice.

We here review, on common-law certiorari, an order of the lower court requiring the petitioner, plaintiff below, to answer the following interrogatory directed to him by respondents, defendants below, in the course of a negligence suit instituted by petitioner against respondents:

'Please set forth the names and addresses of any other persons believed by you or known by you or your attorney to have knowledge concerning the facts pertaining to the within accident.'

The petitioner's answer to this interrogatory was as follows:

'8. Mike (last name not known to me) who works at George's News, 1720 Alton Road, Miami Beach, Florida;

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policeman at the scene of the accident whose name I do not know. I do not know what persons with knowledge of this accident are known to my attorneys.'

The trial judge then entered the order here reviewed, directing the petitioner to 'obtain from his attorneys, and his attorneys are directed to give to him, the names and addresses of all persons known to his attorneys who have any knowledge concerning the facts pertaining to the within accident, and the Plaintiff is directed to furnish said names and addresses in his answer to Interrogatory No. 8.'

The petitioner here contends that the information requested is both privileged and the work product of his attorneys, and that the lower court erred in requiring his attorneys to disclose it. This contention cannot be sustained.

The rule that an attorney cannot be compelled to divulge any communication made to him by his client without the consent of the client 'does not extend to information which an attorney secures from a witness while acting for his client in anticipation of litigation.' Hickman v. Taylor, 1946, 329 U.S. 495, 508, 67 S.Ct. 385, 392, 91 L.Ed. 451. Nor can the information be withheld on the ground that it is the 'work product' of the attorney. Under Rule 1.27 of the Florida Rules of Civil Procedure, F.S.A., a party may be interrogated as to 'any matters which can be inquired into under Rule 1.21(b)'; and under Rule 1.21(b) 'any person, including a party,' may be examined 'regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, * * * including * * * the identity and location of persons having knowledge of relevant facts.' The interrogatory here in question is well within the 'Scope of Examination' permitted by Rule 1.21(b), supra, and the petitioner's attorney could not have refused to comply with the rule, had the information been sought by proceeding under Rule 1.21 to take the deposition of petitioner's attorneys.

No error having been made to appear, certiorari should be and it is hereby

Denied.

DREW, C. J., and THOMAS and O'CONNELL, JJ., concur.

Page 108
236 So.2d 108
SURF DRUGS, INC., a Florida Corporation, Petitioner,
v.
Raymond L. VERMETTE, Respondent.
No. 39182.
Supreme Court of Florida.
May 6, 1970.

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Samuel Z. Goldman, of Green & Hastings, Miami, for petitioner.

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Simons & Schlesinger, Hollywood, for respondent.

BOYD, Justice.

This cause is before us on petition for writ of certiorari to review the decision of the District Court of Appeal, Third District. [1] Jurisdiction is based on conflict between the decision sought to be reviewed and the decision of this Court in Dupree v. Better Way. [2]

Respondent, plaintiff below, filed a complaint for the wrongful death of his wife, alleging that the defendant drug store, by its professional pharmacist, was guilty of malpractice in continuing to sell a medication for the use of the deceased without continued physician approval and that plaintiff's wife's death was the proximate result of the use of that medication. Defendant served plaintiff with a set of interrogatories which sought to determine plaintiff's witnesses and the existence of certain evidence. Plaintiff objected to interrogatories numbered 27, 28, 29, 30, 31, 35 and 36, [3] on the ground that 'same called for information based upon the knowledge of plaintiff's attorney.' Plaintiff objected to interrogatories numbered 37, 38, 39, 40, 41, 42, and 43, [4] on the ground that 'same invades the work product of plaintiff's attorney.'

The trial court denied plaintiff's objections to all of the interrogatories except interrogatory number 36. Plaintiff then filed petition for writ of certiorari with the District Court of Appeal and defendant cross-petitioned.

The District Court reversed in part and affirmed in part, holding:

(1) Interrogatories numbered 27, 28, 29, 30, 31 and 35 'improper as to that portion of the interrogatories that required

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the plaintiff to respond on behalf of his agent, attorney, servant, employee, etc., as to knowledge of certain facts and conclusions.'

(2) Interrogatories 37, 38, 39, 40, 41, 42 and 43 proper and response required.

(3) Interrogatory 36, improper and objection sustained.

In the Dupree case, supra, the following interrogatory to the plaintiff was allowed:

'Please set forth the names and addresses of any other persons believed by you or known by you or your attorney to have knowledge concerning facts pertaining to the accident.'

This Court held that the matter sought was not privileged and not protected as work product, stating: [5]

'* * * Under Rule 1.27 of the Florida Rules of Civil Procedure, F.S.A., a party may be interrogated as to 'any matters which can be inquired into under Rule 1.21(b)'; and under Rule 1.21(b) 'any persons, including a party,' may be examined 'regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action * * * including * * * the identity and location of persons having knowledge or relevant facts.' The interrogatory here in question is well within the 'Scope of Examination' permitted by Rule 1.21(b), supra, and the petitioner's attorney could not have refused to comply with the rule, had the information been sought by proceeding under Rule 1.21 to take the deposition of petitioner's attorneys.'

The District Court in the instant case held that plaintiff could not be required to respond on behalf of his attorney. This holding clearly conflicts with the decision of this Court in the Dupree case.

The relevant Florida Rules of Civil Procedure are, 30 F.S.A., in pertinent parts, as follows:

'Rule 1.340 * * * Any party may serve upon any other party written interrogatories to be answered by the party served * * * who shall furnish such information as is available to the party. * * *

'Interrogatories may relate to any matters which can be inquired into under Rule 1.280(b) * * *.'

Rule 1.280(b);

'Scope of Examination. Unless otherwise ordered by the court as provided herein, the deponent may be examined regarding any matter, not privileged, which is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the examining party or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents or other tangible things and the identity and location of persons having knowledge of relevant facts. It is not ground for objection that the testimony will be inadmissible at the trial if the testimony sought appears reasonably calculated to lead to the discovery of admissible evidence.'

A primary purpose in the adoption of the Florida Rules of Civil Procedure is to prevent the use of surprise, trickery, bluff and legal gymnastics. Revelation through discovery procedures of the strength and weaknesses of each side before trial encourages settlement of cases and avoids costly litigation. Each side can make an intelligent evaluation of the entire case and may better anticipate the ultimate results. Florida has recognized four exceptions to the general rule requiring complete disclosure:

(1) The subject matter of the discovery procedure must be relevant to the cause. [6]

(2) Discovery procedures may not be used or conducted to harass or embarrass

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litigants or witnesses or for malicious purposes. [7]

(3) The inquiry must not invade the ancient and necessary right of privileged communications between lawyers and clients. [8]

(4) The work product of the litigant, his attorney or agent, cannot be examined, absent rare and exceptional circumstances. [9]

What constitutes 'work product' is incapable of concise definition adequate for all occasions. Generally, those documents, pictures, statements and diagrams which are to be presented as evidence are not work products anticipated by the rule for exemption from discovery. Personal views of the attorneys as to how and when to present evidence, his evaluation of its relative importance, his knowledge of which witness will give certain testimony, personal notes and records as to witnesses, jurors, legal citations, proposed arguments, jury instructions, diagrams and charts he may refer to at trial for his convenience, but not to be used as evidence,

come within the general category of work product.

The work-product doctrine originated in the case of Hickman v. Taylor, [10] wherein it was held that statements of witnesses secured by an attorney in advance of trial were immune from discovery because such a procedure would be contrary to the public policy underlying the orderly prosecution and defense of legal claims. The United States Supreme Court stated the reason for the work product doctrine as follows: [11]

'Historically, a lawyer is an officer of the court and is bound to work for the advancement of justice while faithfully protecting the rightful interests of his clients. In performing his various duties, however, it is essential that a lawyer work with a certain degree of privacy, free from unnecessary intrusion by opposing parties and their counsel. Proper preparation of a client's case demands that he assemble information, sift what he considers to be the relevant from the irrelevant facts, prepare his legal theories and plan his strategy without undue and needless interference. That is the historical and the necessary way in which lawyers act within the framework of our system of jurisprudence to promote justice and to protect their clients' interests. This work is reflected, of course, in interviews, statements, memoranda, correspondence, briefs, mental impressions, personal beliefs, and countless other tangible and intangible ways--aptly though roughly termed by the Circuit Court of Appeals in this case as the 'Work product of the lawyer.' Were such materials open to opposing counsel on mere demand, much of what is now put down in writing would remain unwritten. An attorney's thoughts, heretofore inviolate, would not be his own. Inefficiency, unfairness and sharp practices would inevitably develop in the giving of legal advice and in the preparation of cases for trial. The effect on the legal profession would be demoralizing. And the interests of the clients and the cause of justice would be poorly served.'

The work product doctrine was recognized in Florida in Atlantic Coast Line R. Co. v. Allen. [12] Subsequent developments were outlined in the decision of this Court in Shell v. State Road Department. [13]

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Appellee and the District Court apparently consider that anything known to an attorney for a litigant constitutes 'work product' immune from discovery procedures. This view is clearly contrary to the Hickman case, supra, wherein the United States Supreme Court stated flatly: [14]

'A party clearly cannot refuse to answer interrogatories on the ground that the information sought is solely within the knowledge of his attorney.'

Commenting on this statement, Moore in his treatise on federal practice, noted that it was sound doctrine, stating: [15]

'In other words, probably by properly phrased interrogatories a party can be required to state the substance of interviews with witnesses, whether obtained by his attorney or by others and whether or not reduced to writing. The party cannot refuse to answer on the ground that he has no personal knowledge of the facts, but must obtain the information from his attorneys or agents.'

We hold, therefore, that a party may be required to respond on behalf of himself, his attorney, agent, or employee and to divulge names and addresses of any person having relevant information as well as to indicate generally the type of information held by the person listed. A party may not be required to set out the contents of statements, absent rare and exceptional circumstances, or to divulge his or his attorneys' evaluation of the substance of statements taken in preparation for trial. Applying these rules to the interrogatories in question, we find that the District Court correctly, affirmed the action of the trial court in sustaining the objection to interrogatory number 36 set out, supra, at footnote 3. This interrogatory requires identification of any witness who has given an opinion to plaintiff or

his attorney 'that the defendant Surf Drugs, Inc., was negligent and careless,' and exceeds the bounds of proper discovery because it requires an evaluation of the witnesses' testimony. That portion of the District Court's opinion holding that plaintiff cannot be required to respond on behalf of his agent, attorney, employee, etc., on interrogatories numbered 27, 28, 29, 30, 31 and 35, is erroneous and must be quashed.

Neither party to this cause has questioned that portion of the District Court's opinion ruling on interrogatory number 23. [16] In view of our decision herein, the holding of the District Court that interrogatory 23 be quashed must be modified. Plaintiff may properly be required to disclose whether to his or his attorney's knowledge, any doctor had given plaintiff's wife a disability rating and if so the name and address of that doctor. Absent exceptional circumstances, however, plaintiff is not required to give the percentage or nature of the disability rating or otherwise to summarize or evaluate the information available.

Accordingly, certiorari is granted, the decision of the District Court is quashed in part and affirmed in part and the cause remanded for further proceedings consistent herewith.

It is so ordered.

ERVIN, C.J., and ROBERTS, DREW and CARLTON, JJ., concur.

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1 226 So.2d 871 (Fla.App.3rd 1969).

2 86 So.2d 425 (Fla.1956).

3 'No. 27--State the exact names and addresses or information for the location of all persons known by you, your agents, or attorneys who were or purport to have been eyewitnesses to the within accident.

'No. 28--State the exact names and addresses or information for the location of all persons known by you, your agents, or attorneys who have any knowledge of the reasons for and/or cause of the death of Thelma Vermette.

'No. 29--State the exact names and addresses, or information for the location of all persons known by you, your agents, or attorneys who have any knowledge of the Plaintiff's claim for the death of Thelma Vermette.

'No. 30--Do you or your attorneys, agents, servants or employees know of the existence of any photographs of the scene of the within accident, the instrumentalities involved, or of the persons involved? If so:

(a) State the name and address of the person or persons who took the various photographs.

(b) Indicate adjacent to each such person's name and address listed in (a) above, whether each photograph was taken independently of (photographer not employed by) your attorneys, agents, servants, or employees, or which photographs were taken at the request of your attorneys, agents, servants, or employees, giving the date all photographs were taken.

(c) Indicate the subject matter of each photograph.

'No. 31--State whether you or any of your employees, agents, servants, or attorneys have obtained any written statements from anyone with regard to this incident.

'No. 35--Did the Plaintiff himself, or anyone on his behalf, inquire of, or have any conversation with any officer, director or employee of the Defendant, concerning the matters set forth in the Complaint; and if so, state the names and addresses of each such person, and state fully their relationship to the Plaintiff.

'No. 36--State the name and address of any witness, expert or lay, who has advised said Plaintiff, or who has given an opinion to said Plaintiff, or to counsel for said Plaintiff, that the Defendant Surf Drugs, Inc., was negligent and careless.'

4 'No. 37--State the name and address of any witness who will testify to the allegations set forth in Paragraph 3 of the Complaint.' (Interrogatories No. 38, 39, 40, 41, 42, and 43 are the same except they refer to other paragraphs of the Complaint.)

5 Dupree v. Better Way, 86 So.2d 425, 426 (Fla.1956).

6 Fla.R.C.P. 1.280(b) (1969).

7 Fla.R.C.P. 1.310(b), 1.340 (1969.)

8 32 Fla.Jur. Witnesses §§ 144--151 (1961).

9 Miami Transit Co. v. Hurns, 46 So.2d 390, 391 (Fla.1950).

10 329 U.S. 495, 67 S.Ct. 385, 91 L.Ed. 451 (1947).

11 Id. at 510, 67 S.Ct. at 393.

12 40 So.2d 115 (Fla.1949).

13 135 So.2d 857 (Fla.1962).

14 Hickman v. Taylor, 329 U.S. 495, 504, 67 S.Ct. 385, 390 (1947).

15 4 Moore, Federal Practice, p. 1435 (1969).

16 'No. 23--To your knowledge, or that of your attorney, did any doctor ever assign a disability rating to your wife, either on a temporary or permanent basis? If so, state the percentage given and the name of the doctor giving same, whether such disability rating was temporary or permanent.'

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

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 MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC; BERNSTEIN FAMILY REALTY, LLC,

Defendants.
_____/

CASE NO: 50 2012 CA 013933 MB AA

DEFENDANT'S, SHIRLEY BERNSTEIN TRUST, MOTION TO DISMISS

Defendant, Shirley Bernstein Trust Agreement dated May 20, 2008 ("Bernstein Trust"), by and through its Successor Trustee, Ted S. Bernstein ("Bernstein Trustee"), moves to dismiss the Amended Complaint served on April 22, 2013, upon Donald L. Tescher, as alleged Successor Trustee, and states:

1. The Amended Complaint should be dismissed for insufficient service of process. The Complaint was never served upon the Bernstein Trustee, and therefore, service is improper and should be quashed.

2. The Bernstein Trust adopts and incorporates herein the grounds for dismissal asserted by Bernstein Family Realty, LLC, in its motion served on May 10, 2013, as if fully set forth herein.

3. The Amended Complaint also does not assert any legally cognizable claim against the Bernstein Trust. First, the Amended Complaint fails to set forth sufficient allegations to support a claim for equitable lien or constructive trust over the Bernstein Trust or any property held or owned by such trust.

4. Second, the claims by Plaintiff belong, in whole or in part, to one or both of the legal entities known as LIC Holdings, Inc., a Florida corporation ("LIC") and/or Arbitrage International Management, LLC, a Florida limited liability company ("Arbitrage") (collectively the "Companies"). Plaintiff asserts that co-defendants, Ted S. Bernstein and Simon Bernstein , breached a fiduciary duty owed to the Companies and seeks an award of monies which necessarily would flow back to the Companies, not directly to Plaintiff. Thus, in Counts III and VIII, Plaintiff asserts derivative claims on behalf of the Companies. In this regard, Bernstein Trust adopts and incorporates herein the grounds for dismissal asserted by Ted S. Bernstein in his April 23, 2013, as if fully set forth herein.

5. Specifically, Plaintiff in this case has direct and derivative claims filed in the same lawsuit, there is a misjoinder issue which mandates the dismissal of the Complaint. Plaintiff cannot sue in different capacities in the same lawsuit. *Department of Ins. v. Coopers & Lybrand*, 570 So. 2d 369, 370 (Fla. 3d DCA 1990); *Karnegis v. Lazzo*, 243 So. 2d 642 (Fla. 3d DCA 1971); Fla. R. Civ. P. 1.110(g) ("A pleader may set up in the same action as many claims or causes of action ... *in the same right* as he has ...") (emphasis added).

6. Plaintiff lacks standing to bring any derivative claims on behalf of Arbitrage because he was never a shareholder of Arbitrage, and makes no such allegation in his Complaint.

7. Plaintiff lacks standing to bring any derivative claims on behalf of LIC or Arbitrage because, as alleged in paragraph 31, Plaintiff ceded his 10% interest in LIC. *See*§ 607.07401, Fla.

Stat.; *Timko v. Triarsi*, 898 So. 2d 89, 91 (Fla. 5th DCA 2005) (holding that once the complaining shareholders' shares were repurchased, the complaining former shareholder could not continue to prosecute a derivative claim).

8. Plaintiff failed to allege that Plaintiff made a demand on the Corporation to bring these claims before filing their Counterclaim. Allegations of a demand is a statutory pre-requisite for maintaining a derivative action. § 607.07401(2). The Complaint also is not verified as required by that statute.

WHEREFORE, Defendant, Bernstein Trust by and through Bernstein Trustee, respectfully requests that this Court dismiss the Amended Complaint; award Defendant its costs and attorneys' fees pursuant to any applicable contract or statute; and grant such other relief as is just.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to the Service List set forth below by: ■ E-mail Electronic Transmission; ☐ Facsimile; ☐ U.S. Mail; ☐ Overnight Delivery; ☐ Hand-delivery, this 13th day of May, 2013.

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

NOTICE OF FILING SECOND AMENDED COMPLAINT BY INTERLINEATION

COMES NOW Plaintiff, WILLIAM E. STANSBURY, by and through his undersigned attorneys and, pursuant to this Court's "Agreed Order on Plaintiff's Motion to Amend Second Amended Complaint by Interlineation," dated December 12, 2013, files his Second Amended Complaint by Interlineation, which is attached hereto as Exhibit "1."

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives of the Estate of Simon Bernstein* and *Bernstein Family Realty,* 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; at arose@pm-law.com and mchandler@pm-law.com to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc, Arbitrage International Management, LLC and the Shirley Bernstein Trust,* 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this 20th day of December, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
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By: _____

Peter M. Feaman
Florida Bar No.: 0260347

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Defendants.
_____/

SECOND AMENDED COMPLAINT BY INTERLINEATION

WILLIAM E. STANSBURY, by and through undersigned counsel, sues the Defendants and states:

1. This is an action for money damages in excess of $15,000, and for equitable relief.

2. Plaintiff (hereinafter referred to as "STANSBURY") is *sui juris*, and a resident of Palm Beach County, Florida.

3. Defendant TED S. BERNSTEIN ("TED BERNSTEIN"), is *sui juris*, and a resident of Palm Beach County, Florida.

4. SIMON L. BERNSTEIN ("SIMON BERNSTEIN") died on or about September 13, 2012, after the filing of the initial Complaint in this action. At the time of his death, SIMON BERNSTEIN was *sui juris*, and was a resident of Palm Beach County, Florida. Defendants

EXHIBIT 1

Donald R. Tescher and Robert L. Spallina are serving as co-personal representatives of the ESTATE OF SIMON L. BERNSTEIN (the "ESTATE")which ESTATE is presently open and pending in the Palm Beach County Circuit Court, *In re: Estate of Simon L. Bernstein*, Case No. 502012CP004391XXXXSB (the "Estate Proceeding"). In accordance with Section 733.705, Florida Statutes, STANSBURY hereby brings this independent action against the ESTATE with respect to his Statement of Claim that was filed and objected to in the Estate Proceeding.

5. Defendant, LIC HOLDINGS, INC. ("LIC Holdings") is a Florida corporation with its principal place of business in Palm Beach County, Florida.

6. Defendant, ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, formerly known as ARBITRAGE INTERNATIONAL HOLDINGS, LLC, ("ARBITRAGE") is a Florida limited liability company with its principal place of business in Palm Beach County, Florida.

7. Defendant, BERNSTEIN FAMILY REALTY, LLC is a Florida limited liability company doing business in Palm Beach County.

8. Defendant, the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008 ("SHIRLEY'S TRUST"), owns real property in Palm Beach County, Florida. Based upon information and belief, Donald R. Tescher and Robert L. Spallina are serving as co-trustees of SHIRLEY'S TRUST. This Court has personal jurisdiction over the trustees and the beneficiaries of SHIRLEY'S TRUST under Section 736.0202, Florida Statutes, as the principal place of administration of SHIRLEY'S TRUST is in Palm Beach County, Florida. This court has subject matter jurisdiction over this action under Section 736.0203, Florida Statutes. Venue is proper in Palm Beach County, Florida, under Section 736.0204, Florida Statutes, as the principal place of administration of SHIRLEY'S TRUST is in Palm Beach County, Florida and one or more of the beneficiaries of SHIRLEY'S TRUST reside in Palm Beach County, Florida.

9. The acts and incidents giving rise to the causes of action alleged herein arose in Palm Beach County, Florida.

General Allegations

10. STANSBURY has worked in the insurance industry for virtually all of his adult life. After 30 years, he had become well-known and highly regarded by major insurance companies, their principals and others throughout the insurance industry, at all levels thereof, as well as by professionals, including attorneys, CPA's, financial advisors, wealth managers and others who were involved in serving, or otherwise dealing with insurers, insurance brokers and life insurance products.

11. SIMON BERNSTEIN dealt at sophisticated levels of the insurance industry and specialized in developing and marketing insurance concepts suitable for persons of high net worth to incorporate into their wealth management and estate planning.

12. TED BERNSTEIN, the son of SIMON BERNSTEIN, was also actively involved in selling life insurance products in conjunction with attorneys, CPAs and other professionals, to be incorporated into high net worth individuals' financial and estate planning.

13. TED BERNSTEIN, acting on his behalf and on behalf of, and in concert with, SIMON BERNSTEIN, approached STANSBURY in 2003, urging STANSBURY to spearhead the marketing of a unique insurance concept, newly developed by a prominent law firm, which was designed for use in the financial and estate planning of high net worth individuals.

14. TED BERNSTEIN told STANSBURY that he knew of STANSBURY's expertise and reputation in the insurance and related industries and that STANSBURY was skilled at and accustomed to speaking and marketing insurance products to groups of professionals. He realized that STANSBURY, because of his knowledge, reputation and abilities, would be well suited to market this concept nationwide through prominent and experienced professionals.

15. In 2006, SIMON BERNSTEIN and TED BERNSTEIN (collectively, "BERNSTEIN" or the "BERNSTEINS") formed, as sole shareholders, Defendants LIC Holdings and ARBITRAGE for the purpose of marketing and selling certain life insurance products to high net worth individuals for their wealth management and estate planning needs.

16. STANSBURY agreed to become an employee of LIC Holdings, Inc. and ARBITRAGE and agreed to a salary of 15% of net retained commissions received on all products sold, including renewals. STANSBURY at this time was responsible for, among other duties, calculating, on a monthly basis, the commissions due him in connection with new business generated in the current year and renewals on business generated in previous years.

17. STANSBURY worked with diligence and skill, traveling throughout the United States, generating ever-increasing sales and generating very large commissions. By 2006, nationwide sales were resulting in substantial commissions on new policies and renewal commissions.

18. Also in 2006, SIMON BERNSTEIN, acting on his behalf and on behalf of, and in concert with, TED BERNSTEIN, told STANSBURY that STANSBURY was being rewarded for his efforts and the explosive growth of the business, such that he would receive a 10% ownership interest in LIC Holdings, Inc. SIMON BERNSTEIN and TED BERNSTEIN, collectively, were majority shareholders while STANSBURY was a minority shareholder in LIC Holdings, Inc.

19. STANSBURY has sued both LIC Holdings and ARBITRAGE because the BERNSTEINS represented that his employment relationship was with LIC Holdings, the company in which he owned a 10% interest, but STANSBURY'S W-2 statements were issued by ARBITRAGE as his employer.

20. In February of 2008, SIMON BERNSTEIN, acting on his behalf and on behalf of, and in concert with TED BERNSTEIN, approached STANSBURY and told him his time would

be better spent building the business rather than performing monthly calculations of income. The plan proposed was that, rather than STANSBURY performing computations on a monthly basis as to how much should be paid to him based upon 15% of the net retained commissions derived from both new policies sold and renewals from previous years, the BERNSTEINS and STANSBURY all would forego monthly payouts and defer compensation until the end of 2008, when year-end computations could be made. It was represented that in December, year-end computations would be made and salaries would be paid in December 2008 or January of 2009. It was specifically represented to STANSBURY that:

a) neither SIMON BERNSTEIN, TED BERNSTEIN nor STANSBURY would take any compensation during fiscal year 2008 but rather they all would wait until the year-end accounting was performed in December of 2008 or January, 2009;

b) SIMON BERNSTEIN, TED BERNSTEIN, and STANSBURY would each be paid a minimum salary of $1,000,000 at year end, and STANSBURY'S salary was to be applied against his earned commissions of 15%. Any compensation due STANSBURY over and above the $1,000,000 would be paid as a distribution on his stock ownership interest in LIC Holdings.

21. In January of 2008, STANSBURY was paid $420,018 for commissions earned on some 2007 sales. However, STANSBURY was not, and has never been, paid the commissions due him on sales in 2008 and thereafter, and he was not and has never been paid the renewal commissions due him on sales made in previous years that were paid to LIC Holdings or ARBITRAGE in 2008 and thereafter, other than a nominal payment of $30,000 made in 2010.

22. When STANSBURY was not paid as agreed in late 2008/2009 and thereafter, SIMON BERNSTEIN and TED BERNSTEIN, on behalf of and in concert with each other, stated to STANSBURY that salary and ownership distributions due and owing to SIMON BERNSTEIN, TED BERNSTEIN and STANSBURY would be deferred to a future time. This

deferral of payment was represented to be important because, as a result of the virtual collapse of the capital lending markets in 2008, it was necessary to retain the funds in the corporate bank accounts to demonstrate to potential lenders the financial stability of the companies.

23. The false statements set forth in paragraphs 18 through 21, above, were made by SIMON BERNSTEIN and TED BERNSTEIN, in concert with each other, with knowledge of their falsity and with the intention of never to fulfilling such promises.

24. Despite the representations to STANSBURY set forth above to the contrary, SIMON BERNSTEIN and TED BERNSTEIN, as officers and majority shareholders of LIC Holdings and ARBITRAGE, authorized LIC Holdings and/or ARBITRAGE to pay themselves $3,756,229.00 and $5,225,825.00, respectively, in 2008. Contrary to the representations made as set forth in paragraph 20, STANSBURY received no compensation for first year commissions and renewal commissions due him in 2008.

25. The net retained commissions by LIC Holdings and ARBITRAGE, not including renewals, for 2008 were approximately $13,442,549.00. As such, STANSBURY was entitled to, at the very minimum, 15% of $13,442,549.00, or $2,016,382.35.

26. Beginning late in 2007 or early in 2008, and continuing through at least 2012, LIC Holdings and/or ARBITRAGE became the alter ego of SIMON BERNSTEIN and TED BERNSTEIN, as officers and majority shareholders, in that they disregarded corporate structure and wrongfully diverted, converted and depleted corporate assets of LIC Holdings and ARBITRAGE for their own personal benefit and the benefit of Bernstein family trusts and other entities as more specifically set forth below. Those trusts have since invested some of these wrongfully diverted and converted corporate assets in real estate, also as more particularly set forth below. The wrongful action of SIMON BERNSTEIN and TED BERNSTEIN in diverting and converting corporate assets rendered LIC Holdings, and possibly ARBITRAGE, insolvent.

27. Throughout 2009, SIMON BERNSTEIN and TED BERNSTEIN continued to make false statements to STANSBURY to hide the fact that LIC Holdings and/or ARBITRAGE was their alter ego, in that they converted corporate property and corporate assets of LIC and/or ARBITRAGE for their own personal benefit in 2008, 2009 and thereafter, all to the exclusion and financial detriment of STANSBURY, all the while fraudulently representing to STANSBURY that no money was being paid as salary or distributions to SIMON BERNSTEIN, TED BERNSTEIN or STANSBURY because it was necessary to hold the funds in the corporate bank accounts to show to potential lenders the financial stability of the company.

28. STANSBURY relied upon these continuing misrepresentations of Defendants to his detriment. Because STANSBURY was told that potential funding sources for the business needed to see that capital of the company was available, he took no action when he did not receive any compensation for 2009 and was paid only $30,000 in 2010.

29. In order to continue their scheme to defraud, SIMON BERNSTEIN and TED BERNSTEIN failed and refused to account for renewal commissions and failed to supply any financial information to STANSBURY concerning LIC Holdings or ARBITRAGE.

30. In furtherance of their scheme to deprive STANSBURY of salary he had earned and shareholder distributions to which he was entitled, SIMON BERNSTEIN and TED BERNSTEIN intercepted mail addressed to STANSBURY, removing commission checks representing commissions due to STANSBURY, deposited the funds into their own accounts and otherwise converted the funds. SIMON BERNSTEIN and TED BERNSTEIN also opened STANSBURY's mail containing checks payable to him which were unrelated to them and the businesses.

31. In December, 2011 STANSBURY had been battling a painful and debilitating disease that could only be managed through the administration of potentially harmful

prescription medications. On December 22, 2011, the Defendants BERNSTEIN, with knowledge of STANSBURY's health issues and his debilitated condition, decided to take advantage of and deceive STANSBURY further. STANSBURY had for years been given K-1 statements reflecting his 10% ownership of LIC Holdings. At that time, TED BERNSTEIN told STANSBURY that the company accountant had discovered a potential significant taxable event which could cause STANSBURY, as one of the owners of LIC Holdings to pay taxes on phantom income. TED BERNSTEIN promised that if STANSBURY would sign a paper ceding his 10% interest in LIC Holdings, he would not have to pay the tax if in fact the tax was due. TED BERNSTEIN promised he would hold the paper, promising it would not become operative until STANSBURY and the Defendants BERNSTEIN discussed the situation further in the first quarter of 2012.

32. Because of the misrepresentations, willful concealments of material facts, duplicity and deceit practiced by Defendants upon STANSBURY, STANSBURY reasonably believed that Defendants had complied, or intended to comply with their obligations to STANSBURY under the contract between them. STANSBURY, therefore, was prevented from knowing for a period of years that the causes of action asserted herein existed.

33. By the second quarter of 2012, STANSBURY developed the belief that the BERNSTEINS' representations over the years were wholly false and he sought legal counsel.

34. STANSBURY has retained the law firm of Peter M. Feaman, P.A. and has agreed to pay it a reasonable fee for its services rendered herein.

COUNT I - ACCOUNTING
(Against LIC Holdings and ARBITRAGE, for Accounting)

35. STANSBURY hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, inclusive.

36. The relationship between STANSBURY and the Defendants, particularly as affected by Defendants' acts described in preceding paragraphs 19 through 27 created a situation where Defendants had sole access to receipts generated by STANSBURY's efforts, and to books and records reflecting said receipts and the other information from which can be calculated all moneys due to STANSBURY under his arrangement with Defendants.

37. The period of time during which STANSBURY has been deprived of monies due him spans approximately four and a half years. The various sources of revenue to Defendants of monies from which the amounts due STANSBURY may be calculated, the manner in which STANSBURY was to be paid, and the amount due STANSBURY all involve extensive and complicated accounts, and STANSBURY's remedy at law cannot be as full, adequate and expeditious as it is in equity.

WHEREFORE, Plaintiff STANSBURY prays for an adjudication of Plaintiff's right to a full and complete accounting from Defendants, LIC Holdings and ARBITRAGE, and for such orders of Court as will require such Defendants to provide STANSBURY with all records and copies of documents from January 1, 2006 to the present, in order to reveal his right to, and the amount of all sums: (a) received as commissions to which STANSBURY was entitled to a share; (b) due to STANSBURY, whether paid or not; (c) paid to STANSBURY, whether for commissions, salary, distributions, expenses or any other reason; (d) paid to each of the BERNSTEIN Defendants out of monies received as commissions; (e) deposits of any and all moneys received as commissions by any Defendants to any accounts, including the name of the entity whose account was involved, the number(s) of each such account; the address of the branch or other facility through which any Defendant dealt with such entity; (f) calculations as to moneys paid , to be paid, or not to be paid to STANSBURY, together with an award of court costs and such other and further relief as the Court may deem just and proper.

COUNT II - BREACH OF ORAL CONTRACT
(Against LIC Holdings, Inc., ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN)

38. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, inclusive.

39. The arrangement between STANSBURY and Defendants, as described in paragraphs 13 through 28 above, constituted a contract between them.

40. An express term of that contract involved the commitment of LIC Holdings and ARBITRAGE to calculate and pay to STANSBURY all sums due to him under the contract, whether as commissions, salary, distributions, expenses or any other reason.

41. The Defendants initially performed the duties required of them under said contract.

42. However, Defendants breached their contract with STANSBURY by withholding from STANSBURY monies due him under the contract for renewal commissions earned in 2007 and commissions and renewal commissions earned in 2008 and thereafter.

43. The withholding of such monies constitutes a material breach of the contract between STANSBURY and LIC Holdings and ARBITRAGE.

44. STANSBURY has sued both LIC Holdings and ARBITRAGE because the BERNSTEINS represented that his employment relationship was with LIC Holdings, the company in which he owned a 10% interest, but STANSBURY'S W-2 statements were issued by ARBITRAGE as his employer.

45. SIMON BERNSTEIN and TED BERNSTEIN are personally liable, jointly and severally, for the material breach of the oral employment contract with STANSBURY as LIC Holdings and/or ARBITRAGE were the alter ego of SIMON BERNSTEIN and TED

BERNSTEIN in that the BERNSTEINS depleted corporate assets for their personal benefit by causing the corporation or corporations to make exorbitant and inappropriate distributions to themselves, family members, and BERNSTEIN family trusts and other entities, at the expense of corporate creditors such as STANSBURY, to wit:

a) SIMON BERNSTEIN and TED BERNSTEIN caused LIC Holdings and/or ARBITRAGE to pay to them at least $3,756,229.00 and $5,225,825.00, respectively, in fiscal 2008 during which time STANSBURY, other than the amount referenced in paragraph 21, was paid nothing;

b) According to Palm Beach County public records, in December of 2007 TED BERNSTEIN purchased a property at 880 Berkeley Street, Boca Raton, Florida 33487, for $4,400,000;

c) According to Palm Beach County public records, on December 28, 2008, TED BERNSTEIN paid off the mortgage in the amount of $486,400.00 on a property he owned at 15807 Menton Bay Court, Saturnia Isles, Delray Beach, Florida 33446;

d) According to Palm Beach County public records, SIMON BERNSTEIN paid off the mortgage on property he and his wife owned, and subsequently transferred by quitclaim deed on May 20, 2008 to the trustee of SHIRLEY'S TRUST, at 7020 Lions Head Lane, Boca Raton, Florida, 33496. The amount of the mortgage pay-off is unknown, but in 2013 the property was listed for sale at $2,399,000;

e) According to Palm Beach County public records, on June 18, 2008, BERNSTEIN FAMILY REALTY, LLC acquired a property located at 2753 N.W. 34 Street, Boca Madera Unit 2, Boca Raton, Florida 33432 (the "Boca Madera Property). On July 8, 2008, SIMON BERNSTEIN loaned $365,000 to BERNSTEIN FAMILY REALTY, LLC. The specific

purpose of the loan is unknown, but SIMON BERNSTEIN received a mortgage on the Boca Madera Property to secure the loan;

f) According to Palm Beach County public records, on May 20, 2008 SIMON BERNSTEIN and his wife transferred by quitclaim deed to the trustee of SHIRLEY'S TRUST a 4,220 square foot oceanfront condominium unit in a complex known as "The Aragon" in Boca Raton, located at 2494 South Ocean Boulevard, Boca Raton, Florida. The mortgage on that property was paid off on September 27, 2010.

g) The legal descriptions for each of the above referenced properties are attached hereto as Exhibit "B."

46. There is due to STANSBURY from such Defendants all amounts due under said contract, together with prejudgment and post-judgment interest on said amounts.

WHEREFORE, Plaintiff prays for judgment against SIMON BERNSTEIN and TED BERNSTEIN declaring that Defendants, LIC Holdings, Inc. and ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, are or were the alter ego of SIMON BERNSTEIN and TED BERNSTEIN such that the corporate veil of LIC Holdings and/or ARBITRAGE should be pierced; for judgment against Defendants, LIC Holdings, Inc., ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, SIMON BERNSTEIN and TED BERNSTEIN, jointly and severally, in excess of $1,500,000.00 for the amounts due to Plaintiff under the terms of their contract, together with prejudgment and post-judgment interest; for his court costs herein expended and for such other relief as the Court may deem just and proper.

COUNT III - FRAUD IN THE INDUCEMENT- EMPLOYMENT AGREEMENT (Against SIMON BERNSTEIN and TED BERNSTEIN)

47. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, inclusive.

48. At all material times hereto, SIMON BERNSTEIN and TED BERNSTEIN were officers and majority shareholders of LIC Holdings and ARBITRAGE.

49. The statements set forth in paragraphs 18 through 24, above, made by SIMON BERNSTEIN and TED BERNSTEIN, on behalf of and in concert with each other, and as officers and majority shareholders of LIC Holdings and ARBITRAGE, were false statements of material fact that SIMON BERNSTEIN and TED BERNSTEIN knew to be false at the time they were made, as SIMON BERNSTEIN and TED BERNSTEIN never intended to authorize LIC Holdings or ARBITRAGE to pay to STANSBURY the amounts due him as evidenced by the fact that the accountant for LIC Holdings and ARBITRAGE prepared financial worksheets for 2008 showing that the BERNSTEINS would receive compensation, but STANSBURY would not, for fiscal 2008, in direct contravention to their statements and promises to STANSBURY.

50. SIMON BERNSTEIN and TED BERNSTEIN intended for STANSBURY to rely on such statements that he would be ultimately be paid for his productivity in order to induce him into continuing his productive and revenue-generating sales activity as an employee of LIC Holding and/or ARBITRAGE and fraudulently created for STANSBURY the false expectation that STANSBURY would be paid as agreed.

51. STANSBURY in fact relied to his detriment on these false statements and was induced thereby to remain in his employment relationship with LIC Holdings and ARBITRAGE as he continued to sell, with the expectation of payment, products and generate revenue for LIC Holdings and/or ARBITRAGE until 2012, and was further induced not to pursue from LIC Holdings and/ARBITRAGE his right to payment of all amounts due him until after SIMON BERNSTEIN and TED BERNSTEIN had diverted and converted corporate assets for their personal benefit, rendering LIC Holdings, and possibly ARBITRAGE, insolvent.

52. STANSBURY was injured thereby as he was not and has not been compensated for his revenue-generating sales and other performance, and did not seek alternative employment, as a proximate result of his detrimental reliance on these false statements.

WHEREFORE, Plaintiff prays for judgment against Defendants SIMON BERNSTEIN and TED BERNSTEIN, jointly and severally, for damages in excess of $1,500,000.00 together with prejudgment and post-judgment interest; for the imposition of an equitable lien and constructive trust on the Bernstein real estate described in paragraph 45 and Exhibit "B" as more fully set forth in Counts VII and VIII of this Second Amended Complaint; for his court costs herein expended; and for such other relief as the Court may deem just and proper. STANSBURY reserves the right to move to amend to request punitive damages in accordance with Florida Law.

COUNT IV - FRAUD IN THE INDUCEMENT - CEDING OF LIC HOLDINGS OWNERSHIP INTEREST (Against Ted Bernstein and LIC Holdings, Inc.)

53. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, inclusive.

54. In the fourth quarter of 2011, TED BERNSTEIN embarked upon a plan to defraud from STANSBURY his 10% ownership interest in LIC Holdings, Inc. As set forth in paragraph 31 above, Defendant TED BERNSTEIN fraudulently induced STANSBURY to prepare and sign a document giving up his 10% interest in and to LIC Holdings, Inc.

55. The ceding of his shares in LIC Holdings, Inc. was procured by fraud and STANSBURY relied upon the representations made by BERNSTEIN with regard to signing the document apparently ceding his stock.

56. It was reasonable for STANSBURY to rely on the representations made by BERNSTEIN because at that time STANSBURY was unaware of the breaches of fiduciary duty and breaches of the oral contract that had taken place.

57. As a result of STANSBURY's reliance, STANSBURY has been damaged by the loss of 10% of the shares of LIC Holdings and the rights and remedies to a shareholder related thereto.

WHEREFORE, Plaintiff prays for a judgment for damages against Defendants BERNSTEIN and LIC Holdings, Inc. for the damages caused by the fraudulent conduct of BERNSTEIN as described herein, together with reasonable costs, pre-judgment interest and any other relief this Court deems just and proper.

COUNT V - CIVIL CONSPIRACY
(Against Simon Bernstein and Ted Bernstein)

58. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, and Counts III and IV, paragraphs 47 through 57, inclusive.

59. SIMON BERNSTEIN and TED BERNSTEIN, individually and as officers and majority shareholders of LIC Holdings and ARBITRAGE, knowingly, willfully, intentionally, and maliciously conspired, agreed, combined and confederated with each other to make fraudulent, false and misleading statements to STANSBURY intended to induce STANSBURY to continue his employment relationship with LIC Holdings and/or ARBITRAGE during 2008 and thereafter, without ever intending to authorize payment to STANSBURY for the amounts he was due, a relationship that generated substantial revenue for LIC Holdings and/or ARBITRAGE and, ultimately, SIMON BERNSTEIN and TED BERNSTEIN.

60. SIMON BERNSTEIN and TED BERNSTEIN, individually and as officers and majority shareholders of LIC Holdings and ARBITRAGE, knowingly, willfully, intentionally, and maliciously conspired, agreed, combined and confederated with each other to make fraudulent, false and misleading statements to STANSBURY intended to induce STANSBURY to delay pursuing his right to payment for all amounts due him until such time after SIMON BERNSTEIN and TED BERNSTEIN had converted and diverted corporate assets rendering LIC Holdings, and possibly ARBITRAGE, insolvent and uncollectible.

61. SIMON BERNSTEIN and TED BERNSTEIN, individually and as officers and majority shareholders of LIC Holdings and ARBITRAGE, knowingly, willfully, intentionally, and maliciously conspired, agreed, combined and confederated with each other to fraudulently induce STANSBURY, through false and misleading statements, to surrender and cede, without fair value payment, his 10% interest in LIC Holdings.

62. The numerous fraudulent, false and misleading statements made by SIMON BERNSTEIN and TED BERNSTEIN were all overt acts in furtherance of the conspiracy.

63. STANSBURY was injured thereby in that, as a proximate result of the conspiratorial conduct of SIMON BERNSTEIN and TED BERNSTEIN, he continued in his employment with LIC Holdings and/or ARBITRAGE, without payment of the compensation due him, he delayed pursuit of his right to collect the amounts due him, and ceded his 10% interest in LIC Holdings.

WHEREFORE, Plaintiff prays for judgment against Defendants, SIMON BERNSTEIN and TED BERNSTEIN, jointly and severally, for damages in excess of $1,500,000.00 together with prejudgment and post-judgment interest; for the imposition of an equitable lien and constructive trust on the Bernstein real estate described in paragraph 45 and Exhibit "B" as more fully set forth in Counts VII and VIII of this Second Amended Complaint;

for his court costs herein expended; and for such other relief as the Court may deem just and proper. STANSBURY reserves the right to move to amend to request punitive damages in accordance with Florida Law.

COUNT VI - CIVIL THEFT
(AGAINST ARBITRAGE INTERNATIONAL MARKETING, LLC)

64. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, inclusive.

65. This is an action for Civil Theft under Chapter 772, Florida Statutes, more specifically §772.11, Fla.Stat.

66. In February, 2012 and March, 2012, Defendant ARBITRAGE intercepted two separate checks made payable to William STANSBURY intended as payment to STANSBURY for matters arising wholly outside his business transactions with the BERNSTEINS, LIC Holdings and ARBITRAGE.

67. Notwithstanding that the checks made payable to William STANSBURY was for sums due STANSBURY by a third party not in connection with the aforesaid business transactions, ARBITRAGE and/or someone acting on its behalf, caused the negotiation of STANSBURY's checks, wrongfully endorsing the checks and retaining the sums that should have been payable to STANSBURY.

68. As a result of the foregoing, Defendant ARBITRAGE has been guilty of criminal theft by conversion with the criminal intent to steal his money and deprive STANSBURY of his possession and use thereof.

69. Written demand for payment of all amounts due STANSBURY has been made to Defendants, more than 30 days preceding the filing of this Complaint, to no avail. A copy of the demand letter is attached hereto as Exhibit "A."

WHEREFORE, Plaintiff prays for judgment against Defendant, ARBITRAGE for three times the full amount of the checks made payable to STANSBURY, together with pre-judgment interest and post-judgment interest, attorneys' fees, court costs and any other relief this Court deems just and proper.

COUNT VII - CONVERSION

70. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, inclusive.

71. Further, during 2012, Defendants TED BERNSTEIN, SIMON BERNSTEIN, LIC Holdings, Inc., ARBITRAGE, or someone acting on their behalves, received and cashed in excess of $30,000.00 worth of commission checks otherwise payable to Plaintiff.

WHEREFORE, Plaintiff prays for judgment for damages against Defendant, ABRITRAGE, SIMON BERNSTEIN, LIC Holdings, Inc. and TED BERNSTEIN, together with pre-judgment interest and post-judgment interest, court costs and any other relief this Court deems just and proper.

COUNT VIII - UNJUST ENRICHMENT
(LIC HOLDINGS, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN)

72. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, paragraphs 1 through 34, inclusive, and the allegations of Count III.

73. STANSBURY conferred a benefit on LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN by continuing his employment relationship with LIC Holdings and/or ARBITRAGE as a direct and proximate result of the fraudulent representations of SIMON BERNSTEIN and TED BERNSTEIN, as more fully set forth in Count III herein.

74. STANSBURY's continued employment resulted in the generation of substantial revenue for LIC Holdings and/or ARBITRAGE, which was then diverted and converted by the BERNSTEINS for their own personal use to the financial detriment of STANSBURY.

75. LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN, as officers and majority shareholders of LIC Holdings and ARBITRAGE, had knowledge of the benefit of STANSBURY's continued employment with LIC Holdings and/or ARBITRAGE as they fraudulently induced STANSBURY to continue his productive employment activity while never intending to pay him the compensation he was due.

76. LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN accepted the revenues generated by STANSBURY in his capacity as employee.

77. There exists no adequate remedy at law as the conduct of the BERNSTEINS in diverting and converting the corporate assets of LIC Holdings and/or ARBITRAGE has resulted in the insolvency of LIC Holdings and possibly ARBITRAGE.

78. The circumstances are such that it would be inequitable for LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN to retain the benefits of the STANSBURY's productive revenue-generating labor without paying fair value for it.

WHEREFORE, Plaintiff prays for judgment against Defendants, LIC Holdings, Inc., ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, SIMON BERNSTEIN and TED BERNSTEIN, jointly and severally, in an amount in excess of $1,500,000.00 which the evidence shows Plaintiff is entitled for the fair value of the services Plaintiff provided to LIC Holdings and ARBITRAGE , together with prejudgment and post-judgment interest; for his court costs herein expended and for such other relief as the Court may deem just and proper.

COUNT IX - EQUITABLE LIEN
(AS TO SIMON BERNSTEIN, TED BERNSTEIN, BERNSTEIN FAMILY REALTY, LLC and SHIRLEY BERNSTEIN TRUST AGREEMENT)

79. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, the allegations set forth in paragraphs 1 through 34, paragraph 45 and Counts III and VII, above.

80. STANSBURY has alleged essential facts in his General Allegations and Count III that show that SIMON BERNSTEIN and TED BERNSTEIN committed fraud by fraudulently inducing STANSBURY to continue in an employment relationship that proved to be highly lucrative for SIMON BERNSTEIN and TED BERNSTEIN.

81. STANSBURY has alleged essential facts in his General Allegations and Count VII that show that SIMON BERNSTEIN and TED BERNSTEIN were unjustly enriched by STANSBURY's uncompensated continued employment with LIC Holdings and/or ARBITRAGE.

82. The conduct of the BERNSTEINS in depleting the corporate assets of LIC Holdings and ARBITRAGE for their personal benefit by causing the corporation or corporations to make exorbitant and inappropriate distributions to themselves, family members, and BERNSTEIN FAMILY REALT, LLC and SHIRLEY BERNSTEIN TRUST AGREEMENT, at the expense of corporate creditors such as STANSBURY, rendered LIC Holdings and possibly ARBITRAGE insolvent. Therefore STANSBURY has no adequate remedy at law.

83. BERNSTEIN FAMILY REALTY, LLC and SHIRLEY BERNSTEIN TRUSTA AGREEMENT were the transferees of some of the corporate assets of LIC Holdings and/or ARBITRAGE wrongfully diverted and converted by the BERNSTEIN and thus are proper parties to this action and this Count.

84. An equitable lien on the real estate described in paragraph 45 herein and Exhibit "B" attached hereto is justified as an equitable remedy for the wrongful conduct of the BERNSTEINS.

WHEREFORE, Plaintiff prays for the Court to declare and establish an equitable lien in favor of Plaintiff in an amount equal to the funds wrongfully diverted, on the property described in paragraph 45 and Exhibit "B" attached hereto, and on all other assets of the Defendants named in this Count IX, or third parties as yet unknown, which assets have been purchased wholly or in part, improved or benefitted by the diverted funds due Plaintiff, together with his costs herein expended, and such other and further relief as this Court may deem just and proper.

COUNT X - CONSTRUCTIVE TRUST (AS TO SIMON BERNSTEIN, TED BERNSTEIN, BERNSTEIN FAMILY REALTY, LLC and SHIRLEY BERNSTEIN TRUST AGREEMENT)

85. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 79 through 84 above.

WHEREFORE, Plaintiff prays for the Court to declare and establish a constructive trust in favor of Plaintiff on the property described in paragraph 45 and Exhibit "B" attached hereto in an amount equal to the funds wrongfully diverted and on all assets of Defendants or third parties as yet unknown, which assets have been purchased wholly or partly, improved or mortgaged by the diversion of said funds due Plaintiff. Plaintiff further prays for an award of court costs and such other and further relief as the Court may deem just and proper.

JURY DEMAND

86. Plaintiff reiterates his demand for trial by jury on all issues so triable.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives,* 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; at arose@pm-law.com and mchandler@pm-law.com to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc. and Arbitrage International Management, LLC,* 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this 20 day of November, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Telephone: (561) 734-5552
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By: _____
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June 20, 2012

Via Certified Mail, Return Receipt Requested

PERSONAL and CONFIDENTIAL
Mr. Ted Bernstein, President
LIC Holdings, Inc.
950 Peninsula Corp Circle
Suite 3010
Boca Raton, FL 33487

Re: William (Bill) Stansbury

Dear Mr. Bernstein:

The undersigned represents William (Bill) Stansbury and we are writing this letter on his behalf. Mr. Stansbury received your proposed letter agreement reflecting LIC Holdings' proposal to indemnify its shareholders concerning policies sold under the Cambridge Financing Program. As a result of your proposal, Mr. Stansbury has reviewed with me in detail his dealings with you and your companies over the past 4 to 5 years.

After reviewing the facts with Mr. Stansbury, some of which will be summarized below, I was shocked that he had not consulted legal counsel until now. Be that as it may, and based upon the facts presented to us, we believe you have engaged in fraud, civil theft, breaches of fiduciary duties, and breach of contract, just to name a few. The purpose of this letter is to a). respond to your indemnity proposal and b). request that you pass this letter on to your counsel immediately in the off-chance that these very serious matters can be resolved prior to the filing of legal action. The issues can be summarized as follows:

1. The first issue concerns you and your company's failure to pay salary compensation to Mr. Stansbury. Mr. Stansbury has been making inquiries concerning this for the past 5 months, but to no avail. Mr. Stansbury's claim for unpaid salary arises from three categories:

EXHIBIT A

a. Failure to pay salary based on net retained commissions.

i. Based upon reports prepared by your company for the period of 2007 through 2011, LIC Holdings, Inc. and/or Arbitrage International Holdings, n/k/a Arbitrage International Management, LLC, received $35,384,246.00 in net retained commissions. According to Mr. Stansbury's salary arrangement, he is entitled to 15% of those net retained commissions, which amounts to $5,307,636.90. During this time period, Mr. Stansbury's salary compensation was $2,844,910.00. The shortfall in salary owed to Mr. Stansbury is $2,462,726.90.

ii. There is salary compensation owed to Mr. Stansbury as a result of bridge loans in 2008. You received a $2,000,000.00 settlement in 2010 resulting from the resolution of a lawsuit involving Global Secured Capital. Mr. Stansbury is entitled to 15% of those funds, which is $300,000.00.

iii. In addition, you received $507,891.00 in commissions in connection with the Biviano matter. Mr. Stansbury is entitled to 15% of those funds, which is $76,183.65.

iv. In April of 2012, you received three commissions totaling approximately $200,000.00 in the Levine, Wiss and Berley matters. Mr. Stansbury has been requesting payment of this for weeks, again to no avail. Mr. Stansbury is due salary compensation for these items in the amount of $30,000.00.

Therefore, Mr. Stansbury's total claim for salary arising out of net retained commissions is approximately $2,868,910.55.

The liability for payment of this salary is not limited to LIC Holdings, Inc. or Arbitrage International Management, LLC. This liability also flows to you individually as a result of your breaches of your fiduciary duty owed to Mr. Stansbury and utter failure to abide by corporate governance standards, which conduct is more particularly described below.

b. Mr. Stansbury is also due unpaid salary based on 15% of all renewal commissions since 2008. Mr. Stansbury's salary claim for renewal commissions cannot as yet be determined with specificity due to the fact that you and your office have been opening mail directed to Mr. Stansbury and negotiating checks made payable to him by falsifying his endorsement and depositing those checks into accounts which only you control. This conduct constitutes civil theft and breach of fiduciary duty. We believe this claim amounts to hundreds of thousands of dollars.

c. Salary compensation for 2008. Mr. Stansbury has recently learned that you and Mr. Simon Bernstein received $8,982,124.00 in salary in 2008. By contrast, Mr. Stansbury received $420,018.00, paid to him in January 2008, based on policies sold in 2007. He received zero (no salary compensation) for his 2008 production. It is obvious that you and Simon treated your corporations as personal ATM machines, while completely ignoring your fiduciary

responsibilities to your employee and minority shareholder, Mr. Stansbury. It further appears that after the exorbitant salaries were paid to you, you then loaned the money back to the corporation at an interest rate significantly above market rates in order to meet the cash flow needs of the various entities, again, clearly disregarding your corporate governance responsibilities.

2. Indemnification issues.

Mr. Stansbury has been served with three lawsuits from Phoenix Insurance Company and one from Mr. Wright seeking indemnification as a result of agent misconduct which was in no way attributable to the conduct of Mr. Stansbury. Although all of these matters have been settled, because he was the qualifying agent of record for other policies, he could be the subject of future litigation for refunds of commissions paid. All of these commissions were paid over to you or your companies.

The Indemnification Agreement which you sent to Mr. Stansbury is completely insufficient. You have a duty as a matter of law to indemnify Mr. Stansbury. Your offer of future indemnity is contingent upon "all" commissions that have been received by LIC's present or past shareholders be turned over to LIC. This is nothing short of extortion. Further, your second paragraph states that LIC is "presently insolvent" and has a "negative net worth." You then conclude with the sentence that with the indemnification agreement in place, LIC "may" have sufficient funds to meet its current obligations. Therefore, a simple indemnification from LIC Holdings to Mr. Stansbury is insufficient. Any such indemnification would have to be personally guaranteed by you and Mr. Simon Bernstein.

3. Unauthorized interception of U.S. Mail.

I have been given the understanding that your office has been opening mail directed to Mr. Stansbury personally. This is a federal offense and also constitutes a breach of the fiduciary duty you owe to Mr. Stansbury as an employee and minority shareholder.

There has been no accounting to Mr. Stansbury for any of the checks which may have been sent to him personally on which his signature has been forged, the checks cashed and placed out of the reach of Mr. Stansbury. In 2012, Mr. Stansbury has been receiving checks from Phoenix Life Insurance Company and TransAmerica Life Insurance Company. Mr. Stansbury has been holding these checks. They have now been remitted to the undersigned as attorney for Mr. Stansbury. This office is holding these funds in a separate interest-bearing trust account pending the resolution of this matter.

With regard to all of the other insurance companies for whom Mr. Stansbury is listed as the qualifying agent, he has now informed those companies that all future renewal commissions paid to him personally be sent to Mr. Stansbury at his home address. These funds will then be remitted to the undersigned counsel of record for Mr. Stansbury. We will place these funds in a separate interest-bearing trust account as well. Any attempts by you to contact these insurance

companies will be considered a tortious interference of his business relationship and such activity will be added as a claim in any future legal proceedings.

4. Shareholder status.

Mr. Stansbury has been a 10% shareholder of LIC Holdings, Inc., pursuant to the terms of a Shareholders Agreement. On behalf of Mr. Stansbury, demand is hereby made, pursuant to Florida Statute 607.1602, for inspection of the corporate records including the following:

I. Minutes of the Board of Directors meetings from January 1, 2008 to the present.

II. Minutes of Shareholders' meetings from January 1, 2008 to the present.

III. Records of any actions taken by the Shareholders and/or the Board of Directors without a meeting, from January 1, 2008 to the present.

IV. Accounting and financial records of LIC Holdings, Inc., Arbitrage International Management, LLC, formerly known as Arbitrage International Holdings, LLC, and all other subsidiary or affiliated companies under your control, including, without limitation, income tax returns, general ledgers, balance sheets, profit and loss statements, stock books, bank statements, loan agreements or guarantees, and any other financial books and records from January 1, 2008 to the present.

Mr. Stansbury is seeking to inspect these records in good faith and for the purpose of determining if misappropriation of corporate assets for improper purposes has previously taken or is presently taking place.

I have been made aware of a letter dated December 22, 2011 in which Mr. Stansbury purportedly "ceded" his shares of stock in LIC Holdings, Inc. back to the company. This letter was obtained under false pretenses and is not recognized by Mr. Stansbury as validly conveying his ownership interest in LIC Holdings, Inc.

Please have your legal counsel contact us within ten (10) days. Should we fail to receive a response within that time, Mr. Stansbury will take legal action to protect his rights and interests.

Very truly yours,

PETER M. FEAMAN, P.A.

By: Peter M. Feaman

Peter M. Feaman

PMF/mk
cc: William Stansbury
CC Riggs (e-mail)

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Ted Bernstein, Pres.
LIC Holdings, Inc.
950 Peninsula Corp. Cir.
Suite 3010
Boca Raton, FL 33487

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee

B. Received by (Printed Name) | C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number
(Transfer from service label) 7011 0110 0000 6015 5239

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

LEGAL DESCRIPTIONS

880 Berkeley, Boca Raton, FL : A portion of Lots 40 and 41, Block 1, BEL MARRA, as recorded in Plat Book 25, Page 30, of the Public Records of Palm Beach County, Florida.

15807 Menton Bay Court, Delray Beach, FL: Lot 139, SATURNIA ISLES – PLAT ONE, according to the plat thereof, as recorded in Plat Book 91, at Page 108 of the Public Records of Palm Beach County, Florida.

7020 Lions Head Lane, Boca Raton, FL: Lot 781, ST. ANDREWS COUNTRY CLUB, PLAT NO. 14, according to the Plat thereof, as recorded in Plat Book 57, Pages 132-135, inclusive, of the Public Records of Palm Beach County, Florida.

2753 NW 34th St., Boca Raton, FL: Lot 68, Block G, BOCA MADERA Unit 2, according to the Plat thereof, recorded in Plat Book 32, Pages 59 and 60, of the Public Records of Palm Beach County, Florida

2494 So. Ocean Blvd., Boca Raton, FL: Condominium Parcel Number C5 o the Center Building of ARAGON CONDOMINIUM according to the Declaration of Condominium thereof recorded in Official Records Book 8921, Page 1267 of the Public Records of Palm Beach County, Florida.

EXHIBIT "B"

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

SECOND AMENDED COMPLAINT

WILLIAM E. STANSBURY, by and through undersigned counsel, sues the Defendants and states:

1. This is an action for money damages in excess of $15,000, and for equitable relief.

2. Plaintiff (hereinafter referred to as "STANSBURY") is *sui juris*, and a resident of Palm Beach County, Florida.

3. Defendant TED S. BERNSTEIN ("TED BERNSTEIN"), is *sui juris*, and a resident of Palm Beach County, Florida.

4. SIMON L. BERNSTEIN ("SIMON BERNSTEIN") died on or about September 13, 2012, after the filing of the initial Complaint in this action. At the time of his death, SIMON BERNSTEIN was *sui juris*, and was a resident of Palm Beach County, Florida. Defendants

Donald R. Tescher and Robert L. Spallina are serving as co-personal representatives of the ESTATE OF SIMON L. BERNSTEIN (the "ESTATE")which ESTATE is presently open and pending in the Palm Beach County Circuit Court, *In re: Estate of Simon L. Bernstein*, Case No. 502012CP004391XXXXSB (the "Estate Proceeding"). In accordance with Section 733.705, Florida Statutes, STANSBURY hereby brings this independent action against the ESTATE with respect to his Statement of Claim that was filed and objected to in the Estate Proceeding.

5. Defendant, LIC HOLDINGS, INC. ("LIC Holdings") is a Florida corporation with its principal place of business in Palm Beach County, Florida.

6. Defendant, ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, formerly known as ARBITRAGE INTERNATIONAL HOLDINGS, LLC, ("ARBITRAGE") is a Florida limited liability company with its principal place of business in Palm Beach County, Florida.

7. Defendant, BERNSTEIN FAMILY REALTY, LLC is a Florida limited liability company doing business in Palm Beach County.

8. Defendant, the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008 ("SHIRLEY'S TRUST"), owns real property in Palm Beach County, Florida. Based upon information and belief, Donald R. Tescher and Robert L. Spallina are serving as co-trustees of SHIRLEY'S TRUST. This Court has personal jurisdiction over the trustees and the beneficiaries of SHIRLEY'S TRUST under Section 736.0202, Florida Statutes, as the principal place of administration of SHIRLEY'S TRUST is in Palm Beach County, Florida. This court has subject matter jurisdiction over this action under Section 736.0203, Florida Statutes. Venue is proper in Palm Beach County, Florida, under Section 736.0204, Florida Statutes, as the principal place of administration of SHIRLEY'S TRUST is in Palm Beach County, Florida and one or more of the beneficiaries of SHIRLEY'S TRUST reside in Palm Beach County, Florida.

9. The acts and incidents giving rise to the causes of action alleged herein arose in Palm Beach County, Florida.

General Allegations

10. STANSBURY has worked in the insurance industry for virtually all of his adult life. After 30 years, he had become well-known and highly regarded by major insurance companies, their principals and others throughout the insurance industry, at all levels thereof, as well as by professionals, including attorneys, CPA's, financial advisors, wealth managers and others who were involved in serving, or otherwise dealing with insurers, insurance brokers and life insurance products.

11. SIMON BERNSTEIN dealt at sophisticated levels of the insurance industry and specialized in developing and marketing insurance concepts suitable for persons of high net worth to incorporate into their wealth management and estate planning.

12. TED BERNSTEIN, the son of SIMON BERNSTEIN, was also actively involved in selling life insurance products in conjunction with attorneys, CPAs and other professionals, to be incorporated into high net worth individuals' financial and estate planning.

13. TED BERNSTEIN, **acting on his behalf and on behalf of, and in concert with, SIMON BERNSTEIN**, approached STANSBURY, urging STANSBURY to spearhead the marketing of a unique insurance concept, newly developed by a prominent law firm, which was designed for use in the financial and estate planning of high net worth individuals.

14. TED BERNSTEIN told STANSBURY that he knew of STANSBURY's expertise and reputation in the insurance and related industries, and that STANSBURY was skilled at and accustomed to speaking and marketing insurance products to groups of professionals. He realized that STANSBURY, because of his knowledge, reputation and abilities, would be well suited to market this concept nationwide through prominent and experienced professionals.

15. In 2006, SIMON BERNSTEIN and TED BERNSTEIN (collectively, "BERNSTEIN" or the "BERNSTEINS") formed, **as sole shareholders,** Defendants LIC Holdings and ARBITRAGE for the purpose of marketing and selling certain life insurance products to high net worth individuals for their wealth management and estate planning needs.

16. STANSBURY agreed to become an employee of LIC Holdings, Inc. and ARBITRAGE and agreed to a salary of 15% of net commissions received on all products **sold,** including renewals. **STANSBURY at this time was responsible for calculating, on a monthly basis, the commissions earned by him in connection with new business generated in the current year and renewals on business generated in previous years.**

17. STANSBURY worked with diligence and skill, traveling throughout the United States, generating ever-increasing sales and generating very large commissions. By 2006, nationwide sales were resulting in substantial commissions on new policies and renewal commissions.

18. Also in 2006, SIMON BERNSTEIN, **acting on his behalf and on behalf of, and in concert with, TED BERNSTEIN,** told STANSBURY that STANSBURY was being rewarded for his efforts and the explosive growth of the business, such that he would receive a 10% ownership interest in LIC Holdings, Inc. **SIMON BERNSTEIN and TED BERNSTEIN, collectively, were majority shareholders while STANSBURY was a minority shareholder in LIC Holdings, Inc.**

19. In February of 2008, SIMON BERNSTEIN, **acting on his behalf and on behalf of, and in concert with, TED BERNSTEIN,** approached STANSBURY **and told him his time would be better spent building the business rather than performing monthly calculations of income. The plan proposed was that,** rather than STANSBURY performing computations on a

monthly basis as to how much should be paid to him based upon 15% of the commissions derived from **both** policies sold by STANSBURY **and renewals from previous years**, the BERNSTEINS and STANSBURY **all would** forego monthly payouts and defer compensation until the end of 2008, when year-end computations could be made. It was **represented** that in December, year-end computations would be made and salaries would be paid in December 2008 or January of 2009. It was specifically represented to STANSBURY that:

a) neither SIMON BERNSTEIN, TED BERNSTEIN nor STANSBURY would take any compensation **during fiscal year 2008 but rather they all would wait** until the year-end accounting was performed in December of 2008 or January, 2009;

b) SIMON BERNSTEIN, TED BERNSTEIN, and STANSBURY would each be paid a minimum salary of $1,000,000 at year end, and STANSBURY'S salary was to be applied against his earned commissions of 15%. Any compensation due STANSBURY over and above the $1,000,000 would be paid as a distribution on his stock ownership interest in LIC Holdings.

20. **In January of 2008, STANSBURY was paid $420,018 for commissions earned on 2007 sales, but his share of renewal commissions paid to LIC Holdings or ARBITRAGE in 2007 for sales made in previous years by STANSBURY was not paid to him. STANSBURY also was and has never been paid the commissions earned on sales made by STANSBURY in 2008 and thereafter, and has never been paid the renewal commissions earned on sales made in previous years by STANSBURY that were paid to LIC Holdings or ARBITRAGE in 2008 and thereafter.**

21. **When STANSBURY was not paid as agreed in late 2008/2009 and thereafter, SIMON BERNSTEIN and TED BERNSTEIN, on behalf of and in concert with each other, stated to STANSBURY that salary and ownership distributions due and owing to SIMON**

BERNSTEIN, TED BERNSTEIN and STANSBURY would be deferred to a future time because it was necessary to retain the funds in the corporate bank accounts to demonstrate to potential lenders the financial stability of the companies.

22. The false statements set forth in paragraphs 18 through 21, above, were made by SIMON BERNSTEIN and TED BERNSTEIN, in concert with each other, with knowledge of their falsity and with the intention never to fulfill such promises.

23. Despite the representations to STANSBURY set forth above to the contrary, SIMON BERNSTEIN and TED BERNSTEIN, as officers and majority shareholders of LIC Holdings and ARBITRAGE, authorized LIC Holdings and/or Arbitrage to pay them $3,756,229.00 and $5,225,825.00, respectively, in 2008. Notwithstanding the amount referenced in paragraph 20, STANSBURY received no compensation for commissions earned and renewal commission earned in 2008.

24. The net retained commissions by LIC Holdings and ARBITRAGE, not including renewals, for 2008 were approximately $13,442,549.00. As such, STANSBURY was entitled to, at the very minimum, 15% of $13,442,549.00, or $2,016,382.35.

25. Beginning late in 2007 or early in 2008, and continuing through at least 2012, LIC Holdings and/or ARBITRAGE became the alter ego of SIMON BERNSTEIN and TED BERNSTEIN, as officers and majority shareholders, in that they disregarded corporate structure and wrongfully diverted, converted and depleted corporate assets of LIC Holdings and ARBITRAGE for their own personal benefit and the benefit of Bernstein family trusts and other entities as more specifically set forth below. Those trusts have since invested these wrongfully diverted and converted corporate assets in real estate, also as more particularly set forth below. The wrongful action of SIMON BERNSTEIN and TED BERNSTEIN in diverting and converting corporate assets rendered LIC Holdings insolvent.

26. Throughout 2009, SIMON BERNSTEIN and TED BERNSTEIN continued to make false statements to STANSBURY to hide the fact that **LIC Holdings and/or ARBITRAGE was their alter ego, in that they converted corporate property and corporate assets of LIC and/or ARBITRAGE** for their own personal benefit by withdrawing millions in 2008, 2009 **and thereafter,** all to the **exclusion and** financial detriment of STANSBURY, **and despite fraudulently representing to STANSBURY that no** money was being paid as salary or distributions **to SIMON BERNSTEIN, TED BERNSTEIN or STANSBURY** because **it was necessary to** hold **the funds** in the corporate bank accounts to show to potential lenders the financial stability of the company.

27. STANSBURY relied upon these continuing **misrepresentations** of Defendants to his detriment. Because STANSBURY was told that potential funding sources for the business needed to see that capital of the company was available, he took no action when he did not receive any compensation for 2009 and **was** paid only $30,000 in 2010.

28. In order to continue their scheme to defraud, SIMON BERNSTEIN and TED BERNSTEIN failed and refused to account for renewal commissions and failed to supply any financial information to STANSBURY concerning LIC Holdings or ARBITRAGE.

29. In furtherance of their scheme to deprive STANSBURY of salary he had earned and shareholder distributions to which he was entitled, SIMON BERNSTEIN and TED BERNSTEIN intercepted mail addressed to STANSBURY, removing commission checks representing commissions due to STANSBURY, deposited the funds into their own accounts and otherwise converted the funds. SIMON BERNSTEIN and TED BERNSTEIN also opened STANSBURY's mail containing checks payable to him which were unrelated to them and the businesses.

30. In 2011, the Defendants BERNSTEIN decided to deceive STANSBURY further. STANSBURY had for years been given K-1 statements reflecting his 10% ownership of LIC

Holdings. At the end of 2011, TED BERNSTEIN told STANSBURY that the company accountant had discovered a taxable event which could cause STANSBURY, as an owner of LIC Holdings to pay taxes on phantom income. TED BERNSTEIN promised that if STANSBURY would sign a paper ceding his 10% interest in LIC Holdings, he would not have to pay the tax. TED BERNSTEIN promised he would hold the paper, promising it would not become operative until STANSBURY and the Defendants BERNSTEIN discussed the situation further in the first quarter of 2012.

31. Because of the misrepresentations, willful concealments of material facts, duplicity and deceit practiced by Defendants upon STANSBURY, STANSBURY reasonably believed that Defendants had complied, or intended to comply with their obligations to STANSBURY under the contract between them. STANSBURY, therefore, was prevented from knowing for a period of years that the causes of action ASSERTED HEREIN existed.

32. By the second quarter of 2012, STANSBURY developed the belief that the BERNSTEINS' representations over the years were wholly false and he sought legal counsel.

33. STANSBURY has retained the law firm of Peter M. Feaman, P.A. and has agreed to pay it a reasonable fee for its services rendered herein.

COUNT I - ACCOUNTING
(Against LIC Holdings and ARBITRAGE, for Accounting)

34. STANSBURY hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 33, inclusive.

35. The relationship between STANSBURY and the Defendants, particularly as affected by Defendants' acts described in preceding paragraphs 19 through 27 created a situation where Defendants had sole access to receipts generated by STANSBURY's efforts, and to books and

records reflecting said receipts and the other information from which can be calculated all moneys due to STANSBURY under his arrangement with Defendants.

37. The period of time during which STANSBURY has been deprived of monies due him spans approximately four and a half years. The various sources of revenue to Defendants of monies from which the amounts due STANSBURY may be calculated, the manner in which STANSBURY was to be paid, and the amount due STANSBURY all involve extensive and complicated accounts, and STANSBURY's remedy at law cannot be as full, adequate and expeditious as it is in equity.

WHEREFORE, Plaintiff STANSBURY prays for an adjudication of Plaintiff's right to a full and complete accounting from Defendants, LIC Holdings and ARBITRAGE, and for such orders of Court as will require such Defendants to provide STANSBURY with all records and copies of documents from January 1, 2006 to the present, in order to reveal his right to, and the amount of all sums: (a) received as commissions to which STANSBURY was entitled to a share; (b) due to STANSBURY, whether paid or not; (c) paid to STANSBURY, whether for commissions, salary, distributions, expenses or any other reason; (d) paid to each of the BERNSTEIN Defendants out of monies received as commissions; (e) deposits of any and all moneys received as commissions by any Defendants to any accounts, including the name of the entity whose account was involved, the number(s) of each such account; the address of the branch or other facility through which any Defendant dealt with such entity; (f) calculations as to moneys paid , to be paid, or not to be paid to STANSBURY, together with an award of court costs and such other and further relief as the Court may deem just and proper.

COUNT II. BREACH OF ORAL CONTRACT
(Against LIC Holdings, Inc., ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN)

38. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 37, inclusive.

39. The arrangement between STANSBURY and Defendants as described in paragraphs 16 and 24 above, constituted a contract between them.

40. An express term of that contract involved the commitment of LIC Holdings and ARBITRAGE to calculate and pay to STANSBURY all sums due to him under the contract, whether as commissions, salary, distributions, expenses or any other reason.

41. The Defendants initially performed the duties required of them under said contract.

42. However, Defendants breached their contract with STANSBURY by withholding from STANSBURY monies due him under the contract.

43. The withholding of such monies constitutes a material breach of the contract between STANSBURY and LIC Holdings and ARBITRAGE.

44. STANSBURY has sued both LIC Holdings and ARBITRAGE because the BERNSTEINS represented that his employment relationship was with LIC Holdings, the company in which he owned a 10% interest, but STANSBURY'S W-2 statements were issued by ARBITRAGE as his employer.

45. SIMON BERNSTEIN and TED BERNSTEIN, are personally liable, jointly and severally, for the material breach of the oral employment contract with STANSBURY as LIC Holdings and/or ARBITRAGE were the alter egos of SIMON BERNSTEIN and TED BERNSTEIN in that the BERNSTEINS depleted corporate assets for personal benefit by causing the corporation or corporations to make exorbitant and inappropriate

distributions to themselves, family members, and BERNSTEIN family trusts and other entities, at the expense of corporate creditors such as STANSBURY, to wit:

a) SIMON BERNSTEIN and TED BERNSTEIN caused LIC Holdings and/or ARBITRAGE to pay to them at least $3,756,229.00 and $5,225,825.00, respectively, in fiscal 2008 during which time STANSBURY, other than the amount referenced in paragraph 20, was paid nothing for 2008;

b) According to Palm Beach County public records, in December of 2007 TED BERNSTEIN purchased a property at 880 Berkeley Street, Boca Raton, Florida, 33487, for $4,400,000;

c) According to Palm Beach County public records, on December 28, 2008, TED BERNSTEIN paid off the mortgage in the amount of $486,400.00 on a property he owned at 15807 Menton Bay Court, Saturnia Isles, Delray Beach, Florida, 33446;

d) According to Palm Beach County public records, SIMON BERNSTEIN paid off the mortgage on property he and his wife owned, and subsequently transferred by quitclaim deed on May 20, 2008 to the trustee of SHIRLEY'S TRUST, at 7020 Lions Head Lane, Boca Raton, Florida, 33496. The amount of the mortgage pay-off is unknown, but in 2013 the property was listed for sale at $2,399,000;

e) According to Palm Beach County public records, on June 18, 2008, BERNSTEIN FAMILY REALTY, LLC acquired a property located at 2753 N.W. 34 Street, Boca Madera Unit 2, Boca Raton, Florida 33432 (the "Boca Madera Property). On July 8, 2008, SIMON BERNSTEIN loaned $365,000 to BERNSTEIN FAMILY REALTY, LLC. The specific purpose of the loan is unknown, but SIMON BERNSTEIN received a mortgage on the Boca Madera Property to secure the loan;

f) According to Palm Beach County public records, on May 20, 2008 SIMON BERNSTEIN and his wife transferred by quitclaim deed to the trustee of SHIRLEY'S TRUST a 4,220 square foot oceanfront condominium unit in a complex known as "The ARAGON" in Boca Raton, located at 2494 So. Ocean Boulevard, Boca Raton, Florida. The mortgage on that property was paid off on September 27, 2010.

46. There is due to STANSBURY from such Defendants all amounts due under said contract, together with prejudgment and post-judgment interest on said amounts.

WHEREFORE, Plaintiff prays for judgment against **SIMON BERNSTEIN and TED BERNSTEIN declaring that** Defendants, LIC Holdings, Inc., ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, **are the alter ego of SIMON BERNSTEIN and TED BERNSTEIN, and a judgment against** Defendants, LIC Holdings, Inc., ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, **SIMON BERNSTEIN and TED BERNSTEIN,** jointly and severally, in excess of $1,500,000.00 for the amounts due to Plaintiff under the terms of their contract, together with prejudgment and post-judgment interest, court costs and such other relief as the Court may deem just and proper.

COUNT III. FRAUD IN THE INDUCEMENT- EMPLOYMENT AGREEMENT (Against TED BERNSTEIN AND SIMON BERNSTEIN)

47. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 46, inclusive.

48. At all material times hereto, SIMON BERNSTEIN and TED BERNSTEIN were officers and majority shareholders of LIC Holdings and ARBITRAGE.

49. The statements set forth in paragraphs 18 through 24, above, made by SIMON BERNSTEIN and TED BERNSTEIN, on behalf of and in concert with each other, and as officers and majority shareholders of LIC Holdings and ARBITRAGE, were false

statements of material fact that SIMON BERNSTEIN and TED BERNSTEIN knew to be false at the time they were made, and SIMON BERNSTEIN and TED BERNSTEIN never intended to authorize LIC Holdings or ARBITRAGE to pay to STANSBURY the amounts due him as evidenced by the fact that the accountant for LIC Holdings and ARBITRAGE prepared financial statements for 2008 showing that the BERNSTEINS would receive compensation, but STANSBURY would not, for fiscal 2008, in direct contravention to their statements and promises to STANSBURY.

50. SIMON BERNSTEIN and TED BERNSTEIN intended for STANSBURY to rely on such statements that he would be ultimately be paid for his productivity in order to induce him into continuing his productive and revenue-generating sales activity as an employee of LIC Holding and/or ARBITRAGE and fraudulently created for STANSBURY the false expectation that STANSBURY would be paid as agreed.

51. STANSBURY in fact relied to his detriment on these false statements and was induced thereby to remain in his employment relationship with LIC Holdings and ARBITRAGE as he continued to sell products and generate revenue for LIC Holdings and ARBITRAGE until 2012.

52. STANSBURY was injured thereby as he was not and has not been compensated for his revenue-generating sales performance, and did not seek alternative employment, as a proximate result of his detrimental reliance on these false statements.

WHEREFORE, Plaintiff prays for judgment against Defendants, SIMON BERNSTEIN and TED BERNSTEIN, jointly and severally, for damages in excess of $1,500,000.00 together with prejudgment and post-judgment interest, court costs and such other relief as the Court may deem just and proper. STANSBURY reserves the right to move to amend to request punitive damages in accordance with Florida Law.

COUNT IV. FRAUD IN THE INDUCEMENT-CEDING OF LIC HOLDINGS OWNERSHIP INTEREST (Against Ted Bernstein and LIC Holdings, Inc.)

53. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 52, inclusive.

54. In the fourth quarter of 2011, TED BERNSTEIN embarked upon a plan to defraud from STANSBURY his 10% ownership interest in LIC Holdings, Inc. As set forth in paragraph 31 above Defendant TED BERNSTEIN fraudulently induced STANSBURY to **prepare and** sign a document giving up his 10% interest in and to LIC Holdings, Inc.

55. The ceding of his shares in LIC Holdings, Inc. was procured by fraud and STANSBURY relied upon the representations made by BERNSTEIN with regard to signing the document apparently ceding his stock.

56. It was reasonable for STANSBURY to rely on the representations made by BERNSTEIN because at that time STANSBURY was unaware of the breaches of fiduciary duty and breaches of the oral contract that had taken place.

57. As a result of STANSBURY's reliance, STANSBURY has been damaged by the loss of 10% of the shares of LIC Holdings and the rights and remedies to a shareholder related thereto.

WHEREFORE, Plaintiff prays for a judgment for damages against Defendants BERNSTEIN and LIC Holdings, Inc. for the damages caused by the fraudulent conduct of BERNSTEIN as described herein, together with reasonable costs, pre-judgment interest and any other relief this Court deems just and proper.

COUNT V. CIVIL THEFT
(Against ARBITRAGE INTERNATIONAL MARKETING, LLC)

58. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 57, inclusive.

59. This is an action for Civil Theft under Chapter 772, Florida Statutes, more specifically §772.11, Fla.Stat.

60. In February, 2012 and March, 2012, Defendant ARBITRAGE intercepted two separate checks made payable to William STANSBURY intended as payment to STANSBURY for matters arising wholly outside his business transactions with the BERNSTEINS, LIC Holdings and ARBITRAGE.

61. Notwithstanding that the checks made payable to William STANSBURY was for sums due STANSBURY by a third party not in connection with the aforesaid business transactions, ARBITRAGE and/or someone acting on its behalf, caused the negotiation of STANSBURY's checks, wrongfully endorsing the checks and retaining the sums that should have been payable to STANSBURY.

62. As a result of the foregoing, Defendant ARBITRAGE has been guilty of criminal theft by conversion with the criminal intent to steal his money and deprive STANSBURY of his possession and use thereof.

63. Written demand for payment of all amounts due STANSBURY has been made to Defendants, more than 30 days preceding the filing of this Complaint, to no avail. A copy of the demand letter is attached hereto as Exhibit "A."

WHEREFORE, Plaintiff prays for judgment against Defendant, ARBITRAGE for three times the full amount of the check made payable to STANSBURY, together with pre-judgment interest and post-judgment interest, attorneys' fees, court costs and any other relief this Court deems just and proper.

COUNT VI. CONVERSION

64. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 60 through 65, inclusive.

65. Further, during 2012, Defendants' TED BERNSTEIN, SIMON BERNSTEIN, LIC Holdings, Inc., ARBITRAGE, or someone acting on their behalves, received and cashed in excess of $30,000.00 worth of commissions checks otherwise payable to Plaintiff.

WHEREFORE, Plaintiff prays for judgment for damages against Defendant, ABRITRAGE, SIMON BERNSTEIN, LIC Holdings, Inc. and TED BERNSTEIN, together with pre-judgment interest and post-judgment interest, court costs and any other relief this Court deems just and proper.

COUNT VII. EQUITABLE LIEN

66. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, paragraphs 1 through 65, above.

67. Defendants, SIMON BERNSTEIN and/or TED BERNSTEIN wrongfully diverted funds from LIC Holdings and ARBITRAGE that rightfully should have been paid to STANSBURY pursuant to their oral agreement.

68. Upon information and belief, SIMON BERNSTEIN and/or TED BERNSTEIN, or both, wrongfully diverted funds from LIC Holdings and/or ARBITRAGE and acquired and/or maintained or improved property located at 7020 Lion's Head Lane, Boca Raton, Florida, legally described as

> Lot 781, St. Andrews Country Club (a PUD) Plat No. 14 according to the plat thereof recorded in Plat Book 57, Page 132 of the public records of Palm Beach County, Florida.

69. Further, upon information and belief, as a result of the funds being wrongfully diverted from LIC Holdings and/or ARBITRAGE, which otherwise rightfully belonged to and should have been paid to STANSBURY, the property legally described as

> Lot 68, Block G Boca Madeira, Unit 2 according to the plat thereof recorded in Plat Book 32, Pages 59 and 60 of the public records of Palm Beach County, Florida, with a property address of 2753 NW 34 Street, Boca Raton, Florida,

was encumbered with a mortgage representing wrongfully diverted funds which were loaned in the form of a second mortgage to Defendant, BERNSTEIN FAMILY REALTY, LLC, a Florida limited liability company.

70. Upon information and belief, as a result of the funds being wrongfully diverted from LIC Holdings and/or ARBITRAGE which otherwise should have been paid to STANSBURY, such funds were used to satisfy a mortgage for the benefit of TED BERNSTEIN on property legally described as

> Lot 139, Saturnia Isles, Plat One, recorded in Plat Book 91 at Page 108 of the property records of Palm Beach County, Florida, with a property address of 15807 Menton Bay Court, Delray Beach, Florida

WHEREFORE, Plaintiff prays for the Court to declare and establish an equitable lien in favor of Plaintiff in an amount equal to the funds wrongfully diverted, on the property described herein, and on all other assets of Defendants or third parties as yet unknown, which assets have been purchased wholly or in part, improved or benefitted by the diverted funds due Plaintiff, together with court costs and such other and further relief as this Court may deem just and proper.

COUNT VIII. CONSTRUCTIVE TRUST

71. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 7__ through 7__ above.

WHEREFORE, Plaintiff prays for the Court to declare and establish a constructive trust in favor of Plaintiff on the property described in paragraphs __ through __ in an amount equal to the funds wrongfully diverted and on all assets of Defendants or third parties as yet unknown, which assets have been purchased wholly or partly, improved or mortgaged by the diversion of said funds due Plaintiff. Plaintiff further prays for an award of court costs and such other and further relief as the Court may deem just and proper.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail at swergoldj@gtlaw.com; ciaffik@gtlaw.com; steffesj@gtlaw.com; and FLService@gtlaw.com to Jon Swergold, Esq., Greenberg Traurig, P.A., 401 East Las Olas Blvd., Suite 2000, Fort Lauderdale, FL 33301 this ____ day of FEBRUARY, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
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Fax: 561-734-5554
pfeaman@feamanlaw.com

By: _____
Peter M. Feaman
Florida Bar No.: 0260347

Bernstein, Estate of Simon 11187.006
Stansbury Litigation

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

CASE NO: 502012CA013933XXXXMB AA

WILLIAM E. STANSBURY,

Plaintiff,

vs.

TED S. BERNSTEIN, SIMON BERNSTEIN, LIC HOLDINGS, INC., and ARBITRAGE INTERNATIONAL MANAGEMENT, L.L.C., f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, L.L.C.,

Defendants.

ORDER ON DEFENDANTS' MOTION TO DISMISS OR, IN THE ALTERNATIVE, MOTION FOR MORE DEFINITE STATEMENT

THIS CAUSE having come before the Court on January 14, 2013, on Defendants' Motion to Dismiss Or, In The Alternative, Motion For More Definite Statement (the "Motion"), and Plaintiff's Response in Opposition to the Motion, and the Court having heard argument of counsel , and being otherwise fully advised, does hereby

ORDER and ADJUDGE:

1. Defendants' Motion to Dismiss Count I is hereby DENIED.

2. Defendants' Motion to Dismiss Count III is hereby GRANTED without prejudice.

3. Defendants' Motion to Dismiss Count V is hereby GRANTED without prejudice.

4. Defendants' Motion to Dismiss Count VI is hereby GRANTED without prejudice.

5. Defendants' Motion to Dismiss Count VII is hereby GRANTED without prejudice.

6. Plaintiff has agreed to voluntarily withdraw Count II (Accounting - Against Ted Bernstein and Simon Bernstein), Count IV (Breach of Implied Covenant of Good Faith and Fair Dealing - Against All Defendants), Count VIII (Equitable Lien - Against All Defendants), Count IX (Contract Implied in Law - Against All Defendants), Count X (Constructive Trust - Against All Defendants) and Count XI (Indemnification - Against All Defendants) without prejudice.

7. That part of the Motion to Dismiss asserting the Statute of Limitations is hereby denied.

8. The Court finds that Defendants' request for legal fees and costs under Florida Statute §§ 772.11 and 812.035(7) due to the Court's dismissal of Count VI (Civil Theft) with leave to amend is premature at this time.

9. Plaintiff shall have twenty (20) days from the date of this Order to amend his Complaint.

DONE AND ORDERED in Chambers, West Palm Beach, Palm Beach County Florida this 23rd day of January, 2013.

HON. GLENN D. KELLEY
CIRCUIT JUDGE

Copies to:

Jon Swergold, Esq., Greenberg Traurig, P.A., 401 East Las Olas Blvd., Suite 2000, Fort Lauderdale, FL 33301; swergoldj@gtlaw.com; ciaffik@gtlaw.com; and
Peter M. Feaman, Esq., Peter M. Feaman, P.A., 3615 W. Boynton Beach Blvd., Boynton Beach, FL; pfeaman@feamanlaw.com; kdstern@gmail.com.

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: 50 2012 CA 013933 MB AA

v.

TED S. BERNSTEIN; SIMON BERNSTEIN; LIC HOLDINGS, INC.; and ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC.
Defendants.
_____/

RESPONSE OF PLAINTIFF WILLIAM E. STANSBURY TO DEFENDANTS' MOTION TO DISMISS OR, IN THE ALTERNATIVE, MOTION FOR MORE DEFINITE STATEMENT

Plaintiff WILLIAM E. STANSBURY, through undersigned counsel, hereby responds to Defendants' Motion to Dismiss or, in the Alternative, Motion for More Definite Statement, and states:

1. **General Response**

When considering a Motion to Dismiss, the standard to be applied by the trial court is that every allegation must be accepted as true, and every inference must be drawn in favor of the Plaintiff; the pleader is only required to set forth "a short and plain statement of the ultimate facts showing that the pleader is entitled to relief." *See*, Rule 1.110(b), Fla. R.Civ. P.

The facts pled in the Complaint that support the various legal theories set forth in each Count are contained in paragraphs 8 through 25 of the Complaint. They establish that:

- Plaintiff was an employee and minority owner of LIC Holdings, Inc. (LIC); he was promised but not paid compensation that he was due for the years 2008 through 2011;

and he was denied promised profit distributions on his 10% ownership interest. *See*, paragraphs 13, 18, 20 21 and 22.

- That the officers of Defendants LIC and Arbitrage International Management (AIM), Simon and Ted Bernstein, made false and mislcading representations to Plaintiff with respect to the compensation and distributions due him by falsely stating, among other things, that Defendants Bernstein as well as Plaintiff were not receiving full compensation when, in fact, Defendants Bernstein were being fully paid. *See*, paragraphs 21, 22 and 25.
- This concealment and other representations, and reliance thereon, induced Plaintiff to delay pursuing his rights until he did so by the filing of the Complaint in 2012. *See*, paragraph 25.

Plaintiff's Complaint clearly sets forth the ultimate facts supporting Plaintiff's claims against the Defendants. The Defendants' assertion that the Plaintiff's factual allegations as "confusing," "riddled with ambiguities," "vague," and "contradictory" (which they are not) is simply wrong.

2. **The Statute of Limitations Does Not Bar Plaintiff's Claims.** Defendants seek to dismiss the Counts alleging Accounting (Counts I and II), Breach of Oral Contract (Count III), Breach of Implied Covenant of Good Faith and Fair Dealing (Count IV), Breach of Fiduciary Duty (Count V), Fraud (Count VII), Equitable Lien (Count VIII), Contract Implied in Law (Count IX) and Constructive Trust (Count X) on the ground that these claims are barred by the four-year statute of limitations found in §95.11(3) Fla. Stat. (2012). Defendants contend the limitations period began to run prior to July 31, 2008 based solely on Plaintiff's allegation that Simon Bernstein made certain representations to him in "early 2008" (Complaint, Par. 21) and that Plaintiff represented that he had been deprived of his money due him for "approximately four and a half years" (Complaint, Par. 28). These statements, according to the Defendants,

somehow indicate that Plaintiff was aware of his claims prior to July 31, 2008, and thus they are now time barred.

Defendants' argument is fatally flawed for several reasons:

(a) These averments in the Complaint are clearly retrospective recollections made by Plaintiff as to the sequence of events that ultimately gave rise to his claims. They do not suggest that, at the time, Plaintiff realized, or should have realized, that any conduct by the Defendants was actionable.

(b) Defendants ignore the allegations of Paragraph 22 of the Complaint:

> 22. Through misrepresentations made from 2008 through the date of filing of this Complaint, Defendants knowingly made false statements to Plaintiff to hide their scheme to withhold from Plaintiff money to which he was entitled. For example, at times they claimed that money being received was not being paid as salary or distributions to either of Defendants BERNSTEIN but was being withheld and placed in a company account, for eventual distribution. **As Plaintiff and Defendants could afford to wait until year's end to be paid their distributions, and as Defendants BERNSTEIN assured Plaintiff that the payment arrangement would apply to all three equally, Plaintiff did not question the truthfulness of their representations** (emphasis added).

In light of these allegations, three things are readily apparent. First, Plaintiff has alleged that, due to the representations of the Bernstein Defendants, he was pursuaded to wait until the end of the year 2008 to be paid. As a result, the statute of limitations would not begin to run, at the earliest, until sometime after January 1, 2009 when he was not paid as promised. Therefore, these claims are timely filed. Secondly, Plaintiff is alleging he was induced to his detriment into delaying action on the Defendants failure to pay him by the false and fraudulent misrepresentations of the Bernsteins. Fraudulent misrepresentations operate to toll the statute of limitations. *See, San Pedro v. San Pedro,* 910 So. 2d 426, 430 (Fla. 4th DCA 2005). Further, if there is some question as to when the applicable statute of limitations began to run in this case,

the commencement date is a fact question for the trier of fact to resolve. *See, J.A. Cantor Associates, Inc. v. Brenner*, 363 So. 2d 204 (Fla. 3d DCA 1978).

For the foregoing reasons, Defendant's Motion to Dismiss based on the statute of limitations should be denied.

3. **Allegations Against Ted Bernstein Personally for Accounting**

The allegations contained in paragraphs 11 through 25 of the Complaint clearly establish that the Bernstein Defendants and Ted Bernstein in particular, engaged in a campaign of misrepresentation and deceit with respect to their interaction and dealings with Plaintiff on compensation and ownership distribution issues. The Plaintiff admits, however, at least at this time, that the allegations against Ted Bernstein individually, as to an Accounting, as set forth in Count II, may be premature. As such, Plaintiff agrees to voluntarily dismiss that Count, without prejudice, at this time.

4. **Dismissal of Count I for an Accounting Against LIC and AIM is Not Warranted.**

The test in *Bankers Trust Realty, Inc. v. Kluger*, 672 So. 2d 897 (Fla. 3d DCA 1996), as set forth in Defendants' Motion, requires Plaintiff to allege that: 1) Plaintiff and Defendant shared a fiduciary relationship **OR** entered a complex transaction, and 2) a remedy at law is inadequate. Plaintiff contends that the parties entered into a complex transaction, and Plaintiff has alleged the existence of a fiduciary relationship (*see*, Count V). Plaintiff has also alleged that a remedy at law is inadequate (*see*, Count I, par. 28). As such, Plaintiff has met the pleading requirements of *Kluger* and has stated a cause of action for an accounting against the Corporate Defendants.

5. **Plaintiff's claim for Breach of Implied Covenant of Good Faith and Fair Dealing (Count IV) Will Be Dismissed at This Time without Prejudice**

6. **Breach of Fiduciary Duty (Count V), Civil Theft (Count VI) and Fraud (Count VII) Are Not Barred by the Economic Loss Rule**

Claims for Breach of Fiduciary Duty and Civil Theft are causes of action arising under statutory law. The alleged Breach of fiduciary duty claim made by Plaintiff against the Defendants is supported by Florida law, including the fiduciary obligations of corporate officers and directors, which are specifically set forth in Florida Statutes §607, *et seq.* Civil Theft is articulated in Florida Statutes §772.11 (Complaint, Par. 48). The Plaintiff's Complaint has clearly stated a claim under that statute. The Supreme Court of Florida has unequivocally stated that the economic loss rule cannot be used to eliminate statutory causes of action. *See*, *Comptech International, Inc. v. Milam Commerce Park, LTD,* 753 So. 2d 1219 (Fla. 1999). Moreover, the economic loss rule does not abolish the cause of action for breach of fiduciary duty, even if there is an underlying contract. *See, Invo Florida, Inc. v. Somerset Venturer, Inc.*, 751 So. 2d 1263 (Fla. 3d DCA 2000).

As to Plaintiff's fraud claim against Defendants, the economic loss rule does not bar tort actions where a legal duty independent of the contract itself has been violated. *HTP, Ltd. v. Lineas Aereas Costarricenses, S.A.*, 685 So. 2d 1238, 1239 (Fla. 1996). In addition to the contract claims alleged, Plaintiff has specifically alleged that the Defendants deceived him into surrendering his 10% ownership interest in LIC. The fraudulent misrepresentations and subsequent reliance by plaintiff constitute an independent claim that is not related to the contract. Therefore, the fraud claim is not barred by the economic loss rule.

7. **The Breach of Fiduciary Duty (Count V) and Fraud (Count VII) Claims Should Not Be Dismissed.**

For the reasons set forth in paragraphs 8 and 9 below, the Plaintiff's breach of fiduciary duty and fraud claims against the Defendants should clearly not be dismissed.

8. **The Breach of Fiduciary Duty Claim (Count V) States a Cause of Action.**

Florida law provides that corporate officers and directors owe a duty of loyalty and a duty of care to the corporation and its shareholders. *Cohen v. Hattaway*, 595 So.2d 105 (Fla. 5th DCA 1992). In particular, Fla. Stat. § 607.0830 provides:

> (1) A director shall discharge his or her duties as a director ...
>
> (a) In good faith;
>
> (b) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
>
> (c) In a manner he or she reasonably believes to be in the best interests of the corporation.

These fiduciary duties are generally described as the duties of care and the duty of loyalty. *See, In re Aqua Clear Technologies, Inc.*, 361 B.R. 567, 575 (Bankr. S.D. Fla. 2007). Each of these duties is of equal and independent significance. *Id.* The duty of care requires the directors of a company to act on an informed basis. *Id.* The duty of loyalty requires the officer or director to act in good faith and in the best interests of the company. Fla. Stat. § 607.0830(1)(c); *In re Aqua Clear Technologies, Inc.*, 361 B.R. 567. A corporate officer or director breaches the duty of loyalty if that person "depart[s] from his corporate responsibility and start[s] serving himself." *In re Aqua Clear Technologies, Inc.*, 361 B.R. at 575, citing *Intercarga Internacional de Carga, S.A. v. Harper Group, Inc.*, 659 So.2d 1208, 1210 (Fla. 3d DCA 1995). An officer or director may be held "strictly accountable and liable if corporate funds or property are wasted or mismanaged due to their inattention to their duties." *Id.*

In this case, the Complaint specifically alleges that Simon and Ted Bernstein owned and controlled the corporate Defendants (LIC and AIM), worked closely together with respect thereto, and were one another's alter egos. (Complaint, Par. 6) As such, the Bernsteins are (or were at the time the claims arose – Simon Bernstein is now deceased) clearly both "officers and directors" of the corporate Defendants and exclusively made all decisions regarding the operations of these corporate Defendants. The Complaint also alleges that both Bernsteins made false and misleading misrepresentations to Plaintiff, an employee and minority shareholder of Defendant LIC, relating to Plaintiff's compensation and distributions on his ownership interest, and the Bernsteins falsely stated that their compensation was being withheld and maintained by the corporation, the same as Plaintiff's, when in reality they had paid themselves. (Complaint, Pars. 20, 22) It has also been alleged that the Bernsteins intercepted mail addressed to the Plaintiff and converted checks intended for Plaintiff for their own personal use or the use of the corporate Defendants. (Complaint, Par. 23) All these allegations were expressly incorporated by reference into Count V. (Complaint, Par. 41) This conduct clearly establishes a claim for breach of fiduciary duty as to the Bernsteins. As officers/directors, they failed to act in good faith and in the best interests of the company or its employee/minority shareholder, the Plaintiff, and breached their duty of loyalty when they departed from their corporate responsibilities and started serving themselves. Accordingly, Defendants' Motion to Dismiss the claim for breach of fiduciary duty should be denied.

9. **The Civil Theft Claim (Count VI) States a Cause of Action.**

As stated in Paragraph 8, above, the Complaint alleges that the Bernsteins intercepted mail addressed to the Plaintiff and converted checks intended for Plaintiff for their own personal use or the use of the corporate Defendants. (Complaint, Par. 23) All these allegations were

expressly incorporated by reference into the Civil Theft claim, Count VI (Complaint, Par. 49) and were included in the all-inclusive references contained in Par. 50. Paragraph 51 makes specific reference to the Defendants' criminal intent consistent with *Palmer v. Gotta Have It Golf Collectibles, Inc.*, 106 F. Supp.2d 1289 (S.D. Fla. 2000) a case cited and relied on by Defendants at p. 15 of Defendants' Motion. While not using the specific language "sophisticated scheme of deceit and theft," that is the gist of Plaintiff's claim as alleged in Paragraph 51 and in the Fraud claim, Count VII (Par. 58). Finally, other than the general allegation relating to the failure to pay due compensation, the allegation of specific, identifiable checks made payable to Plaintiff that were converted by the Bernstein defendants is sufficient to meet the "specific money capable of identification" requirement of *Belford Trucking Company v. Zagar*, 243 So. 2d 646, 648 (Fla. 4th DCA 1970), and cited in the Defendants' Motion at p. 15. For these reasons, the Motion to Dismiss the Civil Theft count should be denied.

10. **The Fraud Claim (Count VII) States a Cause of Action**

In order to sufficiently plead a fraud claim in Florida, the pleader must allege: a) a false representation of fact, known by the party making it to be false at the time it was made; (b) that the representation was made for the purpose of inducing another to act in reliance on it; (c) actual reliance on the representation; and (d) resulting in damage to the plaintiff. *Essex Ins. Co., Inc. v. Universal Entertainment & Skating Center, Inc.*, 665 So. 2d 360 (Fla. 5th DCA 1995). *See also, Peninsular Fla. Dist. Council of Assemblies of God v. Pan American Investment and Development Corp.*, 450 So. 2d 1231 (Fla. 4th DCA 1984).

In this case, Plaintiff's Complaint has alleged sufficient, particular facts to state a cause of action for fraud. Paragraphs 11 through 25 set out in detail the misrepresentations and falsehoods stated by the Bernstein Defendants in their interaction and business discussions with Plaintiff, all of which were incorporated by reference into the Count VII by Par. 53. Of

particular interest is Paragraph 24, which alleges how Defendants deceived Plaintiff into surrendering his 10% interest in LIC, which he did. It is also alleged that the Defendants intended for Plaintiff to rely on the false statements (or omissions of fact), that these statements or omissions were material, that Plaintiff relied on these falsehoods and was damaged thereby. *See*, Complaint, Pars. 47, 56, 57. Plaintiff was damaged by these false representations when he was denied his due compensation and, more importantly, when he surrendered his ownership interest in the LIC. The Motion to Dismiss as to Count VII should be denied.

11. **The Equitable Lien (Count VIII), Constructive Trust (Count X), the Contract Implied in Law (Count VIII), and the Indemnification (Count XI) Claim Will Be Dismissed At This Time Without Prejudice.**

WHEREFORE, Plaintiff requests this Honorable Court to deny Defendants' Motion to Dismiss as to Counts I, III, V, VI and VII, and such other relief as this Court deems just and proper.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at swergoldj@gtlaw.com; arnsdorffk@gtlaw.com; steffesj@gtlaw.com; and FLService@gtlaw.com to Jon Swergold, Esq., Greenberg Traurig, P.A., 401 East Las Olas Blvd., Suite 2000, Fort Lauderdale, FL 33301; and at kdstern@gmail.com to Kenneth D. Stern, Esq., Kenneth D. Stern, P.A., 3615 W. Boynton Beach Blvd., Boynton Beach, FL 33436 this 8th day of January, 2013.

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By: _____
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Florida Bar No.: 0260347

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

CASE NO: 502012CA013 933XXXXMB AA

WILLIAM E. STANSBURY,

Plaintiff,

vs.

TED S. BERNSTEIN, SIMON BERNSTEIN, LIC HOLDINGS, INC., and ARBITRAGE INTERNATIONAL MANAGEMENT, L.L.C., f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, L.L.C.,

Defendants.

MOTION TO DISMISS OR, IN THE ALTERNATIVE, MOTION FOR MORE DEFINITE STATEMENT

Defendants, TED S. BERNSTEIN ("Ted"), LIC HOLDINGS, INC. ("LIC"), and ARBITRAGE INTERNATIONAL MANAGEMENT, L.L.C., f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, L.L.C. ("AIM")[1], by and through their undersigned counsel, and pursuant to Florida Rule of Civil Procedure 1.140(b) and (e), hereby move to dismiss the Complaint filed by Plaintiff, William E. Stansbury ("Plaintiff" or "Stansbury"), for failure to state a cause of action, or, in the alternative, for a more definite statement, and for an award of attorneys' fees, and in support state:

I. INTRODUCTION

1. On July 30, 2012, Plaintiff filed his eleven (11) count Complaint against Defendants arising out of at least two (2) purported oral contracts allegedly entered into between

[1] On September 19, 2012, Defendants Ted, LIC and AIM, pursuant to Fla. R. Civ. P. 1.260(a), served a Suggestion of Death for Defendant, Simon Bernstein ("Simon"). The undersigned law firm was retained by Simon prior to his passing and would have filed the instant motion on behalf of Simon had he not passed away. However, the undersigned has not been retained by Simon's estate as of the filing of this motion. In any event, Simon's death has the effect of an abatement and precludes the entry of a default against Simon's estate. *Floyd v. Wallace*, 339 So. 2d 653, 654-55 (Fla. 1976).

Plaintiff and LIC and/or AIM. Plaintiff's Complaint should be dismissed in its entirety because each count fails to allege a cause of action and the Complaint improperly lumps together all four (4) Defendants, in essence alleging that "everyone did everything" -- notwithstanding Plaintiff's own admissions that the alleged oral contracts were entered into by the "Corporate Defendants" (defined in the Complaint as LIC and AIM, collectively)[2], not the individual Defendants.

2. Further, Plaintiff's Complaint is confusing and is riddled with a multitude of ambiguities, as well as vague and contradictory allegations that make responding to the Complaint virtually impossible. Accordingly, Plaintiff's Complaint should be dismissed in its entirety, or, in the alternative, Plaintiff should be required to file a more definite statement as to any count not dismissed.

II. PLAINTIFF'S ALLEGATIONS

3. Plaintiff alleges, *inter alia*, that in 2003, Ted approached Plaintiff regarding "spearhead[ing] the marketing of an unique insurance concept . . . developed by a prominent law firm . . . designed for use in the financial and estate planning of wealthy individuals." Complaint at ¶ 11.

4. Sometime thereafter, Plaintiff alleges he worked as an independent contractor for the Corporate Defendants, receiving a portion of net retained commissions received by the Corporate Defendants from insurance companies and that the commissions were paid to him in 2005 in the form of two (2) 1099's. *See* Complaint at ¶¶ 13 and 16.

5. Plaintiff alleges that, in 2006, he became an "employee" and verbally agreed to a "salary of the equivalent of 15% of commissions received on all products." Complaint at ¶¶ 13 and 17.

[2] *See* Complaint at ¶¶ 4, 13 and 16-17. Indeed, as currently pled, it is unclear from the complaint whether Stansbury is alleging he had oral contracts with **both** AIM and LIC and that each oral contract was amended in "early 2008".

6. Plaintiff admits that in 2006 he "received his agreed salary as an employee" and was paid by AIM. Complaint at ¶ 17.

7. Plaintiff further admits that he "received his agreed salary as an employee" in 2007. Complaint at ¶ 18.

8. Plaintiff alleges that in "early 2008" he agreed to forgo his 15% of net retained commissions salary in exchange for a $1,000,000 salary and a pro rata (10%) distribution of any profits going forward. *See* Complaint at ¶¶ 21 and 22.

9. Notwithstanding the allegations of paragraph 19, that Stansbury received his agreed salary as an employee in 2007, Plaintiff alleges that as of the filing of the complaint on July 30, 2012, he has been "deprived of moneys [sic] due him . . . [for] approximately four and a half years." Complaint at ¶ 22.

III. MOTION TO DISMISS

A. Counts I (Accounting), II (Accounting), III ((Breach of Oral Contract), IV (Breach of Implied Covenant of Good Faith and Fair Dealing), V (Breach of Fiduciary Duty), VII (Fraud), VIII (Equitable Lien), IX (Contract Implied in Law) and X Constructive Trust) of the Complaint are Barred by the Applicable Statute of Limitations and Should be Dismissed

10. Counts I (Accounting), II (Accounting), III (Breach of Oral Contract), IV (Breach of Implied Covenant of Good Faith and Fair Dealing), V (Breach of Fiduciary Duty), VII (Fraud), VIII (Equitable Lien), IX (Contract Implied in Law), and X (Constructive Trust) are barred in whole or in part by the applicable 4-year statute of limitations set forth in Fla. Stat. § 95.11(3).

11. Accepting Plaintiff's allegations as true for purposes of this Motion only, Plaintiff's various causes of actions accrued in "early 2008" when Plaintiff's alleged oral contract with LIC and/or AIM was modified from an agreement to receive a salary of 15% in net

retained commissions to a $1,000,000 salary and a pro rata (10%) distribution of any profits going forward. Plaintiff concedes that he was paid his alleged agreed-upon commissions in 2005, 2006 and 2007. *See* Complaint at ¶¶ 13 and 16-18. Therefore, Plaintiff's alleged causes of actions can only be based upon the purported breach of the alleged modified oral contract(s) in 2008.

12. While Plaintiff's Complaint fails to specifically identify the precise date the breach of the alleged oral contract(s) occurred, it appears, based on Plaintiff's allegations, that the purported breach would have occurred in "early 2008". *See* Complaint at ¶¶ 22 and 28 (Plaintiff alleges that he has been "deprived of moneys [sic] due him . . . [for] approximately ***four and a half years***.") (emphasis added).

13. Consequently, the statute of limitations expired on Plaintiff's various causes of action to the extent based upon claims accruing prior to July 31, 2008. Plaintiff, however, did not file his Complaint until July 30, 2012. Therefore, Counts I, II, III, IV, V, VI, VIII , IX and X should be dismissed as being barred by the statute of limitations.

B. Counts II (Accounting), III (Breach of Oral Contract) IV (Breach of Implied Covenant of Good Faith and Fair Dealing) and Count IX (Contract Implied in Law) Should Also be Dismissed Because Plaintiff Has Not Alleged Sufficient Facts to Assert Claims Against Ted in His Individual Capacity

14. Plaintiff's Complaint fails to specify how or why Ted is personally liable for the payment of an alleged obligation of either LIC and/or AIM to Plaintiff. Indeed, Plaintiff admits that he was an employee of the Corporate Defendants, he was paid by AIM and entered into the alleged oral contract(s), and subsequent modified oral contract(s), with LIC and/or AIM.

15. Plaintiff's theory upon which he attempts to sue Ted is unclear at best. Indeed, Plaintiff never alleges Ted was a party to the alleged oral contract(s) or that he agreed to be

personally responsible for payment to Plaintiff. The Defendants and the Court should not be required to guess as to this fundamental matter, which is conspicuously absent from the Complaint.

16. In order to impose personal liability against Ted for breach of an oral contract(s) with the Corporate Defendants, breach of the implied covenant of good faith and fair dealing relating to the alleged oral contract(s), for an individual accounting, and a contract implied in law, Plaintiff must affirmatively allege that Ted acted in some capacity other than as a mere officer of the Corporate Defendants. *See Superior Garlic International v. E&A Produce Corp.*, 913 So. 2d 645 (Fla. 3d DCA 2005) (claim against president of company was improper where there was no evidence that president acted in a personal capacity rather than as a officer).

17. Additionally, Plaintiff does not allege, nor can he, that any consideration flowed to Ted, individually. Without any consideration, there can be no enforceable contract. *St. Joe Corp. v. McIver*, 875 So. 2d 375 (Fla. 2004) (an oral contract is subject to the basic requirements of contract law, such as offer, acceptance, consideration and sufficient specification of essential terms).

18. Because there is no set of facts under which Plaintiff can state a cause of action against Ted, individually, Count II (Accounting), Count III (Breach of Oral Contract), Count IV (Breach of the Implied Covenant of Good Faith & Fair Dealing) and Count IX (Contract Implied in Law) should be dismissed as to Ted.

C. Counts I (Accounting Against LIC and AIM) and Count II (Accounting Against T. Bernstein and S. Bernstein) Should Also Be Dismissed Because Plaintiff's Allegations Are Inherently Contradictory and Plaintiff Fails to State a Cause of Action

19. In Counts I and II, Plaintiff seeks an accounting, ***dating back to 2003***, against the Corporate Defendants and the individual Defendants, respectively. Aside from the fact that Plaintiff's Complaint is devoid of any allegations that Ted was a party to the alleged oral contract(s) between Plaintiff and one or both of the Corporate Defendants, or any other allegations under which Ted could be held individually liable for breach of the alleged oral contract(s) and a corresponding accounting, Plaintiff admits in paragraphs 16-19 -- which are expressly incorporated by reference into Count I -- that Plaintiff was properly paid through 2007.

20. Further, Plaintiff asserts in paragraph 28 of Count I and paragraph 31 of Count II that he is purportedly owed payment for "four and a half years" under an alleged oral contract. These allegations are both inconsistent with Plaintiff's demand for an accounting in both Counts I and II ***dating back to 2003*** and are vague. *See* WHEREFORE clauses following ¶¶ 28 and 31. Accordingly, Counts I and II should be dismissed. *See Peacock v. General Motors Acceptance Corp.*, 432 So. 2d 142, 146 (Fla. 1st DCA 1983)("contradictory allegations within a single count neutralize each other and render the count insufficient on its face", even where they are "incorporated in that count" from a prior count of the complaint).

21. Additionally, Counts I and II should be dismissed because Plaintiff's Complaint fails to allege the requisite elements for an accounting. To state a cause of action for an accounting, Plaintiff must allege that (1) the Plaintiff and Defendants shared a fiduciary relationship or entered a complex transaction and (2) a remedy at law is inadequate. *See Bankers Trust Realty Inc. v. Kluge*, 672 So. 2d 897, 898 (Fla. 3d DCA 1996). Here, although Plaintiff has

inartfully and in confusing fashion alleged that the accounting required to assess what he is purportedly owed under the oral contract(s) is complex, that is irrelevant as the underlying transaction must be complex, which, even accepting Plaintiff's allegations, it is not. *See* Complaint ¶¶ 28 and 31. Moreover, Plaintiff's allegation that his "remedy at law could not be as full, adequate and expeditious as it is in equity" does not meet the second element required under *Kluge*. Plaintiff's failure to clearly plead and allege ultimate facts for either element warrants dismissal of Counts I and II.

D. Count IV (Breach of Implied Covenant of Good Faith and Fair Dealing) Should Be Dismissed Because It Fails to State a Claim and is Duplicative of Count III (Breach of Oral Contract)

22. "[A] claim for breach of the implied covenant of good faith and fair dealing cannot be maintained under Florida law absent an allegation that an express term of the contract has been breached. A duty of good faith must relate to the performance of an ***express*** term of the contract and is not an abstract and independent term of a contract which may be asserted as a source of breach . . ." *Insurance Concepts and Design, Inc. v. Healthplan Services, Inc.*, 785 So. 2d 1232, 1234 -1235 (Fla. 4th DCA 2001) (emphasis added).

23. "The duty of good faith does not attach until the Plaintiff can establish a [specific] term of the contract that [the defendant] was obligated to perform. *Id.*; *see Onuss Ortak Nokta Uluslararasi Haberlesme Sistem Servis Bilgisayar Yazilim Danismanlik Ve Dis Ticaret v. Terminal Exch., LLC*, No. 09-80720, 2010 U.S. Dist. LEXIS 22216, at *9 (S.D. Fla. Mar. 10, 2010) (applying Florida law) ("The breach of implied covenant of good faith and fair dealing is not an independent cause of action but attaches to the performance of a ***specific*** contractual obligation.") (emphasis added). Citing then New Hampshire Supreme Court Justice Souter, the

court in *Cox v. CSX Intermodal, Inc.*, 732 So. 2d 1092 (Fla. 1st DCA 1999) explained the proper circumstances for applying the implied obligation of good faith and fair dealing.

> [U]nder an agreement that appears by word or silence to invest one party with a degree of discretion in performance sufficient to deprive another party of a substantial portion of the agreement's value, the parties' intent to be bound by an enforceable contract raises an implied obligation of good faith to observe reasonable limits in exercising that discretion, consistent with the parties purpose or purposes in contracting.

Id. at 1097. The *Cox* Court concluded "where the terms of the contract afford a party substantial discretion to promote that party's self-interest, the duty to act in good faith nevertheless limits that party's ability to act capriciously to contravene the reasonable contractual expectations of the other party." *Id.* at 1097-98.

24. In Count IV of the Complaint, Plaintiff fails to allege an express term of the contract for which Defendants[3] purportedly breached their implied covenant of good faith and fair dealing. Instead, Plaintiff generally alleges the terms of the alleged oral contract(s) and then concludes the Count by summarily stating: "Defendants willfully breached the said express [terms] of the contract."

25. It is insufficient, however, for Plaintiff to conclusorily allege that Defendants breached the terms of the contract. Plaintiff must pinpoint the express term of the contract upon which the purported cause of action relates. Accordingly, Count IV of the Complaint should be dismissed on this ground alone.

26. Count IV should also be dismissed as duplicative of Count III (Breach of Oral Contract). Florida law provides that "a breach of the implied covenant of good faith and fair

[3] While Plaintiff's Complaint fails to identify which of the four (4) Defendants Plaintiff is suing in Count IV and prays for judgment against "Plaintiffs" in the WHEREFORE clause to Count IV, Plaintiff's breach of implied covenant of good faith and fair dealing claim is subject to dismissal against Ted individually for the reasons set forth in III.B. *supra*.

dealing cannot be advanced when the allegations underlying that claim are duplicative of the allegations supporting the breach of contract claim." *Onuss,* at *10 (S.D. Fla. Mar. 10, 2010); *see Enola Contr. Servs. v. URS Group, Inc.*, No. 5:08cv2-RS-EMT, 2008 U.S. Dist. LEXIS 33441, at *18 (N.D. Fla. Apr. 23, 2008) (applying Florida law) (dismissing with prejudice breach of good faith and fair dealing claim where such claim was "indistinguishable from" and "subsumed within" the breach of contract claim); *see also* Shibata v. Lim, 133 F. Supp. 2d 1311, 1321-1322 (M.D. Fla. 2000) (applying Florida law) (dismissing breach of implied covenant of good faith and fair dealing claim because there was "no difference between the factual underpinnings of [the] breach of contract claim and [the] claim for breach of the implied covenant").

27. Here, Plaintiff's Breach of Implied Covenant of Good Faith and Fair Dealing alleges that "Defendants willfully breached the [following] said express [terms] of the contract": "that Plaintiff would be constantly apprised, either through being permitted to calculate all amounts due the Defendants [sic] out of commissions, or through being advised of all receipts of commissions and the disposition thereof, or the amounts due to Plaintiff for any reason under the terms of the contract; and (b) that Plaintiff would be fully and promptly paid all such amounts due him." Complaint at ¶¶ 42-43.[4]

28. These allegations, however, are nearly identical to the allegations supporting Plaintiff's breach of oral contract claim in Count III. *See, e.g.,* Count III at ¶ 34 ("An express term of that contract involved the commitment of Defendants to calculate, and to pay to Plaintiff,

[4] Plaintiff alleges that as of early 2008, his salary was no longer equal to 15 per cent of commissions, but instead consisted of a base salary of $1 million plus his proportionate interest in any profits. Complaint at ¶ 21. Inasmuch as the statute of limitations for a breach of implied covenant of good faith and fair dealing is 4 years, the conduct supporting the claim must have occurred within the 4 year period. Here, Plaintiff's allegations in Count IV as to the alleged breach by the Defendants (calculating commissions and keeping Plaintiff informed of all receipts) cannot give rise to a breach of the implied covenant of good faith and fair dealing as by his own admission, Plaintiff was no longer being compensated based upon a calculation of commissions as of July 31, 2008 -- 4 years prior to the filing of the Complaint. Accordingly, Count IV should be dismissed.

fully and timely, all sums due to him under the parties' contract, whether as commissions, salary, distributions, expenses or any other reason.") and ¶ 36 ("[ ] Defendants willfully and maliciously agreed to breach their contract with Plaintiff by withholding from Plaintiff moneys due him under the contract."). Such allegations already form the basis of Plaintiff's breach of oral contract claim in Count II and, therefore, cannot support a separate cause of action for breach of good faith and fair dealing. Consequently, Count IV of Plaintiff's Complaint should be dismissed.

E. Count V (Breach of Fiduciary Duty), Count VI (Civil Theft) and Count VII (Fraud) Are Barred by the Economic Loss Rule

29. "The economic loss rule is a judicially created doctrine that sets forth the circumstances under which a tort action is prohibited if the only damages suffered are economic losses." *Indemnity Ins. Co. of N. Am. v. Am. Aviation, Inc.*, 891 So. 2d 532, 536 (Fla. 2004); *U.S. Fire Ins. Co. v. J.S.U.B., Inc.*, 979 So. 2d 871 (Fla. 2007) (noting that "the economic loss doctrine determines what cause of action is available to recover economic losses-tort or contract").

30. Specifically, the economic loss doctrine applies where "the parties are in contractual privity and one party seeks to recover damages in tort ***for matters arising from the contract***." *Indemnity Ins. Co. of N. Am.*, 891 So. 2d at 536 (emphasis added). The purpose of the doctrine is to "protect the integrity of contract," and to prevent contract law from "drown[ing] in a sea of tort." *Id.* at 537-38, 544.

31. The doctrine is designed to "prevent parties to a contract from circumventing the allocation of losses set forth in the contract by bringing an action for economic loss in tort." *Id.* at 536. In other words, "[n]o cause of action in tort can arise from a breach of a duty ***existing by***

virtue of a contract." *Weimar v. Yacht Club Point Estates, Inc.*, 223 So. 2d 100, 103 (Fla. 4th DCA 1969) (emphasis added). The economic loss rule provides that "without some conduct resulting in personal injury or property damage, there can be no independent tort flowing from a contractual breach which would justify a tort claim solely for economic losses." *HTP, Ltd. v. Lineas Aereas Costarricenses, S.A.*, 685 So. 2d 1238, 1239 (Fla. 1996).

32. Simply stated, "a cause of action for breach of fiduciary duty will not lie where the claim of breach is dependent upon the existence of a contractual relationship between the parties." *Detwiler v. Bank of Central Florida*, 736 So. 2d 757, 759 (Fla. 5th DCA 1999).

33. Count V (Breach of Fiduciary Duty) and Count VII (Fraud) of Plaintiff's Complaint are barred by the economic loss rule because Plaintiff cites ***the exact same allegations of fact in support of his breach of oral contract claim.***

34. Specifically, Plaintiff alleges in Count V that he "trusted Defendants to make proper, accurate and complete calculations, as Plaintiff had done, and to pay Plaintiff accordingly." Complaint at ¶ 43.[5] In Count VII at paragraph 58, Plaintiff incorporates the same allegations asserted in his breach of fiduciary duty claim into his fraud claim. Nearly identical allegations are cited in support of Plaintiff's breach of oral contract claim. *See* Complaint at ¶¶ 34-36. Thus, Plaintiff's breach of fiduciary duty and fraud claims arise out of the ***same conduct*** that constitutes the purported breach the alleged oral contract. As such, Counts V and VII are barred by the economic loss rule and should be dismissed.

35. Moreover, "[m]isrepresentations relating to the breaching party's performance of a contract do not give rise to an independent cause of action in tort, because such misrepresentations are interwoven and indistinct from the heart of the contractual agreement."

[5] The numbered paragraphs of Count V of the Complaint are improperly numbered and contain paragraph numbers that are duplicative of the numbered paragraphs of Count IV.

Hotels of Key Largo, Inc. v. RHI Hotels, Inc., 694 So. 2d 74 (Fla. 3d DCA 1997) (Hotel franchisee's claim of fraud against franchisor barred by economic loss doctrine where defendant alleged to have failed to perform contract). Here, Plaintiff's fraud claim clearly relates to the purported failure of the Defendants to perform the alleged contract. *See* Complaint at ¶¶54-58. Indeed, as noted above, Plaintiff's prayer for his fraud claim reveals that this claim is really a breach of contract claim in sheep's clothing, providing "WHEREFORE, Plaintiff prays for judgment . . . for the full amount of moneys due to Plaintiff ***under the terms of their contract,***...."

36. Finally, the economic loss rule applies to statutory causes of action, which are characterized as statutory torts. *Sarkis v. Pafford Oil Co., Inc.*, 697 So. 2d 524, 527 (Fla. 1st DCA 1997) (Civil theft claim barred by economic loss rule). *See also Gambolati v. Sarkisian*, 622 So. 2d 47 (Fla. 4th DCA 1993) and *Gilman Yacht Sales v. First National Bank of Chicago*, 600 So. 2d 1131 (Fla. 4th DCA 1992). Accordingly, Plaintiff's civil theft claim is barred by the economic loss rule and must be dismissed.

F. Counts V (Breach of Fiduciary Duty) and VII (Fraud) Should be Dismissed Because Plaintiff's Alleged Damages, if Any, Result from the Breach of a Purported Contract Rather than From Fraud

37. Additionally, the damages Plaintiff seeks in Counts V and VII are contractual damages -- "the full amount of moneys due to Plaintiff under the terms of their contract." *See* WHEREFORE clause following paragraph 47 of the Complaint and WHEREFORE clause following paragraph 58. "[N]o cause of action for fraud exists unless there is damage *due to fraud* that is separate from damages that may result from any subsequent contractual breach." *La Pesca Grande Charters, Inc. v. Moran*, 704 So. 2d 710 (Fla. 5th DCA 1998) (emphasis in

original). Here, at most, any damage to Plaintiff, which Defendants deny, stems from the purported breach of the alleged contract. Accordingly, Counts V and VII should be dismissed.

G. Count V (Breach of Fiduciary Duty) Should Be Dismissed Because Plaintiff Has Failed to State a Cause of Action

38. Although Count V fails to specify which of the four (4) Defendants Plaintiff is suing for breach of fiduciary duty and demands judgment against "Plaintiffs" -- all of which is further evidence of the highly confusing, vague and ambiguous nature of Plaintiff's Complaint -- Count V should also be dismissed because it fails to state a cause of action for breach of fiduciary duty.

39. To state a claim for breach of fiduciary duty, Plaintiff must plead, and allege ultimate supporting facts demonstrating, the following elements: (1) Plaintiff and Defendants share a relationship whereby: (a) Plaintiff reposes trust and confidence in Defendants, and (b) Defendants undertake such trust and assume a duty to advise, counsel and/or protect Plaintiff; (2) Defendants breach their duties to Plaintiff; and (3) Plaintiff suffers damages. *Taylor Woodrow Homes Florida, Inc. v. 4/46-A Corp.*, 850 So. 2d 536, 540-541 (Fla. 5th DCA 2003).

40. To the extent Plaintiff is asserting Count V against the Corporate Defendants, Plaintiff has wholly failed to allege any of the requisite elements for a breach of fiduciary duty claim and, therefore, Count V should be dismissed as against AIM and LIC. Moreover, an employer does not owe a general fiduciary duty to its employees. *See, e.g., Eden v. St. Luke's-Roosevelt Hosp. Ctr.*, 96 AD.3d 614 (N.Y. App. Div. 2012) ("Neither an agreement by an employer to share profits with an employee as compensation for the latter's services nor a contract 'of mere hiring and providing for compensation in a particular manner supposedly

tending to induce greater energy and faithfulness on the part of the employee' creates a fiduciary relationship between the employer and employee.") (internal citations omitted).

41. To the extent Plaintiff seeks to assert Count V against Ted, Plaintiff's Complaint fails to allege how Ted, a minority shareholder of the Corporate Defendants, owed any duty to Plaintiff. Plaintiff cannot plead a viable fiduciary relationship by merely alleging a bestowal of trust and confidence in Ted. "A party must allege some degree of dependency on one side and some degree of undertaking on the other side to advise, counsel, and ***protect the weaker party***." *Watkins v. NCNB Nat'l Bank of Fla., N.A.*, 622 So. 2d 1063, 1065 (Fla. 3d DCA 1993) (emphasis added).

42. Plaintiff does not -- and cannot allege -- that he was the "weaker party" in his relationship with Ted because Plaintiff admits that he was a sophisticated, knowledgeable and highly regarded business person in the insurance industry. *See* Complaint at ¶ 8. The only affiliation between Plaintiff and Ted, besides being in an alleged "social relationship",[6] was that of business associates, which is in and of itself insufficient to support a fiduciary duty claim. *See Orlinsky v. Patraka*, 971 So. 2d 796, 800 (Fla. 3d DCA 2007) ("the only relation between Orlinsky and Patraka, besides being brothers-in-law, was that of business associates. Patraka has not cited any case where a general fiduciary duty has been found in the context of two business associates.").

43. Here, because Ted did not owe a fiduciary duty to Plaintiff, Count V of Plaintiff's Complaint must be dismissed.

[6] Complaint at Count V, ¶ 42.

H. Count VI (Civil Theft) Should Be Dismissed Because Plaintiff Has Failed to State a Cause of Action

44. In Florida, civil theft is a statutory form of conversion. *Sarkis v. Pafford Oil Co.*, 697 So. 2d 524, 528 (1st DCA 1997). In order to state a claim for civil theft, a complaint must allege that the defendant knowingly obtained or used, or endeavored to obtain or to use the plaintiff's property with the intent to temporarily or permanently deprive the plaintiff of a right to property or a benefit from the property; or the defendant appropriated the plaintiff's property for use by the defendant or another person who does not have a right to use the property. *See Palmer v. Gotta Have It Golf Collectibles, Inc.*, 106 F. Supp. 2d 1289, 1303 (S.D. Fla. 2000) (interpreting Florida's civil theft statute). "Further, it is necessary to show not only that defendant obtained or endeavored to obtain the plaintiff's property, but that he did so with felonious intent to commit theft." *Id.* (internal quotations omitted).

45. The Fourth District Court of Appeal has held that where the property at issue is also the subject of a contract -- as is the case here -- there must be an intricate sophisticated scheme of deceit and theft to maintain a separate count for civil theft. *Gersh v. Coffman*, 769 So. 2d 407, 409 (Fla. 4th DCA 2000). Plaintiff's complaint is devoid of any allegations detailing or even suggesting a "sophisticated scheme of deceit and theft". Accordingly, Count VI should be dismissed.

46. Further, in order to maintain a claim for civil theft, the property that is alleged to have been converted must consist of specific money capable of identification. *Belford Trucking Co. v. Zagar*, 243 So. 2d 646, 648 (Fla. 4th DCA 1970). Additionally, "[a] debt which may be discharged by the payment of money in general cannot form the basis for conversion." *Gambolati v. Sarkisian* 622 So. 2d 47, 50 (Fla. 4th DCA 1993). Here, Plaintiff alleges generally

that he did not receive certain compensation rather than an entitlement to ***specific*** dollars capable of identification. Indeed, in the Complaint, Plaintiff admits he received his salary for 2007. *See* Complaint at ¶ 18. Thus, the only other period within the five year statute of limitations, per Florida Statute § 772.11, would be in 2008 -- the period in which he claims he had a contract to be paid a salary of $1 million plus his proportionate interest in any profits. *See* Complaint at ¶ 21. By its very terms, the alleged contract does not relate to ***specific*** funds capable of identification as required under Florida law to state a viable claim for civil theft. *Mazza v. Rose Media Group, Inc.*, 937 So. 2d 307, 310 (Fla. 4th DCA 2006). Accordingly, Count VI should be dismissed.[7]

I. Count VII (Fraud) Must be Dismissed Because Plaintiff Fails to Properly Plead the Required Elements to State a Claim for Fraud

47. To state a claim for fraud, a pleader must allege "[a] false representation of a material fact, made with knowledge of its falsity, to a person ignorant thereof, with intention that it shall be acted upon, followed by reliance upon and by action thereon amounting to ***substantial change of position***, is a fraud of which the law will take cognizance." *Biscayne Boulevard Properties, Inc. v. Graham*, 65 So. 2d 858 (Fla. 1953) (emphasis added). "For fraud and deceit to be actionable, there must have been a false representation of a material fact made for the purpose of inducing *another to change position, which change in position was occasioned by reliance on the false representation* to the damage of the one to whom the representation was made." *Goodman v. Strassburg*, 139 So. 2d 163 (Fla. 3d DCA 1962)(emphasis added). Here, although Plaintiff alleges he relied upon "false statements and the withholdding of material

[7] Inasmuch as Plaintiff's civil theft claim is nothing more than a breach of contract claim, Plaintiff's civil theft claim is not viable. As such, Defendants are entitled, as a matter of law, to their attorneys' fees under Florida Statutes § 772.11 and § 812.035(7).

information", he fails to allege that he has changed his position in any way. *See* Complaint at ¶ 57. As a result, Count VII should be dismissed.

48. Further, Count VII should be dismissed for the additional reason that Plaintiff has failed to plead fraud with particularity, as required by Fla. R. Civ. P. 1.120(b). "The factual basis for a claim of fraud must be pled with particularity and must specifically identify misrepresentations or omissions of fact, as well as time, place or manner in which they were made." *Cedars Healthcare Group, Ltd. v. Mehta*, 16 So. 3d 914, 917 (Fla. 3d DCA 2009).

49. Here, Plaintiff fails to allege with particularity the who, what, when and how underlying his purported fraud claim. Instead, Plaintiff lumps all four (4) Defendants together and summarily alleges that Defendants "made false statements to him and withheld information from him." *See* Complaint at ¶ 54. There is no allegation with any particularity as to the substance of any false statement(s) or the time frame or the context in which any alleged statement(s) were made or omitted when there was a duty to speak.

50. Plaintiff's vague allegations regarding purported false statements and withheld information falls short of the heightened fraud pleading requirements under Rule 1.120(b) and is insufficient to support a claim for fraud.

J. Count VIII (Equitable Lien) and Count X (Constructive Trust) Should Be Dismissed For Failure to State a Cause of Action

51. In paragraphs 60 and 61 of Count VIII and paragraph 67 of Count X, Plaintiff alleges he was entitled to a share of "commissions received by Defendants." However, in paragraph 21, as reincorporated in Count VIII by paragraph 59 and paragraph 66 in Count X, Plaintiff alleges his compensation changed in "early 2008" and he was no longer entitled to a

share of any commissions.[8] Thus, Counts VIII and X are internally inconsistent, rendering Counts VIII and X subject to dismissal. *See Peacock v. General Motors Acceptance Corp.*, 432 So. 2d 142, 146 (Fla. 1st DCA 1983) ("contradictory allegations within a single count neutralize each other and render the count insufficient on its face", even where they are "incorporated in that count" from a prior count of the complaint).

52. Even assuming Plaintiff's allegations were not inconsistent and self-defeating, Plaintiff has failed to properly plead the elements required for the imposition of an equitable lien. Under Florida law, "the basis of equitable liens may be estoppel or unjust enrichment." *Golden v. Woodward*, 15 So.3d 664 (Fla. 1st DCA 2009). In Count VIII, Plaintiff appears to be proceeding under a theory of unjust enrichment, however, Plaintiff has failed to properly plead the elements of an unjust enrichment claim to support an equitable lien claim.[9] Instead, Plaintiff merely alleges an equitable lien should be imposed "out of general considerations of right and justice as applied to the relations of the parties and the circumstances of their dealings." *See* Complaint at ¶ 61.

53. Further, Plaintiff has failed to properly state a claim for the imposition of a constructive trust.[10] A constructive trust may be imposed only where there is a wrongful taking of the property of another. *Finkelstein v. Southeast Bank, N.A.*, 490 So. 2d 976, 984 (Fla. 4th DCA 1986). To establish a claim for the imposition of a constructive trust, a plaintiff must

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[8] As discussed above, the statute of limitations prevents Plaintiff from seeking an equitable lien over commissions purportedly due and payable to him prior to "early 2008", when his compensation allegedly changed.

[9] The elements of a claim for unjust enrichment are: "(1) plaintiff has conferred a benefit on the defendant, who has knowledge thereof; (2) defendant voluntarily accepts and retains the benefit conferred; and (3) the circumstances are such that it would be inequitable for the defendant to retain the benefit without paying the value thereof to the plaintiff." *Hillman Const. Corp. V. Wainer*, 636 So. 2d 576, 577 (Fla. 4th DCA 1994).

[10] Plaintiff's allegations in Count VIII (Equitable Lien) and IX Constructive Trust are virtually indistinguishable. While Plaintiff's Complaint fails to identify which of the four (4) Defendants Plaintiff is suing in Counts VIII and X and prays for judgment against "Plaintiffs" in the WHEREFORE clause to both counts, Plaintiff's Equitable Lien and Constructive Trust claims are subject to dismissal at least against Defendant Ted, individually, for the reasons set forth in III.B. *supra*.

prove: "(1) a promise, express or implied; (2) a transfer of the property and reliance thereon; (3) a confidential relationship; and (4) unjust enrichment." *Abreu v. Amaro*, 534 So. 2d 771, 772 (Fla. 3d DCA 1988).

54. Here, Plaintiff was never the legal holder of the property for which he seeks to have the Court impose a constructive trust, thereby subjecting Count X to dismissal. At most, Plaintiff was entitled to a percentage of the commissions, well prior to his compensation allegedly changing in "early 2008" and the running of the statute of limitations. *See* Complaint at ¶ 21. Plaintiff's allegations admit that Plaintiff never owned the commissions he now claims he is entitled to have a constructive trust placed over.[11] Thus, Plaintiff's claim for imposition of a constructive trust should be dismissed.

55. Moreover, to obtain a constructive trust, the *res* over which the trust is sought must be specifically identifiable property. *Trend Setter Villas of Deercreek v. Villas on the Green, Inc.*, 569 So. 2d 766, 768 (Fla. 4th DCA 1990). Here, Plaintiff alleges generally that he did not receive certain compensation rather than an entitlement to ***specific*** dollars capable of identification. Plaintiff's allegations admit that he was entitled to payment generally, rather than to receive specific dollars. Thus, Plaintiff cannot state a viable claim for the imposition of a constructive trust. Accordingly, Count X should be dismissed.

K. Counts VIII (Equitable Lien) and IX (Contract Implied in Law) Should be Dismissed for Failure to State a Cause of Action

56. In pleading an unjust enrichment claim, where an express contract exists, a claim for unjust enrichment will fail.[12] Similarly, where an express contract exists, a claim for an

[11] Once again, it is insufficient for Plaintiff to broadly lump the Defendants together as he does throughout Count X. Plaintiff fails to allege to which of the Defendants he purportedly transferred any property.

[12] Among the elements required for pleading a claim for unjust enrichment is that the plaintiff "conferred a benefit upon the defendant, who has knowledge thereof." *Hillman* 636 So. 2d at 577. Here, Plaintiff broadly alleges he

equitable lien premised upon allegations of unjust enrichment must also fail. *Diamond "S" Development Corp. v. Mercantile Bank*, 989 So. 2d 696 (Fla. 1st DCA 2008). Here, paragraph 59 of Count VIII reincorporates the allegations of paragraph 21, which allege an express contract. Similarly, paragraph 62 of Count IX reincorporates the allegations of paragraph 21.[13] Thus, Plaintiff's Counts VIII and IX must be dismissed.

L. Count XI (Indemnification) Should Be Dismissed As Premature and For Failure to State a Cause of Action

57. In Count X, Plaintiff seeks indemnification from Defendants from ***potential future claims*** by insurance companies which may seek a refund of commissions allegedly paid to Plaintiff. Although it is unclear as to whether Count XI is a claim for common law indemnification or statutory indemnification, Count XI is premature under either theory of recovery and, therefore, should be dismissed.

58. "In order for a common law indemnity claim to stand, a two-pronged test must be satisfied: (1) the indemnitee must be faultless and (2) the indemnitee's liability must be solely vicarious for the wrongdoing of another." *Zeiger Crane Rentals, Inc. v. Double A Indus., Inc.*, 16 So. 3d 907, 911 (Fla. 4th DCA 2009) (citing *Gen. Portland Land Dev. Co. v. Stevens*, 395 So. 2d 1296, 1299 (Fla. 4th DCA 1981)). A common law indemnity claim is ***premature*** if a judgment has not been entered. *Mellish Enters., Inc. v. Weatherford Int'l, Inc.*, 678 So. 2d 913,

conferred upon Defendants the benefit of "possessing and controlling the paperwork revealing commissions received and by agreeing that Defendants would assume the function of calculating amounts due the parties...." However, in paragraph 62, Plaintiff incorporates paragraph 6 into Count IX. Paragraph 6 alleges, in relevant part, that Ted and Simon "both own and control all of the corporate Defendants." Taking this allegation regarding the ownership and control of the Corporate Defendants as true for the purposes of this motion, as the shareholder/managing members of the Corporate Defendants, Ted (and Simon) were undoubtedly entitled to "possess and control the paperwork of the Corporate Defendants" and to "calculat[e] the amounts due the parties." Plaintiff's suggestion that he somehow broadly conferred a benefit upon ***all*** the Defendants, particularly Ted, turns the rights and benefits of corporate ownership on its head and ignores corporate law. Accordingly, because Plaintiff has not conferred a benefit upon the Defendants, collectively, or individually, Count IX should be dismissed.

[13] While Plaintiff seeks judgment against all of the Defendants in Count IX, Plaintiff's Contract Implied In Law claim is subject to dismissal against Ted individually for the reasons set forth in III.B. *supra*.

914 (Fla. 4th DCA. 1996) ("The entry of a judgment provides the prerequisite for an indemnification action, not payment of the judgment.") (citing *Flagship Nat'l Bank v. Gray Distrib. Sys., Inc.*, 485 So. 2d 1336, 1342 (Fla. 3d DCA 1986)).

59. Here, assuming that Count XI is a common law indemnification claim, the claim is premature and subject to dismissal because a judgment has not been entered against Plaintiff, nor has Plaintiff made such an allegation.

60. Similarly, statutory indemnification, which is governed by Section 607.0850(3), Florida Statutes, states:

> To the extent that a director, officer, employee, or agent of a corporation has ***been successful on the merits or otherwise in defense of any proceeding*** referred to in subsection (1) or subsection (2), or in defense of any claim, issue, or matter therein, ***he or she shall be indemnified against expenses actually and reasonably incurred by him or her in connection therewith.***

(emphasis added).

61. Plaintiff is currently not "a party to any proceeding" as required in subsections (1) and (2) of the statute, nor is Plaintiff currently defending a proceeding which may result indemnification under subsection (3). Accordingly, Count XI should be dismissed as premature.

62. Further, with respect to Defendant Ted, Plaintiff has failed to allege how Ted could be personally liable to indemnify Plaintiff. Plaintiff does not allege that he entered into any contract or agreement whereby Ted agreed to indemnify and hold Plaintiff harmless. Moreover, to the extent Count XI is a claim for statutory indemnification, such a claim would not cover Defendant Ted, a mere shareholder/officer of the Corporate Defendants.

IV. ALTERNATIVE MOTION FOR MORE DEFINITE STATEMENT

63. In the event the Court is not inclined to grant any portion of Defendants' Motion to Dismiss, Defendants Ted, LIC and AIM move for a more definite statement.

64. Florida R. Civ. P. 1.140(e) provides that "[i]f a pleading . . . is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, that party may move for a more definite statement before interposing a responsive pleading." *See also Conklin v. Bpyd*, 189 So. 2d 401, 403 (Fla. 1st DCA 1996) (holding that the "function of a motion for a more definite statement is to require that a vague, indefinite or ambiguous pleading be so amended so as to enable the party required to respond thereto, to intelligently discern the issues to be litigated and to properly frame its answer or reply.").

65. As set forth above, Plaintiff's Complaint is so vague, confusing, contradictory and meandering that it is virtually impossible to prepare a response to the allegations.

66. Among other things, Plaintiff lumps all four (4) Defendants -- which are separate and distinct individuals and legal entities -- together in his allegations, essentially alleging that everyone did everything. This type of pleading makes it virtually impossible for each of the Defendants to frame an appropriate response. Plaintiff's improper grouping of all of the Defendants in this action fails to distinguish each Defendant's particular conduct, fails to put each Defendant on adequate notice of the claims asserted against them and thereby fails to meet basic pleading requirements.

67. Moreover, Plaintiff fails to allege the which of the Corporate Defendants were parties to the purported oral contract(s) which serve the basis for Plaintiff's suit. In fact, it is unclear from the Complaint whether Plaintiff contends that multiple alleged oral contracts were

entered into. Plaintiff also fails to outline the material terms of the alleged oral contract(s) and fails to allege when the purported breach(es) occurred.

68. At the very least, Plaintiff should be required to provide a more definite statement of his allegations against each specific Defendant and a more definite statement regarding the parties and terms of the alleged oral contract(s) upon which this action is purportedly based.

WHEREFORE, Defendants, TED S. BERNSTEIN, LIC HOLDINGS, INC., and ARBITRAGE INTERNATIONAL MANAGEMENT, L.L.C., f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, L.L.C., respectfully request entry of an Order: (i) granting this Motion and dismissing Plaintiff's Complaint in its entirety; (ii) awarding Defendants' their reasonable attorneys' fees and costs pursuant to Fla. Stat. §§ 772.11 and 812.035(7); (iii) or, in the alternative, requiring Plaintiff file a more definite statement as to any count not dismissed, and (iv) for such other relief as this Court deems just and proper.

Dated this 1st day of October, 2012.

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CASE NO: 502012CA013 933XXXXMB AA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via e-mail upon: **Peter M. Feaman, Esq.** and **Kenneth D. Stern, Esq.**, pfeaman@feamanlaw.com, kdstern@gmail.com, 3615 W. Boynton Beach Blvd., Boynton Beach, FL 33436, on this 1st day of October, 2012.

KRISTINA L. ARNSDORFF

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

WILLIAM E. STANSBURY,
Plaintiff,
vs. Case No. 50 2012 CA013 933XXXXMB

TED S. BERNSTEIN;
SIMON BERNSTEIN;
LIC HOLDINGS, INC.; and
ARBITRAGE INTERNATIONAL
MANAGEMENT, L.L.C., f/k/a
ARBITRAGE INTERNATIONAL
HOLDINGS, L.L.C.,
Defendants.
_____/

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CLERK & COMPTROLLER
CIRCUIT CIVIL DIVISION

COMPLAINT
And JURY DEMAND

WILLIAM STANSBURY (PLAINTIFF"), by and through his undersigned co-counsel, hereby demanding trial by jury of all issues so triable, hereby sues the Defendants, and says

1. This is an action for money damages in excess of $15,000, and for equitable relief.

2. Plaintiff is *sui juris*, and a resident of Palm Beach County, Florida.

3. Defendants TED S. BERNSTEIN ("TED BERNSTEIN"), and SIMON BERNSTEIN are both *sui juris*, and are both residents of Palm Beach County, Florida.

4. The corporate Defendants, LIC HOLDINGS, INC.; and ARBITRAGE INTERNATIONAL MANAGEMENT, L.L.C., f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, L.L.C., are entities organized and existing under the laws of the State of Florida, all do business in the State of Florida and all have their principal offices in the State of Florida, and in Palm Beach County, Florida.

5. Defendants SIMON BERNSTEIN and TED BERNSTEIN (collectively "Defendants

BERNSTEIN") are, respectively, one another's father and son. They both own and control all of the corporate Defendants, and work closely together with respect thereto. In all matters involved herein, they worked closely together and were virtually one another's alter egos.

7 The acts and incidents giving rise to these causes of action occurred in Palm Beach County, Florida.

Background

8. Plaintiff has worked in the insurance field virtually all his adult life, and by 2003 had become well-known and highly regarded by major insurance companies, their principals, and by others throughout the insurance industry, at all levels thereof, as well as by professionals, including attorneys, CPAs, financial advisors, wealth managers and others who were involved in serving, or otherwise dealing with, insurers and insurance brokers.

9. SIMON BERNSTEIN dealt at high levels of the insurance industry, and specialized in developing and marketing insurance concepts suitable for persons of high net worth to incorporate in their wealth management and estate planning.

10. TED BERNSTEIN was actively involved in selling life insurance products in conjunction with attorneys, CPAs and other professionals, to be incorporated into clients' financial planning.

11. In 2003, TED BERNSTEIN approached Plaintiff, urging Plaintiff to spearhead the marketing of a unique insurance concept ("the said concept"), newly developed by a prominent law firm, which was designed for use in the financial and estate planning of wealthy individuals.

12. TED BERNSTEIN told Plaintiff that he knew of Plaintiff's knowledgeability, and reputation in the insurance and related industries and professions, and that Plaintiff was skilled

at, and accustomed to, speaking and marketing insurance products to, large groups of professionals, and that he realized that Plaintiff, because of his knowledgeability, reputation and abilities, would be ideal to market this concept nationwide, through prominent and experienced professionals..

13. SIMON BERNSTEIN proposed that Plaintiff work as an independent contractor for the Corporate Defendants, marketing the product to the above-described He offered Plaintiff an arrangement whereby Plaintiff would receive twenty percent (20%) of all net retained amounts of commissions received from insurance companies and general agents' overrides (hereinafter, "commissions") which chose to issue policies of the type to be marketed, for use in the said financial and estate planning, and all other sales by the companies. Plaintiff would receive no other salary remuneration, but would have his travel and marketing expenses advanced or reimbursed. In time, when Plaintiff agreed to become an employee rather than an independent contractor, he agreed to a salary of the equivalent of 15% of commissions received on all products.

14. After reviewing the concept and considering the terms of the arrangement offered by SIMON BERNSTEIN, Plaintiff agreed with BERNSTEIN to accept the proposal described in preceding paragraph 13, and all the parties proceeded to act in accordance therewith.

15. Thereafter, Plaintiff worked with diligence and skill, traveling throughout the United States, generating ever increasing sales, and generating very large commissions for Defendants and for Plaintiff, who received the agreed salary equal to 15% thereof. By 2006, the parties hereto began receiving checks, not only for commissions on new policies sold, but also renewal commissions. Initially, the Plaintiff and Defendants BERNSTEIN, and one secretary, comprised the entire workforce. At the height of the sales campaign, Defendants' staff for serving the

business generated by Plaintiff consisted of more than 40 individuals.

16. In 2005, the Plaintiff was paid his commissions in the form of two IRS forms 1099, from National Services Association, and from Defendant ARBITRAGE INTERNATIONAL MARKETING, INC. for his services as an independent contractor.

17. In 2006, Plaintiff received his agreed salary as an employee, reflected in two IRS forms W-2., One W-2 was from ARBITRAGE INTERNATIONAL MARKETING, INC., and the other was from ARBITRAGE INTERNATIONAL HOLDINGS, INC., which later became Defendant ARBITRAGE INTERNATIONAL MANAGEMENT, INC.

18. Also in 2006, SIMON BERNSTEIN told Plaintiff that Plaintiff, was being rewarded for the explosive growth of business, through receiving a 10% interest in LIC.

19. In 2007, Plaintiff received his agreed salary as an employee, which salary was reflected in an IRS Form W-2.

20. With the economic downturn in 2008, Defendants looked for ways to withhold from Plaintiff compensation to which he was entitled, and to deceive him into believing that the money which would have been paid to both Defendants as well as to Plaintiff as compensation, was instead being held in the company's coffers.

21. In order to hide from Plaintiff the real fact that Defendants were paying to Defendants BERNSTEIN the full earnings received as commissions, and thereby depriving Plaintiff of the 15% thereof to which he was entitled, they knew they had to terminate Plaintiff's function of calculating each person's entitlement to payment out of commissions received. Therefore, in early 2008, SIMON BERNSTEIN told Plaintiff that the Defendants BERNSTEIN felt that Plaintiff was spending too much time on making the said calculations, and that Plaintiff's time would be better spent in building the business. SIMON BERNSTEIN told

Plaintiff that he and TED BERNSTEIN had decided to pay themselves and Plaintiff identical salaries of not less than $1,000,000 each for 2008, and to distribute any profits beyond the total thus paid to the three owners, the Defendants BERNSTEIN and Plaintiff, according to their respective percentages of ownership, Plaintiff's share being 10%. Plaintiff. having thus far believed he was receiving whatever compensation he was entitled to, and having no reason to realize that this was a ruse to keep him in the dark as to the true state of affairs, readily acceded to his being relieved of the bookkeeping duties regarding calculating the disposition of moneys received.

22. Through misrepresentations made from 2008 through the date of filing of this Complaint, Defendants knowingly made false statements to Plaintiff to hide their scheme to withhold from Plaintiffs money to which he was entitled. For example, at times they claimed that money being received was not being paid as salary or distributions to either of Defendants BERNSTEIN but was being withheld and placed in company accounts, for eventual distribution. As Plaintiff and Defendants could afford to wait until year's end to be paid their distributions, and as Defendants BERNSTEIN assured Plaintiff that the payment arrangement would apply to all three equally, Plaintiff did not question the truthfulness of their representations..

23. In furtherance of their scheme to deprive Plaintiff of salary he had earned and to which he was entitled, Defendants intercepted mail addressed to Plaintiff, removed therefrom commission checks representing full commissions, deposited the same to their own accounts or otherwise converted the funds,, and willfully withhold from Plaintiff his salary. Defendants BERNSTEIN also opened Plaintiff's mail containing checks payable to him which were unrelated to Defendants' business.

24. In 2011, the Defendants BERNSTEIN decided to deceive Plaintiff into giving up

his 10% share in the business. Although he had never seen a stock certificate, Plaintiff had in fact been given K-1 statements reflecting his salary, which appeared to approximate 10% of the net profits or losses of LIC, after salary was paid. TED BERNSTEIN told Plaintiff that their accountants had discovered a taxable event which could cause all the owners of the company to have to pay taxes, and that they thought it would be unfair for Plaintiff to have to pay 10% of that tax, so TED BERNSTEIN promised that if Plaintiff would sign a paper ceding his 10% interest, TED BERNSTEIN would simply hold it and it would not become operative unless the tax liability came to exist. Plaintiff was assured that nothing would happen with the stock ownership until Plaintiff and the Defendants BERNSTEIN discussed the situation further after the Holiday Season.

25. Because of the misrepresentations, willful concealments of material facts, duplicity and deceit practiced by Defendants upon Plaintiff as described in preceding paragraphs 20 through 24, Plaintiff was reasonably of the belief that Defendants had complied , or intended to comply, with their material obligations to Plaintiff under the contract between them, and therefore was prevented from knowing, for a period of years, that these causes of action existed. The acts of Defendants in making false statements and withholding material information continues from its inception to the date of the filing hereof.

I. ACCOUNTING
(Against LIC and ARBITRAGE, for Accounting as to Withholding of Money Due Plaintiff)

26. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive.

27. The relationship between Plaintiff and the Defendants, particularly as affected by

Defendants' acts described in preceding paragraphs 20 through 25, inclusive, created a situation where Defendants had sole access to, receipts generated by Plaintiff's efforts, and to books and records reflecting said receipts and the other information from which can be calculated all moneys due to Plaintiff under his arrangement with Defendants.

28, The period of time during which Plaintiff has been deprived of moneys due him spans approximately four and a half years, the numerosity of the sources of receipts by Defendants of moneys from which the amounts due Plaintiff may be calculated, and the changes in the formula under which, and manner in which, Plaintiff was to be paid, all involve extensive and complicated accounts, and Plaintiff's remedy at law could not be as full, adequate and expeditious as it is in equity.

WHEREFORE, Plaintiff prays for an adjudication of Plaintiff's right to a full and complete accounting from Defendants, and for such orders of Court as will require the Defendants to provide Plaintiff with all records and copies of documents, dated from the date in 2003 when Plaintiff first began his efforts to generate sales of the concept described in paragraph 11 above to the present, as will reveal his right to, and the amount of, all amounts: (a) received as commissions on said concepts or any other commissions as to which Plaintiff was entitled to a share; (b) due to Plaintiff, whether paid or not; (c) paid to Plaintiff, whether for commissions, salary, distributions, expenses or any other reason; (d) paid to each of the Defendants out of moneys received as commissions; (e) deposits of any and all moneys received as commissions by any Defendants to any accounts, including the name of the entity whose account was involved, the number(s) of each such account; the address of the branch or other facility through which any Defendant dealt with such entity; (f) calculations as to moneys paid , to be paid, or not to be paid to Plaintiff, together with such other and further relief as the Court may deem just

and appropriate.

II. ACCOUNTING
(Against TED S. BERNSTEIN and SIMON BERNSTEIN, for Accounting as to Money Due to Plaintiff Which Said Defendants Converted)

29. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive.

30. The relationship between Plaintiff and the Defendants, particularly as affected by Defendants' acts described in preceding paragraphs 20 through 25, inclusive, created a situation where Defendants had sole access to, receipts generated by Plaintiff's efforts, and to books and records reflecting said receipts and the other information from which can be calculated all moneys due to Plaintiff under his arrangement with Defendants.

31, The period of time during which Plaintiff has been deprived of moneys due him spans approximately four and a half years, the numerosity of the sources of receipts by Defendants of moneys from which the amounts due Plaintiff may be calculated, and the changes in the formula under which, and manner in which, Plaintiff was to be paid, all involve extensive and complicated accounts, and Plaintiff's remedy at law could not be as full, adequate and expeditious as it is in equity.

WHEREFORE, Plaintiff prays for an adjudication of Plaintiff's right to a full and complete accounting from Defendants, and for such orders of Court as will require the Defendants to provide Plaintiff with all records and copies of documents, dated from the date in 2003 when Plaintiff first began his efforts to generate sales of the concept described in paragraph 11 above to the present, as will reveal his right to, and the amount of, all amounts: (a) received as commissions on said concepts or any other commissions as to which Plaintiff was entitled to a

share; (b) due to Plaintiff, whether paid or not; (c) paid to Plaintiff, whether for commissions, salary, distributions, expenses or any other reason; (d) paid to each of the Defendants out of moneys received as said commissions; (e) deposits of any and all moneys received as commissions by any Defendants to any accounts, including the name of the entity whose account was involved, the number(s) of each such account; the address of the branch or other facility through which any Defendant dealt with such entity; (f) calculations as to moneys paid , to be paid, or not to be paid to Plaintiff, together with such other and further relief as the Court may deem just and appropriate.

III. BREACH OF ORAL CONTRACT
(Against All the Defendants)

32. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive.

33. The arrangement between Plaintiff and Defendants as described in paragraphs 11 and 13 above, and as modified by the parties as further described above, constituted a contract between them.

34. An express term of that contract involved the commitment of Defendants to calculate, and to pay to Plaintiff, fully and timely, all sums due to him under the parties' contract, whether as commissions, salary, distributions, expenses or any other reason

35. The parties initially performed the duties required of them under said contract.

36. However, as described above in paragraphs 20 through 25, inclusive, Defendants willfully and maliciously agreed to breach their contract with Plaintiff by withholding from Plaintiff moneys due him under the contract.

37. Defendants did withhold such moneys due Plaintiff.

38. The withholding of such moneys constituted a material breach of the contact between Plaintiff and Defendants.

39. There is therefore due to Plaintiff from Defendants all amounts due under said contract, together with prejudgment and post-judgment interest on said amounts.

WHEREFORE, Plaintiff prays for judgment against Plaintiffs, jointly and severally, for the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts, together with such other and further relief as the Court may deem just and appropriate.

IV. BREACH OF IMPLIED COVENANT Of GOOD FAITH and FAIR DEALING

40. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive, and paragraphs 33 through 38, inclusive.

41. The said contract, as a matter of law, contained an implied covenant of good faith and fair dealing, obligating the parties to honor every express term of the agreement..

42. Among the express terms of the oral contract between the parties were (a) that Plaintiff would be constantly apprised, either through being permitted to calculate all amounts due the Defendants out of commissions, or through being advised of all receipts of commissions and the disposition thereof, or the amounts due to Plaintiff for any reason under the terms of the contract; and (b) that Plaintiff would be fully and promptly paid all such amounts due him.

43. Through their actions as described in preceding paragraphs 20 through 25, inclusive, the Defendants willfully breached the said express of the contract.

WHEREFORE, Plaintiff prays for judgment against Plaintiffs, jointly and severally, for

the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts, together with such other and further relief as the Court may deem just and appropriate.

V. BREACH OF FIDUCIARY DUTY

41. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive.

42. Plaintiff reposed full confidence in the defendants BERNSTEIN, and trusted them and relied on them to be as good as their word and to deal honestly with him, for a variety of reasons. Plaintiff knew of SIMON BERNSTEIN as a major figure in the insurance industry, prior to their becoming parties to the agreement involved herein. Moreover, Plaintiff and the Defendants BERNSTEIN had formed a social relationship which had grown into what Plaintiff regarded as friendship. Moreover, as the initial situation under their contractual relationship had Plaintiff receiving all information as to commissions received and calculating the amount of money due to Plaintiff and the Defendants BERNSTEIN, as ,mentioned in preceding paragraphs 21 and 22, and also because Plaintiff was told he had been given a minority shareholder interest in LIC, Plaintiff reasonably felt that the Defendants would deal with Plaintiff honestly and fairly, and that the Defendants had no intention of hiding from Plaintiff any information as to the amounts due Plaintiff or as to the Defendants' intention of paying said amounts to Plaintiff

43. Moreover, when Defendants proposed to Plaintiff that Plaintiffs cease being the one to calculate moneys due the parties out of commissions received, the Plaintiff trusted Defendants to make proper, accurate and complete calculations, as Plaintiff had done, and to pay Plaintiff accordingly.

44. Furthermore, when Defendants BERNSTEIN made statements to Plaintiff as to why payments due him were not being paid, as described, for example, in preceding paragraphs 22 through 25, inclusive, and 42, he trusted Defendants to be telling Plaintiff the truth,

45. As a result of the foregoing, a fiduciary relationship existed between Defendants BERNSTEIN and Plaintiff, and there existed in Plaintiff complete confidence and trust in the said Defendants, of which confidence and trust said Defendants were well aware.

46. Defendants BERNSTEIN accepted the trust which Plaintiff reasonably placed in them.

47 Through Defendants' willful misrepresentations and withholding of material information as to their intentions and the purposes for which Plaintiff's payments were not being paid, and through their diversion from Plaintiff of amounts which should have been paid to him, Defendants abused and betrayed Plaintiff's trust and confidence in them, to Plaintiff's great detriment, in that he has been deprived of the said amounts due him, the precise amount of which cannot be calculated without access to Defendants' books and records, and a full accounting by them.

WHEREFORE, Plaintiff prays for judgment against Plaintiffs, jointly and severally, for the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts, together with such other and further relief as the Court may deem just and appropriate.

VI. CIVIL THEFT
Against All Defendants

48. This is an action for Civil Theft under Chapter 772, Florida Statutes, more

specifically §772.11, Fla.Stats.

49. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive.

50. All funds which Defendants' records will reveal are due to Plaintiff but which have been deposited to any of the Defendants' accounts or which have been received by any Defendant or diverted by any Defendant to any recipient but Plaintiff are the specific funds to which this Count relates.

51. By refusing to pay to Plaintiff funds due him under their agreement, and by paying said sums to themselves or to others, Defendants have been guilty of criminal theft by conversion, which has been and continues to be performed by Defendants with the criminal intent of stealing his money and depriving him of the possession and use thereof.

52. Written demand for payment of all amounts due Plaintiff has been made to Defendants, more than 30 days preceding the filing of this Complaint, to no avail.

WHEREFORE, Plaintiff prays for judgment against Plaintiffs, jointly and severally, for three times the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts, and such other remedies as may be awarded Plaintiff under other Counts herein, together with such other and further relief as the Court may deem just and appropriate, together with such other and further relief as the Court may deem just and appropriate.

VII. FRAUD
(Against All Defendants)

53. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated

herein, preceding paragraphs 1 through 24, inclusive.

54. Defendants, with the intent to defraud Plaintiff by preventing his receipt of moneys due him from Defendants as commissions, salary, distributions, expenses, and otherwise, made false statements to him and withheld material information from him, all as specifically set forth in preceding paragraphs 20 through 24 above.

55. At the time said statements were made, Defendants knew that they were material and false, and that Plaintiff would rely thereon. At the time said material information was withheld from Plaintiffs, Defendants knew that the information being withheld was material, and that the withholding of the information would cause Plaintiff to rely on the absence of said information

56. Defendants intended for Plaintiff to rely on said false statements of material fact and to rely on the absence of the material facts which were withheld.

57. Plaintiff did rely on the false statements and the withholding of material information, and was damaged thereby. Through the loss the possession and use of moneys due him but withheld by Defendants under their scheme to defraud him of said money.

58. The behavior of Defendants in deceiving Plaintiff and in abusing the trust they had engendered in Plaintiff, as set forth in preceding paragraphs 42 through 47, which are incorporated herein by reference as if expressly restated herein, was in willful and conscious disregard of his rights, and was of such a concerted, premeditated, and outrageous nature as to go beyond the bounds of decency, and constituted rampant fraud.

WHEREFORE, Plaintiff prays for judgment against Plaintiffs, jointly and severally, for the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts, together with such other and further relief as the Court may deem just and appropriate.

VIII. EQUITABLE LIEN

59. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive, and paragraphs 54 through 58, inclusive.

60. The bank accounts into which any of the commissions received by Defendants as to which Plaintiff was to receive a share of commissions received, and the operating accounts and other accounts of the corporate Defendants into which said commission checks were deposited were intended by Defendants and by Plaintiff to be the source out of which Plaintiff would be paid, and they therefore were intended to be, and therefore should be, charged by this Court with the obligation of being the source of all amounts Plaintiff was and is to be paid, including amounts not yet paid.

61. Any and all other accounts into which were deposited said commissions or any part thereof, out of which Plaintiff was to be paid, should, out of general considerations of right and justice as applied to the relations of the parties and the circumstances of their dealings, be charged with the obligation of paying Plaintiff.

WHEREFORE, Plaintiff prays for judgment against Plaintiffs, jointly and severally, for the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts. Plaintiff further prays for the Court to declare and establish an equitable lien in favor of Plaintiff on all the accounts described in preceding paragraphs 60 and 61, and for all other accounts into which said commissions have been or will be wholly or partly diverted, and on all assets of Defendants or third parties which have been purchased wholly or partly with the

diversion of said funds due Plaintiff. Plaintiff further prays for such other and further relief as the Court may deem just and appropriate.

IX. CONTRACT IMPLIED IN LAW

62. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 25, inclusive.

63. By keeping the moneys due Plaintiff, Defendants have been unjustly enriched.

64. By agreeing to permit Defendants to receive, possess and control the paperwork revealing commissions received, and by agreeing that Defendants would assume the function of calculating amounts due the parties, Plaintiff conferred on Defendants the benefit of controlling the disposition of the funds received, including those due Plaintiff. The Defendants, having induced Plaintiff to confer said benefit, knew of the benefit and accepted and retained the benefit and abused it to defraud the Plaintiff.

65. The Circumstances are such that it would be inequitable for the Defendants to retain the benefit of the possession and use of funds due Plaintiff

WHEREFORE, Plaintiff prays for judgment that there exists a contract implied in law with the terms against Defendants described above, and for judgment against all Defendants, jointly and severally, for the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts, together with such other and further relief as the Court may deem just and appropriate.

X. CONSTRUCTIVE TRUST

66. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive.

67. The bank accounts into which any of the commissions received by Defendants as to which Plaintiff was to receive a share of commissions received, and the operating accounts and other accounts of the corporate Defendants into which said commission checks were deposited were intended by Defendants and by Plaintiff to be the source out of which Plaintiff would be paid, and they therefore were intended to be, and therefore should be, charged by this Court with the obligation of being the source of all amounts Plaintiff was and is to be paid, including amounts not yet paid.

68. Any and all other accounts into which were deposited said commissions or any part thereof, out of which Plaintiff was to be paid, should, out of general considerations of right and justice as applied to the relations of the parties and the circumstances of their dealings, be charged with the obligation of paying Plaintiff.

.WHEREFORE, Plaintiff prays for judgment against Plaintiffs, jointly and severally, for the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts. Plaintiff further prays for the Court to declare and establish a constructive trust in favor of Plaintiff on all the accounts described in preceding paragraphs 60 and 61, and for all other accounts into which said commissions have been or will be wholly or partly diverted, and on all assets of Defendants or third parties which have been purchased wholly or partly with the diversion of said funds due Plaintiff. Plaintiff further prays for such other and further relief as the Court may deem just and appropriate.

XI. INDEMNIFICATION

69. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive.

70. When Defendants entered the arrangement with Plaintiff described in preceding paragraph 13, SIMON BERNSTEIN, acting for himself and on behalf of the corporate Defendants and TED BERNSTEIN, and for their collective and shared benefit, told Plaintiff that it would be better for the simplicity of administration, if Plaintiff would arrange for all commissions, paid by insurance companies for sales of the said product by the Defendant companies, to be paid in the name of Plaintiff., even though Plaintiff would ultimately receive only 15% thereof.

71. Plaintiff, believing the representation that this was being requested solely to simplify bookkeeping and administration, agreed to receive all commissions in his own name, even though the bulk of each commission would become the property of the various Defendants.

72. At the time Defendants, through SIMON BERNSTEIN, represented to Plaintiff that the reason for their request that Plaintiff receive all commissions solely in his own name was for administrative simplicity, they knew that they had an ulterior motive in making this request. Their said motive was that, in the event any insurance company which had paid a commission for sale of the said product were to request a full refund of the commission on the ground that the insurance client or the broker had falsified the application for the policy, Defendants intended to disclaim liability therefor, and to avoid personal and corporate responsibility for any requests for refund of commissions paid, even though they collectively have received 85% of each such commission.

73. Plaintiff, acting in good faith, did not realize that Defendants were concealing this motive, or that such was their motive, and he reasonably relied on their representations as to the reason for the request, to his detriment.

74. As a direct and proximate result of the Defendants' representations, Plaintiff will have nominal full liability for refund of any commissions thus sought to be refunded as described in preceding paragraph 72. Such liability creates the certainty that requests for refunds will be made solely to Plaintiff, even though Defendants received 85% of the commissions.. Such disproportionate and unfair liability has been caused by the willful misrepresentation by Defendants.

75. Plaintiff was without fault in reasonably relying on the said representations.

76. Defendants were solely at fault in creating the said liability.

77. There was a special relationship between Plaintiff and the Defendants, because Plaintiff was acting as the nominal agent for Defendants in receiving in his name 100% of the commissions, making him vicariously liable for the refund of the 85% of commissions which were retained by Defendants for their own benefit.

78. Moreover, Defendants had ceased to pay Plaintiff any commissions. Instead, as an employee he was now receiving a salary. To reflect Plaintiff's successful generation of Defendants' business, Defendants made Plaintiff's salary approximate 15% of the amount of commissions received. Nonetheless, as Plaintiff was not receiving any share of commissions *per se*, he should not have his indemnification limited to 85%, but rather it should be to the full 100% of all commissions being refunded.

WHEREFORE, Plaintiff prays for a Judgment in his favor, and against all Defendants, Adjudicating them under an obligation to defend, hold harmless and indemnify Plaintiff from

and against refund claims for said commissions, to the extent of 100% thereof, and for such other and further relief as the Court shall deem just and appropriate.

July 30, 2012

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

TED S. BERNSTEIN; SIMON BERNSTEIN; LIC HOLDINGS, INC.; and ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC.
Defendants.
_____/

NOTICE OF HEARING
(Motion Calendar)

PLEASE TAKE NOTICE that the undersigned attorney for Plaintiff, WILLIAM STANSBURY, has called up for hearing the following matter:

Matter: **[Plaintiff's] Motion for Substitution of Party**

Date: **Monday, January 31, 2013**

Time: **8:45 a.m.**

Place: **Honorable Glenn D. Kelley**
Courtroom 11A
Palm Beach County Circuit Court
205 No. Dixie Highway
West Palm Beach, FL 33401

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at swergoldj@gtlaw.com; arnsdorffk@gtlaw.com; steffesj@gtlaw.com; FLService@gtlaw.com to Jon Swergold, Esq., Greenberg Traurig, P.A., 401 East Las Olas Blvd., Suite 2000, Fort Lauderdale, FL 33301; and at rspallina@tescherspallina.com to Robert L. Spallina, Esq., *Counsel forDonald Tescher, Personal Representative of the Estate of Simon Bernstein,* Tescher & Spallina, P.A., 4855 Technology Way, Suite 720, Boca Raton, FL 33431 on this 23 day of January, 2013.

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

CASE NO. 502012CA013933XXXXMB

WILLIAM E. STANSBURY,

Plaintiff,

v.

Division: AA-Kelley

TED S. BERSTEIN;
SIMON BERNSTEIN;
LIC HOLDINGS, INC.; and
ARBITRAGE INTERNATIONAL
MANAGEMENT, L.L.C., f/k/a
ARBITRAGE INTERNATIONAL
HOLDINGS, L.L.C.

Defendants.
_____/

MOTION FOR SUBSTITUTION OF PARTY

Plaintiff, WILLIAM E. STANSBURY ("Plaintiff"), by and through his undersigned counsel and pursuant to Rule 1.260(a) of the Florida Rules of Civil Procedure, hereby moves this Court for entry of an Order substituting the personal representative of the ESTATE OF SIMON BERNSTEIN (the "Estate") in place of SIMON BERNSTEIN (the "Decedent") as a party to this action, and in support thereof state as follows:

1. On or about July 30, 2012, Plaintiff filed the Complaint that initiated this action against the defendants named therein, including the Decedent.

2. The Decedent died on September 13, 2012. A Suggest of Death statement was served by Defendants in this action on or about September 19, 2012. The personal representative

11/5/12

of the Estate is now the proper party to this action, and the Decedent is no longer a proper party to this action.

WHEREFORE, Plaintiff, WILLIAM E. STANSBURY, respectfully requests (i) that this Court substitute the personal representative of the ESTATE OF SIMON BERNSTEIN in place of the Decedent as a party to this action, and (ii) such further relief as the Court deems just and equitable.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail at swergoldj@gtlaw.com; arnsdorffk@gtlaw.com; steffesj@gtlaw.com; and FLService@gtlaw.com to Jon Swergold, Esq., Greenberg Traurig, P.A., 401 East Las Olas Blvd., Suite 2000, Fort Lauderdale, FL 33301 and at kdstern@gmail.com to Plaintiff's co-counsel, Kenneth D. Stern, P.A., 3615 W. Boynton Beach Blvd., Boynton Beach, FL 33436, this 5th day of November, 2012.

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By: */s/ Peter M. Feaman*
Peter M. Feaman
Florida Bar No.: 0260347

retained commissions to a $1,000,000 salary and a pro rata (10%) distribution of any profits going forward. Plaintiff concedes that he was paid his alleged agreed-upon commissions in 2005, 2006 and 2007. *See* Complaint at ¶¶ 13 and 16-18. Therefore, Plaintiff's alleged causes of actions can only be based upon the purported breach of the alleged modified oral contract(s) in 2008.

12. While Plaintiff's Complaint fails to specifically identify the precise date the breach of the alleged oral contract(s) occurred, it appears, based on Plaintiff's allegations, that the purported breach would have occurred in "early 2008". *See* Complaint at ¶¶ 22 and 28 (Plaintiff alleges that he has been "deprived of moneys [sic] due him . . . [for] approximately ***four and a half years***.") (emphasis added).

13. Consequently, the statute of limitations expired on Plaintiff's various causes of action to the extent based upon claims accruing prior to July 31, 2008. Plaintiff, however, did not file his Complaint until July 30, 2012. Therefore, Counts I, II, III, IV, V, VI, VIII , IX and X should be dismissed as being barred by the statute of limitations.

B. Counts II (Accounting), III (Breach of Oral Contract) IV (Breach of Implied Covenant of Good Faith and Fair Dealing) and Count IX (Contract Implied in Law) Should Also be Dismissed Because Plaintiff Has Not Alleged Sufficient Facts to Assert Claims Against Ted in His Individual Capacity

14. Plaintiff's Complaint fails to specify how or why Ted is personally liable for the payment of an alleged obligation of either LIC and/or AIM to Plaintiff. Indeed, Plaintiff admits that he was an employee of the Corporate Defendants, he was paid by AIM and entered into the alleged oral contract(s), and subsequent modified oral contract(s), with LIC and/or AIM.

15. Plaintiff's theory upon which he attempts to sue Ted is unclear at best. Indeed, Plaintiff never alleges Ted was a party to the alleged oral contract(s) or that he agreed to be

personally responsible for payment to Plaintiff. The Defendants and the Court should not be required to guess as to this fundamental matter, which is conspicuously absent from the Complaint.

16. In order to impose personal liability against Ted for breach of an oral contract(s) with the Corporate Defendants, breach of the implied covenant of good faith and fair dealing relating to the alleged oral contract(s), for an individual accounting, and a contract implied in law, Plaintiff must affirmatively allege that Ted acted in some capacity other than as a mere officer of the Corporate Defendants. *See Superior Garlic International v. E&A Produce Corp.*, 913 So. 2d 645 (Fla. 3d DCA 2005) (claim against president of company was improper where there was no evidence that president acted in a personal capacity rather than as a officer).

17. Additionally, Plaintiff does not allege, nor can he, that any consideration flowed to Ted, individually. Without any consideration, there can be no enforceable contract. *St. Joe Corp. v. McIver*, 875 So. 2d 375 (Fla. 2004) (an oral contract is subject to the basic requirements of contract law, such as offer, acceptance, consideration and sufficient specification of essential terms).

18. Because there is no set of facts under which Plaintiff can state a cause of action against Ted, individually, Count II (Accounting), Count III (Breach of Oral Contract), Count IV (Breach of the Implied Covenant of Good Faith & Fair Dealing) and Count IX (Contract Implied in Law) should be dismissed as to Ted.

C. Counts I (Accounting Against LIC and AIM) and Count II (Accounting Against T. Bernstein and S. Bernstein) Should Also Be Dismissed Because Plaintiff's Allegations Are Inherently Contradictory and Plaintiff Fails to State a Cause of Action

19. In Counts I and II, Plaintiff seeks an accounting, ***dating back to 2003***, against the Corporate Defendants and the individual Defendants, respectively. Aside from the fact that Plaintiff's Complaint is devoid of any allegations that Ted was a party to the alleged oral contract(s) between Plaintiff and one or both of the Corporate Defendants, or any other allegations under which Ted could be held individually liable for breach of the alleged oral contract(s) and a corresponding accounting, Plaintiff admits in paragraphs 16-19 -- which are expressly incorporated by reference into Count I -- that Plaintiff was properly paid through 2007.

20. Further, Plaintiff asserts in paragraph 28 of Count I and paragraph 31 of Count II that he is purportedly owed payment for "four and a half years" under an alleged oral contract. These allegations are both inconsistent with Plaintiff's demand for an accounting in both Counts I and II ***dating back to 2003*** and are vague. *See* WHEREFORE clauses following ¶¶ 28 and 31. Accordingly, Counts I and II should be dismissed. *See Peacock v. General Motors Acceptance Corp.*, 432 So. 2d 142, 146 (Fla. 1st DCA 1983)("contradictory allegations within a single count neutralize each other and render the count insufficient on its face", even where they are "incorporated in that count" from a prior count of the complaint).

21. Additionally, Counts I and II should be dismissed because Plaintiff's Complaint fails to allege the requisite elements for an accounting. To state a cause of action for an accounting, Plaintiff must allege that (1) the Plaintiff and Defendants shared a fiduciary relationship or entered a complex transaction and (2) a remedy at law is inadequate. *See Bankers Trust Realty Inc. v. Kluge*, 672 So. 2d 897, 898 (Fla. 3d DCA 1996). Here, although Plaintiff has

inartfully and in confusing fashion alleged that the accounting required to assess what he is purportedly owed under the oral contract(s) is complex, that is irrelevant as the underlying transaction must be complex, which, even accepting Plaintiff's allegations, it is not. *See* Complaint ¶¶ 28 and 31. Moreover, Plaintiff's allegation that his "remedy at law could not be as full, adequate and expeditious as it is in equity" does not meet the second element required under *Kluge*. Plaintiff's failure to clearly plead and allege ultimate facts for either element warrants dismissal of Counts I and II.

D. Count IV (Breach of Implied Covenant of Good Faith and Fair Dealing) Should Be Dismissed Because It Fails to State a Claim and is Duplicative of Count III (Breach of Oral Contract)

22. "[A] claim for breach of the implied covenant of good faith and fair dealing cannot be maintained under Florida law absent an allegation that an express term of the contract has been breached. A duty of good faith must relate to the performance of an ***express*** term of the contract and is not an abstract and independent term of a contract which may be asserted as a source of breach . . ." *Insurance Concepts and Design, Inc. v. Healthplan Services, Inc.*, 785 So. 2d 1232, 1234 -1235 (Fla. 4th DCA 2001) (emphasis added).

23. "The duty of good faith does not attach until the Plaintiff can establish a [specific] term of the contract that [the defendant] was obligated to perform. *Id.*; *see Onuss Ortak Nokta Uluslararasi Haberlesme Sistem Servis Bilgisayar Yazilim Danismanlik Ve Dis Ticaret v. Terminal Exch., LLC*, No. 09-80720, 2010 U.S. Dist. LEXIS 22216, at *9 (S.D. Fla. Mar. 10, 2010) (applying Florida law) ("The breach of implied covenant of good faith and fair dealing is not an independent cause of action but attaches to the performance of a ***specific*** contractual obligation.") (emphasis added). Citing then New Hampshire Supreme Court Justice Souter, the

court in *Cox v. CSX Intermodal, Inc.*, 732 So. 2d 1092 (Fla. 1st DCA 1999) explained the proper circumstances for applying the implied obligation of good faith and fair dealing.

> [U]nder an agreement that appears by word or silence to invest one party with a degree of discretion in performance sufficient to deprive another party of a substantial portion of the agreement's value, the parties' intent to be bound by an enforceable contract raises an implied obligation of good faith to observe reasonable limits in exercising that discretion, consistent with the parties purpose or purposes in contracting.

Id. at 1097. The *Cox* Court concluded "where the terms of the contract afford a party substantial discretion to promote that party's self-interest, the duty to act in good faith nevertheless limits that party's ability to act capriciously to contravene the reasonable contractual expectations of the other party." *Id.* at 1097-98.

24. In Count IV of the Complaint, Plaintiff fails to allege an express term of the contract for which Defendants[3] purportedly breached their implied covenant of good faith and fair dealing. Instead, Plaintiff generally alleges the terms of the alleged oral contract(s) and then concludes the Count by summarily stating: "Defendants willfully breached the said express [terms] of the contract."

25. It is insufficient, however, for Plaintiff to conclusorily allege that Defendants breached the terms of the contract. Plaintiff must pinpoint the express term of the contract upon which the purported cause of action relates. Accordingly, Count IV of the Complaint should be dismissed on this ground alone.

26. Count IV should also be dismissed as duplicative of Count III (Breach of Oral Contract). Florida law provides that "a breach of the implied covenant of good faith and fair

[3] While Plaintiff's Complaint fails to identify which of the four (4) Defendants Plaintiff is suing in Count IV and prays for judgment against "Plaintiffs" in the WHEREFORE clause to Count IV, Plaintiff's breach of implied covenant of good faith and fair dealing claim is subject to dismissal against Ted individually for the reasons set forth in III.B. *supra.*

dealing cannot be advanced when the allegations underlying that claim are duplicative of the allegations supporting the breach of contract claim." *Onuss,* at *10 (S.D. Fla. Mar. 10, 2010); *see Enola Contr. Servs. v. URS Group, Inc.*, No. 5:08cv2-RS-EMT, 2008 U.S. Dist. LEXIS 33441, at *18 (N.D. Fla. Apr. 23, 2008) (applying Florida law) (dismissing with prejudice breach of good faith and fair dealing claim where such claim was "indistinguishable from" and "subsumed within" the breach of contract claim); *see also* Shibata v. Lim, 133 F. Supp. 2d 1311, 1321-1322 (M.D. Fla. 2000) (applying Florida law) (dismissing breach of implied covenant of good faith and fair dealing claim because there was "no difference between the factual underpinnings of [the] breach of contract claim and [the] claim for breach of the implied covenant").

27. Here, Plaintiff's Breach of Implied Covenant of Good Faith and Fair Dealing alleges that "Defendants willfully breached the [following] said express [terms] of the contract": "that Plaintiff would be constantly apprised, either through being permitted to calculate all amounts due the Defendants [sic] out of commissions, or through being advised of all receipts of commissions and the disposition thereof, or the amounts due to Plaintiff for any reason under the terms of the contract; and (b) that Plaintiff would be fully and promptly paid all such amounts due him." Complaint at ¶¶ 42-43.[4]

28. These allegations, however, are nearly identical to the allegations supporting Plaintiff's breach of oral contract claim in Count III. *See, e.g.,* Count III at ¶ 34 ("An express term of that contract involved the commitment of Defendants to calculate, and to pay to Plaintiff,

[4] Plaintiff alleges that as of early 2008, his salary was no longer equal to 15 per cent of commissions, but instead consisted of a base salary of $1 million plus his proportionate interest in any profits. Complaint at ¶ 21. Inasmuch as the statute of limitations for a breach of implied covenant of good faith and fair dealing is 4 years, the conduct supporting the claim must have occurred within the 4 year period. Here, Plaintiff's allegations in Count IV as to the alleged breach by the Defendants (calculating commissions and keeping Plaintiff informed of all receipts) cannot give rise to a breach of the implied covenant of good faith and fair dealing as by his own admission, Plaintiff was no longer being compensated based upon a calculation of commissions as of July 31, 2008 -- 4 years prior to the filing of the Complaint. Accordingly, Count IV should be dismissed.

fully and timely, all sums due to him under the parties' contract, whether as commissions, salary, distributions, expenses or any other reason.") and ¶ 36 ("[ ] Defendants willfully and maliciously agreed to breach their contract with Plaintiff by withholding from Plaintiff moneys due him under the contract."). Such allegations already form the basis of Plaintiff's breach of oral contract claim in Count II and, therefore, cannot support a separate cause of action for breach of good faith and fair dealing. Consequently, Count IV of Plaintiff's Complaint should be dismissed.

E. Count V (Breach of Fiduciary Duty), Count VI (Civil Theft) and Count VII (Fraud) Are Barred by the Economic Loss Rule

29. "The economic loss rule is a judicially created doctrine that sets forth the circumstances under which a tort action is prohibited if the only damages suffered are economic losses." *Indemnity Ins. Co. of N. Am. v. Am. Aviation, Inc.*, 891 So. 2d 532, 536 (Fla. 2004); *U.S. Fire Ins. Co. v. J.S.U.B., Inc.*, 979 So. 2d 871 (Fla. 2007) (noting that "the economic loss doctrine determines what cause of action is available to recover economic losses-tort or contract").

30. Specifically, the economic loss doctrine applies where "the parties are in contractual privity and one party seeks to recover damages in tort ***for matters arising from the contract.***" *Indemnity Ins. Co. of N. Am.*, 891 So. 2d at 536 (emphasis added). The purpose of the doctrine is to "protect the integrity of contract," and to prevent contract law from "drown[ing] in a sea of tort." *Id.* at 537-38, 544.

31. The doctrine is designed to "prevent parties to a contract from circumventing the allocation of losses set forth in the contract by bringing an action for economic loss in tort." *Id.* at 536. In other words, "[n]o cause of action in tort can arise from a breach of a duty ***existing by***

virtue of a contract." *Weimar v. Yacht Club Point Estates, Inc.*, 223 So. 2d 100, 103 (Fla. 4th DCA 1969) (emphasis added). The economic loss rule provides that "without some conduct resulting in personal injury or property damage, there can be no independent tort flowing from a contractual breach which would justify a tort claim solely for economic losses." *HTP, Ltd. v. Lineas Aereas Costarricenses, S.A.*, 685 So. 2d 1238, 1239 (Fla. 1996).

32. Simply stated, "a cause of action for breach of fiduciary duty will not lie where the claim of breach is dependent upon the existence of a contractual relationship between the parties." *Detwiler v. Bank of Central Florida*, 736 So. 2d 757, 759 (Fla. 5th DCA 1999).

33. Count V (Breach of Fiduciary Duty) and Count VII (Fraud) of Plaintiff's Complaint are barred by the economic loss rule because Plaintiff cites ***the exact same allegations of fact in support of his breach of oral contract claim.***

34. Specifically, Plaintiff alleges in Count V that he "trusted Defendants to make proper, accurate and complete calculations, as Plaintiff had done, and to pay Plaintiff accordingly." Complaint at ¶ 43.[5] In Count VII at paragraph 58, Plaintiff incorporates the same allegations asserted in his breach of fiduciary duty claim into his fraud claim. Nearly identical allegations are cited in support of Plaintiff's breach of oral contract claim. *See* Complaint at ¶¶ 34-36. Thus, Plaintiff's breach of fiduciary duty and fraud claims arise out of the ***same conduct*** that constitutes the purported breach the alleged oral contract. As such, Counts V and VII are barred by the economic loss rule and should be dismissed.

35. Moreover, "[m]isrepresentations relating to the breaching party's performance of a contract do not give rise to an independent cause of action in tort, because such misrepresentations are interwoven and indistinct from the heart of the contractual agreement."

[5] The numbered paragraphs of Count V of the Complaint are improperly numbered and contain paragraph numbers that are duplicative of the numbered paragraphs of Count IV.

Hotels of Key Largo, Inc. v. RHI Hotels, Inc., 694 So. 2d 74 (Fla. 3d DCA 1997) (Hotel franchisee's claim of fraud against franchisor barred by economic loss doctrine where defendant alleged to have failed to perform contract). Here, Plaintiff's fraud claim clearly relates to the purported failure of the Defendants to perform the alleged contract. *See* Complaint at ¶¶54-58. Indeed, as noted above, Plaintiff's prayer for his fraud claim reveals that this claim is really a breach of contract claim in sheep's clothing, providing "WHEREFORE, Plaintiff prays for judgment . . . for the full amount of moneys due to Plaintiff ***under the terms of their contract,***...."

36. Finally, the economic loss rule applies to statutory causes of action, which are characterized as statutory torts. *Sarkis v. Pafford Oil Co., Inc.*, 697 So. 2d 524, 527 (Fla. 1st DCA 1997) (Civil theft claim barred by economic loss rule). *See also Gambolati v. Sarkisian*, 622 So. 2d 47 (Fla. 4th DCA 1993) and *Gilman Yacht Sales v. First National Bank of Chicago*, 600 So. 2d 1131 (Fla. 4th DCA 1992). Accordingly, Plaintiff's civil theft claim is barred by the economic loss rule and must be dismissed.

F. Counts V (Breach of Fiduciary Duty) and VII (Fraud) Should be Dismissed Because Plaintiff's Alleged Damages, if Any, Result from the Breach of a Purported Contract Rather than From Fraud

37. Additionally, the damages Plaintiff seeks in Counts V and VII are contractual damages -- "the full amount of moneys due to Plaintiff under the terms of their contract." *See* WHEREFORE clause following paragraph 47 of the Complaint and WHEREFORE clause following paragraph 58. "[N]o cause of action for fraud exists unless there is damage *due to fraud* that is separate from damages that may result from any subsequent contractual breach." *La Pesca Grande Charters, Inc. v. Moran*, 704 So. 2d 710 (Fla. 5th DCA 1998) (emphasis in

original). Here, at most, any damage to Plaintiff, which Defendants deny, stems from the purported breach of the alleged contract. Accordingly, Counts V and VII should be dismissed.

G. Count V (Breach of Fiduciary Duty) Should Be Dismissed Because Plaintiff Has Failed to State a Cause of Action

38. Although Count V fails to specify which of the four (4) Defendants Plaintiff is suing for breach of fiduciary duty and demands judgment against "Plaintiffs" -- all of which is further evidence of the highly confusing, vague and ambiguous nature of Plaintiff's Complaint -- Count V should also be dismissed because it fails to state a cause of action for breach of fiduciary duty.

39. To state a claim for breach of fiduciary duty, Plaintiff must plead, and allege ultimate supporting facts demonstrating, the following elements: (1) Plaintiff and Defendants share a relationship whereby: (a) Plaintiff reposes trust and confidence in Defendants, and (b) Defendants undertake such trust and assume a duty to advise, counsel and/or protect Plaintiff; (2) Defendants breach their duties to Plaintiff; and (3) Plaintiff suffers damages. *Taylor Woodrow Homes Florida, Inc. v. 4/46-A Corp.*, 850 So. 2d 536, 540-541 (Fla. 5th DCA 2003).

40. To the extent Plaintiff is asserting Count V against the Corporate Defendants, Plaintiff has wholly failed to allege any of the requisite elements for a breach of fiduciary duty claim and, therefore, Count V should be dismissed as against AIM and LIC. Moreover, an employer does not owe a general fiduciary duty to its employees. *See, e.g., Eden v. St. Luke's-Roosevelt Hosp. Ctr.*, 96 AD.3d 614 (N.Y. App. Div. 2012) ("Neither an agreement by an employer to share profits with an employee as compensation for the latter's services nor a contract 'of mere hiring and providing for compensation in a particular manner supposedly

tending to induce greater energy and faithfulness on the part of the employee' creates a fiduciary relationship between the employer and employee.") (internal citations omitted).

41. To the extent Plaintiff seeks to assert Count V against Ted, Plaintiff's Complaint fails to allege how Ted, a minority shareholder of the Corporate Defendants, owed any duty to Plaintiff. Plaintiff cannot plead a viable fiduciary relationship by merely alleging a bestowal of trust and confidence in Ted. "A party must allege some degree of dependency on one side and some degree of undertaking on the other side to advise, counsel, and ***protect the weaker party***." *Watkins v. NCNB Nat'l Bank of Fla., N.A.*, 622 So. 2d 1063, 1065 (Fla. 3d DCA 1993) (emphasis added).

42. Plaintiff does not -- and cannot allege -- that he was the "weaker party" in his relationship with Ted because Plaintiff admits that he was a sophisticated, knowledgeable and highly regarded business person in the insurance industry. *See* Complaint at ¶ 8. The only affiliation between Plaintiff and Ted, besides being in an alleged "social relationship",[6] was that of business associates, which is in and of itself insufficient to support a fiduciary duty claim. *See Orlinsky v. Patraka*, 971 So. 2d 796, 800 (Fla. 3d DCA 2007) ("the only relation between Orlinsky and Patraka, besides being brothers-in-law, was that of business associates. Patraka has not cited any case where a general fiduciary duty has been found in the context of two business associates.").

43. Here, because Ted did not owe a fiduciary duty to Plaintiff, Count V of Plaintiff's Complaint must be dismissed.

[6] Complaint at Count V, ¶ 42.

H. Count VI (Civil Theft) Should Be Dismissed Because Plaintiff Has Failed to State a Cause of Action

44. In Florida, civil theft is a statutory form of conversion. *Sarkis v. Pafford Oil Co.*, 697 So. 2d 524, 528 (1st DCA 1997). In order to state a claim for civil theft, a complaint must allege that the defendant knowingly obtained or used, or endeavored to obtain or to use the plaintiff's property with the intent to temporarily or permanently deprive the plaintiff of a right to property or a benefit from the property; or the defendant appropriated the plaintiff's property for use by the defendant or another person who does not have a right to use the property. *See Palmer v. Gotta Have It Golf Collectibles, Inc.*, 106 F. Supp. 2d 1289, 1303 (S.D. Fla. 2000) (interpreting Florida's civil theft statute). "Further, it is necessary to show not only that defendant obtained or endeavored to obtain the plaintiff's property, but that he did so with felonious intent to commit theft." *Id.* (internal quotations omitted).

45. The Fourth District Court of Appeal has held that where the property at issue is also the subject of a contract -- as is the case here -- there must be an intricate sophisticated scheme of deceit and theft to maintain a separate count for civil theft. *Gersh v. Coffman*, 769 So. 2d 407, 409 (Fla. 4th DCA 2000). Plaintiff's complaint is devoid of any allegations detailing or even suggesting a "sophisticated scheme of deceit and theft". Accordingly, Count VI should be dismissed.

46. Further, in order to maintain a claim for civil theft, the property that is alleged to have been converted must consist of specific money capable of identification. *Belford Trucking Co. v. Zagar*, 243 So. 2d 646, 648 (Fla. 4th DCA 1970). Additionally, "[a] debt which may be discharged by the payment of money in general cannot form the basis for conversion." *Gambolati v. Sarkisian* 622 So. 2d 47, 50 (Fla. 4th DCA 1993). Here, Plaintiff alleges generally

that he did not receive certain compensation rather than an entitlement to ***specific*** dollars capable of identification. Indeed, in the Complaint, Plaintiff admits he received his salary for 2007. *See* Complaint at ¶ 18. Thus, the only other period within the five year statute of limitations, per Florida Statute § 772.11, would be in 2008 -- the period in which he claims he had a contract to be paid a salary of $1 million plus his proportionate interest in any profits. *See* Complaint at ¶ 21. By its very terms, the alleged contract does not relate to ***specific*** funds capable of identification as required under Florida law to state a viable claim for civil theft. *Mazza v. Rose Media Group, Inc.*, 937 So. 2d 307, 310 (Fla. 4th DCA 2006). Accordingly, Count VI should be dismissed.[7]

I. Count VII (Fraud) Must be Dismissed Because Plaintiff Fails to Properly Plead the Required Elements to State a Claim for Fraud

47. To state a claim for fraud, a pleader must allege "[a] false representation of a material fact, made with knowledge of its falsity, to a person ignorant thereof, with intention that it shall be acted upon, followed by reliance upon and by action thereon amounting to ***substantial change of position***, is a fraud of which the law will take cognizance." *Biscayne Boulevard Properties, Inc. v. Graham*, 65 So. 2d 858 (Fla. 1953) (emphasis added). "For fraud and deceit to be actionable, there must have been a false representation of a material fact made for the purpose of inducing *another to change position, which change in position was occasioned by reliance on the false representation* to the damage of the one to whom the representation was made." *Goodman v. Strassburg*, 139 So. 2d 163 (Fla. 3d DCA 1962)(emphasis added). Here, although Plaintiff alleges he relied upon "false statements and the withholdding of material

[7] Inasmuch as Plaintiff's civil theft claim is nothing more than a breach of contract claim, Plaintiff's civil theft claim is not viable. As such, Defendants are entitled, as a matter of law, to their attorneys' fees under Florida Statutes § 772.11 and § 812.035(7).

information", he fails to allege that he has changed his position in any way. *See* Complaint at ¶ 57. As a result, Count VII should be dismissed.

48. Further, Count VII should be dismissed for the additional reason that Plaintiff has failed to plead fraud with particularity, as required by Fla. R. Civ. P. 1.120(b). "The factual basis for a claim of fraud must be pled with particularity and must specifically identify misrepresentations or omissions of fact, as well as time, place or manner in which they were made." *Cedars Healthcare Group, Ltd. v. Mehta*, 16 So. 3d 914, 917 (Fla. 3d DCA 2009).

49. Here, Plaintiff fails to allege with particularity the who, what, when and how underlying his purported fraud claim. Instead, Plaintiff lumps all four (4) Defendants together and summarily alleges that Defendants "made false statements to him and withheld information from him." *See* Complaint at ¶ 54. There is no allegation with any particularity as to the substance of any false statement(s) or the time frame or the context in which any alleged statement(s) were made or omitted when there was a duty to speak.

50. Plaintiff's vague allegations regarding purported false statements and withheld information falls short of the heightened fraud pleading requirements under Rule 1.120(b) and is insufficient to support a claim for fraud.

J. Count VIII (Equitable Lien) and Count X (Constructive Trust) Should Be Dismissed For Failure to State a Cause of Action

51. In paragraphs 60 and 61 of Count VIII and paragraph 67 of Count X, Plaintiff alleges he was entitled to a share of "commissions received by Defendants." However, in paragraph 21, as reincorporated in Count VIII by paragraph 59 and paragraph 66 in Count X, Plaintiff alleges his compensation changed in "early 2008" and he was no longer entitled to a

share of any commissions.[8] Thus, Counts VIII and X are internally inconsistent, rendering Counts VIII and X subject to dismissal. *See Peacock v. General Motors Acceptance Corp.*, 432 So. 2d 142, 146 (Fla. 1st DCA 1983) ("contradictory allegations within a single count neutralize each other and render the count insufficient on its face", even where they are "incorporated in that count" from a prior count of the complaint).

52. Even assuming Plaintiff's allegations were not inconsistent and self-defeating, Plaintiff has failed to properly plead the elements required for the imposition of an equitable lien. Under Florida law, "the basis of equitable liens may be estoppel or unjust enrichment." *Golden v. Woodward*, 15 So.3d 664 (Fla. 1st DCA 2009). In Count VIII, Plaintiff appears to be proceeding under a theory of unjust enrichment, however, Plaintiff has failed to properly plead the elements of an unjust enrichment claim to support an equitable lien claim.[9] Instead, Plaintiff merely alleges an equitable lien should be imposed "out of general considerations of right and justice as applied to the relations of the parties and the circumstances of their dealings." *See* Complaint at ¶ 61.

53. Further, Plaintiff has failed to properly state a claim for the imposition of a constructive trust.[10] A constructive trust may be imposed only where there is a wrongful taking of the property of another. *Finkelstein v. Southeast Bank, N.A.*, 490 So. 2d 976, 984 (Fla. 4th DCA 1986). To establish a claim for the imposition of a constructive trust, a plaintiff must

[8] As discussed above, the statute of limitations prevents Plaintiff from seeking an equitable lien over commissions purportedly due and payable to him prior to "early 2008", when his compensation allegedly changed.

[9] The elements of a claim for unjust enrichment are: "(1) plaintiff has conferred a benefit on the defendant, who has knowledge thereof; (2) defendant voluntarily accepts and retains the benefit conferred; and (3) the circumstances are such that it would be inequitable for the defendant to retain the benefit without paying the value thereof to the plaintiff." *Hillman Const. Corp. V. Wainer*, 636 So. 2d 576, 577 (Fla. 4th DCA 1994).

[10] Plaintiff's allegations in Count VIII (Equitable Lien) and IX Constructive Trust are virtually indistinguishable. While Plaintiff's Complaint fails to identify which of the four (4) Defendants Plaintiff is suing in Counts VIII and X and prays for judgment against "Plaintiffs" in the WHEREFORE clause to both counts, Plaintiff's Equitable Lien and Constructive Trust claims are subject to dismissal at least against Defendant Ted, individually, for the reasons set forth in III.B. *supra.*

prove: "(1) a promise, express or implied; (2) a transfer of the property and reliance thereon; (3) a confidential relationship; and (4) unjust enrichment." *Abreu v. Amaro*, 534 So. 2d 771, 772 (Fla. 3d DCA 1988).

54. Here, Plaintiff was never the legal holder of the property for which he seeks to have the Court impose a constructive trust, thereby subjecting Count X to dismissal. At most, Plaintiff was entitled to a percentage of the commissions, well prior to his compensation allegedly changing in "early 2008" and the running of the statute of limitations. *See* Complaint at ¶ 21. Plaintiff's allegations admit that Plaintiff never owned the commissions he now claims he is entitled to have a constructive trust placed over.[11] Thus, Plaintiff's claim for imposition of a constructive trust should be dismissed.

55. Moreover, to obtain a constructive trust, the *res* over which the trust is sought must be specifically identifiable property. *Trend Setter Villas of Deercreek v. Villas on the Green, Inc.*, 569 So. 2d 766, 768 (Fla. 4th DCA 1990). Here, Plaintiff alleges generally that he did not receive certain compensation rather than an entitlement to ***specific*** dollars capable of identification. Plaintiff's allegations admit that he was entitled to payment generally, rather than to receive specific dollars. Thus, Plaintiff cannot state a viable claim for the imposition of a constructive trust. Accordingly, Count X should be dismissed.

K. Counts VIII (Equitable Lien) and IX (Contract Implied in Law) Should be Dismissed for Failure to State a Cause of Action

56. In pleading an unjust enrichment claim, where an express contract exists, a claim for unjust enrichment will fail.[12] Similarly, where an express contract exists, a claim for an

[11] Once again, it is insufficient for Plaintiff to broadly lump the Defendants together as he does throughout Count X. Plaintiff fails to allege to which of the Defendants he purportedly transferred any property.

[12] Among the elements required for pleading a claim for unjust enrichment is that the plaintiff "conferred a benefit upon the defendant, who has knowledge thereof." *Hillman* 636 So. 2d at 577. Here, Plaintiff broadly alleges he

equitable lien premised upon allegations of unjust enrichment must also fail. *Diamond "S" Development Corp. v. Mercantile Bank*, 989 So. 2d 696 (Fla. 1st DCA 2008). Here, paragraph 59 of Count VIII reincorporates the allegations of paragraph 21, which allege an express contract. Similarly, paragraph 62 of Count IX reincorporates the allegations of paragraph 21.[13] Thus, Plaintiff's Counts VIII and IX must be dismissed.

L. Count XI (Indemnification) Should Be Dismissed As Premature and For Failure to State a Cause of Action

57. In Count X, Plaintiff seeks indemnification from Defendants from ***potential future claims*** by insurance companies which may seek a refund of commissions allegedly paid to Plaintiff. Although it is unclear as to whether Count XI is a claim for common law indemnification or statutory indemnification, Count XI is premature under either theory of recovery and, therefore, should be dismissed.

58. "In order for a common law indemnity claim to stand, a two-pronged test must be satisfied: (1) the indemnitee must be faultless and (2) the indemnitee's liability must be solely vicarious for the wrongdoing of another." *Zeiger Crane Rentals, Inc. v. Double A Indus., Inc.*, 16 So. 3d 907, 911 (Fla. 4th DCA 2009) (citing *Gen. Portland Land Dev. Co. v. Stevens*, 395 So. 2d 1296, 1299 (Fla. 4th DCA 1981)). A common law indemnity claim is ***premature*** if a judgment has not been entered. *Mellish Enters., Inc. v. Weatherford Int'l, Inc.*, 678 So. 2d 913,

conferred upon Defendants the benefit of "possessing and controlling the paperwork revealing commissions received and by agreeing that Defendants would assume the function of calculating amounts due the parties...." However, in paragraph 62, Plaintiff incorporates paragraph 6 into Count IX. Paragraph 6 alleges, in relevant part, that Ted and Simon "both own and control all of the corporate Defendants." Taking this allegation regarding the ownership and control of the Corporate Defendants as true for the purposes of this motion, as the shareholder/managing members of the Corporate Defendants, Ted (and Simon) were undoubtedly entitled to "possess and control the paperwork of the Corporate Defendants" and to "calculat[e] the amounts due the parties." Plaintiff's suggestion that he somehow broadly conferred a benefit upon ***all*** the Defendants, particularly Ted, turns the rights and benefits of corporate ownership on its head and ignores corporate law. Accordingly, because Plaintiff has not conferred a benefit upon the Defendants, collectively, or individually, Count IX should be dismissed.

[13] While Plaintiff seeks judgment against all of the Defendants in Count IX, Plaintiff's Contract Implied In Law claim is subject to dismissal against Ted individually for the reasons set forth in III.B. *supra*.

914 (Fla. 4th DCA. 1996) ("The entry of a judgment provides the prerequisite for an indemnification action, not payment of the judgment.") (citing *Flagship Nat'l Bank v. Gray Distrib. Sys., Inc.*, 485 So. 2d 1336, 1342 (Fla. 3d DCA 1986)).

59. Here, assuming that Count XI is a common law indemnification claim, the claim is premature and subject to dismissal because a judgment has not been entered against Plaintiff, nor has Plaintiff made such an allegation.

60. Similarly, statutory indemnification, which is governed by Section 607.0850(3), Florida Statutes, states:

> To the extent that a director, officer, employee, or agent of a corporation has ***been successful on the merits or otherwise in defense of any proceeding*** referred to in subsection (1) or subsection (2), or in defense of any claim, issue, or matter therein, ***he or she shall be indemnified against expenses actually and reasonably incurred by him or her in connection therewith.***

(emphasis added).

61. Plaintiff is currently not "a party to any proceeding" as required in subsections (1) and (2) of the statute, nor is Plaintiff currently defending a proceeding which may result indemnification under subsection (3). Accordingly, Count XI should be dismissed as premature.

62. Further, with respect to Defendant Ted, Plaintiff has failed to allege how Ted could be personally liable to indemnify Plaintiff. Plaintiff does not allege that he entered into any contract or agreement whereby Ted agreed to indemnify and hold Plaintiff harmless. Moreover, to the extent Count XI is a claim for statutory indemnification, such a claim would not cover Defendant Ted, a mere shareholder/officer of the Corporate Defendants.

IV. ALTERNATIVE MOTION FOR MORE DEFINITE STATEMENT

63. In the event the Court is not inclined to grant any portion of Defendants' Motion to Dismiss, Defendants Ted, LIC and AIM move for a more definite statement.

64. Florida R. Civ. P. 1.140(e) provides that "[i]f a pleading . . . is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, that party may move for a more definite statement before interposing a responsive pleading." *See also Conklin v. Bpyd*, 189 So. 2d 401, 403 (Fla. 1st DCA 1996) (holding that the "function of a motion for a more definite statement is to require that a vague, indefinite or ambiguous pleading be so amended so as to enable the party required to respond thereto, to intelligently discern the issues to be litigated and to properly frame its answer or reply.").

65. As set forth above, Plaintiff's Complaint is so vague, confusing, contradictory and meandering that it is virtually impossible to prepare a response to the allegations.

66. Among other things, Plaintiff lumps all four (4) Defendants -- which are separate and distinct individuals and legal entities -- together in his allegations, essentially alleging that everyone did everything. This type of pleading makes it virtually impossible for each of the Defendants to frame an appropriate response. Plaintiff's improper grouping of all of the Defendants in this action fails to distinguish each Defendant's particular conduct, fails to put each Defendant on adequate notice of the claims asserted against them and thereby fails to meet basic pleading requirements.

67. Moreover, Plaintiff fails to allege the which of the Corporate Defendants were parties to the purported oral contract(s) which serve the basis for Plaintiff's suit. In fact, it is unclear from the Complaint whether Plaintiff contends that multiple alleged oral contracts were

entered into. Plaintiff also fails to outline the material terms of the alleged oral contract(s) and fails to allege when the purported breach(es) occurred.

68. At the very least, Plaintiff should be required to provide a more definite statement of his allegations against each specific Defendant and a more definite statement regarding the parties and terms of the alleged oral contract(s) upon which this action is purportedly based.

WHEREFORE, Defendants, TED S. BERNSTEIN, LIC HOLDINGS, INC., and ARBITRAGE INTERNATIONAL MANAGEMENT, L.L.C., f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, L.L.C., respectfully request entry of an Order: (i) granting this Motion and dismissing Plaintiff's Complaint in its entirety; (ii) awarding Defendants' their reasonable attorneys' fees and costs pursuant to Fla. Stat. §§ 772.11 and 812.035(7); (iii) or, in the alternative, requiring Plaintiff file a more definite statement as to any count not dismissed, and (iv) for such other relief as this Court deems just and proper.

Dated this 1st day of October, 2012.

GREENBERG TRAURIG, P.A.
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Attorneys for Defendants

CASE NO: 502012CA013 933XXXXMB AA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via e-mail upon: **Peter M. Feaman, Esq.** and **Kenneth D. Stern, Esq.**, pfeaman@feamanlaw.com, kdstern@gmail.com, 3615 W. Boynton Beach Blvd., Boynton Beach, FL 33436, on this 1st day of October, 2012.

KRISTINA L. ARNSDORFF

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

CASE NO.: 50 2012CA013933 XXXX(MB) (AA)

WILLIAM E. STANSBURY, an individual,

Plaintiff,

v.

TED S. BERNSTEIN, an individual, **SIMON L. BERNSTEIN**, an individual, **LIC HOLDINGS, INC.**, a Florida Corporation, **ARBITRAGE INTERNATIONAL MARKETING, LLC**, a Florida Corporation f/k/a **ARBITRAGE INTERNATIONAL HOLDINGS, LLC.**,

Defendants.

NOTICE OF SERVING GREENBERG TRAURIG, P.A.'S MOTION FOR LEAVE TO WITHDRAW

Greenberg Traurig, P.A., by its undersigned counsel, hereby serves it's Motion for Leave to Withdraw.

Respectfully Submitted,

GREENBERG TRAURIG, P.A.
401 East Las Olas Boulevard
Suite 2000
Ft. Lauderdale, Florida 33301
Telephone: (954) 768-5201
Telefax: (954) 765-1477

By: _____
JON L. SWERGOLD
Florida Bar No. 108510

Attorneys for Ted S. Bernstein, LIC Holdings, Inc. and Arbitrage International Marketing, LLC f/k/a Arbitrage International Holdings, LLC

FTL 109132507v1 071433.010400

CASE NO.: 50 2012CA013933 XXXX(MB) (AA)

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been sent via e-mail to:

Peter M. Feaman, Esq.
Kenneth D. Stern, Esq.
3615 W. Boynton Beach Blvd.
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service@feamanlaw.com; mkoskey@feamanlaw.com

Mark R. Manceri, Esq.
Mark R. Manceri, P.A.
2929 E. Commercial Blvd., Ste. 702
Fort Lauderdale, FL 33308
mrmlaw@comcast.net; mrmlaw1@gmail.com

Ted S. Bernstein
LIC Holdings, Inc.
Arbitrage International Marketing, LLC
950 Peninsula Corporate Circle
Suite 3010
Boca Raton, FL 33487

on this 15th day of March, 2013.

JON L. SWERGOLD

FTL 109132507v1 071433.010400

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

CASE NO.: 50 2012CA013933 XXXX(NB) (AA)

WILLIAM E. STANSBURY, an individual,

Plaintiff,

v.

TED S. BERNSTEIN, an individual,
SIMON L. BERNSTEIN, an individual,
LIC HOLDINGS, INC., a Florida
Corporation, **ARBITRAGE**
INTERNATIONAL MARKETING, LLC, a
Florida Corporation f/k/a **ARBITRAGE**
INTERNATIONAL HOLDINGS, LLC.,

Defendants.

GREENBERG TRAURIG, P.A.'S MOTION FOR LEAVE TO WITHDRAW

Greenberg Traurig, P.A. ("GT") respectfully moves for leave to withdraw as counsel for Defendants Ted S. Bernstein, LIC Holdings, Inc. and Arbitrage International Marketing, LLC f/k/a Arbitrage International Holdings, LLC (the "Defendants") and in support of its motion, GT states as follows:

1. GT has served as counsel for the Defendants in this case.

2. However, irreconcilable conflicts have arisen between GT and the Defendants, which preclude GT from effectively representing the Defendants.

3. GT has attempted to resolve the conflict and has notified the Defendants of its intention to withdraw from the representation if the conflict could not be resolved.

4. Unfortunately, GT has been unable to resolve the conflict.

Greenberg Traurig, P.A. ▪ Attorneys at Law ▪ 401 East Las Olas Boulevard ▪ Suite 2000 ▪ Fort Lauderdale, FL 33301 ▪ Tel 954.765.0500 ▪ Fax 954.765.1477 ▪ www.gtlaw.com

WHEREFORE, GT respectfully requests leave to withdraw as counsel of record for the Defendants in this matter, to be relieved of all further responsibility in this matter and for such other and further relief the Court deems just and proper.

Respectfully Submitted,

GREENBERG TRAURIG, P.A.
401 East Las Olas Boulevard
Suite 2000
Ft. Lauderdale, Florida 33301
Telephone: (954) 768-5201
Telefax: (954) 765-1477

By: _____
JON L. SWERGOLD
Florida Bar No. 108510

Attorneys for Ted S. Bernstein, LIC Holdings, Inc. and Arbitrage International Marketing, LLC f/k/a Arbitrage International Holdings, LLC

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the has been sent via e-mail to:

Peter M. Feaman, Esq.(pfeaman@feamanlaw.com),
Kenneth D. Stern, Esq. (kdstern@gmail.com),
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436

Ted S. Bernstein
LIC Holdings, Inc.
Arbitrage International Marketing, LLC
950 Peninsula Corporate Circle
Suite 3010
Boca Raton, FL 33487

on this 14th day of March, 2013.

_____
JON L. SWERGOLD

FTL 109102998v1 141289.010100

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

CASE NO.: 50 2012CA013933 XXXX(NB) (AA)

WILLIAM E. STANSBURY, an individual,

Plaintiff,

v.

TED S. BERNSTEIN, an individual,
SIMON L. BERNSTEIN, an individual,
LIC HOLDINGS, INC., a Florida
Corporation, **ARBITRAGE**
INTERNATIONAL MARKETING, LLC, a
Florida Corporation f/k/a **ARBITRAGE**
INTERNATIONAL HOLDINGS, LLC.,

Defendants.

ORDER ON GREENBERG TRAURIG, P.A.'S
MOTION FOR LEAVE TO WITHDRAW AND DIRECTING
CLERK TO UPDATE FILE WITH NEW CONTACT INFORMATION

THIS CAUSE having come before the Court on Greenberg Traurig's Motion for Leave to Withdraw (the "Motion) as counsel for Defendants Ted S. Bernstein, LIC Holdings, Inc. and Arbitrage International Marketing, LLC f/k/a Arbitrage International Holdings, LLC (the "Defendants"), and the Court having reviewed the motion, heard argument, and being otherwise fully advised in the premises, it is hereby

ORDERED AND ADJUDGED

1. That the Motion is GRANTED.

2. Greenberg Traurig, P.A. and its lawyers who have made an appearance on behalf of the Defendants, are hereby relieved of all further responsibility for the representation of Defendants Ted S. Bernstein, LIC Holdings, Inc. and Arbitrage International Marketing, LLC

f/k/a Arbitrage International Holdings, LLC in this case effective the date below.

3. The Clerk of the Court is hereby directed to remove the law firm of Greenberg Traurig, P.A., Jon L. Swergold, Esq. and Kristina L. Arnsdorff, Esq. (aka Krisitina L. Ciaffi, Esq.) as counsel of record for Defendants.

4. Until further notice, all pleadings and papers filed or served in this case shall be sent to the following address:

Ted S. Bernstein
LIC Holdings, Inc.
Arbitrage International Marketing, LLC
950 Peninsula Corporate Circle
Suite 3010
Boca Raton, FL 33487

5. Defendants shall have ____ days to obtain new counsel.

6. _____

_____

_____

DONE AND ORDERED in Chambers, Palm Beach County, this ____ day of _____ _____, 2013.

_____
GLENN D. KELLEY
CIRCUIT JUDGE

Copies furnished:

Jon L. Swergold, Esq.
Peter S. Feaman, Esq.
Ted S. Bernstein
LIC Holdings, Inc.
Arbitrage International Marketing, LLC

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

CPS1506
RA
2-25-13
9:24am

SUMMONS

THE STATE OF FLORIDA
To All and Singular the Sheriffs of said State:

TO: DONALD R. TESCHER or ROBERT L. SPALLINA
Personal Representative of the Estate of Simon L. Bernstein
Tescher and Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431

IMPORTANT

An Amended Complaint has been filed by the Plaintiff, WILLIAM E. STANSBURY, in the above-styled case. You have twenty (20) calendar days after this Summons is served on you to file a written response to the attached Amended Complaint with the Clerk of this Court. A phone call will not protect you. Your written response, including the case number given above and the names of the parties, must be filed if you want the Court to hear your side of the case. If you do not file your response on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning from the Court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

If you choose to file a written response yourself, at the same time you file your written response to the Court you must also mail or take a copy of your written response to the Defendant's attorney named below.

PETER M. FEAMAN, ESQUIRE
PETER M. FEAMAN, P.A.
Attorney for Plaintiff, WILLIAM E. STANSBURY
3615 West Boynton Beach Boulevard
Boynton Beach, FL 33436
(561) 734-5552
Florida Bar No. 0260347

THE STATE OF FLORIDA: TO EACH SHERIFF OR AUTHORIZED PROCESS SERVER OF THE STATE OF FLORIDA:

You are commanded to serve this Summons and a copy of the Amended Complaint in this lawsuit on the above-named Defendant by serving it at the above-stated address.

DATED ON February _____, 2013.

SHARON R. BOCK
CLERK, PALM BEACH COUNTY

By:_____
Deputy Clerk

IMPORTANTE

Usted ha sido demandado legalmente. Tiene 20 Dias, contados a partir del recibo de esta notificacion, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada telefonica no lo protegera. Si usted desea que el tribunal considere su defensa, debe prasentar su respuesta por escrito, incluyendo el numero del caso y los nombres de las partes interesadas. Si usted no contesta la demanda a tiempo, pudiese perder el caso y podria ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitos legales. Si lo desea, puede usted consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen e+n la guia telefonica.

Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, debera usted enviar por correo o entregar una copia de su respuesta a la persona denominada abajo como "Defendant's Attorney" (Demandante o Abogado del Demandante).

IMPORTANT

Des poursuites judiciares ont ete entreprises contre vous. Vous avez 20 jours consecutifs a partir de la date de l'assignation de cette citation pour deposer une reponse ecrite a la plainte ci-jointe aupres de ce tribunal. Un simple coup de telephone est insuffisant pour vous proteger. Vous

etes oblige de deposer votre reponse ecrite, avec mention du numero de dossier ci-dessus et du nom des parties nommees ici, si vous souhaitez que le tribunal entende votre cause. Si vous ne deposez pas votre reponse ecrite dans le relai requis, voua risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent etre saisis par la suite, sans aucun preavis ulterieur du tribunal. Il y a d'autres obligations juridiques et vous pouvez requerir les services immediats d'un avocat. Si vous ne connaisaez pas d'avocat, vous pourriez telephoner a un service de reference d'avocats ou a un bureau d'assistance juridique (figurant a l'annuaire de telephones).

Si vous choisissez de deposer vous-meme une reponse ecrit, il vous faudra egalement, en meme temps que cette formalite, faire parvenir ou expedier une copie de votre reponse ecrite au "Defendant's Attorney" (Plaignant ou a son avocat) nomme ci-dessous.

pre ako ki fet avek Americans With Disabilites Act, tout moun ki ginyin yun bezwen espesiyal pou akomodasiyon pou yo patisipe nan pwogram sa-a dwe, nan yun tan rezonab avan ninpot aranjman kapab fet, you dwe kontakte Administrative Office of the Court, telefon nan se oubyen 1-800-995-8771 (V) an pasan pa Florida Relay Service.

En accordance avec la Loi des "Americans With Disabilities." Les personnes en besoin d'une accommodation speciale pour participer a ces procedures doivent, dans un temps raisonable, avant d'entreprendre aucune autre demarche, contacter l'office administrative de la Court, le telephone (V) Via Florida Relay Service 1-800-995-8771 (TDD) or 1-800-995-8770 (V), via Florida Relay Service.

De acuerdo con el Acto o Decreto de los Americanos con Impedimentos Inhabilitados, personas en necesidad del servicio especial para participar en este procedimiento deberan, dentro de un tiempo razonable, antes de cualquier procedimiento, ponerse en contacto con la oficina Administrativa de la Corte, 1-800-955-8771 (TDD), 1-800-955-8770 (V) Via Florida Relay Service.

Robert Spallina

From: Robert Spallina
Sent: Monday, February 04, 2013 3:09 PM
To: 'Ted Bernstein'; Pam Simon; Lisa Friedstein; 'Jill Iantoni'; Christine Yates
Subject: Substitution of Estate/Objection to Claim

Update - Despite the fact that the hearing was canceled by Stansbury's attorney to substitute the Estate, we have no basis by which to challenge the substitution in the litigation. Based on the documents we received in the litigation and the Order the judge handed down on the Motion to Dismiss filed by the Companies, Ted and Si, the Judge gave Stansbury 20 days (until Feb 12) to amend the complaint on those counts that were denied without prejudice. In all likelihood an amended complaint will be filed but it may not include a substitution of the Estate at that time. If the hearing to substitute the Estate is rescheduled, we will not be making an appearance to challenge the substitution.

We are filing an objection to the Stansbury claim today. That will start the clock running on Stansbury and his lawyer having to substitute the estate in the litigation. If they don't bring an action within 30 days the claim will be barred.

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

If you would like to learn more about TESCHER & SPALLINA, P.A., please visit our website at 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.

Mark Manceri
Qty for 2558

Robert Spallina

From: Christine Yates [cty@TrippScott.com]
Sent: Wednesday, February 06, 2013 6:02 AM
To: Robert Spallina
Subject: RE: Bernstein - E/O Shirley Bernstein & E/O Leon Bernstein: Your client

Robert, this is to confirm our call yesterday wherein I indicated to you that I do not represent Eliot Bernstein as my representation is limited to his three children. Therefore, please communicate directly with him on all his personal issues.

From: Robert Spallina [mailto:rspallina@tescherspallina.com]
Sent: Monday, February 04, 2013 11:34 AM
To: Christine Yates
Subject: Bernstein - E/O Shirley Bernstein & E/O Leon Bernstein: Your client

Christine - Your client needs to get control over his paranoia. Everything he does costs the estate more money and accomplishes nothing. My partner and I had a candid conversation with you about your client and his idiosyncrasies at the time you were engaged. He has turned this entire matter into a circus. Providing counsel to him means walking him off the ledge at certain times. This is one of those times. Please counsel him to go along with the planning that his father intended. Both Si and Shirley Bernstein are rolling around in their graves at this point.

Thank 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

If you would like to learn more about TESCHER & SPALLINA, P.A., please visit our website at www.tescherspallina.com

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CIRCULAR 230 NOTICE: To comply with U.S. Treasury Department and IRS regulations, we are required to advise you that, unless expressly stated otherwise, any U.S. federal tax advice contained in this e-mail, including attachments to this e-mail, is not intended or written to be used, and cannot be used, by any person for the purpose of (i) avoiding penalties under the U.S. Internal Revenue Code, or (ii) promoting, marketing or recommending to another party any transaction or matter addressed in this e-mail or attachment.

Robert Spallina

From: Jarvis, Joey [joey.jarvis@jpmorgan.com] on behalf of Prindle, Christopher R [christopher.r.prindle@jpmorgan.com]
Sent: Monday, February 04, 2013 4:35 PM
To: Robert Spallina
Subject: Bernstein - Follow Up

Hi Rob,

Pursuant to our conversation with Ted Bernstein, we will be initiating a transfer of $50,000 from the Bernstein Family Investment LLLP into the Shirley Bernstein Trust DDA. The transfer will be initiated Tuesday, February 5th with the expected completion on Wednesday, February 6th, based upon market settlement timeframes.

Let me know if you need anything further.

Christopher R. Prindle, CFA
Vice President
Investor
J.P. Morgan Private Banking
205 Royal Palm Way
Palm Beach, Florida 33480
561-838-4669 Direct
christopher.r.prindle@jpmorgan.com
nmls id: 837346

This email is confidential and subject to important disclaimers and conditions including on offers for the purchase or sale of securities, accuracy and completeness of information, viruses, confidentiality, legal privilege, and legal entity disclaimers, available at http://www.jpmorgan.com/pages/disclosures/email.

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

TED S. BERNSTEIN; SIMON BERNSTEIN; LIC HOLDINGS, INC.; and ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC.
Defendants.
_____/

NOTICE OF CANCELATION OF HEARING
(Motion Calendar)

PLEASE TAKE NOTICE that the undersigned attorney for Plaintiff, WILLIAM STANSBURY, has CANCELED the hearing in the following matter:

Matter: **[Plaintiff's] Motion for Substitution of Party**

Date: ~~**Monday**~~ **Thursday, January 31, 2013**
(original Notice contained a scrivener's error)

Time: **8:45 a.m.**

Place: **Honorable Glenn D. Kelley**
Courtroom 11A
Palm Beach County Circuit Court
205 No. Dixie Highway
West Palm Beach, FL 33401

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at swergoldj@gtlaw.com; arnsdorffk@gtlaw.com; steffesj@gtlaw.com; FLService@gtlaw.com to Jon Swergold, Esq., Greenberg Traurig, P.A., 401 East Las Olas Blvd., Suite 2000, Fort Lauderdale, FL 33301; and at rspallina@tescherspallina.com to Robert L. Spallina, Esq., *Counsel forDonald Tescher, Personal Representative of the Estate of Simon Bernstein,* Tescher & Spallina, P.A., 4855 Technology Way, Suite 720, Boca Raton, FL 33431 on this 30 day of January, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel: 561-734-5552
Fax: 561-734-5554
pfeaman@feamanlaw.com

By: _____
Peter M. Feaman
Florida Bar No.: 0260347

Robert Spallina

From: Robert Spallina
Sent: Wednesday, January 30, 2013 12:44 PM
To: swergoldj@gtlaw.com
Cc: tbernstein@lifeinsuranceconcepts.com
Subject: Re: SERVICE OF COURT DOCUMENT - Case No.: 50 2012 CA 013933 MB AA

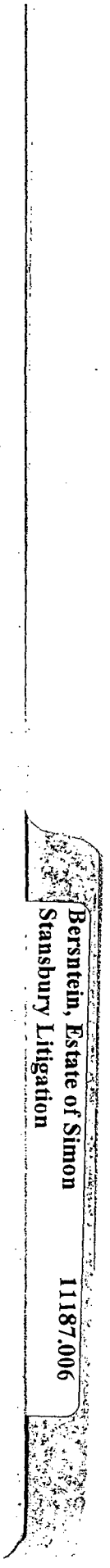
I thought the same thing. However there may be a reason that I can't disclose at this time.

Sent from my iPhone

On Jan 30, 2013, at 11:59 AM, "swergoldj@gtlaw.com" <swergoldj@gtlaw.com> wrote:

> Not sure I'd read too much into this, but it is interesting. They screwed up the hearing notice so I'm not surprised by the cancellation. What's odd is they are not resetting the hearing
>
> Jon L. Swergold
> Shareholder
> Greenberg Traurig, P.A.
> 401 East Las Olas Boulevard<x-apple-data-detectors://6/0>
> Suite 2000<x-apple-data-detectors://6/0>
> Fort Lauderdale, FL 33301<x-apple-data-detectors://6/0>
> Tel 954.768.5201<tel:954.768.5201>
> Fax 954.765.050<tel:954.765.0500>0
> Cell561-207-0919<tel:561-207-0919>
> swergoldj@gtlaw.com<mailto:swergoldj@gtlaw.com>
> www.gtlaw.com<http://www.gtlaw.com/>
> [Greenberg Traurig]
>
> Begin forwarded message:
>
> From: "Peter M. Feaman" <pfeaman@feamanlaw.com<mailto:pfeaman@feamanlaw.com>>
> Date: January 30, 2013, 11:27:00 AM EST
> To: Robert Spallina <rspallina@tescherspallina.com<mailto:rspallina@tescherspallina.com>>, Maryanne Koskey <mkoskey@feamanlaw.com<mailto:mkoskey@feamanlaw.com>>
> Cc: <swergoldj@gtlaw.com<mailto:swergoldj@gtlaw.com>>
> Subject: RE: SERVICE OF COURT DOCUMENT - Case No.: 50 2012 CA 013933 MB AA
>
> We are postponing the hearing so the hearing set for tomorrow Thursday is cancelled
>
>
> Peter M. Feaman
> Peter M. Feaman, P.A.
> 3615 West Boynton Beach Boulevard 7900 Glades Road, Suite 330
> Boynton Beach, FL 33436 Boca Raton, FL 33434
> Telephone: 561-734-5552 561-477-9000
> Facsimile: 561-734-5554
> www.feamanlaw.com<mailto:pfeaman@feamanlaw.com>
>
> Tax Advice Disclosure: To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the

Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein.
> Confidentiality: The email message and any attachment to this email message may contain 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 copy of this communication is strictly prohibited. If you receive this communication in error, please immediately notify the sender by return email and delete this message.
>
>
>
>
>
>
>
> From: Robert Spallina [mailto:rspallina@tescherspallina.com]
> Sent: Wednesday, January 30, 2013 11:19 AM
> To: Maryanne Koskey
> Cc: Peter M. Feaman
> Subject: RE: SERVICE OF COURT DOCUMENT - Case No.: 50 2012 CA 013933 MB AA
>
> As discussed in our call yesterday, please confirm if the hearing was set for this Thursday given the ambiguity in the Notice. Thank you
>
> From: Maryanne Koskey [mailto:mkoskey@feamanlaw.com]
> Sent: Wednesday, January 23, 2013 3:01 PM
> To: swergoldj@gtlaw.com<mailto:swergoldj@gtlaw.com>; arnsdorffk@gtlaw.com<mailto:arnsdorffk@gtlaw.com>; steffesj@gtlaw.com<mailto:steffesj@gtlaw.com>; FLService@gtlaw.com<mailto:FLService@gtlaw.com>; Robert Spallina
> Subject: SERVICE OF COURT DOCUMENT - Case No.: 50 2012 CA 013933 MB AA
>
> Court: In the Circuit Court of the 15th Judicial Circuit in and for Palm Beach County, FL
>
> Case No.: 50 2012 CA 013933 MB AA
>
> Case Name: William Stansbury v. Bernstein et al
>
> Attachment: Notice of Hearing on Pltf's Motion for Substitution of Party
>
>
> Maryanne Koskey
> Legal Assistant to Peter M. Feaman
> PETER M. FEAMAN, P.A.
> Attorneys for William Stansbury
> 3615 W. Boynton Beach Blvd.
> Boynton Beach, FL 33436
> Tel: 561.734.5552
> Fax: 561.734.5554
> www.feamanlaw.com<http://www.feamanlaw.com>
>
>
> ----------
> If you are not an intended recipient of confidential and privileged information in this email, please delete it, notify us immediately at postmaster@gtlaw.com, and do not use or disseminate such information. Pursuant to IRS Circular 230, any tax advice in this email may not be used to avoid tax penalties or to promote, market or recommend any matter herein.


Bernstein, Estate of Simon
Stansbury Litigation
11187.006

Stanton / Boynton 9/20/

ST

2007 - 2,374,881 W-2
1,160,104 K-1 (1,142,282)

2008 - 184,530 K-1
952,141 W-2

Form **1120S**

Department of the Treasury
Internal Revenue Service

U.S. Income Tax Return for an S Corporation

▶ Do not file this form unless the corporation has filed or is attaching Form 2553 to elect to be an S corporation.

EXTENSION GRANTED TO 09/15/08

OMB No. 1545-0130

2007

For calendar year 2007, or tax year beginning , and ending

A S election effective date 09/01/2006	Use the IRS label. Otherwise, print or type. Name: LIC HOLDINGS INC	D Employer identification number 20-5290314
B Business activity code number (see instructions) 524290	Number, street, and room or suite no. If a P.O. box, see instructions. 950 PENINSULA CORP. CIR., SUITE 3010	E Date incorporated 09/01/2006
C Check if Sch. M-3 attached [X]	City or town, state, and ZIP code BOCA RATON, FL 33487	F Total assets (see instructions) $ 10,509,513.

G Is the corporation electing to be an S corporation beginning with this tax year? [ ] Yes [X] No If "Yes," attach Form 2553 if not already filed

H Check if: (1) [ ] Final return (2) [ ] Name change (3) [ ] Address change (4) [X] Amended return (5) [ ] S election termination or revocation

I Enter the number of shareholders in the corporation at end of the tax year ▶ 13

Caution: *Include* **only** *trade or business income and expenses on lines 1a through 21. See the instructions for more information.*

Income	1a	Gross receipts or sales 38,419,667. b Less returns and allowances c Bal ▶	1c	38,419,667.
	2	Cost of goods sold (Schedule A, line 8)	2	
	3	Gross profit. Subtract line 2 from line 1c	3	38,419,667.
	4	Net gain (loss) from Form 4797, Part II, line 17 *(attach Form 4797)*	4	<1,520.>
	5	Other income (loss) *(attach statement)* STATEMENT 1	5	58,945.
	6	**Total income (loss).** Add lines 3 through 5 ▶	6	38,477,092.
Deductions (See instructions for limitations)	7	Compensation of officers STATEMENT 2	7	5,498,526.
	8	Salaries and wages (less employment credits)	8	4,103,690.
	9	Repairs and maintenance	9	20,041.
	10	Bad debts	10	
	11	Rents	11	201,637.
	12	Taxes and licenses STATEMENT 3	12	167,695.
	13	Interest	13	118,560.
	14	Depreciation not claimed on Schedule A or elsewhere on return *(attach Form 4562)*	14	61,587.
	15	Depletion **(Do not deduct oil and gas depletion.)**	15	
	16	Advertising	16	106,971.
	17	Pension, profit-sharing, etc., plans	17	
	18	Employee benefit programs	18	20,350.
	19	Other deductions *(attach statement)* STATEMENT 4	19	16,576,999.
	20	**Total deductions.** Add lines 7 through 19 ▶	20	26,876,056.
	21	**Ordinary business income (loss).** Subtract line 20 from line 6	21	11,601,036.
Tax and Payments	22a	Excess net passive income or LIFO recapture tax *(see instructions)* 22a		
	b	Tax from Schedule D (Form 1120S) 22b		
	c	Add lines 22a and 22b	22c	
	23a	2007 estimated tax payments and 2006 overpayment credited to 2007 23a		
	b	Tax deposited with Form 7004 23b		
	c	Credit for federal tax paid on fuels *(attach Form 4136)* 23c		
	d	Add lines 23a through 23c	23d	
	24	Estimated tax penalty (see instructions). Check if Form 2220 is attached ▶ [ ]	24	
	25	**Amount owed.** If line 23d is smaller than the total of lines 22c and 24, enter amount owed	25	
	26	**Overpayment.** If line 23d is larger than the total of lines 22c and 24, enter amount overpaid	26	
	27	Enter amount from line 26 **Credited to 2008 estimated tax** ▶ **Refunded** ▶	27	

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature of officer | Date | Title

May the IRS discuss this return with the preparer shown below (see instr.)? [X] Yes [ ] No

Paid Preparer's Use Only

Preparer's signature ▶	Date	Check if self-employed [ ]	Preparer's SSN or PTIN P00127193
Firm's name (or yours if self-employed), address, and ZIP code ▶ GOLDSTEIN LEWIN & CO. 1675 N. MILITARY TRAIL, FIFTH FLOOR BOCA RATON, FL 33486		EIN 59-2147155	Phone no. (561)994-5050

LIC HOLDINGS INC 20-5290314

FORM 1120S OTHER INCOME STATEMENT 1

DESCRIPTION	AMOUNT
MISCELLANEOUS INCOME	58,945.
TOTAL TO FORM 1120S, PAGE 1, LINE 5	58,945.

FORM 1120S COMPENSATION OF OFFICERS STATEMENT 2

NAME OF OFFICER	SOCIAL SECURITY NUMBER	TIME DEVOTED TO BUSINESS	PCT OF STOCK	AMOUNT OF COMPENSATION
SIMON BERNSTEIN	371-32-5211		33.00%	404,199.
TED BERNSTEIN	319-64-1912		45.00%	2,719,935.
WILLIAM STANSBURY	212-54-9407		10.00%	2,374,392.
TOTAL COMPENSATION OF OFFICERS				5,498,526.
LESS: COMPENSATION CLAIMED ELSEWHERE				
EMPLOYMENT CREDIT REDUCTION				
TOTAL TO FORM 1120S, PAGE 1, LINE 7				5,498,526.

FORM 1120S TAXES AND LICENSES STATEMENT 3

DESCRIPTION	AMOUNT
TAXES- PAYROLL	164,314.
TAXES- PROPERTY	750.
LICENSES & PERMITS	2,165.
LICENSES & PERMITS	466.
TOTAL TO FORM 1120S, PAGE 1, LINE 12	167,695.

FORM 1120S OTHER DEDUCTIONS STATEMENT 4

DESCRIPTION	AMOUNT
ALARM & GUARD SERVICE	6,154.
AMORTIZATION EXPENSE	559.
AUTOMOBILE EXPENSE	18,152.
BANK SERVICE CHARGES	3,316.
COMMISSION EXPENSE	2,831,110.

Form **1120S**

Department of the Treasury
Internal Revenue Service (77)

U.S. Income Tax Return for an S Corporation

▶ Do not file this form unless the corporation has filed or is attaching Form 2553 to elect to be an S corporation.

EXTENSION GRANTED TO 09/15/09

OMB No. 1545-0130

2008

For calendar year 2008 or tax year beginning , and ending

A S election effective date: 09/01/2006	Use the IRS label. Otherwise, print or type. Name: LIC HOLDINGS INC	D Employer identification number: 20-5290314
B Business activity code number (see instructions): 524290	Number, street, and room or suite no. If a P.O. box, see instructions.: 950 PENINSULA CORP. CIR., SUITE 3010	E Date incorporated: 09/01/2006
C Check if Sch. M-3 attached [X]	City or town, state, and ZIP code: BOCA RATON, FL 33487	F Total assets (see instructions): $ 4,151,405.

G Is the corporation electing to be an S corporation beginning with this tax year? [ ] Yes [X] No If "Yes," attach Form 2553 if not already filed

H Check if: (1) [ ] Final return (2) [ ] Name change (3) [ ] Address change (4) [ ] Amended return (5) [ ] S election termination or revocation

I Enter the number of shareholders who were shareholders during any part of the tax year ▶ 13

Caution: *Include* **only** *trade or business income and expenses on lines 1a through 21. See the instructions for more information.*

Income	1 a	Gross receipts or sales: 39,421,306. b Less returns and allowances: c Bal ▶	1c	39,421,306.
	2	Cost of goods sold (Schedule A, line 8)	2	
	3	Gross profit. Subtract line 2 from line 1c	3	39,421,306.
	4	Net gain (loss) from Form 4797, Part II, line 17 *(attach Form 4797)*	4	
	5	Other income (loss) *(attach statement)* STATEMENT 1	5	150,154.
	6	**Total income (loss).** Add lines 3 through 5 ▶	6	39,571,460.
Deductions (See instructions for limitations)	7	Compensation of officers STATEMENT 2	7	9,402,142.
	8	Salaries and wages (less employment credits)	8	5,391,007.
	9	Repairs and maintenance	9	4,295.
	10	Bad debts	10	
	11	Rents	11	350,691.
	12	Taxes and licenses STATEMENT 3	12	505,672.
	13	Interest	13	22,222.
	14	Depreciation not claimed on Schedule A or elsewhere on return *(attach Form 4562)*	14	113,751.
	15	Depletion **(Do not deduct oil and gas depletion.)**	15	
	16	Advertising	16	194,719.
	17	Pension, profit-sharing, etc., plans	17	103,791.
	18	Employee benefit programs	18	
	19	Other deductions *(attach statement)* STATEMENT 4	19	21,637,874.
	20	**Total deductions.** Add lines 7 through 19 ▶	20	37,726,164.
	21	**Ordinary business income (loss).** Subtract line 20 from line 6	21	1,845,296.
Tax and Payments	22 a	Excess net passive income or LIFO recapture tax *(see instructions)* 22a		
	b	Tax from Schedule D (Form 1120S) 22b		
	c	Add lines 22a and 22b	22c	
	23 a	2008 estimated tax payments and 2007 overpayment credited to 2008 23a		
	b	Tax deposited with Form 7004 23b		
	c	Credit for federal tax paid on fuels *(attach Form 4136)* 23c		
	d	Add lines 23a through 23c	23d	
	24	Estimated tax penalty (see instructions). Check if Form 2220 is attached ▶ [ ]	24	
	25	**Amount owed.** If line 23d is smaller than the total of lines 22c and 24, enter amount owed	25	
	26	**Overpayment.** If line 23d is larger than the total of lines 22c and 24, enter amount overpaid	26	
	27	Enter amount from line 26 **Credited to 2009 estimated tax** ▶ **Refunded** ▶	27	

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

▶ Signature of officer | Date | ▶ Title

May the IRS discuss this return with the preparer shown below (see instr.)? [X] Yes [ ] No

Paid Preparer's Use Only

Preparer's signature ▶	Date	Check if self-employed [ ]	Preparer's SSN or PTIN: P00127193
Firm's name (or yours if self-employed), address, and ZIP code ▶ GOLDSTEIN LEWIN & CO. 1675 N. MILITARY TRAIL, FIFTH FLOOR BOCA RATON, FL 33486		EIN: 59-2147155	Phone no. (561)994-5050

JWA 811701 12-31-08

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

Form **1120S** (2008)

LIC HOLDINGS INC 20-5290314

FORM 1120S OTHER INCOME STATEMENT 1

DESCRIPTION	AMOUNT
MISCELLANEOUS INCOME	150,154.
TOTAL TO FORM 1120S, PAGE 1, LINE 5	150,154.

FORM 1120S COMPENSATION OF OFFICERS STATEMENT 2

NAME OF OFFICER	SOCIAL SECURITY NUMBER	TIME DEVOTED TO BUSINESS	PCT OF STOCK	AMOUNT OF COMPENSATION
SIMON BERNSTEIN	371-32-5211		33.00%	3,756,299.
TED BERNSTEIN	319-64-1912		45.00%	5,225,825.
WILLIAM STANSBURY	212-54-9407		10.00%	420,018.
TOTAL COMPENSATION OF OFFICERS				9,402,142.
LESS: COMPENSATION CLAIMED ELSEWHERE				
EMPLOYMENT CREDIT REDUCTION				
TOTAL TO FORM 1120S, PAGE 1, LINE 7				9,402,142.

FORM 1120S TAXES AND LICENSES STATEMENT 3

DESCRIPTION	AMOUNT
TAXES - PAYROLL	498,819.
LICENSES & PERMITS	6,853.
TOTAL TO FORM 1120S, PAGE 1, LINE 12	505,672.

FORM 1120S OTHER DEDUCTIONS STATEMENT 4

DESCRIPTION	AMOUNT
ALARM & GUARD SERVICE	1,487.
AMORTIZATION EXPENSE	600.
AUTOMOBILE EXPENSE	53,167.
COMMISSION EXPENSE	4,469,172.
COMPUTER SUPPLIES & EXPENSE	91,204.
CONSULTING	302,540.
DUES & SUBSCRIPTIONS	50,591.

LIC HOLDINGS INC	20-5290314
EDUCATION & TRAINING	162,085.
EQUIPMENT RENTAL	4,300.
FEES - SERVICE FEE	24,936.
FEES- ADMIN MANAGER	9,485.
FEES- APPLICATION	834,000.
FEES- CONTROL AGREEMENT	17,300.
FEES- LETTER OF CREDIT	650.
FEES- LOAN UTILIZATION	8,604,753.
FEES- LOAN UTILIZATION 2ND YEAR	1,038,954.
FEES- LOAN UTILIZATION 3RD YEAR	45,334.
FEES- LOAN UTILIZATION SUBSEQUE	155,387.
FEES- NOTE STRUCTURE	1,897,500.
FEES- PLACEMENT	763,318.
FEES- TRUSTEE	43,703.
FEES- WIRE TRANSFER	15,835.
FORFEITED DEPOSITS	878,111.
INSURANCE	273,689.
INTERNET FEES	34,617.
LEGAL & ACCOUNTING	594,873.
MEALS - IN HOUSE	108,779.
MEALS AND ENTERTAINMENT	16,211.
MEDICAL UNDERWRITING	335,873.
MOVING	100.
OFFICE EXPENSE & SUPPLIES	171,555.
PAYROLL FEE	6,804.
POSTAGE & DELIVERY	43,456.
PRINTING & REPRODUCTION	49,806.
RECRUITMENT	3,011.
TELEPHONE	88,795.
TRAVEL	424,575.
UTILITIES	21,318.
TOTAL TO FORM 1120S, PAGE 1, LINE 19	21,637,874.

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

PLAINTIFF'S SUPPLEMENTAL RESPONSE TO DEFENDANTS TED BERNSTEIN, LIC HOLDINGS, INC. AND ARBITRAGE INTERNATIONAL MANAGEMENT, LLC'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

COMES NOW Plaintiff, WILLIAM E. STANSBURY, by and through his undersigned counsel, and hereby files this Supplemental Response to Defendants TED BERNSTEIN, LIC HOLDINGS, INC. and INTERNATIONAL MANAGEMENT, LLC's First Request for Production of Documents dated June 3, 2013, as follows:

No. 18: None.

No. 22: Withdrawn by Defendants.

Nos. 24 - 27: See bates-stamped documents numbered WS-00410 through WS-00478A.

No. 39: See bates-stamped documents numbered WS-00479 through WS-00703.

Nos. 40, 41: See bates-stamped documents numbered WS-00704 through WS-00705.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives,* 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; at arose@pm-law.com and mchandler@pm-law.com to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc. and Arbitrage International Management, LLC,* 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this 12th day of December, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554
pfeaman@feamanlaw.com

By: _____
Peter M. Feaman
Florida Bar No. 0260347

Electronically Filed 11/25/2013 11:30:51 AM ET

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

WILLIAM E. STANSBURY,

Plaintiff,

vs.

CASE NO: 50 2012 CA 013933 MB AA

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.
_____/

RE-NOTICE OF TAKING VIDEOTAPED DEPOSITION

PLEASE TAKE NOTICE that the undersigned attorneys will take the video deposition of:

Name	Date and Time	Location
William Stansbury	December 18, 2013 at 9:00 a.m.	Peter M. Feaman, P.A. 3615 West Boynton Beach Blvd. Boynton Beach, FL 33436 (561) 734-5552 - Telephone

upon oral examination, before U.S. Legal Support, Inc. [561-835-0220], and Amy Mersky, videographer, Amy Edit, Inc., [561-478-8597], or any other Notary Public or officer authorized by law to take depositions. Said oral examination will continue from day-to-day until completed. You are hereby notified to appear and take part in said examination as you may be advised.

This deposition is being taken for the purposes of discovery, for use as primary evidence or for such other purposes as are permitted under the applicable Statutes or Rules of Court.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to the Service List set forth below by: ■ E-mail Electronic Transmission; ☐ Facsimile; ☐ U.S. Mail; ☐ Overnight Delivery; ☐ Hand-delivery, this 25th day of November, 2013.

MRACHEK, FITZGERALD, ROSE, KONOPKA & DOW, P.A.
505 South Flagler Drive, Suite 600
West Palm Beach, Florida 33401
Telephone: (561) 655-2250
Facsimile: (561) 655-5537
Email: arose@mrachek-law.com; mchandler@mrachek-law.com
Email: phely@mrachek-law.com; mchandler@mrachek-law.com
Counsel for Ted S. Bernstein; LIC Holdings, Inc.; Arbitrage International Management, LLC; and Shirley Bernstein Trust

By: /s/ Alan B. Rose
Alan B. Rose (Florida Bar No. 961825)
N. Patrick Hely (Florida Bar No. 0091466

SERVICE LIST

Peter M. Feaman, Esquire
Peter M. Feaman, P.A.
3615 West Boynton Beach Blvd.
Boynton Beach, FL 33436
(561) 734-5552 - Telephone
(561) 734-5554 - Facsimile
Email: (pfeaman@feamanlaw.com); (service@feamanlaw.com); (mkoskey@feamanlaw.com)
Counsel for Plaintiff

Mark R. Manceri, Esq.
Mark R. Manceri, P.A.
2929 East Commercial Blvd., Suite 702
Ft. Lauderdale, FL 33309
(954) 491-7099
Email: (mrmlaw@comcast.net); (mrmlaw1@gmail.com)
Counsel for Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives; Bernstein Family Realty, LLC

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

MOTION TO AMEND SECOND AMENDED COMPLAINT
BY INTERLINEATION

COMES NOW Plaintiff, WILLIAM E. STANSBURY, by and through his undersigned counsel and moves this Court to amend by interlineation the Second Amended Complaint as follows:

1. Paragraph 38 is amended to read: "Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, inclusive."

2. Paragraph 47 is amended to read: "Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, inclusive."

3. Paragraph 53 is amended to read: "Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, inclusive."

4. Count 'V' on page 17 is designated as Count 'VI.'

5. Paragraph 64 is amended to read: "Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, inclusive."

6. Paragraph 70 is amended to read: "Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, paragraphs 1 through 34, inclusive.

7. Paragraph 72 is amended to read: "Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, inclusive, and the allegations of Count III."

8. Paragraph 86 is added as follows: "Plaintiff reiterates his demand for trial by jury on all issues so triable."

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives of the Estate of Simon Bernstein* and *Bernstein Family Realty,* 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; at arose@pm-law.com and mchandler@pm-law.com to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc, Arbitrage International Management, LLC and the Shirley Bernstein Trust,* 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this 26th day of November, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel: 561-734-5552
Fax: 561-734-5554
pfeaman@feamanlaw.com

By: Peter M. Feaman

Peter M. Feaman
Florida Bar No.: 0260347

The Law Offices
of
PETER M. FEAMAN, P.A.
Strategic Counselor. Proven Advocate.™

Peter M. Feaman, Esq.
Nancy E. Guffey, Esq.
Jeffrey T. Royer, Esq.

www.FeamanLaw.com

3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554

November 19, 2013

Via e-mail

Alan Rose, Esq.
PAGE, MRACHEK
505 So. Flagler Drive, Suite 600
West Palm Beach, FL 33401

Re: Stansbury v. Bernstein et al

Dear Alan:

As discussed in your e-mail a while back about improperly realleging paragraphs before each Count, enclosed please find Plaintiff's Motion to Amend by Interlineation which should be self-explanatory. Please let me know if I can submit an Agreed Order on this Motion.

Thank you for your attention to this matter.

Very truly yours,

PETER M. FEAMAN, P.A.

By: Peter Feaman
Peter M. Feaman

PMF/mk
Enclosure
cc: Mark R. Manceri, Esq.

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

MOTION TO AMEND BY INTERLINEATION

COMES NOW Plaintiff, WILLIAM E. STANSBURY, by and through his undersigned counsel and moves this Court to amend by interlineation the Second Amended Complaint as follows:

1. Paragraph 38 is amended to read: "Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, inclusive."

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8. Paragraph 86 is added as follows: "Plaintiff reiterates his demand for trial by jury on all issues so triable."

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives of the Estate of Simon Bernstein* and *Bernstein Family Realty,* 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; at arose@pm-law.com and mchandler@pm-law.com to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc, Arbitrage International Management, LLC and the Shirley Bernstein Trust,* 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this ___ day of November, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel: 561-734-5552
Fax: 561-734-5554
pfeaman@feamanlaw.com

By: _____
Peter M. Feaman
Florida Bar No.: 0260347

Robert Spallina

From: Mark Manceri, Esq. [mrmlaw@comcast.net]
Sent: Friday, November 01, 2013 8:51 AM
To: 'E Crippen'
Cc: Robert Spallina; Donald Tescher; Alan Rose
Subject: RE: Stansbury v. Bernstein, et al - 2nd set of interrogatories

Ms. Crippen,

Before I respond, please provide proposed dates for your Client's deposition. They were previously requested but never provided.

Mark Manceri

From: E Crippen [mailto:ecrippen@feamanlaw.com]
Sent: Thursday, October 31, 2013 02:04 PM
To: mrmlaw@comcast.net
Cc: mrmlaw1@gmail.com; Peter M. Feaman; Maryanne Koskey
Subject: Stansbury v. Bernstein, et al - 2nd set of interrogatories

Mr. Manceri,

You propounded a 2nd set of interrogatories on our client, William Stansbury, on Oct. 3rd. Our client's answers are due on Monday, Nov. 4th.
We would greatly appreciate a 20-day extension, whereby the answers would be due on Monday, Nov. 25th.

I look forward to your response. Thank you,

Elizabeth Crippen
Paralegal
Peter M. Feaman, P.A.
3615 Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel: (561) 734-5552
Fax: (561) 734-5554
ecrippen@feamanlaw.com

FLORIDA DEPARTMENT OF STATE
DIVISION OF CORPORATIONS

Detail by Entity Name

Florida Non Profit Corporation

SHIRLEY BERNSTEIN FAMILY FOUNDATION, INC.

Filing Information

Document Number	N08000000944
FEI/EIN Number	261868678
Date Filed	01/30/2008
State	FL
Status	INACTIVE
Last Event	ADMIN DISSOLUTION FOR ANNUAL REPORT
Event Date Filed	09/27/2013
Event Effective Date	NONE

Principal Address

7020 LIONS HEAD LANE
SUITE 3010
BOCA RATON, FL 33496

Changed: 08/28/2012

Mailing Address

7020 LIONS HEAD LANE
BOCA RATON, FL 33496

Registered Agent Name & Address

TESCHER, DONALD R
4855 TECHNOLOGY WAY
SUITE 720
BOCA RATON, FL 33431

Address Changed: 03/04/2009

Officer/Director Detail

Name & Address

Title P

BERNSTEIN, SIMON
7020 LIONS HEAD LANE
BOCA RATON, FL 33496

Copyright © and Privacy Policies
State of Florida, Department of State

BERNSTEIN, SHIRLEY
7020 LIONS HEAD LANE
BOCA RATON, FL 33496

Title S

KRATISH, TRACI
950 PENINSULA CORPORATE CIRCLE, SUITE 3010
BOCA RATON, FL 33487

Annual Reports

Report Year	Filed Date
2010	04/16/2010
2011	04/12/2011
2012	08/28/2012

Document Images

08/28/2012 -- ANNUAL REPORT	View image in PDF format
04/12/2011 -- ANNUAL REPORT	View image in PDF format
04/16/2010 -- ANNUAL REPORT	View image in PDF format
03/04/2009 -- ANNUAL REPORT	View image in PDF format
02/08/2008 -- Amendment	View image in PDF format
01/30/2008 -- Domestic Non-Profit	View image in PDF format

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

ORDER ON OBJECTIONS OF DEFENDANTS, TED BERNSTEIN, LIC HOLDINGS, INC, ARBITRAGE, LLC, DONALD TESCHER AND ROBERT SPALLINA AS CO-PERSONAL REPRESENTATIVES OF THE ESTATE OF SIMON L. BERNSTEIN TO NOTICE OF PRODUCTION FROM NON-PARTY CBIZ MHM, LLC

THIS CAUSE came on to be heard before this Honorable Court on Tuesday, November 12, 2013, upon Objections of Defendants, Ted Bernstein, LIC Holdings, Inc., Arbitrage, LLC, Donald Tescher and Robert Spalina, as co-Personal Representatives of the Estate of Simon L. Bernstein to Notice of Production from Non-Party CBIZ MHM, LLC, and the Court having reviewed the file, heard argument of counsel and being otherwise duly advised in the premises, it is hereby

ORDERED and ADJUDGED:

1. The objections are overruled to the extent that the subpoena may be issued and third party, CBIZ MHM, LLC will respond. The documents not objected to on the basis of privilege will be produced within 30 days from the date of this Order.

2. In the event that an objection is made on the basis of privilege, the objection should specify the privilege raised and a privilege log should be prepared on those items upon which a privilege is claimed, in accordance with *TIG Insurance v. Johnson*, 799 So.2d 339 (Fla. 4th DCA, 2001).

DONE and ORDERED in Chambers, West Palm Beach, Palm Beach County, Florida on this 15 day of November, 2013.

HONORABLE PETER BLANC
Circuit Judge

Copies to:

Alan Rose, Esq., Page Mrachek, 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401; e-mail: arose@pm-law.com;
Mark R. Manceri, Esq., Mark R. Manceri, P.A., 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; e-mail: mrmlaw@comcast.net
Peter M. Feaman, Esq., Peter M. Feaman, P.A., 3615 W. Boynton Beach Blvd., Boynton Beach, FL; e-mail: pfeaman@feamanlaw.com

Electronically Filed 11/15/2013 10:29:44 AM ET

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

WILLIAM E. STANSBURY,

Plaintiff,

vs.

CASE NO: 50 2012 CA 013933 MB AA

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.
_____/

NOTICE OF TAKING VIDEOTAPED DEPOSITION

PLEASE TAKE NOTICE that the undersigned attorneys will take the video deposition of:

Name	Date and Time	Location
William Stansbury	December 6, 2013 at 9:00 a.m.	Peter M. Feaman, P.A. 3615 West Boynton Beach Blvd. Boynton Beach, FL 33436 (561) 734-5552 - Telephone

upon oral examination, before U.S. Legal Support, Inc. [561-835-0220], and Amy Mersky, videographer, Amy Edit, Inc., [561-478-8597], or any other Notary Public or officer authorized by law to take depositions. Said oral examination will continue from day-to-day until completed. You are hereby notified to appear and take part in said examination as you may be advised.

This deposition is being taken for the purposes of discovery, for use as primary evidence or for such other purposes as are permitted under the applicable Statutes or Rules of Court.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to the Service List set forth below by: ■ E-mail Electronic Transmission; ☐ Facsimile; ☐ U.S. Mail; ☐ Overnight Delivery; ☐ Hand-delivery, this 15th day of November, 2013.

MRACHEK, FITZGERALD, ROSE, KONOPKA & DOW, P.A.
505 South Flagler Drive, Suite 600
West Palm Beach, Florida 33401
Telephone: (561) 655-2250
Facsimile: (561) 655-5537
Email: arose@mrachek-law.com; mchandler@mrachek-law.com
Email: phely@mrachek-law.com; mchandler@mrachek-law.com
Counsel for Ted S. Bernstein; LIC Holdings, Inc.; Arbitrage International Management, LLC; and Shirley Bernstein Trust

By: /s/ Alan B. Rose
Alan B. Rose (Florida Bar No. 961825)
N. Patrick Hely (Florida Bar No. 0091466

SERVICE LIST

Peter M. Feaman, Esquire
Peter M. Feaman, P.A.
3615 West Boynton Beach Blvd.
Boynton Beach, FL 33436
(561) 734-5552 - Telephone
(561) 734-5554 - Facsimile
Email: (pfeaman@feamanlaw.com); (service@feamanlaw.com); (mkoskey@feamanlaw.com)
Counsel for Plaintiff

Mark R. Manceri, Esq.
Mark R. Manceri, P.A.
2929 East Commercial Blvd., Suite 702
Ft. Lauderdale, FL 33309
(954) 491-7099
Email: (mrmlaw@comcast.net); (mrmlaw1@gmail.com)
Counsel for Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives; Bernstein Family Realty, LLC

MRACHEK
FITZGERALD
ROSE
KONOPKA
& DOW, P.A.

WRITER'S DIRECT DIAL NUMBER: (561)355-6991
WRITER'S E-MAIL ADDRESS: arose@mrachek-law.com

TRIAL LAWYERS | WEST PALM BEACH | STUART

November 7, 2013

Via Hand Delivery

The Hon. Peter D. Blanc
Circuit Court Judge
205 North Dixie Highway
Room 11.1208
West Palm Beach, FL 33401

Re: *William E. Stansbury v. Ted S. Bernstein, Donald Tescher and Robert Spallina, as co-personal representatives of the Estate of Simon L. Bernstein, etc., et al.*
Case No. 502012CA013933XXXXMBAA
Materials for Hearing on Objections to Notice of Production from Non-Party CBIZ MHM, LLC scheduled November 12, 2013 at 10:00 a.m.

Dear Judge Blanc:

This office represents Defendants, LIC Holdings, Inc., Arbitrage International Holdings, LLC and Ted S. Bernstein. I am writing in connection with the hearing on our Objections to Notice of Production from Non-Party CBIZ MHM, LLC. The Objections and Plaintiff's Response are set for hearing on November 12, 2013 at 10:00 a.m.

I have enclosed the pending Notice of Production and our Objections, as well as the documents relating to the prior Requests to Produce addressed by the Court (Request, our Objections, the Motion to Compel, and the Order of Judge Kelley). These prior documents relate to requests that asked for the very same documents from the Defendants, LIC Holdings, Inc., Arbitrage International Management, LLC, and Ted S. Bernstein.

At a hearing held on April 15, 2013, Judge Kelley denied the Motion to Compel documents relating to financial information concerning the Defendant companies. Given the fact that the Plaintiff has a claim for an accounting, Judge Kelley ruled that much of the financial records

requested were beyond the scope of discovery at this time. Certain of the Objections were overruled, and the responsive documents in connection with those Requests have been produced. The subpoena served on the third-party, the accounting firm which provides services to the Defendant companies, is simply another bite at the apple and is an end run around the prior order which determined that such documents should not be produced at this time, unless and until Plaintiff prevails on his accounting claim.

In addition, I would note that our Objection offered to confer with counsel for Plaintiff in an attempt to narrow these requests, but to date Plaintiff's counsel has made no attempt to confer with us, narrow or limit the scope of the production of accounting records from Defendants' accounting firm, and simply noticed the Objection for hearing.

We provide these materials to you in advance of the argument set for next week, and will be prepared to address the Court's questions and further argue these matters at the hearing.

We appreciate Your Honor's time and attention to this matter.

Respectfully submitted,

Alan B. Rose

Alan B. Rose
(Signed and sent in Mr. Rose's absence to avoid delay.)

ABR/mbc
Enclosure
cc: Peter M. Feaman, Esq., w/enclosure, via e-mail
Mark R. Manceri, Esq., w/enclosure, via e-mail

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

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 MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC; BERNSTEIN FAMILY REALTY, LLC,

Defendants.
_____/

CASE NO: 50 2012 CA 013933 MB AA

DEFENDANTS', TED S. BERNSTEIN, LIC HOLDINGS, INC. AND ARBITRAGE INTERNATIONAL HOLDINGS, LLC, OBJECTION TO NOTICE OF PRODUCTION FROM NON-PARTY CBIZ MHM, LLC

Defendants, Ted S. Bernstein, LIC Holdings, Inc. and Arbitrage International Holdings, LLC (collectively "Defendants"), hereby object to the service of a subpoena duces tecum as identified in a Notice of Production from Non-Party to CBIZ MHM, LLC ("CBIZ") served on July 26, 2013 by Plaintiff, William E. Stansbury ("Plaintiff"), and state:

1. Defendants object to the service of this subpoena on the grounds that the documents sought, or a substantial portion of them, are subject to an accountant/client privilege, and potentially other applicable privileges including attorney/client privilege and work product privilege.

2. Defendants also object on the grounds that these documents are not relevant nor reasonably calculated to lead to the discovery of admissible evidence in connection with the pending

claims and issues. Many of the requested documents exceed the scope of permissible discovery at this time, as these documents relate to Plaintiff's claim for an accounting, which has not yet been granted. In response to Plaintiff's Request to Produce to Defendants, Defendants objected to the production of substantially similar documents, and the Court upheld the objection by Order dated April 19, 2013.

3. Notwithstanding these objections, Defendants are willing to work with Plaintiff's counsel to narrow the scope of these requests and attempt to establish a procedure for Defendants to review relevant, material and non-privileged the documents before production.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to the Service List set forth below by: ■ E-mail Electronic Transmission; ☐ Facsimile; ☐ U.S. Mail; ☐ Overnight Delivery; ☐ Hand-delivery, this 5th day of August, 2013.

PAGE, MRACHEK, FITZGERALD, ROSE,
KONOPKA & DOW, P.A.
505 South Flagler Drive, Suite 600
West Palm Beach, Florida 33401
Telephone: (561) 655-2250
Facsimile: (561) 655-5537
Email: arose@pm-law.com; mchandler@pm-law.com
Email: sshelley@pm-law.com; tclarke@pm-law.com
Email: phely@pm-law.com; mchandler@pm-law.com
Counsel for Ted S. Bernstein; LIC Holdings, Inc.; Arbitrage International Management, LLC; and Shirley Bernstein Trust

By: /s/ Alan B. Rose
Alan B. Rose (Florida Bar No. 961825)
Stefanie R. Shelley (Florida Bar No. 514446)
N. Patrick Hely (Florida Bar No. 0091466

SERVICE LIST

Peter M. Feaman, Esquire
Peter M. Feaman, P.A.
3615 West Boynton Beach Blvd.
Boynton Beach, FL 33436
(561) 734-5552 - Telephone
(561) 734-5554 - Facsimile
Email: (pfeaman@feamanlaw.com); (service@feamanlaw.com); (mkoskey@feamanlaw.com)
Counsel for Plaintiff

Mark R. Manceri, Esq.
Mark R. Manceri, P.A.
2929 East Commercial Blvd., Suite 702
Ft. Lauderdale, FL 33309
(954) 491-7099
Email: (mrmlaw@comcast.net); (mrmlaw1@gmail.com)
Counsel for Donald R. Tescher and Robert L.
Spallina, as Co-Personal Representatives; Bernstein Family
Realty, LLC

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

WILLIAM E. STANSBURY,

Plaintiff,

v.

CASE NO: **50 2012 CA 013933 MB AA**

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.
_____/

NOTICE OF PRODUCTION FROM NON-PARTY
(F.R.Civ.P. 1.351)

YOU ARE NOTIFIED that ten (10) days from the date of service of this Notice, if service is by delivery, or fifteen (15) days from the date of service if service is by mail, and if no objection is received from any party, the undersigned will issue, or will apply to the Clerk of this Court for issuance of, the attached Subpoena directed to Records Custodian of the following:

CBIZ MHM, LLC
f/k/a Goldstein Lewin & Company
1675 N. Military Trail
Fifth Floor
Boca Raton, Florida 33486

The above listed entity is not a party to this action, and the address for such entity is listed above. The listed entity will be requested to produce the items listed at the time and place specified in the Subpoena, which is attached hereto.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives,* 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; at

arose@pm-law.com and mchandler@pm-law.com to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc. and Arbitrage International Management, LLC,* 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this 26th day of July, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554
pfeaman@feamanlaw.com

By: _____
Peter M. Feaman
Florida Bar No. 0260347

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

SUBPOENA DUCES TECUM WITHOUT DEPOSITION
(RECORDS MAY BE MAILED IN LIEU OF APPEARANCE)

TO: **CBIZ MHM, LLC**
f/k/a Goldstein Lewin & Company
1675 N. Military Trail, Fifth Floor
Boca Raton, Florida 33486
ATTENTION: Gerald R. Lewin, CPA

DEFINITIONS

A. As used herein, the singular shall include the plural and the plural shall include the singular.

B. When the terms "you" "your" and "yours" are used herein, they shall mean CBIZ MHM, LLC, f/k/a Goldstein Lewin & Company, or any agent, representative, employee, attorney, accountant or person acting, or purporting to act on its behalf.

C. When the term "document," as used herein, means any document, letter, log, record, report, memorandum, note, telegram, message, agreement, communication, e-mail,

telecopy, facsimile reproduction or "fax" (including cover sheets and proof of sending), State or Federal governmental hearing or report, summary or record of telephone conversations, e-mail (including attachments), summary or record of personal conversations or interviews, diary, graph, notebook, note chart, plan, drawing, sketch, map, summary or record of meeting or conferences, summary or report of investigations or negotiations, opinion or report of consultants, photograph, motion picture, film, brochure, pamphlet, advertisement, circular, press release, draft, letter, any marginal comments appearing on any document or any other form of written or recorded matter of every kind or description, however produced or reproduced, whether draft or final, original or reproduction, in the custody or control of you and/or your attorneys or anyone acting on your behalf.

DOCUMENTS TO PRODUCE

YOU ARE COMMANDED to appear at the offices of Peter Feaman, at 3615 West Boynton Beach Boulevard Boynton Beach, Florida 33436-4501, telephone number (561) 734-5552, within fifteen (15) days from the date of service of this Subpoena and to produce the following documents:

1. All documents provided to you by, or prepared by you on behalf of, LIC Holdings, Inc. ("LIC") and Arbitrage International Management, LLC f/k/a Arbitrage International Holdings, LLC ("Arbitrage") that show the total revenue generated by LIC and Arbitrage for the tax years 2007, 2008, 2009, 2010, 2011, and 2012.

2. All documents provided to you by, or prepared by you on behalf of, LIC and Arbitrage that show the expenses paid by LIC and Arbitrage for the tax years 2007, 2008, 2009, 2010, 2011, and 2012.

3. All documents provided to you by, or prepared by you on behalf of, LIC and Arbitrage that show the salaries, distributions and other compensation paid to Simon Bernstein, Ted Bernstein and William Stansbury by LIC and Arbitrage in the tax years 2007, 2008, 2009, 2010, 2011, and 2012.

4. All documents provided to you by, or prepared by you on behalf of, LIC and Arbitrage that list, by company name, the commissions, both first time commissions and renewal commissions, paid to LIC and Arbitrage for the tax years 2007, 2008, 2009, 2010, 2011, and 2012.

5. All documents provided to you by, or prepared by you on behalf of, LIC and Arbitrage entitled "Estimated Income Projection & Allocation" for the tax years 2007, 2008, 2009, 2010, 2011, and 2012.

6. All documents provided to you by, or prepared by you on behalf of, LIC for the tax years 2007, 2008, 2009, 2010, 2011, and 2012 that stated, estimated or projected that Simon Bernstein, Ted Bernstein and/or William Stansbury would incur, or potentially may incur, taxable "phantom" income related to their respective equity interests in LIC.

7. All documents provided to you by, or prepared by you on behalf of, LIC that supports that a shareholder distribution in the amount of $184,530 was made to William Stansbury attributable to tax year 2008.

8. All documents provided to you by, or prepared by you on behalf of, LIC that supports that a shareholder distribution in the amount of $184,530 was in fact actually paid to William Stansbury attributable to tax year 2008.

9. A copy of each Form K-1, including all amendments, revisions, or restatements thereto, prepared for and distributed to Simon Bernstein, Ted Bernstein and William Stansbury for the tax years 2007, 2008, 2009, 2010, 2011 and 2012.

You are required to produce the records by mail or in person to Peter Feaman, at 3615 West Boynton Beach Boulevard Boynton Beach, Florida 33436-4501.

These items will be inspected and may be copied at that time. You will not be required to surrender the original items. You may comply with this subpoena by providing legible copies of the items to be produced to the attorney whose name appears on this subpoena on or before the scheduled date of production. You may condition the preparation of the copies upon the payment in advance of the reasonable cost of preparation. **YOU MAY MAIL OR DELIVER THE COPIES TO THE ATTORNEY WHOSE NAME APPEARS ON THIS SUBPOENA AND THEREBY ELIMINATE YOUR APPEARANCE ON THE DATE SPECIFIED ABOVE.** You have the right to object to the production pursuant to this subpoena at any time before production by giving written notice to the attorney whose name appears on this subpoena. **THIS IS NOT A DEPOSITION. NO TESTIMONY WILL BE TAKEN.**

If you fail to:

(1) appear as specified; or
(2) furnish the materials requested instead of appearing as provided above; or
(3) object to this subpoena;

you may be in contempt of court. You are subpoenaed to appear by the following attorney, and unless excused from this subpoena by this attorney or the court, you shall respond to this subpoena as directed.

DATED this ____ day of _____, 2013.

Issued by: _____
PETER M. FEAMAN, ESQ.
FOR THE COURT

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554

By: _____
Peter M. Feaman
Florida Bar No. 0260347

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

OMNIBUS ORDER ON PLAINTIFF WILLIAM E. STANSBURY'S THREE MOTIONS TO COMPEL DEFENDANTS, LIC HOLDINGS, INC., ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDING, LLC AND TED BERNSTEIN TO PRODUCE DOCUMENTS RESPONSIVE TO PLAINTIFF'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS

THIS CAUSE came on to be heard before this Honorable Court on Monday, April 15, 2013, upon Plaintiff William E. Stansbury's Motions to Compel Defendants LIC Holdings, Inc. ("LIC"), Arbitrage International Management, LLC f/k/a Arbitrage International Holdings, LLC ("Arbitrage"), and Ted Bernstein to Produce Documents Responsive to Plaintiff's First Requests for Production of Documents. Plaintiff served one set of identical Requests for Production of Documents upon each of the above-named Defendants and this Order makes the same ruling in each of the three sets of propounded Requests. The Court having reviewed the file, heard argument of counsel and being duly advised in the premises, it is hereby

ORDERED and ADJUDGED:

Copies furnished by e-mail

1. Plaintiff's Motions to Compel are hereby GRANTED as to numbered requests 1, 2, 3, 4, 5, 6, 8, 9 and 16 of the Requests for Production of Documents (see "Attachment A");

2. Plaintiff's Motions to Compel are hereby DENIED, without prejudice, as to numbered requests 7, 10, 11, 12, 13, and 15 of the Requests for Production of Documents (see "Attachment A");

3. Plaintiff's Motions to Compel as to request number 14 on "Attachment A" are GRANTED with respect to 1099's issued by or to the principals of LIC or Arbitrage that would form the basis for commissions paid or to be paid, but DENIED, without prejudice, as to 1099's issued by the above-named Defendants to any other persons or entities.

4. The Defendants to whom this Order applies will produce the required documents to Plaintiff within twenty-five (25) days of the date of this Order.

DONE and ORDERED in Chambers, West Palm Beach, Palm Beach County, Florida on this 19th day of April, 2013.

Honorable Glenn Kelley
Circuit Judge

Copies to:

Peter M. Feaman, Esq., Peter M. Feaman, P.A., 3615 W. Boynton Beach Blvd., Boynton Beach, FL 33436; pfeaman@feamanlaw.com.
Mark R. Manceri, Esq., Mark R. Manceri, P.A., 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; mrmlaw@comcast.net; mrmlaw1@gmail.com
Alan B. Rose, Esq., Page, Mrachek, Fitzgerald, Rose, Konopka & Dow, 505 S. Flagler Drive, Suite 600, West Palm Beach, FL 33401; arose@pm-law.com

ATTACHMENT "A"

DOCUMENTS TO BE PRODUCED

1. All documents, including e-mails, that show, evidence, or reflect any and all communications between you or anyone acting on your behalf related to or from the Plaintiff from January 1, 2007 to present.

2. All documents, including e-mails, that show, evidence, or reflect any and all communications between you and any of the Defendants that mention the Plaintiff, from January 1, 2007 to present.

3. All documents, including e-mails, that show, evidence, or reflect any and all communications between you and any of the Defendants that are related to the Plaintiff, from January 1, 2007 to present.

4. All documents that show, evidence, or reflect any business relationships you have or had with the Plaintiff since January 1, 2007 to the present.

5. All documents that show, evidence, or reflect any compensation, monies, or payment of any nature, made by you or any of the Defendants to the Plaintiff from January 1, 2007 to the present.

6. All documents that show, evidence, or reflect any compensation, monies, or payment of any nature, that is owed by you or any of the Defendants to the Plaintiff from January 1, 2007 to present.

7. All documents, including, but not limited to, internal memoranda, e-mails, or any other writings, related to payments by you or by any of the Defendants to any agents, employees, officers, independent contractors, or any other person or entity performing work on behalf of any of the Defendants.

8. All documents that show, evidence, or reflect any person or entity that has or has had an ownership interest in Defendant ARBITRAGE and/or LIC HOLDINGS, INC. in the past 6 years.

9. All documents that show, evidence, or reflect any and all officers of ARBITRAGE and/or LIC HOLDINGS, INC. in the past 6 years.

10. All records of payments made for cell phone usage from January 1, 2007 to present.

11. All records concerning medical expenses paid for any person including but not limited to Rachel Walker since January 1, 2007.

12. List of all employees and their compensation since January 1, 2007.

13. List of all participants in any Defined Benefit Pension Plan.

14. Copies of all 1099's from 2007 to present.

15. All statements concerning any profit-sharing plan, including the names of all participants.

16. Records of any and all payments to Plaintiff since January 1, 2007 to present.

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

WILLIAM E. STANSBURY,

Plaintiff,

v.

CASE NO: 502012CA013933 XXXX MB AA

TED S. BERNSTEIN; SIMON BERNSTEIN; LIC HOLDINGS, INC.; and ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC.

Defendants.
_____/

PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT LIC HOLDINGS, INC.

Plaintiff, WILLIAM E. STANSBURY ("STANSBURY"), through undersigned counsel, pursuant to Fla. R. Civ. P. 1.350, hereby propounds the attached First Request for Production of Documents upon Defendant, LIC HOLDINGS, INC., requiring said Defendant to produce copies of the materials and items described on the attached list at, or by mailing a copy to Peter M. Feaman, P.A., 3615 W. Boynton Beach Blvd., Boynton Beach, FL 33436, on or before thirty (30) days after service of this Request for Production of Documents.

Preliminary Statement

As used in this Discovery request, the following terms will have the following meanings:

"Plaintiff," "WILLIAM STANSBURY," or "STANSBURY" means the Plaintiff, and includes any person or entity acting on his behalf.

"Defendant," "LIC HOLDINGS," "you," or "your" means Defendant, LIC HOLDINGS, INC., and includes any person or entity acting on behalf of such party, including, but not limited to, attorneys and their associates and employees, investigators, agents, employees, representatives, or others who are in possession of or who may have obtained information for or on its behalf.

"Defendants" means the Defendants to this action, to wit: TED S. BERNSTEIN, SIMON BERNSTEIN, LIC HOLDINGS, INC., and ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC, including any person or entity acting on behalf of such party or parties, including, but not limited to, attorneys and their associates and employees, investigators, agents, employees, representatives, or others who are in possession of or who may have obtained information for or on their behalf.

The terms "all records," "all documents," "all documentation," and "all communications" mean every record, document, or communication as defined herein known to you and every such record, document, or communication which can be located or discovered by reasonably diligent efforts.

The term "communication" shall mean every manner or means of disclosure, transfer or exchange, and every disclosure, transfer or exchange of information whether orally or face-to-face or by telephone, letter, mail, personal delivery, facsimile transmission, electronic mail, (e-mail) document or otherwise.

The term "document," "documents," "documentation," "record," and "records" shall mean all written, typed, printed, reported, recorded or graphic matter, and all photographic matters or sound reproduction tapes records, or other devices, however produced, reproduced, or stored, now or formerly within your actual or constructive possession, custody or control. "Document" or "documents" shall include, but are not limited to, all telegrams, telexes, cables, telephone records, telephone bills, memoranda (circulated and uncirculated), market studies, correspondence, reports, studies, compilations of data, filings, files, internal policies or rules or regulations, minutes, agenda, requests, records, charts, lists, analyses, graphs, diagrams, schematics, blueprints, specifications, worksheets, change orders, drawings, cost estimates, books, expense reports, notebooks, notes, diaries, appointment books, calendars, recordings, transcriptions, computerized data in any media, including but not limited to: discs, CD-ROMs, or e-mails; file cards, computer printouts, microfilm, microfiche, videotapes, media articles or reports, accounts, books and records, ledgers, journals and other financial records, audits, instructions, questionnaires, profit and loss statements, financial statements, annual reports, state and federal tax returns, checkbooks, canceled checks, billings, contracts or agreements or releases, and any drafts, copies, or reproductions of the foregoing; and any copy of the foregoing upon which any notations in any form have been made which do not appear on the originals; and any copy of the foregoing upon which any language, notation or comments, in any form, which appear on the original or any other copy have been deleted, highlighted, altered or edited.

The term "communication" and "communications, as used herein, shall include any utterance heard or overheard, whether in person, by telephone, radio or otherwise, statement, dialogue, discussion, conversation or agreement, as well as every document and every other mode of intentionally conveying meaning.

"Identify," identity" or "identification," when referring to a person, shall mean that you shall state the person's (a) full name, (b) current or last known business address and telephone number, (c) current or last known residential address and telephone number, (d) current or last known employer and employer's address, (e) current or last known occupation or position title.

"Identify," "identity" or "identification," when used in reference to a document, documents, documentation, record, and/or records means to state the date, author (or originator),

title, type (or subject matter) and custodian of the document, or other sufficient description of it in order to identify it for production in this suit, and each and every word contained in that document. If any document identified is no longer in your care, custody or control, state the disposition of such document. If a privilege is claimed with respect to any document, state the nature of the privilege claimed, and identify each person who has received the documents or a copy of it. Attachment of a true, correct copy of any document to your answers to these discovery requests shall constitute sufficient identification of any document.

"Person" or "individual" means any natural person, individual, proprietorship, partnership, corporation, association, joint proprietorship, joint venture, firm, other business enterprise, governmental body, or other entity.

A communication or document "relating" to any given subject means any communication or document that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any way pertinent to that subject, including without limitation, documents concerning the preparation of other documents.

Unless otherwise stated, the documents requested shall be for the past ten (10) years.

Instructions

If any Request for Production is objected to on the grounds of privilege or otherwise, set forth fully each objection, stating the facts upon which you rely as the basis for the objection, and describe:

The nature of the document or communication not produced or disclosed;

The name and title of the author;

The name and title of each person to whom the document or communication was addressed, including all people to whom a copy was sent;

The date;

The number of pages;

A description of the subject matter sufficient, without waiving the claimed privilege or protection, to allow the requesting party to assess the applicability of the privilege or protection;

The privilege or protection claimed;

The paragraph(s) of this Request for Production to which the document or communication is responsive; and

The location of the original and each copy of the document or communication as of the date of the response to this Request for Production.

If you claim that any document requests is subject to privilege, please provide all documents responsive to the Request to the extent not privileged and comply with Instruction No. 1 as to the remainder of the Request.

If documents responsive to any of the Requests have been destroyed or discarded, identify the document as follows:

The date of the document;

The author or maker of the document;

The person to whom and from whom the document was sent;

The subject matter of the document;

The date on which the document was destroyed or discarded;

The reason for the destruction or discard; and

The person authorizing and/or carrying out said destruction or discard.

When producing the documents, please keep all documents segregated by the file in which the documents are contained and indicate the name of the file in which the documents are contained and name of the documents being produced. In the event such files or documents have been removed for the purposes of this action or other purpose, please state the name and address of the person who removed the file, the title of the file and each sub-file, if any, maintained within the file, and the present location of the file.

As used herein the singular shall include the plural, the plural shall include the singular, and the masculine, feminine and neuter shall include each of the other genders.

All documents produced shall be originals unless otherwise indicated. If your "original" is a photocopy (or other copy), then the photocopy you have should be produced as your original. You should produce the original documents in the form, order and manner in which they are maintained in your files or the files of other persons under your control. In this connection, and for purposes of illustration, documents are to be produced in the file folder and file cartons in which they have been maintained or stored, clipped, stapled, or otherwise arranged in the same form and manner as they were found. In the alternative, you should segregate all documents according to the specifications of this Request and shall organize and label each group of documents with the appropriate specifications prior to production. If any document is responsive to more than one specification of this Request, it should be labeled to reflect each specification to which it is responsive.

This Request for Production calls for production of all responsive documents in the possession, custody, or control of you, your agents, or representatives without regard to physical location of said documents. Control means in your possession, custody or control, or under your direction, and included in the possession, custody, or control of those under the direction of you and your employees, subordinates, counsel, accountant, consultant, expert, parent or affiliated corporation, and any person purporting to act on your behalf.

Please mark each document to indicate the paragraph to which the document corresponds. In the event you do not have "possession, custody or control" of any of the documents requested, state this fact, specifying the paragraph concerned. Additionally, if you do not have "possession, custody, or control" of any of the documents requested, but you know that they are in the possession or custody of other parties, give a brief description of the document(s), and the name and address of the party thought to be in possession thereof.

In producing copies of any documents, produce copies of both the front and back of each document, where the backside contains writing, printing, stamping, or notations.

DOCUMENTS TO BE PRODUCED

1. All documents, including e-mails, that show, evidence, or reflect any and all communications between you or anyone acting on your behalf related to or from the Plaintiff from January 1, 2007 to present.

2. All documents, including e-mails, that show, evidence, or reflect any and all communications between you and any of the Defendants that mention the Plaintiff, from January 1, 2007 to present.

3. All documents, including e-mails, that show, evidence, or reflect any and all communications between you and any of the Defendants that are related to the Plaintiff, from January 1, 2007 to present.

4. All documents that show, evidence, or reflect any business relationships you have or had with the Plaintiff since January 1, 2007 to the present.

5. All documents that show, evidence, or reflect any compensation, monies, or payment of any nature, made by you or any of the Defendants to the Plaintiff from January 1, 2007 to the present.

6. All documents that show, evidence, or reflect any compensation, monies, or payment of any nature, that is owed by you or any of the Defendants to the Plaintiff from January 1, 2007 to present.

7. All documents, including, but not limited to, internal memoranda, e-mails, or any other writings, related to payments by you or by any of the Defendants to any agents, employees, officers, independent contractors, or any other person or entity performing work on behalf of any of the Defendants.

8. All documents that show, evidence, or reflect any person or entity that has or has had an ownership interest in Defendant LIC HOLDINGS, INC. in the past 6 years.

9. All documents that show, evidence, or reflect any and all officers of LIC HOLDINGS, INC. in the past 6 years.

10. All records of payments made for cell phone usage from January 1, 2007 to present.

11. All records concerning medical expenses paid for any person including but not limited to Rachel Walker since January 1, 2007.

12. List of all employees and their compensation since January 1, 2007.

13. List of all participants in any Defined Benefit Pension Plan.

14. Copies of all 1099's from 2007 to present.

15. All statements concerning any profit-sharing plan, including the names of all participants.

16. Records of any and all payments to Plaintiff since January 1, 2007 to present.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail at swergoldj@gtlaw.com; arnsdorffk@gtlaw.com; steffesj@gtlaw.com; and FLService@gtlaw.com to Jon Swergold, Esq., Greenberg Traurig, P.A., 401 East Las Olas Blvd., Suite 2000, Fort Lauderdale, FL 33301 this 5th day of November, 2012.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel: 561-734-5552
Fax: 561-734-5554
pfeaman@feamanlaw.com

By: */s/ Peter M. Feaman*
Peter M. Feaman
Florida Bar No.: 0260347

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

WILLIAM E. STANSBURY, an individual,

Plaintiff,

v.

CASE NO.: 50 2012CA013933 XXXX(NB)
(AA)

LIC S. BERNSTEIN, an individual,
SIMON L. BERNSTEIN, an individual,
LIC HOLDINGS, INC., a Florida
Corporation, **ARBITRAGE**
INTERNATIONAL MARKETING, LLC, a
Florida Corporation f/k/a **ARBITRAGE**
INTERNATIONAL HOLDINGS, LLC.,

Defendants.

DEFENDANT LIC HOLDINGS, INC.'S RESPONSES AND OBJECTIONS TO PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

Defendants LIC HOLDINGS, INC. ("LIC"), by and through its undersigned counsel, and pursuant to Rule 1.350 of the Florida Rules of Civil Procedure, hereby responds to Plaintiff's First Request for Production of Documents to Defendant LIC Holdings, Inc. (the "Requests"), and states as follows:

GENERAL OBJECTIONS

1. LIC objects generally to the Requests to the extent that they seek to impose burdens or duties upon LIC that are greater than are required by the Florida Rules of Civil Procedure and applicable law.

2. LIC objects generally to the Requests to the extent that they seek information that is protected by various privileges of confidentiality, including, but not limited to, the attorney-client privilege and the attorney work-product doctrine.

4. LIC construes each document request in the Requests not to seek, and states that no privilege log is required for, legal memoranda, drafts of pleadings, attorney notes, documents selected and assembled by counsel for the purpose of preparing to represent LIC, and in preparing court pleadings and other papers, communications between LIC and its counsel, and other documents and communications that have come into existence because of anticipated or actual litigation.

5. By agreeing to produce documents to any particular Request, LIC is not acknowledging that the Request seeks documents or information that are relevant or admissible. LIC reserves the right to object to the use and/or introduction into evidence of any documents produced in response to the Requests.

6. These General Objections shall be deemed applicable to and continuing with respect to the Specific Responses set forth herein. The General Objections asserLIC above are hereby incorporated into the Specific Responses. The Specific Responses may repeat a General Objection for emphasis or for some other reason. Such General Objections are not waived, nor in any way limited, by the Specific Responses.

REQUESTS AND SPECIFIC RESPONSES

1. All documents, including e-mails, that show, evidence, or reflect any and all communications between you or anyone acting on your behalf related to or from the Plaintiff from January 1, 2007 to present.

RESPONSE: LIC objects to this Request as overbroad and irrelevant because it is unlimited in scope and, as phrased, could relate to any subject matter, including, but not limited to, communications regarding birthdays, vacations, and lunch plans. LIC further objects to this Request as vague and ambiguous because "show", "evidence" and "reflect" are undefined terms. LIC also objects to this Request as seeking information that is neither relevant to any actual claim or

defense of any party in this case nor likely to lead to the discovery of any admissible evidence because responsive documents, if any, have no tendency to make the existence of any fact that is of consequence to the determination of this action more probable or not, and will not prove or disprove any element of Plaintiff's cause of action for an accounting, which is the sole claim pending against LIC. Subject to these objections and the General Objections set forth above, and to the extent this Request is understood, LIC will produce non-privileged responsive documents related solely to Plaintiff's compensation from 2008 to the present, as Plaintiff has already admitted that he was properly paid by Defendants through 2007, if any such documents exist. *See* Complaint at ¶ 18.

2. All documents, including e-mails, that show, evidence or reflect any and all communications between you and any of the Defendants that mention the Plaintiff, from January 1, 2007 to present.

RESPONSE: LIC objects to this Request as overbroad and irrelevant because it is unlimited in scope and, as phrased, could relate to any subject matter, including, but not limited to, communications regarding birthdays, vacations, and lunch plans. LIC further objects to this Request as vague and ambiguous because "show", "evidence" and "reflect" are undefined terms. LIC also objects to this Request as seeking information that is neither relevant to any actual claim or defense of any party in this case nor likely to lead to the discovery of any admissible evidence because responsive documents, if any, have no tendency to make the existence of any fact that is of consequence to the determination of this action more probable or not, and will not prove or disprove any element of Plaintiff's cause of action for an accounting, which is the sole claim pending against LIC. Subject to these objections and the General Objections set forth above, and to the extent this Request is understood, LIC will produce non-privileged responsive documents related solely to Plaintiff's compensation from 2008 to the present, as Plaintiff has already admitted that he was properly paid by Defendants through 2007, if any such documents exist. *See* Complaint at ¶ 18.

3. All documents, including e-mails, that show, evidence or reflect any and all communications between you and any of the Defendants that are related to the Plaintiff, from January 1, 2007 to present.

RESPONSE: LIC objects to this Request as overbroad and irrelevant because it is unlimited in scope and, as phrased, could relate to any subject matter, including, but not limited to, communications regarding birthdays, vacations, and lunch plans. LIC further objects to this Request as vague and ambiguous because "show", "evidence" and "reflect" are undefined terms. LIC also objects to this Request as seeking information that is neither relevant to any actual claim or defense of any party in this case nor likely to lead to the discovery of any admissible evidence because responsive documents, if any, have no tendency to make the existence of any fact that is of consequence to the determination of this action more probable or not, and will not prove or disprove any element of Plaintiff's cause of action for an accounting, which is the sole claim pending against LIC. Subject to these objections and the General Objections set forth above, and to the extent this Request is understood, LIC will produce non-privileged responsive documents related solely to Plaintiff's compensation from 2008 to the present, as Plaintiff has already admitted that he was properly paid by Defendants through 2007, if any such documents exist. *See* Complaint at ¶ 18.

4. All documents that show, evidence, or reflect any business relationships you have or had with the Plaintiff since January 1, 2007 to the present.

RESPONSE: LIC objects to this as vague and ambiguous because "show", "evidence" "reflect" and "business relationships" are undefined terms. LIC further objects to this Request as seeking information that is neither relevant to any actual claim or defense of any party in this case nor likely to lead to the discovery of any admissible evidence because responsive documents, if any, have no tendency to make the existence of any fact that is of consequence to the determination of this action more probable or not, and will not prove or disprove any element of Plaintiff's cause of action for an accounting, which is the sole claim pending against LIC.

5. All documents that show, evidence, or reflect any compensation, monies, or payment of any nature, made by you or any of the Defendants to the Plaintiff from January 1, 2007 to the present.

RESPONSE: LIC objects to this Request as overbroad and irrelevant because Plaintiff has previously admitted he was properly paid through 2007. *See* Complaint at ¶ 18. LIC also objects to this Request as vague and ambiguous because "show", "evidence" and "reflect" are undefined terms. Subject to these objections and the General Objections set forth above, and to the extent this Request is understood, LIC will produce non-privileged responsive documents related solely to Plaintiff's compensation from 2008 to the present.

6. All documents that show, evidence, or reflect any compensation, monies, or payment of any nature, that is owed by you or any of the Defendants to Plaintiff from January 1, 2007 to the present.

RESPONSE: LIC objects to this Request as overbroad and irrelevant because Plaintiff has previously admitted he was properly paid through 2007. *See* Complaint at ¶ 18. LIC also objects to this Request as vague and ambiguous because "show", "evidence" and "reflect" are undefined terms. Subject to these objections, and to the extent this Request is understood, LIC states that no such documents are presently known to exist.

7. All documents, including, but not limited to, internal memoranda, e-mails, or any other writings, related to payments by you or by any of the Defendants to any agents, employees, officers, independent contractors, or any other person or entity performing work on behalf of any of the Defendants.

RESPONSE: LIC objects to this Request as seeking information that is neither relevant to any actual claim or defense of any party in this case nor likely to lead to the discovery of any admissible evidence because documents relating to payments made to other "agents, employees, officers, independent contractors, or any other person or entity", if any, have no tendency to make the existence of any

fact that is of consequence to the determination of this action more probable or not, and will not prove or disprove any element of Plaintiff's alleged claim or damages. LIC also objects to this Request as vague and ambiguous because "memoranda" and "writings" are undefined terms. LIC further objects to this Request as seeking third-parties' confidential financial information. Subject to these objections and the General Objections set forth above, and to the extent this Request is understood, LIC will produce non-privileged responsive documents related solely to Plaintiff's compensation from 2008 to the present, as Plaintiff has already admitted that he was properly paid by Defendants through 2007. *See* Complaint at ¶ 18.

8. All documents that show, evidence, or reflect any person or entity that has or has had an ownership interest in Defendant ARBITRAGE and/or LIC HOLDINGS, INC., in the past 6 years.

RESPONSE: LIC objects that the temporal scope of this Request is overbroad and irrelevant. LIC further objects to this Request on the grounds that "show" and "evidence" are undefined terms. LIC further objects to this Request as seeking information that is neither relevant to any actual claim or defense of any party in this case nor likely to lead to the discovery of any admissible evidence because responsive documents, if any, have no tendency to make the existence of any fact that is of consequence to the determination of this action more probable or not, and will not prove or disprove any element of Plaintiff's cause of action for an accounting, which is the sole claim pending against LIC. Subject to these objections and the General objections set forth above, and to the extent this Request is understood, LIC will produce non-privileged responsive documents, if any, at a mutually convenient date and time.

9. All documents that show, evidence, or reflect any and all officers of ARBITRAGE and/or LIC HOLDINGS, INC. in the past 6 years.

RESPONSE: LIC objects that the temporal scope of this Request is overbroad and irrelevant. LIC further objects to this Request on the grounds that "show" and "evidence" are undefined terms. LIC further objects to this Request as

seeking information that is neither relevant to any actual claim or defense of any party in this case nor likely to lead to the discovery of any admissible evidence because responsive documents, if any, have no tendency to make the existence of any fact that is of consequence to the determination of this action more probable or not, and will not prove or disprove any element of Plaintiff's cause of action for an accounting, which is the sole claim pending against LIC. Subject to these objections and the General objections set forth above, and to the extent this Request is understood, LIC will produce non-privileged responsive documents, if any, at a mutually convenient date and time.

10. All records of payments made for cell phone usage from January 1, 2007 to present.

RESPONSE: LIC objects to this Request as seeking information that is neither relevant to any actual claim or defense of any party in this case nor likely to lead to the discovery of any admissible evidence because responsive documents, if any, have no tendency to make the existence of any fact that is of consequence to the determination of this action more probable or not, and will not prove or disprove any element of Plaintiff's cause of action for an accounting, which is the sole claim pending against LIC. LIC further objects to this Request as overbroad and irrelevant, as this Request is not limited to a subject matter relevant to this litigation and fails to identify for whom the records are sought or for whom the payments were made.

11. All records concerning medical expenses paid for any person including but not limited to Rachel Walker since January 1, 2007.

RESPONSE: LIC also objects to this Request as seeking information that is neither relevant to any actual claim or defense of any party in this case nor likely to lead to the discovery of any admissible evidence because responsive documents, if any, have no tendency to make the existence of any fact that is of consequence to the determination of this action more probable or not, and will not prove or disprove any element of Plaintiff's cause of action for an accounting, which is the sole claim pending against LIC. LIC further objects to this Request as overbroad and irrelevant, as this Request is not limited to a subject matter relevant to this

litigation. LIC also objects to this Request as seeking third-parties' confidential medical/health information.

12. List of all employees and their compensation since January 1, 2007.

RESPONSE: LIC objects to this Request on the grounds that the temporal scope is overbroad, as Plaintiff has previously admitted he was properly paid through 2007. *See* Complaint at ¶ 18. LIC also objects to this Request as seeking third-parties' confidential financial information. LIC further objects to this Request as seeking information that is neither relevant to any actual claim or defense of any party in this case nor likely to lead to the discovery of any admissible evidence because responsive documents, if any, have no tendency to make the existence of any fact that is of consequence to the determination of this action more probable or not, and will not prove or disprove any element of Plaintiff's cause of action for an accounting, which is the sole claim pending against LIC.

13. List of all participants in any Denied Benefit Pension Plan.

RESPONSE: LIC objects to this Request as seeking information that is neither relevant to any actual claim or defense of any party in this case nor likely to lead to the discovery of any admissible evidence because responsive documents, if any, have no tendency to make the existence of any fact that is of consequence to the determination of this action more probable or not, and will not prove or disprove any element of Plaintiff's cause of action for an accounting, which is the sole claim pending against LIC. LIC further objects to this Request on the grounds that the ten (10) year temporal scope of this Request is overbroad. LIC also objects to this Request as seeking third-parties' confidential financial and employment information. LIC further objects to this Request as vague and ambiguous because "Denied Benefit Pension Plan" is an undefined term.

14. Copies of all 1099's from 2007 to present.

RESPONSE: LIC objects to this Request as overbroad and irrelevant because this Request fails to identify for whom the information is sought. To the extent this Request seeks the production of 1099's for anyone other than Plaintiff, LIC objects to this Request as seeking third-parties' confidential financial and employment information. Subject to these

objections and the General Objections set forth above, LIC will produce non-privileged responsive documents related solely to Plaintiff's compensation from 2008 to the present, as Plaintiff has already admitted that he was properly paid by Defendants through 2007. *See* Complaint at ¶ 18.

15. All statements concerning any profit-sharing plan, including the names of all participants.

RESPONSE: LIC objects to this Request on the grounds that the ten (10) year temporal scope of this Request is overbroad. LIC also objects to this Request as vague and ambiguous because "statements" is an undefined term. LIC further objects to this Request as seeking information that is neither relevant to any actual claim or defense of any party in this case nor likely to lead to the discovery of any admissible evidence because such "statements", if any, have no tendency to make the existence of any fact that is of consequence to the determination of this action more probable or not, and will not prove or disprove any element of Plaintiff's cause of action for an accounting, which is the sole claim pending against LIC. LIC further objects to this Request as seeking third-parties' confidential financial and employment information.

16. Records of any and all payments to Plaintiff since January 1, 2007 to present.

RESPONSE: LIC objects to this Request on the grounds that the temporal scope is overbroad, as Plaintiff has previously admitted he was properly paid through 2007. See Complaint at ¶ 18. Subject to this objection and the General Objections set forth above, LIC will produce non-privileged responsive documents related solely to payments made to Plaintiff from 2008 to the present at a mutually convenience date and time.

Respectfully submitted,
GREENBERG TRAURIG, P.A.
401 East Las Olas Boulevard
Suite 2000
Fort Lauderdale, Florida 33301
Telephone: (954) 765-0500
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Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the has been sent via e-mail and U.S. Mail to: Peter M. Feaman, Esq.(pfeaman@feamanlaw.com), Kenneth D. Stern, Esq. (kdstern@gmail.com), 3615 W. Boynton Beach Blvd., Boynton Beach, FL 33436 on this 4th day of February, 2013.

_____
KRISTINA L. CIAFFI

FTL 109,084,689v2

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: 50 2012 CA 013933 MB AA

v.

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.
_____/

PLAINTIFF WILLIAM E. STANSBURY'S MOTION TO COMPEL DEFENDANT LIC HOLDINGS, INC. TO PRODUCE DOCUMENTS RESPONSIVE TO PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

Plaintiff, WILLIAM STANSBURY, by and through his undersigned counsel, hereby moves this Court for an Order compelling Defendant LIC HOLDINGS, INC. ("LIC") to produce the documents requested in Plaintiff's First Request for Production of Documents. As grounds, Plaintiff states that the objections raised by LIC in its response are spurious and without merit. Specific responses to LIC's objections are set forth below.

A. Response to General Objections and General Responses

1. The Plaintiff's First Request for Production of Documents pursuant to Rule 1.350 of the Florida Rules of Civil Procedure. LIC objects to the extent these requests "seek to impose burdens or duties upon LIC that are greater than are required by the Florida Rules of Civil Procedure or applicable law." The bar is relatively low for the scope of discovery, requiring only

that the requested documents be "reasonably calculated to lead to the discovery of admissible evidence." Rule 1.280, Fla. Rules of Civ. Proc. These requests only seek documents that meet this standard, but as objectively determined by the Court, not subjectively determined by LIC.

2. Plaintiff does not seek documents that are subject to either attorney-client or work product privileges. However, subject to the response in 4, below, if LIC claims any documents are protected by either or both privileges, these documents must to listed in a privilege log and made available to the Court for inspection.

4. (Numbering error in LIC Objection) As stated in Response 2, Plaintiff does not seek legitimately privileged documents prepared by LIC counsel for LIC or prepared by LIC in connection with or in anticipation of this litigation. Hence, legal memoranda, drafts of pleadings, attorney notes or communications between counsel and LIC relating to this litigation are not required to be produced. Documents "assembled" by counsel for the purpose of preparing to represent LIC, however, are not automatically privileged and, if the privilege is asserted, these documents should be listed in a privilege log. Other documents, to the extent they include third parties or show a "cc" to counsel, are not privileged and, if the privilege is claimed, should be the subject of a privilege log as well.

5. Plaintiff is not contending that any or all documents to be produced hereunder are automatically admissible into evidence at trial or that LIC, by producing them, has waived the right to object to admissibility. Plaintiff only contends the documents are relevant for discovery purposes at this time.

6. LIC raises a temporal objection to many requests by refusing to produce any documents prior to 2008 on the grounds that Plaintiff admitted he was paid by Defendants through 2007, so allegedly prior records are irrelevant. This objection lacks merit. Plaintiff has

alleged in his Complaint, *inter alia,* breach of oral contract against LIC. Therefore, it is highly relevant for Plaintiff to show documentation from the year immediately preceding the breach as evidence of the breach in ensuing years. In other words, Plaintiff should be permitted to show documents from a year when compensation was paid in full and the oral agreement was honored, and compare it to documentation from subsequent years when the breach occurred and full compensation was withheld and denied. This evidence is relevant to the existence of the oral agreement, its breach and the resulting damages.

7. These General Responses apply to all specific responses set forth below.

B. Response to Objections to Specific Requests

1(a). LIC objects to the language of Plaintiff's question relating to documents that "show, evidence or reflect" communications between LIC or anyone acting on its behalf to or from Plaintiff from January 1, 2007 to present." LIC claims the question is overbroad and vague as the terms "show, evidence and reflect" are undefined. When construing statutory language, in the absence of a definition, the meaning of words of common usage can be ascertained by reference to a dictionary. *Jones v. Williams Pawn & Gun, Inc.,* 800 So. 2d. 267 (Fla. 4th DCA 2001). The same principle applies in this situation. Webster's II New College Dictionary (1999) defines, as is pertinent here, the following: **show:** *"to point out, to manifest, to indicate;"* **evidence:** *"something that indicates;"* **reflect:** *"to manifest as the result of one's actions."* Consequently, this request seeks communications that manifest, indicate or show written communications between the parties. This is not ambiguous or vague. As such, the objection is not well taken and this Court should order that the requested documents be produced.

(b). LIC also objects on relevance grounds. *See,* Plaintiff's response to General Objections and General Responses, number 1, Section A, above. LIC also asserted that the

requested documents were irrelevant in that they were not likely to lead to the discovery of admissible evidence because these documents have no tendency to "make the existence of any fact ... more probable or not, and will not prove or disprove any element of Plaintiff's cause of action for an accounting which is the sole claim pending against LIC." Section 90.402, Fla. Stat. (2012), the Florida Evidence Code, defines relevance for trial purposes as "evidence tending to prove or disprove a material fact." So, in essence, LIC claims the requested documents are not relevant for discovery purposes because they are not admissible under the Evidence Code. This is absurd on its face. The standard for discovery relevance is not its admissibility at trial. This objection should be dismissed out of hand.

(c). Finally, LIC concludes its objection by agreeing to produce "non-privileged responsive documents related solely to Plaintiff's compensation from 2008 to the present..." For the reasons stated above, Plaintiff is entitled to the 2007 documents as well. *See,* Plaintiff's Response to General Objections and General Responses, number 6, above. Additionally, while Plaintiff has raised multiple legitimate claims against LIC in its Complaint, the crux of Plaintiff's case against LIC (contrary to LIC's assertion that an accounting is the sole claim against LIC) is breach of oral contract (*See,* Amended Complaint, Count II). Hence ***all*** written communication between LIC or its agents and Plaintiff are relevant, for discovery purposes, as isolated statements or comments in **any** written communication or response, regardless of the subject matter, is, would or may be likely to lead to evidence of the existence and terms of the subject oral contract. LIC cannot subjectively decide what, in its opinion, is a compensation or relevant communication, then only produce those documents in response to this request. **All** written communications between the parties are relevant for discovery purposes under this request and this Court should order that they be produced.

2. LIC makes the same objections of over breadth, vagueness, ambiguity and relevance to request 2 as were raised in request 1. Please see Plaintiff's responses 1(a), 1(b) and 1(c) of this Section B, above.

3. LIC makes the same objections of over breadth, vagueness, ambiguity and relevance to request 3 as were raised in response to requests 1 and 2. Please see Plaintiff's responses 1(a), 1(b) and 1(c) of this Section B, above.

4. LIC objects to the breadth of the request once again based on the use of the terms "show, evidence and reflect." See Plaintiff's response in 1(a), above. Plaintiff also objects to the use of the term "business relationships" because it is undefined. As above, **relationship** is defined in Webster's II New College Dictionary (1999) as a "*particular state of affairs among people related to or dealing with one another.*" Therefore, the plain and ordinary meaning of all these terms as used in the context of this specific request makes clear that Plaintiff is requesting all documents that show, evidence or reflect business affairs or dealings among the parties, as opposed to personal or social relationships. As a result, this objection is not well taken and this Court should order that the requested documents be produced.

5. LIC makes the same objections of over breadth, vagueness, ambiguity and relevance as were made to requests 1 through 4. Please see Plaintiff's responses 1(a), 1(b) and 1(c) of this Section B, above. The request is clearly directed to all documents that evidence or show the payment of money from LIC or any of the Defendants to Plaintiff. The request is not vague or ambiguous and this Court should order that the requested documents be produced.

6. LIC makes the same objections to vagueness, ambiguity and relevance as were made to requests 1 through 5. Please see Plaintiff's responses 1(a), 1(b) and 1(c) of this Section B, above. The request is clearly directed to all documents that evidence or show that LIC or any

of the Defendants owe money to Plaintiff. The request is not vague or ambiguous and this Court should order that the requested documents be produced.

7. LIC objects to request 7 on relevance grounds. Please see Plaintiff's response to this objection in 1(b) of this section B, above. LIC also objects because the terms "memoranda" and "writings" are vague, ambiguous and undefined. Webster's II New College Dictionary (1999) defines, as is pertinent here, **memorandum or memoranda:** *"a written record or communication, as in a business office, or a short informal note written as a reminder," and* **writing:** *"written form, or characters written or imprinted on a surface, a written work."* Consequently, Plaintiff is requesting any internal memorandums or memoranda or other writings that evidence or relate to payments made to any third party. This is not vague or ambiguous. Additionally, if LIC claims that any such document is confidential for any reason, the documents should be listed in the privilege or a confidentiality log and submitted to this Court for *in camera* inspection. Therefore, LIC's objections should be overruled and this Court should order that the requested documents be produced.

8. LIC makes the same objections to vagueness, ambiguity and relevance as were made to requests 1 through 6. Please see Plaintiff's responses 1(a), 1(b) and 1(c) of this Section B, above. Additionally, LIC makes another temporal scope objection, presumably because the request seeks documents that disclose the identity of all persons with an ownership interest in LIC over the last 6 years. Six years prior would commence the time period at the beginning of 2007, which is the same time period Plaintiff explained was reasonable in this case in its Response to General Objections and General Responses, number 6 in Section A, above. The changes in ownership both before and after the claims for breach of contract (Count II of the Amended Complaint) and the breaches of fiduciary duty (Count III of the Amended Complaint)

accrued are highly relevant to Plaintiff's case as evidence of potential corporate waste. These objections should be overruled and the documents order produced without qualification.

9. LIC makes the same objections to vagueness, ambiguity and relevance as were made to requests 1 through 6. Please see Plaintiff's responses 1(a), 1(b) and 1(c) of this Section B, above. Additionally, LIC makes another temporal scope objection, presumably because the request seeks documents that disclose the identity of all officers of LIC over the last 6 years. Six years prior would commence the time period at the beginning of 2007, which is the same time period Plaintiff explained was reasonable in this case in its Response to General Objections and General Responses, number 6 in Section A, above. The identity of the officers over that period of time, both before and after the claims for breach of contract (Count II of the Amended Complaint) and the breaches of fiduciary duty (Count III of the Amended Complaint) accrued are highly relevant to Plaintiff's case as evidence of potential corporate waste. These objections should be overruled and the documents ordered produced without qualification.

10. LIC objects to request 10 on relevance grounds. Please see Plaintiff's response to this objection in 1(b) of this Section B, above. Additionally, LIC objects to the request for all cell phone payment records on the grounds that the request fails to identify for whom the records are sought or for whom the payments were made. This request is intentionally broad as it seeks all LIC cell phone payment records so that Plaintiff may determine on whose behalf LIC made those payments. Key allegations in this case include breach of fiduciary duty and acts of corporate waste by Ted and Simon Bernstein. *See,* Amended Complaint, Count III, Paragraphs 45 through 59. Plaintiff contends that the Bernsteins were paying out corporate monies to or on behalf of family members and friends that were not legitimate employees or third party

contractors of LIC. Plaintiff is therefore entitled to all documentation that evidences cell phone usage by **any** person for whom LIC made cell phone usage payments.

11. LIC once again raises a relevance objection. Please see Plaintiff's response to this objection in 1(b) of this section B, above. Key allegations in this case include breach of fiduciary duty and acts of corporate waste by Ted and Simon Bernstein. *See,* Amended Complaint, Count III, Paragraphs 45 through 59. Plaintiff contends that the Bernsteins were paying out corporate monies to or on behalf of family members and friends that were not legitimate employees or third party contractors of LIC. Plaintiff is therefore entitled to all documents that evidence or show that LIC paid for medical expenses incurred by persons or entities that were not legitimate employees or contractors of LIC.

12. LIC once again raises a relevance objection. Please see Plaintiff's response to this objection in 1(b) of this section B, above. Key allegations in this case include breach of fiduciary duty and acts of corporate waste by Ted and Simon Bernstein. *See* Amended Complaint, Count III, Paragraphs 45 through 59. Plaintiff contends that the Bernsteins were paying out corporate monies to or on behalf of family members and friends that were not legitimate employees or third party contractors of LIC. Plaintiff is therefore entitled to all documents that evidence or show that LIC potentially paid compensation to individuals that were not legitimate employees or third party contractors of LIC.

13. LIC once again raises a relevance objection. Please see Plaintiff's response to this objection in 1(b) of this section B, above. Key allegations in this case include breach of fiduciary duty and acts of corporate waste by Ted and Simon Bernstein. *See,* Amended Complaint, Count III, Paragraphs 45 through 59. Plaintiff contends that the Bernsteins were paying out corporate monies to or on behalf of family members and friends that were not

legitimate employees or third party contractors of LIC. Plaintiff is therefore entitled to all documents that evidence or show that LIC potentially allowed non-employee friends or family members to participate in the company's Defined Benefit Pension Plan (mistakenly designated "Denied" Benefit Pension Plan in Plaintiff's original request).

14. LIC once again raises a relevance objection. Please see Plaintiff's response to this objection in 1(b) of this section B, above. Key allegations in this case include breach of fiduciary duty and acts of corporate waste by Ted and Simon Bernstein. *See,* Amended Complaint, Count III, Paragraphs 45 through 59. Plaintiff contends that the Bernsteins were paying out corporate monies to or on behalf of family members and friends that were not legitimate employees or third party contractors of LIC. Plaintiff is therefore entitled to all 1099s issued to any employee or contractor so Plaintiff can determine if LIC paid compensation to individuals that were not legitimate employees or third party contractors of LIC.

15. LIC once again raises a relevance objection. Please see Plaintiff's response to this objection in 1(b) of this Section B, above. Key allegations in this case include breach of fiduciary duty and acts of corporate waste by Ted and Simon Bernstein. *See,* Amended Complaint, Count III, Paragraphs 45 through 59. Plaintiff contends that the Bernsteins were paying out corporate monies to or on behalf of family members and friends that were not legitimate employees or third party contractors of LIC. Plaintiff is therefore entitled to all profit-sharing plan statements that show the names of all participants as these statement will or may show that LIC potentially included family members and friends that are not or were not legitimate employees of LIC.

16. Plaintiff seeks all documents and records of all payments made to Plaintiff by LIC since January 1, 2007 to present, without qualification. *See,* Plaintiff's response to LIC's

temporal objection in Plaintiff's response 6 of his Response to General Objections set forth in Section A, above.

WHEREFORE, Plaintiff requests this Honorable Court to overrule Defendant's objections as without merit, order that Defendant respond within 10 days and for an award of reasonable attorneys' fees incurred by Plaintiff in connection with Plaintiff's response to Defendant's frivolous objections.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at swergoldj@gtlaw.com; ciaffik@gtlaw.com; steffesj@gtlaw.com; and FLService@gtlaw.com to Jon Swergold, Esq., Greenberg Traurig, P.A., 401 East Las Olas Blvd., Suite 2000, Fort Lauderdale, FL 33301 this 19 day of February, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel: 561-734-5552
Fax: 561-734-5554
pfeaman@feamanlaw.com

By: _____
Peter M. Feaman
Florida Bar No.: 0260347

Electronically Filed 11/12/2013 10:01:50 AM ET

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

WILLIAM E. STANSBURY,
Plaintiff,

v.

CASE NO: **50 2012 CA 013933 MB AA**

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.
_____/

PLAINTIFF'S NOTICE OF SERVING ANSWERS TO DEFENDANTS' SECOND SET OF INTERROGATORIES TO PLAINTIFF

COMES NOW Plaintiff, WILLIAM E. STANSBURY, by and through his undersigned counsel and hereby files his answers to Defendants' Second Set of Interrogatories to Plaintiff, served October 3, 2013.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been served in hand in open court to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives of the Estate of Simon Bernstein* and *Bernstein Family Realty,* 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; and to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc, Arbitrage International Management, LLC and the Shirley Bernstein Trust,* 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this 12 day of November, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel: 561-734-5552
Fax: 561-734-5554
pfeaman@feamanlaw.com

By: _____
Peter M. Feaman
Florida Bar No.: 0260347

ANSWERS TO DEFENDANTS' SECOND SET OF INTERROGATORIES

1. Identify by name, address and telephone number of all persons known by you, your agents or attorneys who have any knowledge relating to the allegations made by you in Count II of your Second Amended Complaint dated September 3, 2013.

ANSWER: Simon Bernstein, c/o Mark Manceri, Esq., 2929 E. Commercial Blvd., Suite 702, Ft. Lauderdale, FL 33308; 954-491-7099.

Ted Bernstein, c/o Alan Rose, Esq., 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401; 561-355-6991.

Diana Banks, Vice President of Administration of LIC Holdings, Inc. and/or Arbitrage International Management, LLC; 23415 Boca Trace Drive, Boca Raton, FL 33433.

Gerald Lewin, CPA for Defendant companies; CBIZ MHM, LLC, 1675 Military Trail, 5th Floor, Boca Raton, FL 33486; 561-994-5050.

Anthony Messuri, accountant; CBIZ MHM, LLC, 1675 Military Trail, 5th Floor, Boca Raton, FL 33486; 561-994-5050.

Ransom Jones: maintained the books and records of the Defendant companies and would be aware of Plaintiff's compensation structure. Current address unknown.

John Sethman, 11140 Lakeaire Circle, Boca Raton, FL 33498; 561-715-8734.

2. Identify by name, address and telephone number all persons known by you, your agents or attorneys who have any knowledge relating to the allegations made by you in Count III of your Second Amended Complaint dated September 3, 2013.

ANSWER: Simon Bernstein, Ted Bernstein, Deborah Bernstein, Diana Banks, Gerald Lewin, Anthony Messuri, and Ransom Jones, John Sethman.

3. Identify by name, address and telephone number all persons known by you, your agents or attorneys who have any knowledge relating to the allegations made by you in Count VI (numbered as Count V) of your Second Amended Complaint dated September 3, 2013.

ANSWER: Simon Bernstein, Ted Bernstein, Diana Banks, Lindsey Baxley (address unknown), Roger Hoyt (12 Paw Paw Court, Homosassa, FL 34446), Sal Gorge, Delray Beach, FL 561-289-2639, Alliance Financial Group, John Sethman.

4. Identify by name, address and telephone number all persons known by you, your agents or attorneys who have any knowledge relating to the allegations made by you in Count VII of your Second Amended Complaint dated September 3, 2013.

ANSWER: **Simon Bernstein, Ted Bernstein, Diana Banks, Ransom Jones, John Sethman;**

Aegon USA, Inc., 4333 Edgewood Road NE, Cedar Rapids, IA 52499

Hartford Life Insurance Co., P.O. Box 14293, Lexington, KY 40512

Lincoln National Life Insurance Co., 1201 Hays Street, Tallahassee, FL 32301

Massachusetts Mutual Life Insurance Co., 1295 State Street, Springfield, MA 01111

Penn Mutual Life Insurance Co., 600 Dresher Road, Horsham, PA 19044

Phoenix Life Insurance Co., One American Row, Hartford, CT 06102

Transamerica Life Insurance Co., 4333 Edgewood Road NE, MS 3510, Cedar Rapids, IA 52499

5. Identify by name, address and telephone number all persons known by you, your agents or attorneys who have any knowledge relating to the allegations made by you in Count VII of your Second Amended Complaint dated September 3, 2013.

ANSWER: Simon Bernstein, Ted Bernstein, Diana Banks, Gerald Lewin, Anthony Messuri, and Ransom Jones, John Sethman.

6. Identify by name, address and telephone number all persons known by you, your agents or attorneys who have any knowledge relating to the allegations made by you in Count IX of your Second Amended Complaint dated September 3, 2013.

ANSWER: Simon Bernstein and Ted Bernstein, Trustees of the Shirley Bernstein Trust; Trustees of the Bernstein Family Trust; and Deborah Bernstein.

7. Identify by name, address and telephone number all persons known by you, your agents or attorneys who have any knowledge relating to the allegations made by you in Count X of your Second Amended Complaint dated September 3, 2013.

ANSWER: **See #6.**

VERIFICATION

WILLIAM E. STANSBURY

STATE OF FLORIDA)
) ss:
COUNTY OF PALM BEACH)

BEFORE ME, the undersigned authority, personally appeared WILLIAM E. STANSBURY, who is personally known to me or who produced _____ as identification, and who upon being duly sworn, deposes and states that he has read the Answers to the First Set of Interrogatories propounded to him by the Defendants, Donald Tescher and Robert Spallina, as Co-Personal Representatives of the Estate of Simon L. Bernstein, and that the statements contained therein are true and correct to the best of his knowledge.

SWORN TO and SUBSCRIBED before me this 12 day of November, 2013.

MARYANNE KOSKEY
MY COMMISSION # EE 012598
EXPIRES: September 4, 2014
Bonded Thru Notary Public Underwriters

Notary Public
State of FLORIDA

MARYANNE KOSKEY
Printed Name of Notary Public

My Commission expires:

Electronically Filed 11/04/2013 02:45:35 PM ET

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

PLAINTIFF'S MOTION FOR EXTENSION OF TIME

COMES NOW Plaintiff, WILLIAM E. STANSBURY, by and through his undersigned counsel and moves for an extension of time to respond to Defendants', Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives of the Estate of Simon L. Bernstein, Second Set of Interrogatories and requests an additional 20 days in which to respond to the Interrogatories, and as grounds states as follows:

1. On October 3, 2013, Defendants filed and directed a Notice of Serving Second Set of Interrogatories to William E. Stansbury.

2. On October 31, 2013, Plaintiff sent an email request to Attorney Mark Manceri for a 20-day extension of time to answer/respond to Defendants' Second Set of Interrogatories. As of this date, Attorney Manceri has not responded.

3. Plaintiff requires additional time to respond to the Second Set of Interrogatories and therefore files this Motion for Extension of Time up to and including November 25, 2013.

4. This matter is not set for trial and no prejudice will result to Defendants by the granting of this Motion.

WHEREFORE, Plaintiff, WILLIAM E. STANSBURY, requests this Honorable Court for an extension of time to respond to Defendants' Second Set of Interrogatories up through and including November 25, 2013.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives of the Estate of Simon Bernstein* and *Bernstein Family Realty,* 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; at arose@pm-law.com and mchandler@pm-law.com to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc, Arbitrage International Management, LLC and the Shirley Bernstein Trust,* 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this 4th day of November, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel: 561-734-5552
Fax: 561-734-5554
pfeaman@feamanlaw.com

By: _____
Peter M. Feaman
Florida Bar No.: 0260347

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

CIVIL DIVISION "AA"

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

ORDER SETTING SPECIAL SET HEARING

The following matter has been specially set for hearing before Judge Peter D. Blanc in Courtroom 11-A of the Palm Beach County Courthouse, 205 North Dixie Highway, West Palm Beach, Florida 33401:

DATE: **Tuesday, November 12, 2013**

TIME: **10:00 a.m. (time allotted: 30 minutes)**

MATTER: **Objection of Defendants, Ted Bernstein, LIC Holdings, Inc. and Arbitrage, LLC to Notice of Production from Non-Party CBIZ MHM, LLC**

and

Objection of Defendants Donald Tescher and Robert L. Spallina, as Co-Personal Representatives of the Estate of Simon L. Bernstein to Notice of Production from Non-Party CBIZ MHM, LLC

THIS MOTION IS SPECIALLY SET AND CANNOT BE CANCELED OR RESET EXCEPT BY COURT ORDER.

It is the intent of this Court to dispose of the subject matter of the specially set motion on the date and time appearing above. Accordingly, counsel must either: (1) be present personally or by telephone conference call at the hearing (telephone appearance must be approved in advance); or (2) submit an agreed order disposing of the motion.

All memoranda, not to exceed ten (10) double spaced pages, with case authority shall be delivered directly to my office no later than seven (7) days in advance of the hearing and should designate the date and time of the hearing which they reference. Arguments shall be limited to a maximum of fifteen (15) minutes per side or less as the Court deems appropriate.

DONE AND ORDERED at West Palm Beach, Palm Beach County, Florida, on this 1 day of November, 2013.

PETER D. BLANC, Circuit Judge

Copies Furnished:

***Alan Rose, Esq.**, Page Mrachek, 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401; e-mail: arose@pm-law.com;*
***Mark R. Manceri, Esq.**, Mark R. Manceri, P.A., 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; e-mail: mrmlaw@comcast.net;*
***Peter M. Feaman, Esq.**, Peter M. Feaman, P.A., 3615 W. Boynton Beach Blvd., Boynton Beach, FL 33436; e-mail: pfeaman@feamanlaw.com;*

"If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Germaine English, Americans with Disabilities Act Coordinator, Palm Beach County Courthouse, 205 North Dixie Highway West Palm Beach, Florida 33401; telephone number (561) 355-4380 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711."

"Si usted es una persona minusválida que necesita algún acomodamiento para poder participar en este procedimiento, usted tiene derecho, sin tener gastos propios, a que se le provea cierta ayuda. Tenga la amabilidad de ponerse en contacto con Germaine English, 205 N. Dixie Highway, West Palm Beach, Florida 33401; teléfono número (561) 355-4380, por lo menos 7 días antes de la cita fijada para su comparecencia en los tribunales, o inmediatamente después de recibir esta notificación si el tiempo antes de la comparecencia que se ha programado es menos de 7 días; si usted tiene discapacitación del oído o de la voz, llame al 711."

"Si ou se yon moun ki enfim ki bezwen akomodasyon pou w ka patisipe nan pwosedi sa, ou kalifye san ou pa gen okenn lajan pou w peye, gen pwovizyon pou jwen kèk èd. Tanpri kontakte Germaine English, kòòdonatè pwogram Lwa pou ameriken ki Enfim yo nan Tribinal Konte Palm Beach la ki nan 205 North Dixie Highway, West Palm Beach, Florida 33401; telefòn li se (561) 355-4380 nan 7 jou anvan dat ou gen randevou pou parèt nan tribinal la, oubyen imedyatman apre ou fin resevwa konvokasyon an si lè ou gen pou w parèt nan tribinal la mwens ke 7 jou; si ou gen pwoblèm pou w tande oubyen pale, rele 711."

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

IN RE:

ESTATE OF SHIRLEY
BERNSTEIN,
Deceased.
_____/

Case No.: 502011CP000653XXXXSB
Division: IY

ORDER ON WILLIAM E. STANSBURY'S MOTION TO INTERVENE

THIS CAUSE came on to be heard before this Honorable Court upon William E. Stansbury's Motion To Intervene, and the Court having reviewed the file, being duly advised in the premises, it is hereby

ORDERED and ADJUDGED:

1. William E. Stansbury's Motion to Intervene is hereby ~~GRANTED~~ Denied.

2. _____

_____.

DONE and ORDERED in Chambers, West Palm Beach, Palm Beach County, Florida on this ____ day of October, 2013.

_____
Honorable Martin Colin
Circuit Judge

SIGNED & DATED
OCT 23 2013
JUDGE MARTIN COLIN

Copies to:
Alan B. Rose, Esq., Page, Mrachek, Fitzgerald, Rose, Konopka & Dow, 505 S. Flagler Drive, Suite 600, West Palm Beach, FL 33401; arose@pm-law.com
Mark R. Manceri, Esq., Mark R. Manceri, P.A., 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; mrmlaw@comcast.net; mrmlaw1@gmail.com
Peter M. Feaman, Esq., Peter M. Feaman, P.A., 3615 W. Boynton Beach Blvd., Boynton Beach, FL; service@feamanlaw.com.
Eliot Bernstein, *pro se,* 2753 NW 34th Street, Boca Raton, FL 33434, at *iviewit@iviewit.tv*

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

IN RE:

Case No.: 502011CP000653XXXXSB
Division: IY

ESTATE OF SHIRLEY
BERNSTEIN,
Deceased.
_____/

ORDER ON WILLIAM E. STANSBURY'S MOTION TO INTERVENE

THIS CAUSE came on to be heard before this Honorable Court upon William E. Stansbury's Motion To Intervene, and the Court having reviewed the file, being duly advised in the premises, it is hereby

ORDERED and ADJUDGED:

1. William E. Stansbury's Motion to Intervene is hereby ~~GRANTED~~ Denied.

2. _____

_____.

DONE and ORDERED in Chambers, West Palm Beach, Palm Beach County, Florida on this ____ day of October, 2013.

_____
Honorable Martin Colin
Circuit Judge

SIGNED & DATED
OCT 25 2013
JUDGE MARTIN H. COLIN

Copies to:
Alan B. Rose, Esq., Page, Mrachek, Fitzgerald, Rose, Konopka & Dow, 505 S. Flagler Drive, Suite 600, West Palm Beach, FL 33401; arose@pm-law.com
Mark R. Manceri, Esq., Mark R. Manceri, P.A., 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; mrmlaw@comcast.net; mrmlaw1@gmail.com
Peter M. Feaman, Esq., Peter M. Feaman, P.A., 3615 W. Boynton Beach Blvd., Boynton Beach, FL; service@feamanlaw.com.
Eliot Bernstein, *pro se,* 2753 NW 34th Street, Boca Raton, FL 33434, at *iviewit@iviewit.tv*

IN THE CIRCUIT COURT FOR
PALM BEACH COUNTY, FLORIDA

PROBATE DIVISION
FILE NO.: 502012CP004391XXXXSB
DIVISION: FRENCH

IN RE: ESTATE OF

SIMON BERNSTEIN

Deceased.
_____/

MOTION TO STRIKE PETITION TO DETERMINE AND RELEASE TITLE OF EXEMPT PROPERTY

COME NOW, Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives of the Estate of Simon L. Bernstein, by and through their undersigned counsel and hereby file this their Motion to Strike Petition to Determine and Release Title of Exempt Property filed by Eliot Bernstein dated October 10, 2013 and in support thereof state, as follows:

1. Eliot Bernstein, pro se, filed the Petition on October 10, 2013. A copy of said Petition is attached hereto as Exhibit "A" and incorporated herein by reference.

2. A copy of the Will of Simon L. Bernstein dated July 25, 2012, which has been admitted to probate is attached hereto as Exhibit "B" and incorporated herein by reference.

3. Simon L. Bernstein was predeceased by his spouse, Shirley Bernstein.

4. As can be seen, Article I of the Will leaves the Decedent's tangible personal property (i.e. including the subject KIA automobile) equally to his five (5) children identified

MARK R. MANCERI, P.A.● 2929 East Commercial Blvd.● Suite 702 ● Fort Lauderdale, FL 33308 ● (954) 491-7099

in the Will.

5. The Decedent's grandson, Joshua Bernstein, is not included among the class of person(s) entitled to receive exempt property as a share to the Decedent's Estate. See Florida Statute 732.402(1).

6. Additionally, the Petition reflects that the Decedent's other four (4) children were not served with a copy of the Petition.

7. Based on all of the above, the Petition must be stricken.

WHEREFORE, Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives of the Estate of Simon L. Bernstein hereby request for an Order consistent with the relief requested herein and an award of attorney's fees and costs to be paid by Eliot Bernstein.

MARK R. MANCERI, P.A.
Attorney for Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives
2929 East Commercial Blvd., Suite 702
Ft. Lauderdale, FL 33308
Telephone: (954) 491-7099
E-mail: mrmlaw@comcast.net
mrmlaw1@gmail.com

By: _____
Mark R. Manceri, Esq.
Florida Bar No. 444560

FILE NO.: 502012CP004391XXXXSB

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-mail to the designated address(es) and U.S. mail, as noted, to all parties on the following Service List, this 24th day of October, 2013.

Mark R. Manceri, Esq.

SERVICE LIST

Eliot Bernstein (U.S. mail)
2753 NW 34th Street
Boca Raton, Florida 33434

Theodore Stuart Bernstein (U.S. mail)
Life Insurance Concepts
950 Peninsula Corporate Circle, Suite 3010
Boca Raton, Florida 33487

Lisa Sue Friedstein (U.S. mail)
2142 Churchill Lane
Highland Park, IL 60035

Pamela Beth Simon (U.S. mail)
950 North Michigan Avenue, Suite 2603
Chicago, IL 60611

Jill Iantoni (U.S. mail)
2101 Magnolia Lane
Highland Park, IL 60035

COPY
SOUTH COUNTY BRANCH OFFICE
ORIGINAL RECEIVED
OCT 10 2013
SHARON R. BOCK
CLERK & COMPTROLLER
PALM BEACH COUNTY

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF

SIMON L. BERNSTEIN

DECEASED

PROBATE DIVISION

FILE NO. 502012CP004391XXXXSB

DIVISION: FRENCH

PETIONER

ELIOT BERNSTEIN

PRO SE

PETITION TO DETERMINE AND RELEASE TITLE OF EXEMPT PROPERTY

Petitioner, Eliot Ivan Bernstein alleges:

1. Petitioner, whose address is 2753 NW 34th Street, Boca Raton, FL 33434, is the son of the decedent who, on the date of death, was domiciled in Florida.
2. That Petitioner is the father of the minor who is entitled by law to the exempt property is:

   Joshua Bernstein, whose address is 2753 NW 34th Street, Boca Raton, FL 33434, and the grandson of Simon L. Bernstein, whose birthday is August 27, 1997 and is a minor.

3. This petition is filed within the time permitted by Section 732.402(6) of the Florida Probate Court.
4. Petitioner alleges the exempt property and the basis on which it is claimed to be exempt are as follows:

That on August 25, 2012, Simon Bernstein purchased, titled, insured and registered an automobile, in his name, from Delray Kia, 2255 S. Federal Hwy, in Delray Beach FL, for the benefit of his grandson, Joshua Bernstein and paid for the car, title and tags in full. The car is described as:

Silver, 2013 Kia Soul, VIN # KNDJT2A50D7497193, license plate # BGFC36

That on August 26, 2012, after Sunday Brunch together, Simon Bernstein, dressed the car in balloons, and gave the car to his grandson Joshua for his birthday as a surprise, of which, there are several witnesses, pictures and a birthday video. The car was then driven home to Joshua and Petitioner's place of residence and driven for the benefit of Joshua thereafter. This was the last time Joshua saw his grandfather alive and will always be a special memory in his heart forever.

EXHIBIT "A"

That Simon's intentions were to transfer the title of ownership to Joshua when he received the car title via US Postal mail. That on September 13, 2012, Simon Bernstein passed away. Given the short time (2 weeks) in between the two events and the original title to the car not being received in the mail yet, on the date of Simon's death the car was still in his Simon's name and not transferred to Joshua.

Petitioner notified Robert Spallina, the alleged Personal Representative of the Estate of Simon Bernstein, the circumstances and was guaranteed the issue would be resolved.

That at midnight on December 2, 2012 the issue was still not resolved and the registration for the vehicle expired. Petitioner again contacted Robert Spallina and was informed that for no specified reason the postal mail belonging to Simon Bernstein was being forwarded to Joshua's uncle, Ted Bernstein at 880 Berkeley Street in Boca Raton, Florida and to contact him regarding the title and the expired registration notices that were sent in the mail. Immediately after Simon's death, Ted Bernstein took control and possession of all Simon Bernstein's mail, took control and possession of all Simon Bernstein's files, including personal and business related files, including those related to the purchase of the car and is tampering, suppressing and denying them the same. Ted Bernstein refuses to forward the above information to Petitioner after several requests and is in control, refusing to forward, tampering and suppressing the above information to the alleged Personal Representatives, Robert Spallina and Donald Tescher and their law firm Tescher & Spallina, P.A.

That as of this date, October 10, 2013, and beginning on December 2, 2012, the above mentioned gifted automobile has been sitting on the street at 2753 NW 34th Street, Boca Raton, Florida, unregistered, uninsured (at risk to the estate of the Simon Bernstein) and un-drivable by the rightful owner Joshua Bernstein against the wishes of his grandfather, the decedent, Simon Bernstein. That a sixteen year old boy, Joshua Bernstein, has to walk by his automobile every day and be remembered of his grandfather's special gift and those responsible for preventing him from having it, namely his uncle, Ted Bernstein, who ironically shares the same birthday as Joshua, and Robert Spallina and Donald Tescher.

That Robert Spallina, as Personal Representative and counsel for the estate, has refused to resolve this issue and continues to put the estate at risk and breach their fiduciary duties. Due to the Personal Representatives lack of duty and care and abuse of powers that allow Ted Bernstein control and tampering of Simon Bernstein's mail and documents and therefore aiding in suppression, tampering and mis-handling of original documents and titles is causing severe damages and injury to the beneficiaries of the decedent. This seems to be a conspired effort by Ted Bernstein and the Personal Representatives to interfere with the administration of the estate, create disputes among the beneficiaries, generate more legal fees, and cause harm to all involved as other documents are missing as well, including a Life Insurance Trust that is a beneficiary of a life insurance policy currently in litigation in the State of Illinois where Ted Bernstein is trying to convert the proceeds to himself against the insurers request to get a court order from this court. Other documents have been admittedly forged and fraudulent in the administration of the estate of Shirley Bernstein and Fraud on the Court before Hon Judge Martin H. Colin and continues by these same named fiduciary conspirators. From all these actions, Petitioner has lost all trust and faith and comes to this court to remedy these wrong-doings as no other option is available.

Petitioner prays that this Court can rectify the above matter and resolve this issue and demand the original car title be transferred to Joshua Bernstein so that the automobile can be properly titled, registered, insured and drivable by the rightful owner, Joshua Bernstein and stop the anguish and harm these actions are causing, again to a sixteen year old boy.

Petitioner requests that all current fiduciaries including but not limited to Personal Representatives, Estate Counsel and Trustees be removed for this willful, wanton, reckless, and gross negligent behavior and disregard of law by the alleged fiduciaries of the estate and estate counsel.

Petitioner requests that a court order be entered determining the persons entitled to the above-described property as exempt property under Section 732.402 of the Florida Probate Code and authorizing and directing the Personal Representatives to deliver and transfer the title of ownership.

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 October 10, 2013

Petitioner

Eliot Bernstein

PRO SE

I CERTIFY that a copy hereof has been furnished to:

Ted Bernstein

Donald Tescher Co-Personal Representative of the Estate of Simon Bernstein

Robert Spallina, Co-Personal Representative of the Estate of Simon Bernstein

Robert Spallina c/o Tescher & Spallina, P.A. counsel for the Estate of Simon Bernstein

By _____, on October 10, 2013

WILL OF

SIMON L. BERNSTEIN

Prepared by:

Tescher & Spallina, P.A.
4855 Technology Way, Suite 720, Boca Raton, Florida 33431
(561) 997-7008
www.tescherspallina.com

EXHIBIT "B"

WILL OF

SIMON L. BERNSTEIN

I, SIMON L. BERNSTEIN, of Palm Beach County, Florida, hereby revoke all my prior Wills and Codicils and make this Will. I am a widower, but in the event that I marry subsequent to the execution of this Will, I specifically make no provision for my spouse. My children are TED S. BERNSTEIN, 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 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 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 no child of mine survives me, this property shall pass with the residue of my estate.

ARTICLE II. EXERCISE OF POWER OF APPOINTMENT

Under Subparagraph E.1. of Article II. of the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008, (the "***Shirley Trust***"), I was granted a special power of appointment upon my death to direct the disposition of the remaining assets of the Marital Trust and the Family Trust established under the Shirley Trust. Pursuant to the power granted to me under the Shirley Trust, upon my death, I hereby direct the then serving Trustees of the Marital Trust and the Family Trust to divide the remaining trust assets into equal shares for my then living grandchildren and distribute said shares to the then serving Trustees of their respective trusts established under Subparagraph II.B. of my Existing Trust, as referenced below, and administered pursuant to Subparagraph II.C. thereunder.

ARTICLE III. RESIDUE OF MY ESTATE

I give all the residue of my estate, including my homestead, to the Trustee then serving under my revocable Trust Agreement dated May 20, 2008, as amended and restated from time to time and on even date herewith (the "***Existing Trust***"), as Trustee without bond, but I do not exercise any powers of appointment held by me except as provided in Article II., above, and 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.

ARTICLE IV. PERSONAL REPRESENTATIVES

1. **Appointment and Bond.** I appoint ROBERT L. SPALLINA and DONALD R. TESCHER to serve together as my co-Personal Representatives, or either of them alone as Personal Representative if either of them is unable to serve (the "***fiduciary***"). Each fiduciary shall serve without bond and have all of the powers, privileges and immunities granted to my fiduciary by this Will or by law, provided, however, that my fiduciary shall exercise all powers in a fiduciary capacity.

2. **Powers of Personal Representatives.** My fiduciary may exercise its powers without court approval. No one dealing with my fiduciary need inquire into its authority or its application of property. My fiduciary shall have the following powers:

a. Investments. To sell or exchange at public or private sale and on credit or otherwise, with or without security, and to lease for any term or perpetually, any property, real and personal, at any time forming a part of my probate estate (the "***estate***"); to grant and exercise options to buy or sell; to invest or reinvest in real or personal property of every kind, description and location; and to receive and retain any such property whether originally a part of the estate, or subsequently acquired, even if a fiduciary is personally interested in such property, and without liability for any decline in the value thereof; all without limitation by any statutes or judicial decisions, whenever enacted or announced, regulating investments or requiring diversification of investments.

b. Distributions or Divisions. To distribute directly to any beneficiary who is then entitled to distribution under the Existing Trust; to make any division or distribution pro rata or non-pro rata, in cash or in kind; and to allocate undivided interests in property and dissimilar property (without regard to its tax basis) to different shares, and to make any distribution to a minor or any other incapacitated person directly to such person, to his or her legal representative, to any person responsible for or assuming his or her care, or in the case of a minor to an adult person or an eligible institution (including a fiduciary) selected by my fiduciary as custodian for such minor under the Uniform Transfers to Minors Act or similar provision of law. The receipt of such payee is a complete release to the fiduciary.

c. Management. To manage, develop, improve, partition or change the character of or abandon an asset or interest in property at any time; and to make ordinary and extraordinary repairs, replacements, alterations and improvements, structural or otherwise.

d. Borrowing. To borrow money from anyone on commercially reasonable terms, including a fiduciary, beneficiaries and other persons who may have a direct or indirect interest in the

estate; and to mortgage, margin, encumber and pledge real and personal property of the estate as security for the payment thereof, without incurring any personal liability thereon and to do so for a term within or extending beyond the terms of the estate and to renew, modify or extend existing borrowing on similar or different terms and with the same or different security without incurring any personal liability; and such borrowing from my fiduciary may be with or without interest, and may be secured with a lien on the estate assets or any beneficiary's interest in said assets.

e. Lending. To extend, modify or waive the terms of any obligation, bond or mortgage at any time forming a part of the estate and to foreclose any such mortgage; accept a conveyance of encumbered property, and take title to the property securing it by deed in lieu of foreclosure or otherwise and to satisfy or not satisfy the indebtedness securing said property; to protect or redeem any such property from forfeiture for nonpayment of taxes or other lien; generally, to exercise as to such bond, obligation or mortgage all powers that an absolute owner might exercise; and to loan funds to beneficiaries at commercially reasonable rates, terms and conditions.

f. Abandonment of Property. To abandon any property or asset when it is valueless or so encumbered or in such condition that it is of no benefit to the estate. To abstain from the payment of taxes, liens, rents, assessments, or repairs on such property and/or permit such property to be lost by tax sale, foreclosure or other proceeding or by conveyance for nominal or no consideration to anyone including a charity or by escheat to a state; all without personal liability incurred therefor.

g. Real Property Matters. To subdivide, develop or partition real estate; to dedicate the same to public use; to make or obtain the location of any plats; to adjust boundaries; to adjust differences in valuations on exchange or partition by giving or receiving consideration; and, to grant easements with or without consideration as they may determine; and to demolish any building, structures, walls and improvements, or to erect new buildings, structures, walls and improvements and to insure against fire and other risks.

h. Claims. To enforce, compromise, adjust, arbitrate, release or otherwise settle or pay any claims or demands by or against the estate.

i. Business Entities. To deal with any business entity or enterprise even if a fiduciary is or may be a fiduciary of or own interests in said business entity or enterprise, whether operated in the form of a corporation, partnership, business trust, limited liability company, joint venture, sole proprietorship, or other form (all of which business entities and enterprises are referred to herein as "***Business Entities***"). I vest the fiduciary with the following powers and authority in regard to Business Entities:

i. To retain and continue to operate a Business Entity for such period as the fiduciary deems advisable;

ii. To control, direct and manage the Business Entities. In this connection, the fiduciary, in its sole discretion, shall determine the manner and extent of its active participation in the

operation and may delegate all or any part of its power to supervise and operate to such person or persons as the fiduciary may select, including any associate, partner, officer or employee of the Business Entity;

iii. To hire and discharge officers and employees, fix their compensation and define their duties; and similarly to employ, compensate and discharge agents, attorneys, consultants, accountants, and such other representatives as the fiduciary may deem appropriate; including the right to employ any beneficiary or fiduciary in any of the foregoing capacities;

iv. To invest funds in the Business Entities, to pledge other assets of the estate or a trust as security for loans made to the Business Entities, and to lend funds from my estate or a trust to the Business Entities;

v. To organize one or more Business Entities under the laws of this or any other state or country and to transfer thereto all or any part of the Business Entities or other property of my estate or a trust, and to receive in exchange such stocks, bonds, partnership and member interests, and such other securities or interests as the fiduciary may deem advisable;

vi. To treat Business Entities as separate from my estate or a trust. In a fiduciary's accounting to any beneficiary, the fiduciary shall only be required to report the earnings and condition of the Business Entities in accordance with standard business accounting practice;

vii. To retain in Business Entities such net earnings for working capital and other purposes of the Business Entities as the fiduciary may deem advisable in conformity with sound business practice;

viii. To sell or liquidate all or any part of the Business Entities at such time and price and upon such terms and conditions (including credit) as the fiduciary may determine. My fiduciary is specifically authorised and empowered to make such sale to any person, including any partner, officer, or employee of the Business Entities, a fiduciary, or to any beneficiary; and

ix. To guaranty the obligations of the Business Entities, or pledge assets of the estate or a trust to secure such a guaranty.

j. Life Insurance. With respect to any life insurance policies constituting an asset of the estate to pay premiums; to apply dividends in reduction of such premiums; to borrow against the cash values thereof; to convert such policies into other forms of insurance including paid-up insurance; to exercise any settlement options provided in any such policies; to receive the proceeds of any policy upon its maturity and to administer such proceeds as a part of the principal of the estate or trust; and in general, to exercise all other options, benefits, rights and privileges under such policies; provided, however, no fiduciary other than a sole fiduciary may exercise any incidents of ownership with respect to policies of insurance insuring the fiduciary's own life.

k. Reimbursement. To reimburse itself from the estate for all reasonable expenses incurred in the administration thereof.

l. Voting. To vote and give proxies, with power of substitution to vote, stocks, bonds and other securities, or not to vote a security.

m. Ancillary Administration. To appoint or nominate, and replace with or without cause, any persons or corporations, including itself, as ancillary administrators to administer property in other jurisdictions, with the same powers, privileges and immunities as my fiduciary and without bond.

n. Tax Elections. To file tax returns, and to exercise all tax-related elections and options at their discretion, without compensating adjustments or reimbursements between any accounts or any beneficiaries.

3. **Survivorship**. A beneficiary is not deemed to survive me unless he or she survives me by five days.

4. **Death Costs.** My fiduciary shall pay (a) from the residuary estate my debts which are allowed as claims against my estate, (b) from the residuary estate my funeral expenses without regard to legal limitations, (c) from the residuary estate the expenses of administering my estate and (d) from the residuary estate other than the portion of the residuary estate qualifying for the marital deduction under the laws then in effect, without apportionment, all estate, inheritance and succession taxes (excluding generation-skipping taxes other than with respect to direct skips), and interest and penalties thereon, due because of my death and attributable to all property whether passing under this Will or otherwise and not required by the terms of the Existing Trust to be paid out of said trust. However, such taxes, penalties and interest payable out of my residuary estate shall not include taxes, penalties and interest attributable to (i) property over which I have a power of appointment granted to me by another person, (ii) qualified terminable interest property held in a trust of which I was the income beneficiary at the time of my death (other than qualified terminable interest property held in a trust for which an election was made under Code Section 2652(a)(3)), and (iii) life insurance proceeds on policies insuring my life which proceeds are not payable to my probate estate. My fiduciary shall not be reimbursed for any such payment from any person or property. However, my fiduciary in its discretion may direct that part or all of said death costs shall be paid by my Trustee as provided in the Existing Trust, and shall give such direction to the extent necessary so that the gifts made in Article I of this Will and the gifts made in any codicil hereto shall not be reduced by said death costs. If the amount of the above-described taxes, and interest and penalties arising by reason of my death (without regard to where payable from under the terms of this paragraph or applicable law) is increased because of the power of appointment granted to me under Subparagraph II.E.1. of the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008, I hereby appoint to my probate estate from the property subject to such power (to the extent allowable under such power) the amount of such increase (calculating such increase at the highest applicable marginal rates) and exercise such power to this extent only, and notwithstanding the other provisions of this paragraph further direct my fiduciary to make payment of such increase in taxes,

interest and penalties to the appropriate taxing authorities from the appointed property or the proceeds thereof. Any trustee holding such appointive property may pay to my fiduciary the amount which my fiduciary certifies as due under this paragraph and is not responsible for the correctness or application of amounts so paid.

5. **Reimbursement for Debts and Expenses**. My fiduciary shall promptly reimburse my friends and members of my family who have disbursed their own funds for the payment of any debts, funeral expenses or costs of administration of my estate.

6. **Expenses of Handling Tangible Personal Property**. All expenses incurred by my fiduciary during the settlement of my estate in appraising, storing, packing, shipping, delivering or insuring an article of tangible personal property passing under this Will shall be charged as an expense of administering my estate.

7. **Dealing with Estate**. Each fiduciary may act under this Will even if interested in my estate in an individual capacity, as a fiduciary of another estate or trust (including any trust identified in this Will or created under the Existing Trust) or in any other capacity. Each fiduciary may in good faith buy from, sell to, lend funds to or otherwise deal with my estate.

8. **Spouse**. The term "*spouse*" herein means, as to a designated individual, the person to whom that individual is from time to time married.

9. **Other Beneficiary Designations**. Except as otherwise explicitly and with particularity provided herein, (a) no provision of this Will shall revoke or modify any beneficiary designation of mine made by me and not revoked by me prior to my death under any individual retirement account, other retirement plan or account, or annuity or insurance contract, (b) I hereby reaffirm any such beneficiary designation such that any assets held in such account, plan, or contract shall pass in accordance with such designation, and (c) regardless of anything herein to the contrary, any of such assets which would otherwise pass pursuant to this Will due to the beneficiary designation not having met the requirements for a valid testamentary disposition under applicable law or otherwise shall be paid as a gift made hereunder to the persons and in the manner provided in such designation which is incorporated herein by this reference.

[remainder of page intentionally left blank]

I have published and signed this instrument as my Will at Boca Raton, Florida, on the 25 day of July, 2012.

SIMON L. BERNSTEIN

This instrument, consisting of this page numbered 7 and the preceding typewritten pages, was signed, sealed, published and declared by the Testator to be the Testator's Will in our presence, and at the Testator's request and in the Testator's presence, and in the presence of each other, we have subscribed our names as witnesses at Boca Raton, Florida on this 27 day of July, 2012. .

[Witness Signature] residing at ROBERT L. SPALLINA 7387 WISTERIA AVENUE PARKLAND, FL 33076 [Witness Address]

Kimberly Moran [Witness Signature] residing at Kimberly Moran 6362 Las Flores Drive Boca Raton, FL 33433 [Witness Address]

State Of Florida

SS.

County Of Palm Beach

I, SIMON L. BERNSTEIN, declare to the officer taking my acknowledgment of this instrument, and to the subscribing witnesses, that I signed this instrument as my will.

SIMON L. BERNSTEIN, Testator

We, Robert L. Spallina and Kimberly Moran, have been sworn by the officer signing below, and declare to that officer on our oaths that the Testator declared the instrument to be the Testator's will and signed it in our presence and that we each signed the instrument as a witness in the presence of the Testator and of each other.

Witness

Kimberly Moran

Witness

Acknowledged and subscribed before me, by the Testator, SIMON L. BERNSTEIN, who is personally known to me or who has produced _____ (*state type of identification*) as identification, and sworn to and subscribed before me by the witnesses, Robert L. Spallina, who is personally known to me or who has produced _____ (*state type of identification*) as identification, and Kimberly Moran, who is personally known to me or who has produced _____ (*state type of identification*) as identification, and subscribed by me in the presence of SIMON L. BERNSTEIN and the subscribing witnesses, all on this 25 day of July, 2012.

Signature - Notary Public-State of Florida

Lindsay Baxley

Print, type or stamp name of Notary Public

[Seal with Commission Expiration Date]

NOTARY PUBLIC-STATE OF FLORIDA
Lindsay Baxley
Commission # EE092282
Expires: MAY 10, 2015
BONDED THRU ATLANTIC BONDING CO., INC.

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

PLAINTIFF'S NOTICE OF SERVING ANSWERS TO DEFENDANTS' FIRST SET OF INTERROGATORIES TO PLAINTIFF

COMES NOW Plaintiff, WILLIAM E. STANSBURY, by and through his undersigned counsel and hereby files his answers to Defendants' First Set of Interrogatories to Plaintiff, served June 18, 2013.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives of the Estate of Simon Bernstein* and *Bernstein Family Realty,* 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; at arose@pm-law.com and mchandler@pm-law.com to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc, Arbitrage International Management, LLC and the Shirley Bernstein Trust,* 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this 16 day of October, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel: 561-734-5552
Fax: 561-734-5554
pfeaman@feamanlaw.com

By: _____
Peter M. Feaman
Florida Bar No.: 0260347

ANSWERS TO DEFENDANTS' FIRST SET OF INTERROGATORIES

1. Identify by name, address and telephone number each person who assisted you, in any way, in answering these Interrogatories.

ANSWER: Peter M. Feaman, Esq., 3615 W. Boynton Beach Blvd., Boynton Beach, FL 33436; tel. 561-734-5552.

2. Identify the name, address and telephone number of each and every person believed or known by you, your agents, or your attorneys to have any knowledge relating to the allegations made in the Amended Complaint filed by you in this cause dated February 12, 2013. In so doing, state with specificity the subject matter and substance of the person's knowledge.

ANSWER:

Simon Bernstein: Donald Tescher and Robert Spallina, Co-Personal Representatives of the Estate of Simon Bernstein, c/o Mark Manceri, Esq., 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; 954-491-7099.

Ted Bernstein: c/o Alan Rose, Esq., 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401; 561-355-6991.

Diana Banks: Vice President of Administration of LIC Holdings, Inc. and/or Arbitrage International Management, LLC. She may have knowledge of the financial transactions which are the subject matter of the Second Amended Complaint. Current address: 23415 Boca Trace Drive, Boca Raton, FL 33433.

Gerald Lewin: CPA for Defendant companies. Has knowledge of the finances of the Defendant companies as outside CPA for them; did financial analysis for Defendant companies concerning compensation of Defendants Simon Bernstein and Ted S. Bernstein. CBIZ MHM, LLC, 1675 Military Trail, 5th Floor, Boca Raton, FL 33486, 561-994-5050

Anthony Messuri: CPA for Defendant companies. Has knowledge of the finances of Defendant companies as outside CPA for them; did financial analysis for Defendant companies concerning compensation of Defendants Simon Bernstein and Ted S. Bernstein. CBIZ MHM, LLC, 1675 Military Trail, 5th Floor, Boca Raton, FL 33486, 561-994-5050

Lindsey Baxley: aware of the conversion of the checks which are the subject matter (in Count VI – incorrectly referred to as Count V) found on page 17 of the Complaint and

Count VII and VIII found on pages 18 and 19 of the Second Amended Complaint. Current address unknown.

Ransom Jones: maintained the books and records of the Defendant companies and would be aware of Plaintiff's compensation structure. Current address unknown.

Roger Hoyt: He sent a cashier's check to Plaintiff at the offices of Defendant corporations for compensation for an unrelated business transaction, which funds were then converted, as set forth in Counts VI, VII and VIII. Current address: 12 Paw Paw Court, Homosassa, FL 34446

Sal Gorge, Delray Beach, FL 561-289-2639

Alliance Financial Group: Sent a renewal commission to Plaintiff at the Defendant's business address for a disability income policy sold by Plaintiff in a business transaction unrelated to his business relationship with Defendants, which check was then converted by Defendants as more particularly set forth in Counts VI, VII and VIII.

3. List every incident or occurrence after January 1, 2006 in which you believe that the Decedent perpetrated a fraud upon you. Please identify the details of each incident or occurrence, including the nature, date and location of each incident or occurrence as well as the name, address and the phone number of all witnesses of each incident or occurrence.

ANSWER: STANSBURY has worked in the insurance industry for virtually all of his adult life. After 30 years, he had become well-known and highly regarded by major insurance companies, their principals and others throughout the insurance industry, at all levels thereof, as well as by professionals, including attorneys, CPA's, financial advisors, wealth managers and others who were involved in serving, or otherwise dealing with insurers, insurance brokers and life insurance products. SIMON BERNSTEIN dealt at sophisticated levels of the insurance industry and specialized in developing and marketing insurance concepts suitable for persons of high net worth to incorporate into their wealth management and estate planning. TED BERNSTEIN, the son of SIMON BERNSTEIN, was also involved in selling life insurance products in conjunction with attorneys, CPAs and other professionals, to be incorporated into high net worth individuals' financial and estate planning. TED BERNSTEIN, acting on his behalf and on behalf of, and in concert with, SIMON BERNSTEIN, approached STANSBURY in 2003, urging STANSBURY to spearhead the marketing of a unique insurance concept, newly developed, which was designed for use in the financial and estate planning of high net worth individuals. TED BERNSTEIN told STANSBURY that he knew of STANSBURY's expertise and reputation in the insurance and related industries and that STANSBURY was skilled at and accustomed to speaking and marketing insurance products to groups of professionals. He realized that STANSBURY, because of his knowledge, reputation and abilities, would be well suited to market this concept nationwide through prominent and experienced professionals. In 2006, SIMON BERNSTEIN and TED BERNSTEIN

(collectively, "BERNSTEIN" or the "BERNSTEINS") were sole shareholders of Defendants LIC Holdings and ARBITRAGE for the purpose of marketing and selling certain life insurance products to high net worth individuals for their wealth management and estate planning needs. STANSBURY agreed to become an employee of LIC Holdings, Inc. and ARBITRAGE and agreed to a salary of 15% of net retained commissions received on all products sold, including renewals. STANSBURY at this time was responsible for, among other duties, calculating, on a monthly basis, the commissions due him in connection with new business generated in the current year and renewals on business generated in previous years. STANSBURY traveled throughout the United States, generating ever-increasing sales and generating large commissions. By 2006, nationwide sales were resulting in substantial commissions on new policies and renewal commissions.

Also in 2006, SIMON BERNSTEIN, acting on his behalf and on behalf of, and in concert with, TED BERNSTEIN, told STANSBURY that STANSBURY was being rewarded for his efforts and the explosive growth of the business, such that he would receive a 10% ownership interest in LIC Holdings, Inc. STANSBURY has sued both LIC Holdings and ARBITRAGE because the BERNSTEINS represented that his employment relationship was with LIC Holdings, the company in which he owned a 10% interest, but STANSBURY'S W-2 statements were issued by ARBITRAGE as his employer. In February of 2008, SIMON BERNSTEIN, acting on his behalf and on behalf of, and in concert with TED BERNSTEIN, approached STANSBURY and told him his time would be better spent building the business rather than performing monthly calculations of income. The plan proposed was that, rather than STANSBURY performing computations on a monthly basis as to how much should be paid to him based upon 15% of the net retained commissions derived from both new policies sold and renewals from previous years, the BERNSTEINS and STANSBURY all would forego monthly payouts and defer compensation until the end of 2008, when year-end computations could be made. It was represented that in December, year-end computations would be made and salaries would be paid in December 2008 or January of 2009. It was specifically represented to STANSBURY that:

a) neither SIMON BERNSTEIN, TED BERNSTEIN nor STANSBURY would take any compensation during fiscal year 2008 but rather they all would wait until the year-end accounting was performed in December of 2008 or January, 2009;

b) SIMON BERNSTEIN, TED BERNSTEIN, and STANSBURY would each be paid a minimum salary of $1,000,000 at year end, and STANSBURY'S salary was to be applied against his earned commissions of 15%. Any compensation due STANSBURY over and above the $1,000,000 would be paid as a distribution on his stock ownership interest in LIC Holdings.

In January of 2008, STANSBURY was paid $420,018 for commissions earned on some, but not all, 2007 sales. Additionally, STANSBURY was not, and has never been, paid the commissions due him on sales in 2008 and thereafter, and he was not and has never been paid the renewal commissions due him on sales made in previous years that were paid to LIC Holdings or ARBITRAGE in 2008 and thereafter, other than a nominal payment of $30,000 made in 2010. When STANSBURY was not paid as agreed in late 2008/2009 and thereafter, SIMON BERNSTEIN and TED BERNSTEIN, on behalf of and in concert with each other, stated to STANSBURY that salary and ownership distributions due and owing to SIMON BERNSTEIN, TED BERNSTEIN and STANSBURY would be

deferred to a future time. This deferral of payment was represented to be important because of the virtual collapse of the capital lending markets in 2008, and it was necessary to retain the funds in the corporate bank accounts to demonstrate to potential lenders the financial stability of the companies. The statements were false. They were made by SIMON BERNSTEIN and TED BERNSTEIN, in concert with each other, with knowledge of their falsity and with the intention of never fulfilling such promises. Despite the representations to STANSBURY, SIMON BERNSTEIN and TED BERNSTEIN, as officers and majority shareholders of LIC Holdings and ARBITRAGE, authorized LIC Holdings and/or ARBITRAGE to pay themselves $3,756,229.00 and $5,225,825.00, respectively, in 2008. STANSBURY received no compensation for first year commissions and renewal commissions due him in 2008. The net retained commissions by LIC Holdings and ARBITRAGE, not including renewals, for 2008 were approximately $13,442,549.00. Beginning late in 2007 or early in 2008, and continuing through at least 2012, LIC Holdings and/or ARBITRAGE became the alter ego of SIMON BERNSTEIN and TED BERNSTEIN, as officers and majority shareholders, in that they disregarded corporate structure and wrongfully diverted, converted and depleted corporate assets of LIC Holdings and ARBITRAGE for their own personal benefit and the benefit of Bernstein family trusts and other entities. Those trusts have since invested some of these wrongfully diverted and converted corporate assets in real estate. Throughout 2009, SIMON BERNSTEIN and TED BERNSTEIN continued to make false statements to STANSBURY to hide the fact that LIC Holdings and/or ARBITRAGE was their alter ego, in that they converted corporate property and corporate assets of LIC and/or ARBITRAGE for their own personal benefit in 2008, 2009 and thereafter, all to the exclusion and financial detriment of STANSBURY, all the while fraudulently representing to STANSBURY that no money was being paid as salary or distributions to SIMON BERNSTEIN, TED BERNSTEIN or STANSBURY because it was necessary to hold the funds in the corporate bank accounts to show to potential lenders the financial stability of the company.

STANSBURY relied upon these continuing misrepresentations of Defendants to his detriment. Because STANSBURY was told that potential funding sources for the business needed to see that capital of the company was available, he took no action when he did not receive any compensation for 2009 and was paid only $30,000 in 2010. In order to continue their scheme to defraud, SIMON BERNSTEIN and TED BERNSTEIN failed to supply financial information to STANSBURY concerning LIC Holdings or ARBITRAGE. In furtherance of their scheme to deprive STANSBURY of salary he had earned and shareholder distributions to which he was entitled, SIMON BERNSTEIN and TED BERNSTEIN intercepted mail addressed to STANSBURY, removing commission checks representing commissions due to STANSBURY, deposited the funds into their own accounts and otherwise converted the funds. SIMON BERNSTEIN and TED BERNSTEIN also opened STANSBURY's mail containing checks payable to him which were unrelated to them and the businesses. On December 22, 2011, the Defendants BERNSTEIN, with knowledge of STANSBURY's health issues and his debilitated condition, decided to take advantage of and deceive STANSBURY further. STANSBURY had for years been given K-1 statements reflecting his 10% ownership of LIC Holdings. At that time, TED BERNSTEIN told STANSBURY that the company accountant had discovered a potential significant taxable event which could cause STANSBURY, as one of the owners of LIC Holdings to pay taxes on phantom income. TED BERNSTEIN promised that if STANSBURY would sign a paper ceding his 10% interest in LIC Holdings, he would not have to pay the tax if in fact the tax was due. TED BERNSTEIN promised he

would hold the paper, promising it would not become operative until STANSBURY and the Defendants BERNSTEIN discussed the situation further in the first quarter of 2012.

Because of the misrepresentations, willful concealments of material facts, duplicity and deceit practiced by Defendants upon STANSBURY, STANSBURY reasonably believed that Defendants had complied, or intended to comply with their obligations to STANSBURY under the contract between them. By the second quarter of 2012, STANSBURY developed the belief that the BERNSTEINS' representations over the years were wholly false and he sought legal counsel.

SIMON BERNSTEIN and TED BERNSTEIN intended for STANSBURY to rely on such statements that he would be ultimately be paid for his productivity in order to induce him into continuing his productive and revenue-generating sales activity as an employee of LIC Holding and/or ARBITRAGE and fraudulently created for STANSBURY the false expectation that STANSBURY would be paid as agreed. STANSBURY in fact relied to his detriment on these false statements and was induced thereby to remain in his employment relationship with LIC Holdings and ARBITRAGE as he continued to sell, with the expectation of payment, products and generate revenue for LIC Holdings and/or ARBITRAGE until 2012, and was further induced not to pursue from LIC Holdings and/ARBITRAGE his right to payment of all amounts due him until after SIMON BERNSTEIN and TED BERNSTEIN had diverted and converted corporate assets for their personal benefit, rendering LIC Holdings, and possibly ARBITRAGE, insolvent. STANSBURY was injured thereby as he was not and has not been compensated for his revenue-generating sales and other performance, and did not seek alternative employment, as a proximate result of his detrimental reliance on these false statements.

The ceding of his shares in LIC Holdings, Inc. was procured by fraud and STANSBURY relied upon the representations made by BERNSTEIN with regard to signing the document apparently ceding his stock. It was reasonable for STANSBURY to rely on the representations made by BERNSTEIN because at that time STANSBURY was unaware of the breaches of fiduciary duty and breaches of the oral contract that had taken place. As a result of STANSBURY's reliance, STANSBURY has been damaged by the loss of 10% of the shares of LIC Holdings and the rights and remedies to a shareholder related thereto. In addition, SIMON and TED BERNSTEIN promised, and represented to me, that I would be indemnified and held harmless and otherwise reimbursed if claims were made by the issuer of any insurance policies for chargebacks of any commissions or any agents on whose behalf we were receiving commissions and then remitting those commissions to the sub-agents. One sub-agent by the name of Salvatore Gorge had been receiving his portion of renewal commissions on a regular and periodic basis until 2011 at which time Defendants SIMON BERNSTEIN and TED BERNSTEIN, LIC HOLDINGS and ARBITRAGE failed and refused to pay to Mr. Gorge his percentage of a renewal commission received by me, and which I tendered to Defendants. Mr. Gorge approached me demanding his percentage commission as had been paid to him regularly for the past years leading up to 2011. I presented the request of Mr. Gorge to Defendants, SIMON BERNSTEIN and TED BERNSTEIN, and they promised that they would in fact pay Mr. Gorge as had been the custom for the past number of years. Notwithstanding their promises and representations for payment to Mr. Gorge, they failed and refused to pay any sums to Mr. Gorge for a renewal commission paid in 2011. Mr. Gorge made demand upon me, as agent of record, to pay him and threatened to bring legal action against me if the funds were not paid. I then personally paid Mr. Gorge the sum of approximately

$1,200.00. Defendants SIMON BERNSTEIN and TED BERNSTEIN have still not performed or lived up to their promises for such reimbursement and I believe that if any other claims are to be made, the Defendants will continue to refuse to perform as promised.

4. Please describe in detail your involvement in the Decedent's business affairs on or after January 1, 2006. Your answer should include, but not be limited to, a detailed description of all duties that you undertook in connection with performing services, paying bills, expenses, balancing checkbooks, writing checks, and receiving deposits or other income. Describe in detail how you became involved in the Decedent's business affairs. The term "business" shall be deemed to include all of the named Corporate and LLC Defendants.

ANSWER: I met Simon Bernstein ("Si") in the late spring of 2003. His son, Ted Bernstein, introduced me to him. Ted and I first met in the spring of 2003. At that time, Ted was promoting a financed, single premium life insurance policy referred to as the ALPS program. Ted was promoting the ALPS program to clients of the firm with which I was associated. Because I had a background in life insurance, I was asked by the firm to review the ALPS program and determine if it was suitable for clients of the firm. At a meeting with Ted Bernstein, he asked me if I knew the Chicago based law firm Kirkland & Ellis (K&E). I told him I was familiar with the name but did not know anyone at the firm. He gave me an overview of an estate-planning concept that K&E had developed, referred to as the contingent private annuity strategy (cpas). He told me that typically significant amounts of life insurance were needed to effectuate the plan. He told me that K&E had an interest in selling the work product for cpas and that they had preliminary conversations with Ted and his father to market cpas on a national basis. Ted shared with me that he was a single father of three children and that he had no interest in introducing a new sales concept to independent agents/brokers and furthermore had no interest in travelling around the country. He further told me that his father had retired from his life insurance career years before as a result of poor health. He had sold his business STP (owner of the ALPS financing program) to his daughter and had signed a non-compete. Ted told me that Si was not physically able to travel on a regular basis. Ted asked me to come into their office in Boca Raton and meet his father and learn more about cpas. Si shared with me that he had been out of the life insurance business for a while and other than an occasional sale by Ted there wasn't much going on in the office. We spent a good deal of time talking about the "good old days" in the life insurance business. He shared with me the successes he had over the years with concepts that he created and marketed to wealthy individuals. He thought the cpas program could be more successful than any of his prior programs but it needed someone to run the program and travel around the country – something that neither he nor Ted were interested in doing. I asked if he could provide me with more technical information on cpas so that I could further understand the planning concept and determine if it was something I thought I could successfully market. He provided me with a copy of the cpas memorandum after I agreed to sign a non disclosure agreement. We met several more times to discuss the program, suitable insurance contracts, appropriate insurance company partners, etc. The more time we spent together the more we recognized that his skill set and my skill set were complimentary. We ultimately agreed that I would join Si and market cpas. He negotiated a deal with K&E and had one of his companies, National Service Association (NSA), as the business entity that would market and service cpas. I was given the title of Executive Vice President, National Service Association. Si told me that he would not pay me a salary or benefits but agreed to pay me

a percentage of the commission developed on each case. We agreed that my commission payments were on all commissions earned in the first year and all subsequent renewal years. My relationship with NSA was as an independent contractor. Si required me to be in his office location but he did not have a private office, desk, credenza, etc for me. He set up a 6 foot cafeteria lunch table for me to work from in the open part of the office and allowed me to use an old armoire for storage. He provided me with a computer and a telephone. I created the printed marketing material, power point presentations, seminar material and flow charts to help explain the concept to agents, brokerage general agents, independent marketing organizations, insurance companies, financial planners, attorneys and accountants. In subsequent months, I spoke to agents/advisors/insurance company representatives at seminars in San Francisco, Los Angeles, San Diego, Del Mar, Phoenix, Dallas, Houston, Chicago, Miami, Orlando, Washington D.C., Philadelphia and Boston. Additionally, I conducted teleconference seminars to agents/advisors/insurance company representatives located throughout the country. I introduced the cpas program and promoted the "brand" of NSA and Life Insurance Concepts to thousands of top quality agents and general agents from coast to coast. My professional credentials – Chartered Life Underwriter (CLU), and Chartered Financial Consultant (ChFC), as well as my many years in the life insurance business (29 years at that time), provided needed credibility with agents, general agents, advisors and life insurance companies to launch a new estate planning concept from a firm with no national brand name recognition in the estate planning market.

In the late summer of 2006, Si, Ted and I had a meeting in the office. Si told me that he had created LIC Holdings, Inc (LIC). He told me that LIC would be the parent company for all affiliated companies, both current and future, and that he, Ted and I would be the only stockholders. In recognition of what I had done to build the business over the prior 3 years, I would be given 10% of the stock of LIC. He did share with me later that for personal estate planning purposes he decided to give 12% of his stock to his 10 grandchildren in equal shares (1.2% to each grandchild). Additionally, my employment status would change from independent contractor to employee of Arbitrage International Management (AIM). I would be paid a salary equal to 15% of the total net retained commissions (NRC), to include first year, plus excess and renewal commissions received by AIM. We defined NRC to equal the total commissions received from all sources minus any agreed payments to agents/brokers/other advisors minus the cost of the capital if any. My position title changed from Executive Vice President, NSA to Vice President Sales, Life Insurance Concepts. This position had me doing a multitude of things that would include but not be limited to:

1) Tracking commission income due from all sources that would include but not be limited to insurance companies, independent brokerage general agencies, career agencies, independent marketing organizations, and agents.
2) Developing marketing material used for estate planning/wealth transfer concepts.
3) Meeting with/speaking with prospects/clients.
4) Prepared cpas calculations and discussed cpas program with agents/advisors/insurance companies.
5) Reporting to Phoenix insurance company their cases that were paid for the month.
6) Served as agent of record for some commissions due on cases financed through Cambridge Finance Company.
7) Prepared monthly bonus/commission compensation report for employees.

8) Met with banks/capital sources.
9) Reviewed client facts with agents/clients/internal staff to help develop sales solutions to meet client goals and objectives.
10) Dealt with client/agent service requests.
11) Discussed underwriting offers with general agents/insurance companies.
12) Office resource for advanced sales designs, annuities, long-term care insurance, disability insurance, pension planning.
13) Office liaison for insurance company home office and field office representatives.
14) Prepared insurance company sales illustrations for use by agents with prospective clients.
15) Spoke at company sponsored premium finance schools regarding cpas.
16) Worked with Si to develop new concepts for the firm to market.
17) Participated on telephone conferences with LIC national sales directors.

6. State the identify of each and every person who you have reason to believe may now have or may previously have had any knowledge concerning the circumstances relating to the allegations made by you in paragraph 31 of the Amended Complaint filed by you in this cause dated February 12, 2013. For each such person, state the following: (2) name; (b) address; (c) telephone number; (d) the nature of such knowledge; and (e) the date such knowledge was acquired.

ANSWER: Simon Bernstein: c/o Donald Tescher and Robert Spallina, Co-Personal Representatives of the Estate of Simon Bernstein, c/o Mark Manceri, Esq., 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; 954-491-7099.

Ted Bernstein: c/o Alan Rose, Esq., 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401; 561-355-6991.

8. Identify each and every gift, check, cash payment, mortgage, loan, or advance of $500.00 or more made by the Decedent to you, any member of your family, or any business of which you are or were an owner, investor, shareholder or creditor on or after January 1, 2006. For each such item, furnish the date, who the payment was made to, the amount, the form of the payment (in cash, check, property, etc.), the purpose of the payment, and whether it was ever repaid.

ANSWER: To the best of my knowledge and belief, I received a gift from Simon Bernstein of a painting depicting a firefighter because my son is a firefighter, painted by Michael Israel in or around 2007, the value of which is unknown.

VERIFICATION

WILLIAM E. STANSBURY

STATE OF FLORIDA)
) ss:
COUNTY OF PALM BEACH)

BEFORE ME, the undersigned authority, personally appeared WILLIAM E. STANSBURY, who is personally known to me or who produced _____ as identification, and who upon being duly sworn, deposes and states that he has read the Answers to the First Set of Interrogatories propounded to him by the Defendants, Donald Tescher and Robert Spallina, as Co-Personal Representatives of the Estate of Simon L. Bernstein, and that the statements contained therein are true and correct to the best of his knowledge.

SWORN TO and SUBSCRIBED before me this 15th day of October, 2013.

MARYANNE KOSKEY
MY COMMISSION # EE 012598
EXPIRES: September 4, 2014
Bonded Thru Notary Public Underwriters

Maryanne Koskey
Notary Public
State of FLORIDA

MARYANNE KOSKEY
Printed Name of Notary Public

My Commission expires:

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FLORIDA

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 MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC; BERNSTEIN FAMILY REALTY, LLC,

Defendants.
_____/

CIVIL DIVISION

CASE NO: 502012CA013933 MB AA

DIVISION: BLANC

ANSWER, AFFIRMATIVE DEFENSES AND COUNTERCLAIM TO SECOND AMENDED COMPLAINT

COME NOW, Defendants, Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives of the Estate of Simon L. Bernstein (hereinafter the "Defendants"), by and through their undersigned counsel and hereby files this their Answer, Affirmative Defenses and Counterclaim to Second Amended Complaint and in support thereof state, as follows:

ANSWER

1. Paragraph 1 is admitted solely for jurisdictional purposes.

2. The Defendants are presently without sufficient knowledge to either admit or deny the allegations in paragraph 2.

MARK R. MANCERI, P.A.● 2929 East Commercial Blvd.● Suite 702 ● Fort Lauderdale, FL 33308 ● (954) 491-7099

3. Paragraph 3 is Admitted.

4. Paragraph 4 is admitted solcly to the extent of the record in the Estate of Simon L. Bernstein, Case No. 502012CP004391.

5. Paragraph 5 is Admitted.

6. Paragraph 6 is Admitted.

7. Paragraph 7 is Admitted.

8. Paragraph 8 is Denied.

9. Paragraph 9 is admitted solely for jurisdictional purposes.

10. Defendants are presently without sufficient knowledge to either admit or deny the allegations in paragraph 10.

11. Paragraph 11 is Admitted.

12. Paragraph 12 is Admitted.

13. Defendants are presently without sufficient knowledge to either admit or deny the allegations in paragraph 13.

14. Defendants are presently without sufficient knowledge to either admit or deny the allegations in paragraph 14.

15. Paragraph 15 is Admitted.

16. Defendants are presently without sufficient knowledge to either admit or deny the allegations in paragraph 16.

17. Defendants are presently without sufficient knowledge to either admit or deny the

allegations in paragraph 17.

18. Paragraph 18 is admitted solely to the extent that the Plaintiff, at some point in time, became a 10% shareholder.

19. Paragraph 19 is Denied.

20. Paragraph 20 is Denied.

21. Paragraph 21 is Denied.

22. Defendants are presently without sufficient knowledge to either admit or deny the allegations in paragraph 22.

23. Paragraph 23 is Denied.

24. Paragraph 24 is Denied.

25. Paragraph 25 is Denied.

26. Paragraph 26 is Denied.

27. Paragraph 27 is Denied.

28. Paragraph 28 is Denied.

29. Paragraph 29 is Denied.

30. Paragraph 30 is Denied.

31. Paragraph 31 is admitted solely to the extent that the Plaintiff, at some point in time, was no longer a 10% shareholder.

32. Paragraph 32 is Denied.

33. Paragraph 33 is Denied.

34. Defendants are presently without sufficient knowledge to either admit or deny the allegations in paragraph 34.

COUNT I

35. No response is required from the Defendants with respect to paragraph 35.

36. No response is required from the Defendants with respect to paragraph 36.

37. No response is required from the Defendants with respect to paragraph 37.

COUNT II

38. Defendants reaver and incorporated herein their responses 1-37 above.

39. Paragraph 39 is Denied.

40. Defendants are presently without sufficient knowledge to either admit or deny the allegations in paragraph 40.

41. Defendants are presently without sufficient knowledge to either admit or deny the allegations in paragraph 41.

42. Paragraph 42 is Denied.

43. Paragraph 43 is Denied.

44. Paragraph 44 is Denied.

45. Paragraph 45 is Denied.

46. Paragraph 46 is Denied.

COUNT III

47. Defendants reaver and incorporate herein their responses 1-46 above.

48. Defendants are presently without sufficient knowledge to either admit or deny the allegations in paragraph 48.

49. Paragraph 49 is Denied.

50. Paragraph 50 is Denied.

51. Paragraph 51 is Denied.

52. Paragraph 52 is Denied.

COUNT IV

53. No response is required from the Defendants with respect to paragraph 53.

54. No response is required from the Defendants with respect to paragraph 54.

55. No response is required from the Defendants with respect to paragraph 55.

56. No response is required from the Defendants with respect to paragraph 56.

57. No response is required from the Defendants with respect to paragraph 57.

COUNT V

58. Defendants reaver and incorporate herein their responses 1-57 above.

59. Paragraph 59 is Denied.

60. Paragraph 60 is Denied.

61. Paragraph 61 is Denied.

62. Paragraph 62 is Denied.

63. Paragraph 63 is Denied.

COUNT VI (STATED AS V IN THE SECOND AMENDED COMPLAINT)

64. No response is required from the Defendants with respect to paragraph 64.

65. No response is required from the Defendants with respect to paragraph 65.

66. No response is required from the Defendants with respect to paragraph 66.

67. No response is required from the Defendants with respect to paragraph 67.

68. No response is required from the Defendants with respect to paragraph 68.

69. No response is required from the Defendants with respect to paragraph 69.

COUNT VII

70. Defendants reaver and incorporate herein their responses 1-69 above.

71. Paragraph 71 is Denied.

COUNT VIII

72. Defendants reaver and incorporate herein their responses 1-71 above.

73. Paragraph 73 is Denied.

74. Paragraph 74 is Denied.

75. Paragraph 75 is Denied.

76. Paragraph 76 is Denied.

77. Paragraph 77 is Denied.

78. Paragraph 78 is Denied.

COUNT IX

79. Defendants reaver and incorporate herein their responses 1-78 above.

80. Paragraph 80 is Denied.

81. Paragraph 81 is Denied.

82. Paragraph 82 is Denied.

83. Paragraph 83 is Denied.

84. Paragraph 84 is Denied.

COUNT X

85. Defendants reaver and incorporate herein their responses 1-84 above.

AS TO ALL COUNTS

86. All other allegations not specifically admitted are denied.

AFFIRMATIVE DEFENSES

1. As and for the Defendants First Affirmative Defense, Plaintiff's claims are barred in whole or in part by the applicable statute of limitations and/or laches.

2. As and for the Defendants Second Affirmative Defense, Plaintiff's claims are barred in whole or in part by the statute of frauds.

3. As and for the Defendants Third Affirmative Defense, Plaintiff's claims are barred in whole or in part because Plaintiff lacks standing to pursue derivative claims because he is no longer a shareholder in LIC and lacks standing to pursue other claims because is no longer an employee of LIC or Arbitrage.

4. As and for the Defendants Fourth Affirmative Defense, Plaintiff's claims are barred in whole or in part by because Plaintiff has misjoined causes of action held in different capacities,

and therefore, the Complaint is improper and, at a minimum, certain claims must be dismissed such that Plaintiff pursues only those claims he has in one capacity.

5. As and for the Defendants Fifth Affirmative Defense, Plaintiff's claims are barred in whole or in part by the doctrine of waiver. Plaintiff was aware of the facts and circumstances of the companies' operations, and the financial transactions and dealings within the companies and was aware of the alleged actions which form the basis of his claim, and waived any claims against Defendants.

6. As and for the Defendants Sixth Affirmative Defense, Plaintiff's claims are barred in whole or in part by the doctrine of ratification. Plaintiff was aware of the facts and circumstances of the companies' operations, and the financial transactions and dealings within the companies, and the alleged actions which form the basis of his claim, and ratified such alleged actions.

7. As and for the Defendants Seventh Affirmative Defense, Plaintiff's claims are barred in whole or in part by the doctrine of estoppel. Plaintiff was aware of the facts and circumstances of the companies' operations, and the financial transactions and dealings within the companies, and was aware of the alleged actions which form the basis of his claim, and therefore is estopped to assert any claims against Defendants.

8. As and for the Defendants Eighth Affirmative Defense, Plaintiff's claims are barred in whole or in part by the doctrine of acquiescence. Plaintiff was aware of the facts and circumstances of the companies' operations, and the financial transactions and dealings within the

companies, and was aware of the alleged actions which form the basis of his claim, and therefore acquiesced in the conduct about which he now complains.

9. As and for the Defendants Ninth Affirmative Defense, Plaintiff's claims against Simon L. Bernstein (hereinafter the "Decedent") are barred in whole or in part by the corporate shield doctrine. All of the actions allegedly taken by the Decedent were actions taken on behalf of a legal entity (corporation or limited liability company), and not on behalf of himself individually, and therefore, any claims against the Decedent individually are barred.

10. As and for the Defendants Tenth Affirmative Defense, Plaintiff has failed to comply with the requirements of section 607.07401 of the Florida Statutes.

11. As and for the Defendants Eleventh Affirmative Defense, Plaintiff failed to properly include all or a portion of the relief requested in the Second Amended Complaint within his Claim filed in the Decedent's probate proceedings. As such, those Claims are now barred and the Plaintiff is estopped from pursuing same as the three (3) month statutory period for filing Claims against the Estate has expired.

12. As and for the Defendants Twelfth Affirmative Defense, the Plaintiff has failed to state a cause of action against the Decedent for a Constructive Trust. The Plaintiff has failed to plead the four (4) required elements of a promise, reliance, confidential relationship and unjust enrichment. As such, Count X must be dismissed.

WHEREFORE, having answered the Complaint, Defendants demand judgment in their favor, together with an award of costs and, pursuant to any applicable contract or statute,

attorneys' fees, and such other relief as the Court determines just and equitable.

COUNTERCLAIM

Counter-Plaintiff, the Estate of Simon L. Bernstein (hereinafter the "Estate"), sues Defendant, William E. Stansbury ("Stansbury"), and states:

1. The Estate is being administered in Palm Beach County, Florida.

2. Stansbury is a resident of Palm Beach County, Florida.

3. At all material times referenced herein during the lifetime of Simon L. Bernstein, he was an officer and shareholder of Arbitrage and LIC Holdings, Inc.

4. As part of his work for Arbitrage and its affiliated company, LIC Holdings, Inc., Stansbury was listed as the licensed insurance agent of record on various contracts and policies of insurance with various insurance companies, under which those insurance companies would make payments of commissions and renewals due to Arbitrage only by way of a check payable in many cases to Stansbury individually.

5. Pursuant to the agreement of the parties, Stansbury was to deliver all such checks to Arbitrage, because all receipts for commissions, renewals or other revenue received by Stansbury for contracts or policies generated during the time of his employment were property of his employer.

6. Upon information and belief, before the time that Stansbury voluntarily terminated his employment with Arbitrage, Stansbury received and collected checks made payable to him, but which properly belonged to Arbitrage, and retained those funds for his sole and exclusive use

and benefit.

7. Further, after Stansbury voluntarily terminated his employment with Arbitrage, Stansbury continued to receive checks made payable to him, but which properly belonged to Arbitrage, and Stansbury retained the benefit of such checks for his sole and exclusive use and benefit. In addition, for some period of time after he voluntarily terminated his employment, Stansbury has been depositing certain checks into the trust account of his attorney, Peter Feaman.

8. All conditions precedent to the bringing of his action have been met, satisfied or waived.

COUNT I - BREACH OF CONTRACT

9. The Estate realleges paragraphs 1 though 8 above.

10. This is an action for breach of contract and seeks damages in excess of $15,000, exclusive of interest, costs and attorneys' fees.

11. Pursuant to the agreement between Arbitrage and Stansbury, Stansbury was required to deliver to Arbitrage all checks made payable to him for contracts or policies of insurance which relate to work done during the time of Stansbury's employment.

12. For the vast majority of the duration of Stansbury's employment, Stansbury complied with the parties' oral agreement and, as far as Arbitrage is presently aware, Stansbury did in fact deliver to Arbitrage all checks he received. However, upon information and belief, Stansbury may have withheld checks from Arbitrage at various times.

13. At some point before the voluntary termination of his employment, and for all

times after the voluntary termination of his employment, Stansbury has retained for himself and refused to turn over to Arbitrage checks received by him, payable to him individually, but which otherwise should have been turned over to Arbitrage.

14. By his actions in retaining checks payable to him but which should have been turned over to Arbitrage, Stansbury has breached his agreement with Arbitrage.

15. As a direct and proximate result of Stansbury breach of the parties' agreement, Arbitrage and consequently the Estate have been damaged in an amount to be determined through discovery and at trial, including the amount held in the attorney trust account of Peter Feaman.

WHEREFORE, the Estate demands judgment in its favor against Stansbury for compensatory damages, together with an award of costs and, pursuant to any applicable statute or contract, an award of attorneys' fees, and such other relief as is just.

COUNT II - DECLARATORY JUDGMENT

16. The Estate realleges paragraphs 1 though 8 and 10 through 15 above.

17. This is an action for a declaratory judgment and for supplemental relief.

18. There is a genuine and immediate dispute between the parties as to the entitlement to certain Checks which are made payable to Stansbury individually, but which properly belong to Arbitrage as the commissions and renewals received for contracts and policies of insurance, and other revenues of Arbitrage which are payable directly to Stansbury individually.

19. There is a bona fide, actual, present and practical need for the declaration.

20. The declaration deals with a present, ascertained or ascertainable state of facts or

present controversy as to a state of facts regarding who is entitled to the Checks held by Stansbury or his counsel.

21. An immunity, power, privilege or right of Arbitrage is dependent upon the facts or the law applicable to the facts.

22. Stansbury has, or reasonably may have, an actual, present, adverse and antagonistic interest in the subject matter, either in fact or law.

23. The antagonistic and adverse interests are all properly before the Court.

24. The relief sought is not merely the giving of legal advice or the answer to questions propounded from curiosity.

25. Based upon the foregoing, the Estate seeks a declaration that Stansbury is required to turn over to Arbitrage all checks received by him, which are payable to Stansbury individually, but which relate to contracts or policies of insurance, or other revenues generated by Arbitrage or by Stansbury while he was employed by Arbitrage.

26. Moreover, the Estate requests a declaratory judgment that it is entitled to all funds currently being held in the attorney trust account of Peter Feaman, which represent Checks received by Stansbury which are made payable to Stansbury individually, but which otherwise properly belong to Arbitrage.

27. The Estate also seeks a declaration that its rights to all such funds are superior to the rights and claims of Stansbury.

WHEREFORE, the Estate seeks a declaratory judgment as to its rights to the personal

property described above, together with supplemental relief to the extent necessary, an award of costs and, pursuant to any applicable statute or contract, an award of attorneys' fees, and such other relief the Court determines just and equitable.

MARK R. MANCERI, P.A.
Attorney for Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives
2929 East Commercial Blvd., Suite 702
Ft. Lauderdale, FL 33308
Telephone: (954) 491-7099
E-mail: mrmlaw@comcast.net
mrmlaw1@gmail.com

By: _____
Mark R. Manceri, Esq.
Florida Bar No. 444560

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-mail to the designated address(es) to all parties on the following Service List, this 24th day of September, 2013.

_____
Mark R. Manceri, Esq.

SERVICE LIST

Peter M. Feaman, Esq.
Peter M. Feaman, P.A.
3615 West Boynton Beach Blvd.
Boynton Beach, Florida 33436

Alan B. Rose, Esq.
Page, Mrachek, Fitzgerald, et.al.
505 South Flagler Drive, Suite 600
West Palm Beach, Florida 33401

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

TED S. BERNSTEIN; SIMON BERNSTEIN; LIC HOLDINGS, INC.; and ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC.
Defendants.
_____/

ORDER ON PLAINTIFF'S OBJECTIONS TO FIRST SET OF INTERROGATORIES TO WILLIAM E. STANSBURY AND MOTION FOR EXTENSION OF TIME

THIS CAUSE came on to be heard before this Honorable Court upon Plaintiff's Objections to First Set of Interrogatories to William E. Stansbury and Motion for Extension of Time, and the Court having reviewed the file, being duly advised in the premises, it is hereby

ORDERED and ADJUDGED:

1. Plaintiff's Objections to First Set of Interrogatories to William E. Stansbury and Motion for Extension of Time is hereby granted in part and denied in part without prejudice.

2. Overruled as to #3; overruled in part as to #4, plaintiff shall respond as to LIC Holdings and Arbitrage. Sustained as to #s 5, 7, 9, 10 and 11. Overruled as to #s 8, 12.

DONE and ORDERED in Chambers, West Palm Beach, Palm Beach County, Florida on this 30 day of Sept, 2013.

/s/
Honorable Peter Blanc
Circuit Judge

Copies to:
Alan B. Rose, Esq., Page, Mrachek, Fitzgerald, Rose, Konopka & Dow, 505 S. Flagler Drive, Suite 600, West Palm Beach, FL 33401; arose@pm-law.com
Mark R. Manceri, Esq., Mark R. Manceri, P.A., 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; mrmlaw@comcast.net; mrmlaw1@gmail.com
Peter M. Feaman, Esq., Peter M. Feaman, P.A., 3615 W. Boynton Beach Blvd., Boynton Beach, FL; service@feamanlaw.com.

Plaintiff shall respond to #1, 2, 6, 3, 4 and 8 within 15 days.

If there any documents attached to this email with the suffix ,pdf, those documents are in Adobe PDF format, If you have difficulty viewing these attachments, you may need to download the free version of Adobe Acrobat Reader, available at: http://www.adobe.com

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

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 MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC; BERNSTEIN FAMILY REALTY, LLC,

Defendants.
_____/

CASE NO: 50 2012 CA 013933 MB AA

DEFENDANT'S, SHIRLEY BERNSTEIN TRUST, ANSWER AND AFFIRMATIVE DEFENSES TO SECOND AMENDED COMPLAINT

Defendant, Shirley Bernstein Trust Agreement dated May 20, 2008 ("Defendant"), files its answer and affirmative defenses to the Second Amended Complaint, and states:

ANSWER

1. Admitted for jurisdictional purposes only and otherwise denied.

2. Without knowledge.

3. Admitted.

4. Admit the first and second sentence, and otherwise without knowledge.

5. Without knowledge.

6. Without knowledge.

7. Without knowledge.

8. Admitted that Ted Bernstein is the successor trustee of Defendant, and otherwise denied.

9. Admitted for jurisdictional purposes only and otherwise denied.

10. Without knowledge.

11. Without knowledge.

12. Without knowledge.

13. Without knowledge.

14. Without knowledge.

15. Without knowledge.

16. Without knowledge.

17. Without knowledge.

18. Without knowledge.

19. Without knowledge.

20. Without knowledge.

21. Without knowledge.

22. Without knowledge.

23. Without knowledge.

24. Without knowledge.

25. Without knowledge.

26. Without knowledge.

27. Without knowledge.

28. Without knowledge.

29. Without knowledge.

30. Without knowledge.

31. Without knowledge.

32. Without knowledge.

33. Without knowledge.

34. Without knowledge.

COUNT I

35. This count is not directed toward Defendant, and therefore, no response is necessary. To the extent that any response is deemed necessary, Defendant denies all allegations of each paragraph.

36. See response to 35 above.

37. See response to 35 above.

COUNT II

38. See response to 35 above.

39. See response to 35 above.

40. See response to 35 above.

41. See response to 35 above.

42. See response to 35 above.

43. See response to 35 above.

44. See response to 35 above.

45. See response to 35 above.

46. See response to 35 above.

COUNT III

47. See response to 35 above.

48. See response to 35 above.

49. See response to 35 above.

50. See response to 35 above.

51. See response to 35 above.

52. See response to 35 above.

COUNT IV

53. See response to 35 above

54. See response to 35 above.

55. See response to 35 above.

56. See response to 35 above.

57. See response to 35 above.

COUNT V

58. See response to 35 above.

59. See response to 35 above.

60. See response to 35 above.

61. See response to 35 above.

62. See response to 35 above.

63. See response to 35 above.

COUNT V (SIC)

64. See response to 35 above.

65. See response to 35 above.

66. See response to 35 above.

67. See response to 35 above.

68. See response to 35 above.

69. See response to 35 above.

COUNT VII

70. See response to 35 above.

71. See response to 35 above.

COUNT VIII

72. See response to 35 above.

73. See response to 35 above.

74. See response to 35 above.

75. See response to 35 above.

76. See response to 35 above.

77. See response to 35 above.

78. See response to 35 above.

COUNT IX

79. Defendant restates responses 1 to 34, 45 and Counts III and IV above, and any other paragraph which is properly incorporated into this Count.

80. Denied.

81. Denied.

82. Denied.

83. Denied.

84. Denied.

COUNT X

85. Defendant restates responses 79 through 84 above.

AFFIRMATIVE DEFENSES

86. Plaintiff's claims are barred in whole or in part by the applicable statute of limitations.

87. Plaintiff's claims are barred in whole or in part by the statute of frauds.

88. Plaintiff's claims are barred in whole or in part because Plaintiff lacks standing to pursue derivative claims because he is no longer a shareholder in LIC and lacks standing to pursue other claims because is no longer an employee of LIC or Arbitrage.

89. Plaintiff's claims are barred because there is a good faith basis to refuse any request by Stansbury, including because he no longer is a shareholder in LIC and his request is not made in good faith and for a proper purpose, and otherwise denied.

90. Plaintiff's claims are barred in whole or in part by because Plaintiff has misjoined causes of action held in different capacities, and therefore, the Complaint is improper and, at a minimum, certain claims must be dismissed such that Plaintiff pursues only those claims he has in one capacity.

91. Plaintiff's claims are barred in whole or in part by the doctrine of waiver. Plaintiff was aware of the facts and circumstances of the companies' operations, and the financial transactions

and dealings within the companies and was aware of the alleged actions which form the basis of his claim, and waived any claims against Defendants.

92. Plaintiff's claims are barred in whole or in part by the doctrine of ratification. Plaintiff was aware of the facts and circumstances of the companies' operations, and the financial transactions and dealings within the companies, and the alleged actions which form the basis of his claim, and ratified such alleged actions.

93. Plaintiff's claims are barred in whole or in part by the doctrine of estoppel. Plaintiff was aware of the facts and circumstances of the companies' operations, and the financial transactions and dealings within the companies, and was aware of the alleged actions which form the basis of his claim, and therefore is estopped to assert any claims against Defendants.

94. Plaintiff's claims are barred in whole or in part by the doctrine of acquiescence. Plaintiff was aware of the facts and circumstances of the companies' operations, and the financial transactions and dealings within the companies, and was aware of the alleged actions which form the basis of his claim, and therefore acquiesced in the conduct about which he now complains.

95. Plaintiff's claims against Ted Bernstein are barred in whole or in part by the corporate shield doctrine. All of the actions allegedly taken by Bernstein were actions taken on behalf of a legal entity (corporation or limited liability company), and not on behalf of himself individually, and therefore, any claims against Bernstein individually are barred.

96. Plaintiff has failed to comply with the requirements of section 607.07401 of the Florida Statutes.

97. Plaintiff's claims are barred in whole or in part by the doctrine of laches, in that Plaintiff unreasonably delayed bringing these claims for numerous years, while continuing to work

and continuing to receive compensation, benefits and distributions; and Defendants were prejudiced by such delay, including by their actions in continuing such employment and such benefits, and in other ways.

WHEREFORE, having answered the Complaint, Defendants demand judgment in their favor, together with an award of costs and, pursuant to any applicable contract or statute, attorneys' fees, and such other relief as it just.

WHEREFORE, having fully answered the Second Amended Complaint, Defendant demands judgment in its favor, together with an award of costs and, pursuant to any applicable statute or contract, an award of attorneys' fees, and such other relief as is just.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to the Service List set forth below by: ■ E-mail Electronic Transmission; ☐ Facsimile; ☐ U.S. Mail; ☐ Overnight Delivery; ☐ Hand-delivery, this 27th day of September, 2013.

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West Palm Beach, Florida 33401
Telephone: (561) 655-2250
Facsimile: (561) 655-5537
Email: arose@mrachek-law.com; mchandler@mrachek-law.com
Email: phely@mrachek-law.com; mchandler@mrachek-law.com
Counsel for Ted S. Bernstein, as Successor Trustee to the Shirley Bernstein Trust Agreement dated May 20, 2008

By: /s/ Alan B. Rose
Alan B. Rose (Florida Bar No. 961825)
N. Patrick Hely (Florida Bar No. 0091466

SERVICE LIST

Peter M. Feaman, Esquire
Peter M. Feaman, P.A.
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Boynton Beach, FL 33436
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Counsel for Plaintiff

Mark R. Manceri, Esq.
Mark R. Manceri, P.A.
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(954) 491-7099
Email: (mrmlaw@comcast.net); (mrmlaw1@gmail.com)
Counsel for Donald R. Tescher and Robert L.
Spallina, as Co-Personal Representatives

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

WILLIAM E. STANSBURY,

Plaintiff,

vs.

CASE NO: 50 2012 CA 013933 MB AA

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.
_____/

DEFENDANTS', TED S. BERNSTEIN, LIC HOLDINGS, INC., AND ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, ANSWER AND AFFIRMATIVE DEFENSES TO SECOND AMENDED COMPLAINT, AND COUNTERCLAIM

Defendants, Ted S. Bernstein ("Bernstein"), LIC Holdings, Inc. ("LIC"), and Arbitrage International Management, LLC ("Arbitrage") (collectively "Defendants"), file their answer, affirmative defenses, and counterclaim.

ANSWER

1. Admitted for jurisdictional purposes only and otherwise denied.

2. Without knowledge.

3. Admitted.

4. Admit the first and second sentence, and otherwise without knowledge.

5. Admitted.

6. Admitted.

7. Admitted.

8. Denied.

9. Admitted for jurisdictional purposes only and otherwise denied.

10. Without knowledge.

11. Admitted.

12. Admitted.

13. Admitted that Stansbury's role in the company involved the sale and marketing of certain insurance products, and otherwise denied.

14. Denied.

15. Admitted.

16. Admitted that Stansbury, for some time, worked as an employee of LIC or Arbitrage, and that, for some time period, Stansbury's compensation was based upon receiving 15% of the net retained commissions as that terms was understood by the parties, and otherwise denied.

17. Admitted that Stansbury, for some time, worked as an employee of LIC or Arbitrage, and that, for some time period, Stansbury's compensation was based upon receiving 15% of the net retained commissions as that terms was understood by the parties, and otherwise denied.

18. Admitted that Stansbury was given 10% of the stock of LIC, and otherwise denied.

19. Denied.

20. Denied.

21. Denied.

22. Admitted that Stansbury agreed to be paid no commission for sales or revenues after January 1, 2008; without knowledge of the specific amounts received by Stansbury in 2008; and otherwise denied.

23. Denied.

24. Denied.

25. Denied.

26. Denied.

27. Denied.

28. Denied.

29. Denied.

30. Denied.

31. Admitted that Stansbury returned, surrendered or ceded his 10% stock interest back to LIC, and otherwise denied.

32. Denied.

33. Denied.

34. Without knowledge.

COUNT I

35. Defendants restate responses 1 to 34 above and any other paragraph which is properly incorporated into this Count.

36. Denied.

37. Denied.

COUNT II

38. Defendants restate responses 1 to 34 above and any other paragraph which is properly incorporated into this Count.

39. Denied.

40. Admitted that Stansbury was paid in accordance with the parties' agreement, and otherwise denied.

41. Admitted that Stansbury was paid in accordance with the parties' agreement, and otherwise denied.

42. Denied.

43. Denied.

44. Denied.

45. Denied.

46. Denied.

COUNT III

47. Defendants restate responses 1 to 34 above and any other paragraph which is properly incorporated into this Count.

48. Denied.

49. Denied.

50. Denied.

51. Denied.

52. Denied.

COUNT IV

53. Defendants restate responses 1 to 34 above and any other paragraph which is properly incorporated into this Count.

54. Denied.

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56. Denied.

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COUNT V

58. Defendants restate responses 1 to 34 above and any other paragraph which is properly incorporated into this Count.

59. Denied.

60. Denied.

61. Denied.

62. Denied.

63. Denied.

COUNT V (SIC)

64. Defendants restate responses 1 to 34 above and any other paragraph which is properly incorporated into this Count.

65. Denied.

66. Denied.

67. Denied.

68. Denied.

69. Denied.

COUNT VII

70. Defendants restate responses 1 to 34 above and any other paragraph which is properly incorporated into this Count.

71. Denied.

COUNT VIII

72. Defendants restate responses 1 to 34 above and any other paragraph which is properly incorporated into this Count.

73. Denied.

74. Denied.

75. Denied.

76. Denied.

77. Denied.

78. Denied.

COUNT IX

79. Defendants restate responses 1 to 34 above and any other paragraph which is properly incorporated into this Count.

80. Denied.

81. Denied.

82. Denied.

83. Denied.

84. Denied.

COUNT X

85. Defendants restate responses 79 through 84 above, and any other paragraph which is properly incorporated into this Count.

AFFIRMATIVE DEFENSES

86. Plaintiff's claims are barred in whole or in part by the applicable statute of limitations.

87. Plaintiff's claims are barred in whole or in part by the statute of frauds.

88. Plaintiff's claims are barred in whole or in part because Plaintiff lacks standing to pursue derivative claims because he is no longer a shareholder in LIC and lacks standing to pursue other claims because is no longer an employee of LIC or Arbitrage.

89. Plaintiff's claims are barred because there is a good faith basis to refuse any request by Stansbury, including because he no longer is a shareholder in LIC and his request is not made in good faith and for a proper purpose, and otherwise denied.

90. Plaintiff's claims are barred in whole or in part by because Plaintiff has misjoined causes of action held in different capacities, and therefore, the Complaint is improper and, at a minimum, certain claims must be dismissed such that Plaintiff pursues only those claims he has in one capacity.

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95. Plaintiff's claims against Ted Bernstein are barred in whole or in part by the corporate shield doctrine. All of the actions allegedly taken by Bernstein were actions taken on behalf of a legal entity (corporation or limited liability company), and not on behalf of himself individually, and therefore, any claims against Bernstein individually are barred.

96. Plaintiff has failed to comply with the requirements of section 607.07401 of the Florida Statutes.

97. Plaintiff's claims are barred in whole or in part by the doctrine of laches, in that Plaintiff unreasonably delayed bringing these claims for numerous years, while continuing to work and continuing to receive compensation, benefits and distributions; and Defendants were prejudiced by such delay, including by their actions in continuing such employment and such benefits, and in other ways.

WHEREFORE, having answered the Complaint, Defendants demand judgment in their favor, together with an award of costs and, pursuant to any applicable contract or statute, attorneys' fees, and such other relief as it just.

COUNTERCLAIM

Counter-Plaintiff, Arbitrage International Management, LLC ("Arbitrage"), sues Defendant, William E. Stansbury ("Stansbury"), and states:

1. Arbitrage is a Florida limited liability company with its principal place of business in Palm Beach County, Florida.

2. Stansbury is a resident of Palm Beach County, Florida.

3. As part of his work for Arbitrage and its affiliated company, LIC Holdings, Inc., Stansbury was listed as the licensed insurance agent of record on various contracts and policies of insurance with various insurance companies, under which those insurance companies would make payments of commissions and renewals due to Arbitrage only by way of a check payable to one of the individuals, including in many cases Stansbury individually.

4. Pursuant to the agreement of the parties, Stansbury was to deliver all such checks to Arbitrage, because all receipts for commissions, renewals or other revenue received by Stansbury for contracts or policies generated during the time of his employment were property of his employer.

5. Upon information and belief, before the time that Stansbury voluntarily terminated his employment with Arbitrage, Stansbury received and collected checks made payable to him, but which properly belonged to Arbitrage, and retained those funds for his sole and exclusive use and benefit.

6. Further, after Stansbury voluntarily terminated his employment with Arbitrage, Stansbury continued to receive checks made payable to him, but which properly belonged to Arbitrage, and Stansbury retained the benefit of such checks for his sole and exclusive use and benefit. In addition, for some period of time after he voluntarily terminated his employment, Stansbury has been depositing certain checks into the trust account of his attorney, Peter Feaman.

7. All conditions precedent to the bringing of his action have occurred, been satisfied, or waived.

COUNT I - BREACH OF CONTRACT

8. Arbitrage realleges paragraphs 1 though 7 above.

9. This is an action for breach of contract and seeks damages in excess of $15,000, exclusive of interest, costs and attorneys' fees.

10. Pursuant to the agreement between Arbitrage and Stansbury, Stansbury was required to deliver to Arbitrage all checks made payable to him for contracts or policies of insurance which relate to work done during the time of Stansbury's employment.

11. For the vast majority of the duration of Stansbury's employment, Stansbury complied with the parties' oral agreement and, as far as Arbitrage is presently aware, Stansbury did in fact deliver to Arbitrage all checks he received. However, upon information and belief, Stansbury may have withheld checks from Arbitrage at various times.

12. At some point before the voluntary termination of his employment, and for all times after the voluntary termination of his employment, Stansbury has retained for himself and refused to turn over to Arbitrage checks received by him, payable to him individually, but which otherwise should have been turned over to Arbitrage.

13. By his actions in retaining checks payable to him but which should have been turned over to Arbitrage, Stansbury has breached his agreement with Arbitrage.

14. As a direct and proximate result of Stansbury breach of the parties' agreement, Arbitrage has been damaged in an amount to be determined through discovery and at trial, including the amount held in the trust account of Peter Feaman.

WHEREFORE, Arbitrage demands judgment in its favor against Stansbury for compensatory damages, together with an award of costs and, pursuant to any applicable statute or contract, an award of attorneys' fees, and such other relief as is just.

COUNT II - DECLARATORY JUDGMENT

15. Arbitrage realleges paragraphs 1 though 7 and 10 through 13 above.

16. This is an action for a declaratory judgment and for supplemental relief.

17. There is a genuine and immediate dispute between the parties as to the entitlement to certain checks which are made payable to Stansbury individually, but which properly belong to Arbitrage as the commissions and renewals received for contracts and policies of insurance, and other revenues of Arbitrage which are payable directly to Stansbury individually.

18. There is a bona fide, actual, present and practical need for the declaration.

19. The declaration deals with a present, ascertained or ascertainable state of facts or present controversy as to a state of facts regarding who is entitled to the checks held by Stansbury or his counsel.

20. An immunity, power, privilege or right of Arbitrage is dependent upon the facts or the law applicable to the facts.

21. Stansbury has, or reasonably may have, an actual, present, adverse and antagonistic interest in the subject matter, either in fact or law.

22. The antagonistic and adverse interests are all properly before the Court.

23. The relief sought is not merely the giving of legal advice or the answer to questions propounded from curiosity.

24. Based upon the foregoing, Arbitrage seeks a declaration that Stansbury is required to turn over to Arbitrage all checks received by him, which are payable to Stansbury individually, but which relate to contracts or policies of insurance, or other revenues generated by Arbitrage or by Stansbury while he was employed by Arbitrage.

25. Moreover, Arbitrage requests a declaratory judgment that it is entitled to all funds currently being held in the trust account of Peter Feaman, which represent checks received by Stansbury which are made payable to Stansbury individually, but which otherwise properly belong to Arbitrage.

26. Arbitrage also seeks a declaration that its rights to all such funds are superior to the rights and claims of Stansbury.

WHEREFORE, Arbitrage seeks a declaratory judgment as to its rights to the personal property described above, together with supplemental relief to the extent necessary, an award of costs and, pursuant to any applicable statute or contract, an award of attorneys' fees, and such other relief as is just.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to the Service List set forth below by: ■ E-mail Electronic Transmission; ☐ Facsimile; ☐ U.S. Mail; ☐ Overnight Delivery; ☐ Hand-delivery, this 27th day of September, 2013.

MRACHEK, FITZGERALD, ROSE,
KONOPKA & DOW, P.A.
505 South Flagler Drive, Suite 600
West Palm Beach, Florida 33401
Telephone: (561) 655-2250
Facsimile: (561) 655-5537
Email: arose@mrachek-law.com; mchandler@mrachek-law.com
Email: phely@mrachek-law.com; mchandler@mrachek-law.com
Counsel for Ted S. Bernstein; LIC Holdings, Inc.; and Arbitrage International Management, LLC

By: /s/ Alan B. Rose
Alan B. Rose (Florida Bar No. 961825)
N. Patrick Hely (Florida Bar No. 0091466

SERVICE LIST

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Email: (mrmlaw@comcast.net); (mrmlaw1@gmail.com)
Counsel for Donald R. Tescher and Robert L.
Spallina, as Co-Personal Representatives

Mark R. Manceri, P.A.

ATTORNEY AND COUNSELOR AT LAW
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MARK R. MANCERI

FLORIDA BAR BOARD CERTIFIED
WILLS, TRUSTS AND ESTATES

WEB SITE: WWW.ESTATEPROBATELITIGATION.COM

TELEPHONE (954) 491-7099
FACSIMILE (954) 771-0545

September 27, 2013

Clerk of the Court
Palm Beach County Courthouse
Main Courthouse
Civil Division
205 N. Dixie Highway
West Palm Beach, Florida 33401

Re: Estate of Simon L. Bernstein/Stansbury v. Bernstein, et.al.
Case No. 502012CA13933MB AA
Filing #: 5730348

Dear Sir or Madam:

Pursuant to your instructions, enclosed is my Operating Check No. 14187 in the amount of $395.00 payable to the Clerk of the Court, Palm Beach County, Florida representing filing fee relating to the Answer, Affirmative Defenses and Counterclaim to Second Amended Complaint filed on September 24, 2013. Enclosed is a copy of the e-mail dated September 24, 2013 for your use and reference.

Should you have any questions, concerns or comments regarding the foregoing, please do not hesitate to contact me.

Yours truly,

Mark R. Manceri, Esq.

MRM/mmp
Enclosures

cc: Donald Tescher, Esq.
Robert Spallina, Esq.

14187

MARK R. MANCERI P. A 09-87
OPERATING ACCOUNT
2929 E. COMMERCIAL BLVD. SUITE 702
FT. LAUDERDALE, FL 33308

DATE 9/27/13 63-8413/2670 41717

PAY TO THE ORDER OF Clerk of the Court, Palm Beach County, Florida $ *395.00*

Three Hundred Ninety Five----------00/100 DOLLARS

CHASE
JPMorgan Chase Bank, N.A.
www.Chase.com

FOR Stansbury .v Bernstein - Filing Fee Case No.502012CA13933MB AA

⑈014187⑈ ⑆267084131⑆ 831450252211⑈

TS002582

From: noreply@myflcourtaccess.com
Date: 09/24/2013 12:55:36 PM
Subject: Processing Completed for Filing # 5730348

Dear Mark R Manceri:

This email verifies the processing of your Filing # **5730348** with the Palm Beach County, Florida Circuit Civil Division.

Status: **Accepted**

Filing Date/Time: 09/24/2013 11:52:58 AM

Case Number: 2012CA013933

Case Name: STANSBURY, WILLIAM E VS ARBITRAGE INTERNATIONAL MANAGE

Documents

#	Document Type	Status	Filing Date	Rejection Reason	Your Attachment
1	All Answer & Affirmative Defenses	Accepted	09/24/2013		Stansbury v. Bernstein, et.al. - Answer, Affirmative Def. and Counterclaim to 2nd Amended Complaint.pdf

Fees

Memo:

This is a non-monitored email. Do not reply directly to it. If you have any questions about this filing, please contact the Palm Beach County, Florida Circuit Civil Division.

Thank you.

Many counties no longer require paper follow-up. To see a complete list, click on this link.

09/27/2013

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

WILLIAM E. STANSBURY,

Plaintiff,

vs.

CASE NO: 50 2012 CA 013933 MB AA

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.
_____/

DEFENDANT'S, SHIRLEY BERNSTEIN TRUST, ANSWER AND AFFIRMATIVE DEFENSES TO SECOND AMENDED COMPLAINT

Defendant, Shirley Bernstein Trust Agreement dated May 20, 2008 ("Defendant"), files its answer and affirmative defenses to the Second Amended Complaint, and states:

ANSWER

1. Admitted for jurisdictional purposes only and otherwise denied.

2. Without knowledge.

3. Admitted.

4. Admit the first and second sentence, and otherwise without knowledge.

5. Without knowledge.

6. Without knowledge.

7. Without knowledge.

8. Admitted that Ted Bernstein is the successor trustee of Defendant, and otherwise denied.

9. Admitted for jurisdictional purposes only and otherwise denied.

10. Without knowledge.

11. Without knowledge.

12. Without knowledge.

13. Without knowledge.

14. Without knowledge.

15. Without knowledge.

16. Without knowledge.

17. Without knowledge.

18. Without knowledge.

19. Without knowledge.

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24. Without knowledge.

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26. Without knowledge.

27. Without knowledge.

28. Without knowledge.

29. Without knowledge.

30. Without knowledge.

31. Without knowledge.

32. Without knowledge.

33. Without knowledge.

34. Without knowledge.

COUNT I

35. This count is not directed toward Defendant, and therefore, no response is necessary. To the extent that any response is deemed necessary, Defendant denies all allegations of each paragraph.

36. See response to 35 above.

37. See response to 35 above.

COUNT II

38. See response to 35 above.

39. See response to 35 above.

40. See response to 35 above.

41. See response to 35 above.

42. See response to 35 above.

43. See response to 35 above.

44. See response to 35 above.

45. See response to 35 above.

46. See response to 35 above.

COUNT III

47. See response to 35 above.

48. See response to 35 above.

49. See response to 35 above.

50. See response to 35 above.

51. See response to 35 above.

52. See response to 35 above.

COUNT IV

53. See response to 35 above

54. See response to 35 above.

55. See response to 35 above.

56. See response to 35 above.

57. See response to 35 above.

COUNT V

58. See response to 35 above.

59. See response to 35 above.

60. See response to 35 above.

61. See response to 35 above.

62. See response to 35 above.

63. See response to 35 above.

COUNT V (SIC)

64. See response to 35 above.

65. See response to 35 above.

66. See response to 35 above.

67. See response to 35 above.

68. See response to 35 above.

69. See response to 35 above.

COUNT VII

70. See response to 35 above.

71. See response to 35 above.

COUNT VIII

72. See response to 35 above.

73. See response to 35 above.

74. See response to 35 above.

75. See response to 35 above.

76. See response to 35 above.

77. See response to 35 above.

78. See response to 35 above.

COUNT IX

79. Defendant restates responses 1 to 34, 45 and Counts III and IV above.

80. Denied.

81. Denied.

82. Denied.

83. Denied.

84. Denied.

COUNT X

85. Defendant restates responses 79 through 84 above.

AFFIRMATIVE DEFENSES

86. Plaintiff's claims are barred in whole or in part by the applicable statute of limitations.

87. Plaintiff's claims are barred in whole or in part by the statute of frauds.

88. Plaintiff's claims are barred in whole or in part because Plaintiff lacks standing to pursue derivative claims because he is no longer a shareholder in LIC and lacks standing to pursue other claims because is no longer an employee of LIC or Arbitrage.

89. Plaintiff's claims are barred because there is a good faith basis to refuse any request by Stansbury, including because he no longer is a shareholder in LIC and his request is not made in good faith and for a proper purpose, and otherwise denied.

90. Plaintiff's claims are barred in whole or in part by because Plaintiff has misjoined causes of action held in different capacities, and therefore, the Complaint is improper and, at a minimum, certain claims must be dismissed such that Plaintiff pursues only those claims he has in one capacity.

91. Plaintiff's claims are barred in whole or in part by the doctrine of waiver. Plaintiff was aware of the facts and circumstances of the companies' operations, and the financial transactions and dealings within the companies and was aware of the alleged actions which form the basis of his claim, and waived any claims against Defendants.

92. Plaintiff's claims are barred in whole or in part by the doctrine of ratification. Plaintiff was aware of the facts and circumstances of the companies' operations, and the financial transactions and dealings within the companies, and the alleged actions which form the basis of his claim, and ratified such alleged actions.

93. Plaintiff's claims are barred in whole or in part by the doctrine of estoppel. Plaintiff was aware of the facts and circumstances of the companies' operations, and the financial transactions and dealings within the companies, and was aware of the alleged actions which form the basis of his claim, and therefore is estopped to assert any claims against Defendants.

94. Plaintiff's claims are barred in whole or in part by the doctrine of acquiescence. Plaintiff was aware of the facts and circumstances of the companies' operations, and the financial transactions and dealings within the companies, and was aware of the alleged actions which form the basis of his claim, and therefore acquiesced in the conduct about which he now complains.

95. Plaintiff's claims against Ted Bernstein are barred in whole or in part by the corporate shield doctrine. All of the actions allegedly taken by Bernstein were actions taken on behalf of a legal entity (corporation or limited liability company), and not on behalf of himself individually, and therefore, any claims against Bernstein individually are barred.

96. Plaintiff has failed to comply with the requirements of section 607.07401 of the Florida Statutes.

97. Plaintiff's claims are barred in whole or in part by the doctrine of laches, in that Plaintiff unreasonably delayed bringing these claims for numerous years, while continuing to work and continuing to receive compensation, benefits and distributions; and Defendants were prejudiced

by such delay, including by their actions in continuing such employment and such benefits, and in other ways.

WHEREFORE, having answered the Complaint, Defendants demand judgment in their favor, together with an award of costs and, pursuant to any applicable contract or statute, attorneys' fees, and such other relief as it just.

WHEREFORE, having fully answered the Second Amended Complaint, Defendant demands judgment in its favor, together with an award of costs and, pursuant to any applicable statute or contract, an award of attorneys' fees, and such other relief as is just.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to the Service List set forth below by: ■ E-mail Electronic Transmission; ☐ Facsimile; ☐ U.S. Mail; ☐ Overnight Delivery; ☐ Hand-delivery, this 23rd day of September, 2013.

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Counsel for Ted S. Bernstein, as Successor Trustee to the Shirley Bernstein Trust Agreement dated May 20, 2008

By: /s/ Alan B. Rose
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Stefanie R. Shelley (Florida Bar No. 514446)
N. Patrick Hely (Florida Bar No. 0091466

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Counsel for Donald R. Tescher and Robert L.
Spallina, as Co-Personal Representatives

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

WILLIAM E. STANSBURY,

Plaintiff,

vs.

CASE NO: 50 2012 CA 013933 MB AA

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.
_____/

DEFENDANTS', TED S. BERNSTEIN, LIC HOLDINGS, INC., AND ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, ANSWER AND AFFIRMATIVE DEFENSES TO SECOND AMENDED COMPLAINT, AND COUNTERCLAIM

Defendants, Ted S. Bernstein ("Bernstein"), LIC Holdings, Inc. ("LIC"), and Arbitrage International Management, LLC ("Arbitrage") (collectively "Defendants"), file their answer, affirmative defenses, and counterclaim.

ANSWER

1. Admitted for jurisdictional purposes only and otherwise denied.

2. Without knowledge.

3. Admitted.

4. Admit the first and second sentence, and otherwise without knowledge.

5. Admitted.

6. Admitted.

7. Admitted.

8. Denied.

9. Admitted for jurisdictional purposes only and otherwise denied.

10. Without knowledge.

11. Admitted.

12. Admitted.

13. Admitted that Stansbury's role in the company involved the sale and marketing of certain insurance products, and otherwise denied.

14. Denied.

15. Admitted.

16. Admitted that Stansbury, for some time, worked as an employee of LIC or Arbitrage, and that, for some time period, Stansbury's compensation was based upon receiving 15% of the net retained commissions as that terms was understood by the parties, and otherwise denied.

17. Admitted that Stansbury, for some time, worked as an employee of LIC or Arbitrage, and that, for some time period, Stansbury's compensation was based upon receiving 15% of the net retained commissions as that terms was understood by the parties, and otherwise denied.

18. Admitted that Stansbury was given 10% of the stock of LIC, and otherwise denied.

19. Denied.

20. Denied.

21. Denied.

22. Admitted that Stansbury agreed to be paid no commission for sales or revenues after January 1, 2008; without knowledge of the specific amounts received by Stansbury in 2008; and otherwise denied.

23. Denied.

24. Denied.

25. Denied.

26. Denied.

27. Denied.

28. Denied.

29. Denied.

30. Denied.

31. Admitted that Stansbury returned, surrendered or ceded his 10% stock interest back to LIC, and otherwise denied.

32. Denied.

33. Denied.

34. Without knowledge.

COUNT I

35. Defendants restate responses 1 to 34 above.

36. Denied.

37. Denied.

COUNT II

38. Defendants restate responses 1 to 34 above.

39. Denied.

40. Admitted that Stansbury was paid in accordance with the parties' agreement, and otherwise denied.

41. Admitted that Stansbury was paid in accordance with the parties' agreement, and otherwise denied.

42. Denied.

43. Denied.

44. Denied.

45. Denied.

46. Denied.

COUNT III

47. Defendants restate responses 1 to 34 above.

48. Denied.

49. Denied.

50. Denied.

51. Denied.

52. Denied.

COUNT IV

53. Defendants restate responses 1 to 34 above.

54. Denied.

55. Denied.

56. Denied.

57. Denied.

COUNT V

58. Defendants restate responses 1 to 34 and 47-57 above.

59. Denied.

60. Denied.

61. Denied.

62. Denied.

63. Denied.

COUNT V (SIC)

64. Defendants restate responses 1 to 34 above.

65. Defendants restate responses 1 to 34 above.

66. Denied.

67. Denied.

68. Denied.

69. Denied.

COUNT VII

70. Defendants restate responses 1 to 34 above.

71. Denied.

COUNT VIII

72. Defendants restate responses 1 to 34 above.

73. Denied.

74. Denied.

75. Denied.

76. Denied.

77. Denied.

78. Denied.

COUNT IX

79. Defendants restate responses 1 to 34, 45 and Counts III and IV above.

80. Denied.

81. Denied.

82. Denied.

83. Denied.

84. Denied.

COUNT X

85. Defendants restate responses 79 through 84 above.

AFFIRMATIVE DEFENSES

86. Plaintiff's claims are barred in whole or in part by the applicable statute of limitations.

87. Plaintiff's claims are barred in whole or in part by the statute of frauds.

88. Plaintiff's claims are barred in whole or in part because Plaintiff lacks standing to pursue derivative claims because he is no longer a shareholder in LIC and lacks standing to pursue other claims because is no longer an employee of LIC or Arbitrage.

89. Plaintiff's claims are barred because there is a good faith basis to refuse any request by Stansbury, including because he no longer is a shareholder in LIC and his request is not made in good faith and for a proper purpose, and otherwise denied.

90. Plaintiff's claims are barred in whole or in part by because Plaintiff has misjoined causes of action held in different capacities, and therefore, the Complaint is improper and, at a minimum, certain claims must be dismissed such that Plaintiff pursues only those claims he has in one capacity.

91. Plaintiff's claims are barred in whole or in part by the doctrine of waiver. Plaintiff was aware of the facts and circumstances of the companies' operations, and the financial transactions and dealings within the companies and was aware of the alleged actions which form the basis of his claim, and waived any claims against Defendants.

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94. Plaintiff's claims are barred in whole or in part by the doctrine of acquiescence. Plaintiff was aware of the facts and circumstances of the companies' operations, and the financial transactions and dealings within the companies, and was aware of the alleged actions which form the basis of his claim, and therefore acquiesced in the conduct about which he now complains.

95. Plaintiff's claims against Ted Bernstein are barred in whole or in part by the corporate shield doctrine. All of the actions allegedly taken by Bernstein were actions taken on behalf of a legal entity (corporation or limited liability company), and not on behalf of himself individually, and therefore, any claims against Bernstein individually are barred.

96. Plaintiff has failed to comply with the requirements of section 607.07401 of the Florida Statutes.

97. Plaintiff's claims are barred in whole or in part by the doctrine of laches, in that Plaintiff unreasonably delayed bringing these claims for numerous years, while continuing to work and continuing to receive compensation, benefits and distributions; and Defendants were prejudiced by such delay, including by their actions in continuing such employment and such benefits, and in other ways.

WHEREFORE, having answered the Complaint, Defendants demand judgment in their favor, together with an award of costs and, pursuant to any applicable contract or statute, attorneys' fees, and such other relief as it just.

COUNTERCLAIM

Counter-Plaintiff, Arbitrage International Management, LLC ("Arbitrage"), sues Defendant, William E. Stansbury ("Stansbury"), and states:

1. Arbitrage is a Florida limited liability company with its principal place of business in Palm Beach County, Florida.

2. Stansbury is a resident of Palm Beach County, Florida.

3. As part of his work for Arbitrage and its affiliated company, LIC Holdings, Inc., Stansbury was listed as the licensed insurance agent of record on various contracts and policies of insurance with various insurance companies, under which those insurance companies would make payments of commissions and renewals due to Arbitrage only by way of a check payable to one of the individuals, including in many cases Stansbury individually.

4. Pursuant to the agreement of the parties, Stansbury was to deliver all such checks to Arbitrage, because all receipts for commissions, renewals or other revenue received by Stansbury for contracts or policies generated during the time of his employment were property of his employer.

5. Upon information and belief, before the time that Stansbury voluntarily terminated his employment with Arbitrage, Stansbury received and collected checks made payable to him, but which properly belonged to Arbitrage, and retained those funds for his sole and exclusive use and benefit.

6. Further, after Stansbury voluntarily terminated his employment with Arbitrage, Stansbury continued to receive checks made payable to him, but which properly belonged to Arbitrage, and Stansbury retained the benefit of such checks for his sole and exclusive use and

benefit. In addition, for some period of time after he voluntarily terminated his employment, Stansbury has been depositing certain checks into the trust account of his attorney, Peter Feaman.

7. All conditions precedent to the bringing of his action have occurred, been satisfied, or waived.

COUNT I - BREACH OF CONTRACT

8. Arbitrage realleges paragraphs 1 though 7 above.

9. This is an action for breach of contract and seeks damages in excess of $15,000, exclusive of interest, costs and attorneys' fees.

10. Pursuant to the agreement between Arbitrage and Stansbury, Stansbury was required to deliver to Arbitrage all checks made payable to him for contracts or policies of insurance which relate to work done during the time of Stansbury's employment.

11. For the vast majority of the duration of Stansbury's employment, Stansbury complied with the parties' oral agreement and, as far as Arbitrage is presently aware, Stansbury did in fact deliver to Arbitrage all checks he received. However, upon information and belief, Stansbury may have withheld checks from Arbitrage at various times.

12. At some point before the voluntary termination of his employment, and for all times after the voluntary termination of his employment, Stansbury has retained for himself and refused to turn over to Arbitrage checks received by him, payable to him individually, but which otherwise should have been turned over to Arbitrage.

13. By his actions in retaining checks payable to him but which should have been turned over to Arbitrage, Stansbury has breached his agreement with Arbitrage.

14. As a direct and proximate result of Stansbury breach of the parties' agreement, Arbitrage has been damaged in an amount to be determined through discovery and at trial, including the amount held in the trust account of Peter Feaman.

WHEREFORE, Arbitrage demands judgment in its favor against Stansbury for compensatory damages, together with an award of costs and, pursuant to any applicable statute or contract, an award of attorneys' fees, and such other relief as is just.

COUNT II - DECLARATORY JUDGMENT

15. Arbitrage realleges paragraphs 1 though 7 and 10 through 13 above.

16. This is an action for a declaratory judgment and for supplemental relief.

17. There is a genuine and immediate dispute between the parties as to the entitlement to certain checks which are made payable to Stansbury individually, but which properly belong to Arbitrage as the commissions and renewals received for contracts and policies of insurance, and other revenues of Arbitrage which are payable directly to Stansbury individually.

18. There is a bona fide, actual, present and practical need for the declaration.

19. The declaration deals with a present, ascertained or ascertainable state of facts or present controversy as to a state of facts regarding who is entitled to the checks held by Stansbury or his counsel.

20. An immunity, power, privilege or right of Arbitrage is dependent upon the facts or the law applicable to the facts.

21. Stansbury has, or reasonably may have, an actual, present, adverse and antagonistic interest in the subject matter, either in fact or law.

22. The antagonistic and adverse interests are all properly before the Court.

23. The relief sought is not merely the giving of legal advice or the answer to questions propounded from curiosity.

24. Based upon the foregoing, Arbitrage seeks a declaration that Stansbury is required to turn over to Arbitrage all checks received by him, which are payable to Stansbury individually, but which relate to contracts or policies of insurance, or other revenues generated by Arbitrage or by Stansbury while he was employed by Arbitrage.

25. Moreover, Arbitrage requests a declaratory judgment that it is entitled to all funds currently being held in the trust account of Peter Feaman, which represent checks received by Stansbury which are made payable to Stansbury individually, but which otherwise properly belong to Arbitrage.

26. Arbitrage also seeks a declaration that its rights to all such funds are superior to the rights and claims of Stansbury.

WHEREFORE, Arbitrage seeks a declaratory judgment as to its rights to the personal property described above, together with supplemental relief to the extent necessary, an award of costs and, pursuant to any applicable statute or contract, an award of attorneys' fees, and such other relief as is just.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to the Service List set forth below by: ■ E-mail Electronic Transmission; ☐ Facsimile; ☐ U.S. Mail; ☐ Overnight Delivery; ☐ Hand-delivery, this 23rd day of September, 2013.

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Spallina, as Co-Personal Representatives

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: 50 2012 CA 013933 MB AA

v.

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.
_____/

SECOND AMENDED COMPLAINT

WILLIAM E. STANSBURY, by and through undersigned counsel, sues the Defendants and states:

1. This is an action for money damages in excess of $15,000, and for equitable relief.

2. Plaintiff (hereinafter referred to as "STANSBURY") is *sui juris*, and a resident of Palm Beach County, Florida.

3. Defendant TED S. BERNSTEIN ("TED BERNSTEIN"), is *sui juris*, and a resident of Palm Beach County, Florida.

4. SIMON L. BERNSTEIN ("SIMON BERNSTEIN") died on or about September 13, 2012, after the filing of the initial Complaint in this action. At the time of his death, SIMON BERNSTEIN was *sui juris*, and was a resident of Palm Beach County, Florida. Defendants

Donald R. Tescher and Robert L. Spallina are serving as co-personal representatives of the ESTATE OF SIMON L. BERNSTEIN (the "ESTATE")which ESTATE is presently open and pending in the Palm Beach County Circuit Court, *In re: Estate of Simon L. Bernstein*, Case No. 502012CP004391XXXXSB (the "Estate Proceeding"). In accordance with Section 733.705, Florida Statutes, STANSBURY hereby brings this independent action against the ESTATE with respect to his Statement of Claim that was filed and objected to in the Estate Proceeding.

5. Defendant, LIC HOLDINGS, INC. ("LIC Holdings") is a Florida corporation with its principal place of business in Palm Beach County, Florida.

6. Defendant, ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, formerly known as ARBITRAGE INTERNATIONAL HOLDINGS, LLC, ("ARBITRAGE") is a Florida limited liability company with its principal place of business in Palm Beach County, Florida.

7. Defendant, BERNSTEIN FAMILY REALTY, LLC is a Florida limited liability company doing business in Palm Beach County.

8. Defendant, the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008 ("SHIRLEY'S TRUST"), owns real property in Palm Beach County, Florida. Based upon information and belief, Donald R. Tescher and Robert L. Spallina are serving as co-trustees of SHIRLEY'S TRUST. This Court has personal jurisdiction over the trustees and the beneficiaries of SHIRLEY'S TRUST under Section 736.0202, Florida Statutes, as the principal place of administration of SHIRLEY'S TRUST is in Palm Beach County, Florida. This court has subject matter jurisdiction over this action under Section 736.0203, Florida Statutes. Venue is proper in Palm Beach County, Florida, under Section 736.0204, Florida Statutes, as the principal place of administration of SHIRLEY'S TRUST is in Palm Beach County, Florida and one or more of the beneficiaries of SHIRLEY'S TRUST reside in Palm Beach County, Florida.

9. The acts and incidents giving rise to the causes of action alleged herein arose in Palm Beach County, Florida.

General Allegations

10. STANSBURY has worked in the insurance industry for virtually all of his adult life. After 30 years, he had become well-known and highly regarded by major insurance companies, their principals and others throughout the insurance industry, at all levels thereof, as well as by professionals, including attorneys, CPA's, financial advisors, wealth managers and others who were involved in serving, or otherwise dealing with insurers, insurance brokers and life insurance products.

11. SIMON BERNSTEIN dealt at sophisticated levels of the insurance industry and specialized in developing and marketing insurance concepts suitable for persons of high net worth to incorporate into their wealth management and estate planning.

12. TED BERNSTEIN, the son of SIMON BERNSTEIN, was also actively involved in selling life insurance products in conjunction with attorneys, CPAs and other professionals, to be incorporated into high net worth individuals' financial and estate planning.

13. TED BERNSTEIN, acting on his behalf and on behalf of, and in concert with, SIMON BERNSTEIN, approached STANSBURY in 2003, urging STANSBURY to spearhead the marketing of a unique insurance concept, newly developed by a prominent law firm, which was designed for use in the financial and estate planning of high net worth individuals.

14. TED BERNSTEIN told STANSBURY that he knew of STANSBURY's expertise and reputation in the insurance and related industries and that STANSBURY was skilled at and accustomed to speaking and marketing insurance products to groups of professionals. He realized that STANSBURY, because of his knowledge, reputation and abilities, would be well suited to market this concept nationwide through prominent and experienced professionals.

15. In 2006, SIMON BERNSTEIN and TED BERNSTEIN (collectively, "BERNSTEIN" or the "BERNSTEINS") formed, as sole shareholders, Defendants LIC Holdings and ARBITRAGE for the purpose of marketing and selling certain life insurance products to high net worth individuals for their wealth management and estate planning needs.

16. STANSBURY agreed to become an employee of LIC Holdings, Inc. and ARBITRAGE and agreed to a salary of 15% of net retained commissions received on all products sold, including renewals. STANSBURY at this time was responsible for, among other duties, calculating, on a monthly basis, the commissions due him in connection with new business generated in the current year and renewals on business generated in previous years.

17. STANSBURY worked with diligence and skill, traveling throughout the United States, generating ever-increasing sales and generating very large commissions. By 2006, nationwide sales were resulting in substantial commissions on new policies and renewal commissions.

18. Also in 2006, SIMON BERNSTEIN, acting on his behalf and on behalf of, and in concert with, TED BERNSTEIN, told STANSBURY that STANSBURY was being rewarded for his efforts and the explosive growth of the business, such that he would receive a 10% ownership interest in LIC Holdings, Inc. SIMON BERNSTEIN and TED BERNSTEIN, collectively, were majority shareholders while STANSBURY was a minority shareholder in LIC Holdings, Inc.

19. STANSBURY has sued both LIC Holdings and ARBITRAGE because the BERNSTEINS represented that his employment relationship was with LIC Holdings, the company in which he owned a 10% interest, but STANSBURY'S W-2 statements were issued by ARBITRAGE as his employer.

20. In February of 2008, SIMON BERNSTEIN, acting on his behalf and on behalf of, and in concert with TED BERNSTEIN, approached STANSBURY and told him his time would

be better spent building the business rather than performing monthly calculations of income. The plan proposed was that, rather than STANSBURY performing computations on a monthly basis as to how much should be paid to him based upon 15% of the net retained commissions derived from both new policies sold and renewals from previous years, the BERNSTEINS and STANSBURY all would forego monthly payouts and defer compensation until the end of 2008, when year-end computations could be made. It was represented that in December, year-end computations would be made and salaries would be paid in December 2008 or January of 2009. It was specifically represented to STANSBURY that:

a) neither SIMON BERNSTEIN, TED BERNSTEIN nor STANSBURY would take any compensation during fiscal year 2008 but rather they all would wait until the year-end accounting was performed in December of 2008 or January, 2009;

b) SIMON BERNSTEIN, TED BERNSTEIN, and STANSBURY would each be paid a minimum salary of $1,000,000 at year end, and STANSBURY'S salary was to be applied against his earned commissions of 15%. Any compensation due STANSBURY over and above the $1,000,000 would be paid as a distribution on his stock ownership interest in LIC Holdings.

21. In January of 2008, STANSBURY was paid $420,018 for commissions earned on some 2007 sales. However, STANSBURY was not, and has never been, paid the commissions due him on sales in 2008 and thereafter, and he was not and has never been paid the renewal commissions due him on sales made in previous years that were paid to LIC Holdings or ARBITRAGE in 2008 and thereafter, other than a nominal payment of $30,000 made in 2010.

22. When STANSBURY was not paid as agreed in late 2008/2009 and thereafter, SIMON BERNSTEIN and TED BERNSTEIN, on behalf of and in concert with each other, stated to STANSBURY that salary and ownership distributions due and owing to SIMON BERNSTEIN, TED BERNSTEIN and STANSBURY would be deferred to a future time. This

deferral of payment was represented to be important because, as a result of the virtual collapse of the capital lending markets in 2008, it was necessary to retain the funds in the corporate bank accounts to demonstrate to potential lenders the financial stability of the companies.

23. The false statements set forth in paragraphs 18 through 21, above, were made by SIMON BERNSTEIN and TED BERNSTEIN, in concert with each other, with knowledge of their falsity and with the intention of never to fulfilling such promises.

24. Despite the representations to STANSBURY set forth above to the contrary, SIMON BERNSTEIN and TED BERNSTEIN, as officers and majority shareholders of LIC Holdings and ARBITRAGE, authorized LIC Holdings and/or ARBITRAGE to pay themselves $3,756,229.00 and $5,225,825.00, respectively, in 2008. Contrary to the representations made as set forth in paragraph 20, STANSBURY received no compensation for first year commissions and renewal commissions due him in 2008.

25. The net retained commissions by LIC Holdings and ARBITRAGE, not including renewals, for 2008 were approximately $13,442,549.00. As such, STANSBURY was entitled to, at the very minimum, 15% of $13,442,549.00, or $2,016,382.35.

26. Beginning late in 2007 or early in 2008, and continuing through at least 2012, LIC Holdings and/or ARBITRAGE became the alter ego of SIMON BERNSTEIN and TED BERNSTEIN, as officers and majority shareholders, in that they disregarded corporate structure and wrongfully diverted, converted and depleted corporate assets of LIC Holdings and ARBITRAGE for their own personal benefit and the benefit of Bernstein family trusts and other entities as more specifically set forth below. Those trusts have since invested some of these wrongfully diverted and converted corporate assets in real estate, also as more particularly set forth below. The wrongful action of SIMON BERNSTEIN and TED BERNSTEIN in diverting and converting corporate assets rendered LIC Holdings, and possibly ARBITRAGE, insolvent.

27. Throughout 2009, SIMON BERNSTEIN and TED BERNSTEIN continued to make false statements to STANSBURY to hide the fact that LIC Holdings and/or ARBITRAGE was their alter ego, in that they converted corporate property and corporate assets of LIC and/or ARBITRAGE for their own personal benefit in 2008, 2009 and thereafter, all to the exclusion and financial detriment of STANSBURY, all the while fraudulently representing to STANSBURY that no money was being paid as salary or distributions to SIMON BERNSTEIN, TED BERNSTEIN or STANSBURY because it was necessary to hold the funds in the corporate bank accounts to show to potential lenders the financial stability of the company.

28. STANSBURY relied upon these continuing misrepresentations of Defendants to his detriment. Because STANSBURY was told that potential funding sources for the business needed to see that capital of the company was available, he took no action when he did not receive any compensation for 2009 and was paid only $30,000 in 2010.

29. In order to continue their scheme to defraud, SIMON BERNSTEIN and TED BERNSTEIN failed and refused to account for renewal commissions and failed to supply any financial information to STANSBURY concerning LIC Holdings or ARBITRAGE.

30. In furtherance of their scheme to deprive STANSBURY of salary he had earned and shareholder distributions to which he was entitled, SIMON BERNSTEIN and TED BERNSTEIN intercepted mail addressed to STANSBURY, removing commission checks representing commissions due to STANSBURY, deposited the funds into their own accounts and otherwise converted the funds. SIMON BERNSTEIN and TED BERNSTEIN also opened STANSBURY's mail containing checks payable to him which were unrelated to them and the businesses.

31. In December, 2011 STANSBURY had been battling a painful and debilitating disease that could only be managed through the administration of potentially harmful

prescription medications. On December 22, 2011, the Defendants BERNSTEIN, with knowledge of STANSBURY's health issues and his debilitated condition, decided to take advantage of and deceive STANSBURY further. STANSBURY had for years been given K-1 statements reflecting his 10% ownership of LIC Holdings. At that time, TED BERNSTEIN told STANSBURY that the company accountant had discovered a potential significant taxable event which could cause STANSBURY, as one of the owners of LIC Holdings to pay taxes on phantom income. TED BERNSTEIN promised that if STANSBURY would sign a paper ceding his 10% interest in LIC Holdings, he would not have to pay the tax if in fact the tax was due. TED BERNSTEIN promised he would hold the paper, promising it would not become operative until STANSBURY and the Defendants BERNSTEIN discussed the situation further in the first quarter of 2012.

32. Because of the misrepresentations, willful concealments of material facts, duplicity and deceit practiced by Defendants upon STANSBURY, STANSBURY reasonably believed that Defendants had complied, or intended to comply with their obligations to STANSBURY under the contract between them. STANSBURY, therefore, was prevented from knowing for a period of years that the causes of action asserted herein existed.

33. By the second quarter of 2012, STANSBURY developed the belief that the BERNSTEINS' representations over the years were wholly false and he sought legal counsel.

34. STANSBURY has retained the law firm of Peter M. Feaman, P.A. and has agreed to pay it a reasonable fee for its services rendered herein.

COUNT I - ACCOUNTING
(Against LIC Holdings and ARBITRAGE, for Accounting)

35. STANSBURY hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, inclusive.

36. The relationship between STANSBURY and the Defendants, particularly as affected by Defendants' acts described in preceding paragraphs 19 through 27 created a situation where Defendants had sole access to receipts generated by STANSBURY's efforts, and to books and records reflecting said receipts and the other information from which can be calculated all moneys due to STANSBURY under his arrangement with Defendants.

37. The period of time during which STANSBURY has been deprived of monies due him spans approximately four and a half years. The various sources of revenue to Defendants of monies from which the amounts due STANSBURY may be calculated, the manner in which STANSBURY was to be paid, and the amount due STANSBURY all involve extensive and complicated accounts, and STANSBURY's remedy at law cannot be as full, adequate and expeditious as it is in equity.

WHEREFORE, Plaintiff STANSBURY prays for an adjudication of Plaintiff's right to a full and complete accounting from Defendants, LIC Holdings and ARBITRAGE, and for such orders of Court as will require such Defendants to provide STANSBURY with all records and copies of documents from January 1, 2006 to the present, in order to reveal his right to, and the amount of all sums: (a) received as commissions to which STANSBURY was entitled to a share; (b) due to STANSBURY, whether paid or not; (c) paid to STANSBURY, whether for commissions, salary, distributions, expenses or any other reason; (d) paid to each of the BERNSTEIN Defendants out of monies received as commissions; (e) deposits of any and all moneys received as commissions by any Defendants to any accounts, including the name of the entity whose account was involved, the number(s) of each such account; the address of the branch or other facility through which any Defendant dealt with such entity; (f) calculations as to moneys paid , to be paid, or not to be paid to STANSBURY, together with an award of court costs and such other and further relief as the Court may deem just and proper.

COUNT II - BREACH OF ORAL CONTRACT
(Against LIC Holdings, Inc., ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN)

38. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 37, inclusive.

39. The arrangement between STANSBURY and Defendants, as described in paragraphs 13 through 28 above, constituted a contract between them.

40. An express term of that contract involved the commitment of LIC Holdings and ARBITRAGE to calculate and pay to STANSBURY all sums due to him under the contract, whether as commissions, salary, distributions, expenses or any other reason.

41. The Defendants initially performed the duties required of them under said contract.

42. However, Defendants breached their contract with STANSBURY by withholding from STANSBURY monies due him under the contract for renewal commissions earned in 2007 and commissions and renewal commissions earned in 2008 and thereafter.

43. The withholding of such monies constitutes a material breach of the contract between STANSBURY and LIC Holdings and ARBITRAGE.

44. STANSBURY has sued both LIC Holdings and ARBITRAGE because the BERNSTEINS represented that his employment relationship was with LIC Holdings, the company in which he owned a 10% interest, but STANSBURY'S W-2 statements were issued by ARBITRAGE as his employer.

45. SIMON BERNSTEIN and TED BERNSTEIN are personally liable, jointly and severally, for the material breach of the oral employment contract with STANSBURY as LIC Holdings and/or ARBITRAGE were the alter ego of SIMON BERNSTEIN and TED

BERNSTEIN in that the BERNSTEINS depleted corporate assets for their personal benefit by causing the corporation or corporations to make exorbitant and inappropriate distributions to themselves, family members, and BERNSTEIN family trusts and other entities, at the expense of corporate creditors such as STANSBURY, to wit:

a) SIMON BERNSTEIN and TED BERNSTEIN caused LIC Holdings and/or ARBITRAGE to pay to them at least $3,756,229.00 and $5,225,825.00, respectively, in fiscal 2008 during which time STANSBURY, other than the amount referenced in paragraph 21, was paid nothing;

b) According to Palm Beach County public records, in December of 2007 TED BERNSTEIN purchased a property at 880 Berkeley Street, Boca Raton, Florida 33487, for $4,400,000;

c) According to Palm Beach County public records, on December 28, 2008, TED BERNSTEIN paid off the mortgage in the amount of $486,400.00 on a property he owned at 15807 Menton Bay Court, Saturnia Isles, Delray Beach, Florida 33446;

d) According to Palm Beach County public records, SIMON BERNSTEIN paid off the mortgage on property he and his wife owned, and subsequently transferred by quitclaim deed on May 20, 2008 to the trustee of SHIRLEY'S TRUST, at 7020 Lions Head Lane, Boca Raton, Florida, 33496. The amount of the mortgage pay-off is unknown, but in 2013 the property was listed for sale at $2,399,000;

e) According to Palm Beach County public records, on June 18, 2008, BERNSTEIN FAMILY REALTY, LLC acquired a property located at 2753 N.W. 34 Street, Boca Madera Unit 2, Boca Raton, Florida 33432 (the "Boca Madera Property). On July 8, 2008, SIMON BERNSTEIN loaned $365,000 to BERNSTEIN FAMILY REALTY, LLC. The specific

purpose of the loan is unknown, but SIMON BERNSTEIN received a mortgage on the Boca Madera Property to secure the loan;

f) According to Palm Beach County public records, on May 20, 2008 SIMON BERNSTEIN and his wife transferred by quitclaim deed to the trustee of SHIRLEY'S TRUST a 4,220 square foot oceanfront condominium unit in a complex known as "The Aragon" in Boca Raton, located at 2494 South Ocean Boulevard, Boca Raton, Florida. The mortgage on that property was paid off on September 27, 2010.

g) The legal descriptions for each of the above referenced properties are attached hereto as Exhibit "B."

46. There is due to STANSBURY from such Defendants all amounts due under said contract, together with prejudgment and post-judgment interest on said amounts.

WHEREFORE, Plaintiff prays for judgment against SIMON BERNSTEIN and TED BERNSTEIN declaring that Defendants, LIC Holdings, Inc. and ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, are or were the alter ego of SIMON BERNSTEIN and TED BERNSTEIN such that the corporate veil of LIC Holdings and/or ARBITRAGE should be pierced; for judgment against Defendants, LIC Holdings, Inc., ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, SIMON BERNSTEIN and TED BERNSTEIN, jointly and severally, in excess of $1,500,000.00 for the amounts due to Plaintiff under the terms of their contract, together with prejudgment and post-judgment interest; for his court costs herein expended and for such other relief as the Court may deem just and proper.

COUNT III - FRAUD IN THE INDUCEMENT- EMPLOYMENT AGREEMENT (Against SIMON BERNSTEIN and TED BERNSTEIN)

47. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 46, inclusive.

48. At all material times hereto, SIMON BERNSTEIN and TED BERNSTEIN were officers and majority shareholders of LIC Holdings and ARBITRAGE.

49. The statements set forth in paragraphs 18 through 24, above, made by SIMON BERNSTEIN and TED BERNSTEIN, on behalf of and in concert with each other, and as officers and majority shareholders of LIC Holdings and ARBITRAGE, were false statements of material fact that SIMON BERNSTEIN and TED BERNSTEIN knew to be false at the time they were made, as SIMON BERNSTEIN and TED BERNSTEIN never intended to authorize LIC Holdings or ARBITRAGE to pay to STANSBURY the amounts due him as evidenced by the fact that the accountant for LIC Holdings and ARBITRAGE prepared financial worksheets for 2008 showing that the BERNSTEINS would receive compensation, but STANSBURY would not, for fiscal 2008, in direct contravention to their statements and promises to STANSBURY.

50. SIMON BERNSTEIN and TED BERNSTEIN intended for STANSBURY to rely on such statements that he would be ultimately be paid for his productivity in order to induce him into continuing his productive and revenue-generating sales activity as an employee of LIC Holding and/or ARBITRAGE and fraudulently created for STANSBURY the false expectation that STANSBURY would be paid as agreed.

51. STANSBURY in fact relied to his detriment on these false statements and was induced thereby to remain in his employment relationship with LIC Holdings and ARBITRAGE as he continued to sell, with the expectation of payment, products and generate revenue for LIC Holdings and/or ARBITRAGE until 2012, and was further induced not to pursue from LIC Holdings and/ARBITRAGE his right to payment of all amounts due him until after SIMON BERNSTEIN and TED BERNSTEIN had diverted and converted corporate assets for their personal benefit, rendering LIC Holdings, and possibly ARBITRAGE, insolvent.

52. STANSBURY was injured thereby as he was not and has not been compensated for his revenue-generating sales and other performance, and did not seek alternative employment, as a proximate result of his detrimental reliance on these false statements.

WHEREFORE, Plaintiff prays for judgment against Defendants SIMON BERNSTEIN and TED BERNSTEIN, jointly and severally, for damages in excess of $1,500,000.00 together with prejudgment and post-judgment interest; for the imposition of an equitable lien and constructive trust on the Bernstein real estate described in paragraph 45 and Exhibit "B" as more fully set forth in Counts VII and VIII of this Second Amended Complaint; for his court costs herein expended; and for such other relief as the Court may deem just and proper. STANSBURY reserves the right to move to amend to request punitive damages in accordance with Florida Law.

COUNT IV - FRAUD IN THE INDUCEMENT - CEDING OF LIC HOLDINGS OWNERSHIP INTEREST (Against Ted Bernstein and LIC Holdings, Inc.)

53. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 52, inclusive.

54. In the fourth quarter of 2011, TED BERNSTEIN embarked upon a plan to defraud from STANSBURY his 10% ownership interest in LIC Holdings, Inc. As set forth in paragraph 31 above, Defendant TED BERNSTEIN fraudulently induced STANSBURY to prepare and sign a document giving up his 10% interest in and to LIC Holdings, Inc.

55. The ceding of his shares in LIC Holdings, Inc. was procured by fraud and STANSBURY relied upon the representations made by BERNSTEIN with regard to signing the document apparently ceding his stock.

56. It was reasonable for STANSBURY to rely on the representations made by BERNSTEIN because at that time STANSBURY was unaware of the breaches of fiduciary duty and breaches of the oral contract that had taken place.

57. As a result of STANSBURY's reliance, STANSBURY has been damaged by the loss of 10% of the shares of LIC Holdings and the rights and remedies to a shareholder related thereto.

WHEREFORE, Plaintiff prays for a judgment for damages against Defendants BERNSTEIN and LIC Holdings, Inc. for the damages caused by the fraudulent conduct of BERNSTEIN as described herein, together with reasonable costs, pre-judgment interest and any other relief this Court deems just and proper.

COUNT V - CIVIL CONSPIRACY
(Against Simon Bernstein and Ted Bernstein)

58. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, and Counts III and IV, paragraphs 47 through 57, inclusive.

59. SIMON BERNSTEIN and TED BERNSTEIN, individually and as officers and majority shareholders of LIC Holdings and ARBITRAGE, knowingly, willfully, intentionally, and maliciously conspired, agreed, combined and confederated with each other to make fraudulent, false and misleading statements to STANSBURY intended to induce STANSBURY to continue his employment relationship with LIC Holdings and/or ARBITRAGE during 2008 and thereafter, without ever intending to authorize payment to STANSBURY for the amounts he was due, a relationship that generated substantial revenue for LIC Holdings and/or ARBITRAGE and, ultimately, SIMON BERNSTEIN and TED BERNSTEIN.

60. SIMON BERNSTEIN and TED BERNSTEIN, individually and as officers and majority shareholders of LIC Holdings and ARBITRAGE, knowingly, willfully, intentionally, and maliciously conspired, agreed, combined and confederated with each other to make fraudulent, false and misleading statements to STANSBURY intended to induce STANSBURY to delay pursuing his right to payment for all amounts due him until such time after SIMON BERNSTEIN and TED BERNSTEIN had converted and diverted corporate assets rendering LIC Holdings, and possibly ARBITRAGE, insolvent and uncollectible.

61. SIMON BERNSTEIN and TED BERNSTEIN, individually and as officers and majority shareholders of LIC Holdings and ARBITRAGE, knowingly, willfully, intentionally, and maliciously conspired, agreed, combined and confederated with each other to fraudulently induce STANSBURY, through false and misleading statements, to surrender and cede, without fair value payment, his 10% interest in LIC Holdings.

62. The numerous fraudulent, false and misleading statements made by SIMON BERNSTEIN and TED BERNSTEIN were all overt acts in furtherance of the conspiracy.

63. STANSBURY was injured thereby in that, as a proximate result of the conspiratorial conduct of SIMON BERNSTEIN and TED BERNSTEIN, he continued in his employment with LIC Holdings and/or ARBITRAGE, without payment of the compensation due him, he delayed pursuit of his right to collect the amounts due him, and ceded his 10% interest in LIC Holdings.

WHEREFORE, Plaintiff prays for judgment against Defendants, SIMON BERNSTEIN and TED BERNSTEIN, jointly and severally, for damages in excess of $1,500,000.00 together with prejudgment and post-judgment interest; for the imposition of an equitable lien and constructive trust on the Bernstein real estate described in paragraph 45 and Exhibit "B" as more fully set forth in Counts VII and VIII of this Second Amended Complaint;

for his court costs herein expended; and for such other relief as the Court may deem just and proper. STANSBURY reserves the right to move to amend to request punitive damages in accordance with Florida Law.

COUNT V - CIVIL THEFT
(Against ARBITRAGE INTERNATIONAL MARKETING, LLC)

64. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 63, inclusive.

65. This is an action for Civil Theft under Chapter 772, Florida Statutes, more specifically §772.11, Fla.Stat.

66. In February, 2012 and March, 2012, Defendant ARBITRAGE intercepted two separate checks made payable to William STANSBURY intended as payment to STANSBURY for matters arising wholly outside his business transactions with the BERNSTEINS, LIC Holdings and ARBITRAGE.

67. Notwithstanding that the checks made payable to William STANSBURY was for sums due STANSBURY by a third party not in connection with the aforesaid business transactions, ARBITRAGE and/or someone acting on its behalf, caused the negotiation of STANSBURY's checks, wrongfully endorsing the checks and retaining the sums that should have been payable to STANSBURY.

68. As a result of the foregoing, Defendant ARBITRAGE has been guilty of criminal theft by conversion with the criminal intent to steal his money and deprive STANSBURY of his possession and use thereof.

69. Written demand for payment of all amounts due STANSBURY has been made to Defendants, more than 30 days preceding the filing of this Complaint, to no avail. A copy of the demand letter is attached hereto as Exhibit "A."

WHEREFORE, Plaintiff prays for judgment against Defendant, ARBITRAGE for three times the full amount of the checks made payable to STANSBURY, together with pre-judgment interest and post-judgment interest, attorneys' fees, court costs and any other relief this Court deems just and proper.

COUNT VII - CONVERSION

70. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 63, inclusive.

71. Further, during 2012, Defendants TED BERNSTEIN, SIMON BERNSTEIN, LIC Holdings, Inc., ARBITRAGE, or someone acting on their behalves, received and cashed in excess of $30,000.00 worth of commission checks otherwise payable to Plaintiff.

WHEREFORE, Plaintiff prays for judgment for damages against Defendant, ABRITRAGE, SIMON BERNSTEIN, LIC Holdings, Inc. and TED BERNSTEIN, together with pre-judgment interest and post-judgment interest, court costs and any other relief this Court deems just and proper.

COUNT VIII - UNJUST ENRICHMENT
(LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN)

72. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, paragraphs 1 through 65, above.

73. STANSBURY conferred a benefit on LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN by continuing his employment relationship with LIC Holdings and/or ARBITRAGE as a direct and proximate result of the fraudulent representations of SIMON BERNSTEIN and TED BERNSTEIN, as more fully set forth in Count III herein.

74. STANSBURY's continued employment resulted in the generation of substantial revenue for LIC Holdings and/or ARBITRAGE, which was then diverted and converted by the BERNSTEINS for their own personal use to the financial detriment of STANSBURY.

75. LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN, as officers and majority shareholders of LIC Holdings and ARBITRAGE, had knowledge of the benefit of STANSBURY's continued employment with LIC Holdings and/or ARBITRAGE as they fraudulently induced STANSBURY to continue his productive employment activity while never intending to pay him the compensation he was due.

76. LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN accepted the revenues generated by STANSBURY in his capacity as employee.

77. There exists no adequate remedy at law as the conduct of the BERNSTEINS in diverting and converting the corporate assets of LIC Holdings and/or ARBITRAGE has resulted in the insolvency of LIC Holdings and possibly ARBITRAGE.

78. The circumstances are such that it would be inequitable for LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN to retain the benefits of the STANSBURY's productive revenue-generating labor without paying fair value for it.

WHEREFORE, Plaintiff prays for judgment against Defendants, LIC Holdings, Inc., ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, SIMON BERNSTEIN and TED BERNSTEIN, jointly and severally, in an amount in excess of $1,500,000.00 which the evidence shows Plaintiff is entitled for the fair value of the services Plaintiff provided to LIC Holdings and ARBITRAGE , together with prejudgment and post-judgment interest; for his court costs herein expended and for such other relief as the Court may deem just and proper.

COUNT IX - EQUITABLE LIEN
(As to SIMON BERNSTEIN, TED BERNSTEIN, BERNSTEIN FAMILY REALTY, LLC and SHIRLEY BERNSTEIN TRUST AGREEMENT)

79. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, the allegations set forth in paragraphs 1 through 34, paragraph 45 and Counts III and VII, above.

80. STANSBURY has alleged essential facts in his General Allegations and Count III that show that SIMON BERNSTEIN and TED BERNSTEIN committed fraud by fraudulently inducing STANSBURY to continue in an employment relationship that proved to be highly lucrative for SIMON BERNSTEIN and TED BERNSTEIN.

81. STANSBURY has alleged essential facts in his General Allegations and Count VII that show that SIMON BERNSTEIN and TED BERNSTEIN were unjustly enriched by STANSBURY's uncompensated continued employment with LIC Holdings and/or ARBITRAGE.

82. The conduct of the BERNSTEINS in depleting the corporate assets of LIC Holdings and ARBITRAGE for their personal benefit by causing the corporation or corporations to make exorbitant and inappropriate distributions to themselves, family members, and BERNSTEIN FAMILY REALT, LLC and SHIRLEY BERNSTEIN TRUST AGREEMENT, at the expense of corporate creditors such as STANSBURY, rendered LIC Holdings and possibly ARBITRAGE insolvent. Therefore STANSBURY has no adequate remedy at law.

83. BERNSTEIN FAMILY REALTY, LLC and SHIRLEY BERNSTEIN TRUSTA AGREEMENT were the transferees of some of the corporate assets of LIC Holdings and/or

ARBITRAGE wrongfully diverted and converted by the BERNSTEIN and thus are proper parties to this action and this Count.

84. An equitable lien on the real estate described in paragraph 45 herein and Exhibit "B" attached hereto is justified as an equitable remedy for the wrongful conduct of the BERNSTEINS.

WHEREFORE, Plaintiff prays for the Court to declare and establish an equitable lien in favor of Plaintiff in an amount equal to the funds wrongfully diverted, on the property described in paragraph 45 and Exhibit "B" attached hereto, and on all other assets of the Defendants named in this Count IX, or third parties as yet unknown, which assets have been purchased wholly or in part, improved or benefitted by the diverted funds due Plaintiff, together with his costs herein expended, and such other and further relief as this Court may deem just and proper.

COUNT X - CONSTRUCTIVE TRUST
(As to SIMON BERNSTEIN, TED BERNSTEIN, BERNSTEIN FAMILY REALTY, LLC and SHIRLEY BERNSTEIN TRUST AGREEMENT)

85. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 79 through 84 above.

WHEREFORE, Plaintiff prays for the Court to declare and establish a constructive trust in favor of Plaintiff on the property described in paragraph 45 and Exhibit "B" attached hereto in an amount equal to the funds wrongfully diverted and on all assets of Defendants or third parties as yet unknown, which assets have been purchased wholly or partly, improved or mortgaged by the diversion of said funds due Plaintiff. Plaintiff further prays for an award of court costs and such other and further relief as the Court may deem just and proper.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives,* 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; at arose@pm-law.com and mchandler@pm-law.com to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc. and Arbitrage International Management, LLC,* 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this 3rd day of September, 2013.

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June 20, 2012

Via Certified Mail, Return Receipt Requested

PERSONAL and CONFIDENTIAL
Mr. Ted Bernstein, President
LIC Holdings, Inc.
950 Peninsula Corp Circle
Suite 3010
Boca Raton, FL 33487

Re: William (Bill) Stansbury

Dear Mr. Bernstein:

The undersigned represents William (Bill) Stansbury and we are writing this letter on his behalf. Mr. Stansbury received your proposed letter agreement reflecting LIC Holdings' proposal to indemnify its shareholders concerning policies sold under the Cambridge Financing Program. As a result of your proposal, Mr. Stansbury has reviewed with me in detail his dealings with you and your companies over the past 4 to 5 years.

After reviewing the facts with Mr. Stansbury, some of which will be summarized below, I was shocked that he had not consulted legal counsel until now. Be that as it may, and based upon the facts presented to us, we believe you have engaged in fraud, civil theft, breaches of fiduciary duties, and breach of contract, just to name a few. The purpose of this letter is to a). respond to your indemnity proposal and b). request that you pass this letter on to your counsel immediately in the off-chance that these very serious matters can be resolved prior to the filing of legal action. The issues can be summarized as follows:

1. The first issue concerns you and your company's failure to pay salary compensation to Mr. Stansbury. Mr. Stansbury has been making inquiries concerning this for the past 5 months, but to no avail. Mr. Stansbury's claim for unpaid salary arises from three categories:

EXHIBIT A

a. Failure to pay salary based on net retained commissions.

i. Based upon reports prepared by your company for the period of 2007 through 2011, LIC Holdings, Inc. and/or Arbitrage International Holdings, n/k/a Arbitrage International Management, LLC, received $35,384,246.00 in net retained commissions. According to Mr. Stansbury's salary arrangement, he is entitled to 15% of those net retained commissions, which amounts to $5,307,636.90. During this time period, Mr. Stansbury's salary compensation was $2,844,910.00. The shortfall in salary owed to Mr. Stansbury is $2,462,726.90.

ii. There is salary compensation owed to Mr. Stansbury as a result of bridge loans in 2008. You received a $2,000,000.00 settlement in 2010 resulting from the resolution of a lawsuit involving Global Secured Capital. Mr. Stansbury is entitled to 15% of those funds, which is $300,000.00.

iii. In addition, you received $507,891.00 in commissions in connection with the Biviano matter. Mr. Stansbury is entitled to 15% of those funds, which is $76,183.65.

iv. In April of 2012, you received three commissions totaling approximately $200,000.00 in the Levine, Wiss and Berley matters. Mr. Stansbury has been requesting payment of this for weeks, again to no avail. Mr. Stansbury is due salary compensation for these items in the amount of $30,000.00.

Therefore, Mr. Stansbury's total claim for salary arising out of net retained commissions is approximately $2,868,910.55.

The liability for payment of this salary is not limited to LIC Holdings, Inc. or Arbitrage International Management, LLC. This liability also flows to you individually as a result of your breaches of your fiduciary duty owed to Mr. Stansbury and utter failure to abide by corporate governance standards, which conduct is more particularly described below.

b. Mr. Stansbury is also due unpaid salary based on 15% of all renewal commissions since 2008. Mr. Stansbury's salary claim for renewal commissions cannot as yet be determined with specificity due to the fact that you and your office have been opening mail directed to Mr. Stansbury and negotiating checks made payable to him by falsifying his endorsement and depositing those checks into accounts which only you control. This conduct constitutes civil theft and breach of fiduciary duty. We believe this claim amounts to hundreds of thousands of dollars.

c. Salary compensation for 2008. Mr. Stansbury has recently learned that you and Mr. Simon Bernstein received $8,982,124.00 in salary in 2008. By contrast, Mr. Stansbury received $420,018.00, paid to him in January 2008, based on policies sold in 2007. He received zero (no salary compensation) for his 2008 production. It is obvious that you and Simon treated your corporations as personal ATM machines, while completely ignoring your fiduciary

responsibilities to your employee and minority shareholder, Mr. Stansbury. It further appears that after the exorbitant salaries were paid to you, you then loaned the money back to the corporation at an interest rate significantly above market rates in order to meet the cash flow needs of the various entities, again, clearly disregarding your corporate governance responsibilities.

2. Indemnification issues.

Mr. Stansbury has been served with three lawsuits from Phoenix Insurance Company and one from Mr. Wright seeking indemnification as a result of agent misconduct which was in no way attributable to the conduct of Mr. Stansbury. Although all of these matters have been settled, because he was the qualifying agent of record for other policies, he could be the subject of future litigation for refunds of commissions paid. All of these commissions were paid over to you or your companies.

The Indemnification Agreement which you sent to Mr. Stansbury is completely insufficient. You have a duty as a matter of law to indemnify Mr. Stansbury. Your offer of future indemnity is contingent upon "all" commissions that have been received by LIC's present or past shareholders be turned over to LIC. This is nothing short of extortion. Further, your second paragraph states that LIC is "presently insolvent" and has a "negative net worth." You then conclude with the sentence that with the indemnification agreement in place, LIC "may" have sufficient funds to meet its current obligations. Therefore, a simple indemnification from LIC Holdings to Mr. Stansbury is insufficient. Any such indemnification would have to be personally guaranteed by you and Mr. Simon Bernstein.

3. Unauthorized interception of U.S. Mail.

I have been given the understanding that your office has been opening mail directed to Mr. Stansbury personally. This is a federal offense and also constitutes a breach of the fiduciary duty you owe to Mr. Stansbury as an employee and minority shareholder.

There has been no accounting to Mr. Stansbury for any of the checks which may have been sent to him personally on which his signature has been forged, the checks cashed and placed out of the reach of Mr. Stansbury. In 2012, Mr. Stansbury has been receiving checks from Phoenix Life Insurance Company and TransAmerica Life Insurance Company. Mr. Stansbury has been holding these checks. They have now been remitted to the undersigned as attorney for Mr. Stansbury. This office is holding these funds in a separate interest-bearing trust account pending the resolution of this matter.

With regard to all of the other insurance companies for whom Mr. Stansbury is listed as the qualifying agent, he has now informed those companies that all future renewal commissions paid to him personally be sent to Mr. Stansbury at his home address. These funds will then be remitted to the undersigned counsel of record for Mr. Stansbury. We will place these funds in a separate interest-bearing trust account as well. Any attempts by you to contact these insurance

companies will be considered a tortious interference of his business relationship and such activity will be added as a claim in any future legal proceedings.

4. Shareholder status.

Mr. Stansbury has been a 10% shareholder of LIC Holdings, Inc., pursuant to the terms of a Shareholders Agreement. On behalf of Mr. Stansbury, demand is hereby made, pursuant to Florida Statute 607.1602, for inspection of the corporate records including the following:

I. Minutes of the Board of Directors meetings from January 1, 2008 to the present.

II. Minutes of Shareholders' meetings from January 1, 2008 to the present.

III. Records of any actions taken by the Shareholders and/or the Board of Directors without a meeting, from January 1, 2008 to the present.

IV. Accounting and financial records of LIC Holdings, Inc., Arbitrage International Management, LLC, formerly known as Arbitrage International Holdings, LLC, and all other subsidiary or affiliated companies under your control, including, without limitation, income tax returns, general ledgers, balance sheets, profit and loss statements, stock books, bank statements, loan agreements or guarantees, and any other financial books and records from January 1, 2008 to the present.

Mr. Stansbury is seeking to inspect these records in good faith and for the purpose of determining if misappropriation of corporate assets for improper purposes has previously taken or is presently taking place.

I have been made aware of a letter dated December 22, 2011 in which Mr. Stansbury purportedly "ceded" his shares of stock in LIC Holdings, Inc. back to the company. This letter was obtained under false pretenses and is not recognized by Mr. Stansbury as validly conveying his ownership interest in LIC Holdings, Inc.

Please have your legal counsel contact us within ten (10) days. Should we fail to receive a response within that time, Mr. Stansbury will take legal action to protect his rights and interests.

Very truly yours,

PETER M. FEAMAN, P.A.

By: Peter M. Feaman

PMF/mk
cc: William Stansbury
CC Riggs (e-mail)

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Ted Bernstein, Pres.
LIC Holdings, Inc.
950 Peninsula Corp. Cir.
Suite 3010
Boca Raton, FL 33487

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7011 0110 0000 6015 5239

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: 50 2012 CA 013933 MB AA

v.

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.
_____/

SECOND AMENDED COMPLAINT

WILLIAM E. STANSBURY, by and through undersigned counsel, sues the Defendants and states:

1. This is an action for money damages in excess of $15,000, and for equitable relief.

2. Plaintiff (hereinafter referred to as "STANSBURY") is *sui juris*, and a resident of Palm Beach County, Florida.

3. Defendant TED S. BERNSTEIN ("TED BERNSTEIN"), is *sui juris*, and a resident of Palm Beach County, Florida.

4. SIMON L. BERNSTEIN ("SIMON BERNSTEIN") died on or about September 13, 2012, after the filing of the initial Complaint in this action. At the time of his death, SIMON BERNSTEIN was *sui juris*, and was a resident of Palm Beach County, Florida. Defendants

Donald R. Tescher and Robert L. Spallina are serving as co-personal representatives of the ESTATE OF SIMON L. BERNSTEIN (the "ESTATE")which ESTATE is presently open and pending in the Palm Beach County Circuit Court, *In re: Estate of Simon L. Bernstein*, Case No. 502012CP004391XXXXSB (the "Estate Proceeding"). In accordance with Section 733.705, Florida Statutes, STANSBURY hereby brings this independent action against the ESTATE with respect to his Statement of Claim that was filed and objected to in the Estate Proceeding.

5. Defendant, LIC HOLDINGS, INC. ("LIC Holdings") is a Florida corporation with its principal place of business in Palm Beach County, Florida.

6. Defendant, ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, formerly known as ARBITRAGE INTERNATIONAL HOLDINGS, LLC, ("ARBITRAGE") is a Florida limited liability company with its principal place of business in Palm Beach County, Florida.

7. Defendant, BERNSTEIN FAMILY REALTY, LLC is a Florida limited liability company doing business in Palm Beach County.

8. Defendant, the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008 ("SHIRLEY'S TRUST"), owns real property in Palm Beach County, Florida. Based upon information and belief, Donald R. Tescher and Robert L. Spallina are serving as co-trustees of SHIRLEY'S TRUST. This Court has personal jurisdiction over the trustees and the beneficiaries of SHIRLEY'S TRUST under Section 736.0202, Florida Statutes, as the principal place of administration of SHIRLEY'S TRUST is in Palm Beach County, Florida. This court has subject matter jurisdiction over this action under Section 736.0203, Florida Statutes. Venue is proper in Palm Beach County, Florida, under Section 736.0204, Florida Statutes, as the principal place of administration of SHIRLEY'S TRUST is in Palm Beach County, Florida and one or more of the beneficiaries of SHIRLEY'S TRUST reside in Palm Beach County, Florida.

9. The acts and incidents giving rise to the causes of action alleged herein arose in Palm Beach County, Florida.

General Allegations

10. STANSBURY has worked in the insurance industry for virtually all of his adult life. After 30 years, he had become well-known and highly regarded by major insurance companies, their principals and others throughout the insurance industry, at all levels thereof, as well as by professionals, including attorneys, CPA's, financial advisors, wealth managers and others who were involved in serving, or otherwise dealing with insurers, insurance brokers and life insurance products.

11. SIMON BERNSTEIN dealt at sophisticated levels of the insurance industry and specialized in developing and marketing insurance concepts suitable for persons of high net worth to incorporate into their wealth management and estate planning.

12. TED BERNSTEIN, the son of SIMON BERNSTEIN, was also actively involved in selling life insurance products in conjunction with attorneys, CPAs and other professionals, to be incorporated into high net worth individuals' financial and estate planning.

13. TED BERNSTEIN, acting on his behalf and on behalf of, and in concert with, SIMON BERNSTEIN, approached STANSBURY in 2003, urging STANSBURY to spearhead the marketing of a unique insurance concept, newly developed by a prominent law firm, which was designed for use in the financial and estate planning of high net worth individuals.

14. TED BERNSTEIN told STANSBURY that he knew of STANSBURY's expertise and reputation in the insurance and related industries and that STANSBURY was skilled at and accustomed to speaking and marketing insurance products to groups of professionals. He realized that STANSBURY, because of his knowledge, reputation and abilities, would be well suited to market this concept nationwide through prominent and experienced professionals.

15. In 2006, SIMON BERNSTEIN and TED BERNSTEIN (collectively, "BERNSTEIN" or the "BERNSTEINS") formed, as sole shareholders, Defendants LIC Holdings and ARBITRAGE for the purpose of marketing and selling certain life insurance products to high net worth individuals for their wealth management and estate planning needs.

16. STANSBURY agreed to become an employee of LIC Holdings, Inc. and ARBITRAGE and agreed to a salary of 15% of net retained commissions received on all products sold, including renewals. STANSBURY at this time was responsible for, among other duties, calculating, on a monthly basis, the commissions due him in connection with new business generated in the current year and renewals on business generated in previous years.

17. STANSBURY worked with diligence and skill, traveling throughout the United States, generating ever-increasing sales and generating very large commissions. By 2006, nationwide sales were resulting in substantial commissions on new policies and renewal commissions.

18. Also in 2006, SIMON BERNSTEIN, acting on his behalf and on behalf of, and in concert with, TED BERNSTEIN, told STANSBURY that STANSBURY was being rewarded for his efforts and the explosive growth of the business, such that he would receive a 10% ownership interest in LIC Holdings, Inc. SIMON BERNSTEIN and TED BERNSTEIN, collectively, were majority shareholders while STANSBURY was a minority shareholder in LIC Holdings, Inc.

19. STANSBURY has sued both LIC Holdings and ARBITRAGE because the BERNSTEINS represented that his employment relationship was with LIC Holdings, the company in which he owned a 10% interest, but STANSBURY'S W-2 statements were issued by ARBITRAGE as his employer.

20. In February of 2008, SIMON BERNSTEIN, acting on his behalf and on behalf of, and in concert with TED BERNSTEIN, approached STANSBURY and told him his time would

be better spent building the business rather than performing monthly calculations of income. The plan proposed was that, rather than STANSBURY performing computations on a monthly basis as to how much should be paid to him based upon 15% of the net retained commissions derived from both new policies sold and renewals from previous years, the BERNSTEINS and STANSBURY all would forego monthly payouts and defer compensation until the end of 2008, when year-end computations could be made. It was represented that in December, year-end computations would be made and salaries would be paid in December 2008 or January of 2009. It was specifically represented to STANSBURY that:

a) neither SIMON BERNSTEIN, TED BERNSTEIN nor STANSBURY would take any compensation during fiscal year 2008 but rather they all would wait until the year-end accounting was performed in December of 2008 or January, 2009;

b) SIMON BERNSTEIN, TED BERNSTEIN, and STANSBURY would each be paid a minimum salary of $1,000,000 at year end, and STANSBURY'S salary was to be applied against his earned commissions of 15%. Any compensation due STANSBURY over and above the $1,000,000 would be paid as a distribution on his stock ownership interest in LIC Holdings.

21. In January of 2008, STANSBURY was paid $420,018 for commissions earned on some 2007 sales. However, STANSBURY was not, and has never been, paid the commissions due him on sales in 2008 and thereafter, and he was not and has never been paid the renewal commissions due him on sales made in previous years that were paid to LIC Holdings or ARBITRAGE in 2008 and thereafter, other than a nominal payment of $30,000 made in 2010.

22. When STANSBURY was not paid as agreed in late 2008/2009 and thereafter, SIMON BERNSTEIN and TED BERNSTEIN, on behalf of and in concert with each other, stated to STANSBURY that salary and ownership distributions due and owing to SIMON BERNSTEIN, TED BERNSTEIN and STANSBURY would be deferred to a future time. This

deferral of payment was represented to be important because, as a result of the virtual collapse of the capital lending markets in 2008, it was necessary to retain the funds in the corporate bank accounts to demonstrate to potential lenders the financial stability of the companies.

23. The false statements set forth in paragraphs 18 through 21, above, were made by SIMON BERNSTEIN and TED BERNSTEIN, in concert with each other, with knowledge of their falsity and with the intention of never to fulfilling such promises.

24. Despite the representations to STANSBURY set forth above to the contrary, SIMON BERNSTEIN and TED BERNSTEIN, as officers and majority shareholders of LIC Holdings and ARBITRAGE, authorized LIC Holdings and/or ARBITRAGE to pay themselves $3,756,229.00 and $5,225,825.00, respectively, in 2008. Contrary to the representations made as set forth in paragraph 20, STANSBURY received no compensation for first year commissions and renewal commissions due him in 2008.

25. The net retained commissions by LIC Holdings and ARBITRAGE, not including renewals, for 2008 were approximately $13,442,549.00. As such, STANSBURY was entitled to, at the very minimum, 15% of $13,442,549.00, or $2,016,382.35.

26. Beginning late in 2007 or early in 2008, and continuing through at least 2012, LIC Holdings and/or ARBITRAGE became the alter ego of SIMON BERNSTEIN and TED BERNSTEIN, as officers and majority shareholders, in that they disregarded corporate structure and wrongfully diverted, converted and depleted corporate assets of LIC Holdings and ARBITRAGE for their own personal benefit and the benefit of Bernstein family trusts and other entities as more specifically set forth below. Those trusts have since invested some of these wrongfully diverted and converted corporate assets in real estate, also as more particularly set forth below. The wrongful action of SIMON BERNSTEIN and TED BERNSTEIN in diverting and converting corporate assets rendered LIC Holdings, and possibly ARBITRAGE, insolvent.

27. Throughout 2009, SIMON BERNSTEIN and TED BERNSTEIN continued to make false statements to STANSBURY to hide the fact that LIC Holdings and/or ARBITRAGE was their alter ego, in that they converted corporate property and corporate assets of LIC and/or ARBITRAGE for their own personal benefit in 2008, 2009 and thereafter, all to the exclusion and financial detriment of STANSBURY, all the while fraudulently representing to STANSBURY that no money was being paid as salary or distributions to SIMON BERNSTEIN, TED BERNSTEIN or STANSBURY because it was necessary to hold the funds in the corporate bank accounts to show to potential lenders the financial stability of the company.

28. STANSBURY relied upon these continuing misrepresentations of Defendants to his detriment. Because STANSBURY was told that potential funding sources for the business needed to see that capital of the company was available, he took no action when he did not receive any compensation for 2009 and was paid only $30,000 in 2010.

29. In order to continue their scheme to defraud, SIMON BERNSTEIN and TED BERNSTEIN failed and refused to account for renewal commissions and failed to supply any financial information to STANSBURY concerning LIC Holdings or ARBITRAGE.

30. In furtherance of their scheme to deprive STANSBURY of salary he had earned and shareholder distributions to which he was entitled, SIMON BERNSTEIN and TED BERNSTEIN intercepted mail addressed to STANSBURY, removing commission checks representing commissions due to STANSBURY, deposited the funds into their own accounts and otherwise converted the funds. SIMON BERNSTEIN and TED BERNSTEIN also opened STANSBURY's mail containing checks payable to him which were unrelated to them and the businesses.

31. In December, 2011 STANSBURY had been battling a painful and debilitating disease that could only be managed through the administration of potentially harmful

prescription medications. On December 22, 2011, the Defendants BERNSTEIN, with knowledge of STANSBURY's health issues and his debilitated condition, decided to take advantage of and deceive STANSBURY further. STANSBURY had for years been given K-1 statements reflecting his 10% ownership of LIC Holdings. At that time, TED BERNSTEIN told STANSBURY that the company accountant had discovered a potential significant taxable event which could cause STANSBURY, as one of the owners of LIC Holdings to pay taxes on phantom income. TED BERNSTEIN promised that if STANSBURY would sign a paper ceding his 10% interest in LIC Holdings, he would not have to pay the tax if in fact the tax was due. TED BERNSTEIN promised he would hold the paper, promising it would not become operative until STANSBURY and the Defendants BERNSTEIN discussed the situation further in the first quarter of 2012.

32. Because of the misrepresentations, willful concealments of material facts, duplicity and deceit practiced by Defendants upon STANSBURY, STANSBURY reasonably believed that Defendants had complied, or intended to comply with their obligations to STANSBURY under the contract between them. STANSBURY, therefore, was prevented from knowing for a period of years that the causes of action asserted herein existed.

33. By the second quarter of 2012, STANSBURY developed the belief that the BERNSTEINS' representations over the years were wholly false and he sought legal counsel.

34. STANSBURY has retained the law firm of Peter M. Feaman, P.A. and has agreed to pay it a reasonable fee for its services rendered herein.

COUNT I - ACCOUNTING
(Against LIC Holdings and ARBITRAGE, for Accounting)

35. STANSBURY hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, inclusive.

36. The relationship between STANSBURY and the Defendants, particularly as affected by Defendants' acts described in preceding paragraphs 19 through 27 created a situation where Defendants had sole access to receipts generated by STANSBURY's efforts, and to books and records reflecting said receipts and the other information from which can be calculated all moneys due to STANSBURY under his arrangement with Defendants.

37. The period of time during which STANSBURY has been deprived of monies due him spans approximately four and a half years. The various sources of revenue to Defendants of monies from which the amounts due STANSBURY may be calculated, the manner in which STANSBURY was to be paid, and the amount due STANSBURY all involve extensive and complicated accounts, and STANSBURY's remedy at law cannot be as full, adequate and expeditious as it is in equity.

WHEREFORE, Plaintiff STANSBURY prays for an adjudication of Plaintiff's right to a full and complete accounting from Defendants, LIC Holdings and ARBITRAGE, and for such orders of Court as will require such Defendants to provide STANSBURY with all records and copies of documents from January 1, 2006 to the present, in order to reveal his right to, and the amount of all sums: (a) received as commissions to which STANSBURY was entitled to a share; (b) due to STANSBURY, whether paid or not; (c) paid to STANSBURY, whether for commissions, salary, distributions, expenses or any other reason; (d) paid to each of the BERNSTEIN Defendants out of monies received as commissions; (e) deposits of any and all moneys received as commissions by any Defendants to any accounts, including the name of the entity whose account was involved, the number(s) of each such account; the address of the branch or other facility through which any Defendant dealt with such entity; (f) calculations as to moneys paid , to be paid, or not to be paid to STANSBURY, together with an award of court costs and such other and further relief as the Court may deem just and proper.

COUNT II - BREACH OF ORAL CONTRACT
(Against LIC Holdings, Inc., ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN)

38. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 37, inclusive.

39. The arrangement between STANSBURY and Defendants, as described in paragraphs 13 through 28 above, constituted a contract between them.

40. An express term of that contract involved the commitment of LIC Holdings and ARBITRAGE to calculate and pay to STANSBURY all sums due to him under the contract, whether as commissions, salary, distributions, expenses or any other reason.

41. The Defendants initially performed the duties required of them under said contract.

42. However, Defendants breached their contract with STANSBURY by withholding from STANSBURY monies due him under the contract for renewal commissions earned in 2007 and commissions and renewal commissions earned in 2008 and thereafter.

43. The withholding of such monies constitutes a material breach of the contract between STANSBURY and LIC Holdings and ARBITRAGE.

44. STANSBURY has sued both LIC Holdings and ARBITRAGE because the BERNSTEINS represented that his employment relationship was with LIC Holdings, the company in which he owned a 10% interest, but STANSBURY'S W-2 statements were issued by ARBITRAGE as his employer.

45. SIMON BERNSTEIN and TED BERNSTEIN are personally liable, jointly and severally, for the material breach of the oral employment contract with STANSBURY as LIC Holdings and/or ARBITRAGE were the alter ego of SIMON BERNSTEIN and TED

BERNSTEIN in that the BERNSTEINS depleted corporate assets for their personal benefit by causing the corporation or corporations to make exorbitant and inappropriate distributions to themselves, family members, and BERNSTEIN family trusts and other entities, at the expense of corporate creditors such as STANSBURY, to wit:

a) SIMON BERNSTEIN and TED BERNSTEIN caused LIC Holdings and/or ARBITRAGE to pay to them at least $3,756,229.00 and $5,225,825.00, respectively, in fiscal 2008 during which time STANSBURY, other than the amount referenced in paragraph 21, was paid nothing;

b) According to Palm Beach County public records, in December of 2007 TED BERNSTEIN purchased a property at 880 Berkeley Street, Boca Raton, Florida 33487, for $4,400,000;

c) According to Palm Beach County public records, on December 28, 2008, TED BERNSTEIN paid off the mortgage in the amount of $486,400.00 on a property he owned at 15807 Menton Bay Court, Saturnia Isles, Delray Beach, Florida 33446;

d) According to Palm Beach County public records, SIMON BERNSTEIN paid off the mortgage on property he and his wife owned, and subsequently transferred by quitclaim deed on May 20, 2008 to the trustee of SHIRLEY'S TRUST, at 7020 Lions Head Lane, Boca Raton, Florida, 33496. The amount of the mortgage pay-off is unknown, but in 2013 the property was listed for sale at $2,399,000;

e) According to Palm Beach County public records, on June 18, 2008, BERNSTEIN FAMILY REALTY, LLC acquired a property located at 2753 N.W. 34 Street, Boca Madera Unit 2, Boca Raton, Florida 33432 (the "Boca Madera Property). On July 8, 2008, SIMON BERNSTEIN loaned $365,000 to BERNSTEIN FAMILY REALTY, LLC. The specific

purpose of the loan is unknown, but SIMON BERNSTEIN received a mortgage on the Boca Madera Property to secure the loan;

f) According to Palm Beach County public records, on May 20, 2008 SIMON BERNSTEIN and his wife transferred by quitclaim deed to the trustee of SHIRLEY'S TRUST a 4,220 square foot oceanfront condominium unit in a complex known as "The Aragon" in Boca Raton, located at 2494 South Ocean Boulevard, Boca Raton, Florida. The mortgage on that property was paid off on September 27, 2010.

g) The legal descriptions for each of the above referenced properties are attached hereto as Exhibit "B."

46. There is due to STANSBURY from such Defendants all amounts due under said contract, together with prejudgment and post-judgment interest on said amounts.

WHEREFORE, Plaintiff prays for judgment against SIMON BERNSTEIN and TED BERNSTEIN declaring that Defendants, LIC Holdings, Inc. and ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, are or were the alter ego of SIMON BERNSTEIN and TED BERNSTEIN such that the corporate veil of LIC Holdings and/or ARBITRAGE should be pierced; for judgment against Defendants, LIC Holdings, Inc., ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, SIMON BERNSTEIN and TED BERNSTEIN, jointly and severally, in excess of $1,500,000.00 for the amounts due to Plaintiff under the terms of their contract, together with prejudgment and post-judgment interest; for his court costs herein expended and for such other relief as the Court may deem just and proper.

COUNT III - FRAUD IN THE INDUCEMENT- EMPLOYMENT AGREEMENT (Against SIMON BERNSTEIN and TED BERNSTEIN)

47. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 46, inclusive.

48. At all material times hereto, SIMON BERNSTEIN and TED BERNSTEIN were officers and majority shareholders of LIC Holdings and ARBITRAGE.

49. The statements set forth in paragraphs 18 through 24, above, made by SIMON BERNSTEIN and TED BERNSTEIN, on behalf of and in concert with each other, and as officers and majority shareholders of LIC Holdings and ARBITRAGE, were false statements of material fact that SIMON BERNSTEIN and TED BERNSTEIN knew to be false at the time they were made, as SIMON BERNSTEIN and TED BERNSTEIN never intended to authorize LIC Holdings or ARBITRAGE to pay to STANSBURY the amounts due him as evidenced by the fact that the accountant for LIC Holdings and ARBITRAGE prepared financial worksheets for 2008 showing that the BERNSTEINS would receive compensation, but STANSBURY would not, for fiscal 2008, in direct contravention to their statements and promises to STANSBURY.

50. SIMON BERNSTEIN and TED BERNSTEIN intended for STANSBURY to rely on such statements that he would be ultimately be paid for his productivity in order to induce him into continuing his productive and revenue-generating sales activity as an employee of LIC Holding and/or ARBITRAGE and fraudulently created for STANSBURY the false expectation that STANSBURY would be paid as agreed.

51. STANSBURY in fact relied to his detriment on these false statements and was induced thereby to remain in his employment relationship with LIC Holdings and ARBITRAGE as he continued to sell, with the expectation of payment, products and generate revenue for LIC Holdings and/or ARBITRAGE until 2012, and was further induced not to pursue from LIC Holdings and/ARBITRAGE his right to payment of all amounts due him until after SIMON BERNSTEIN and TED BERNSTEIN had diverted and converted corporate assets for their personal benefit, rendering LIC Holdings, and possibly ARBITRAGE, insolvent.

52. STANSBURY was injured thereby as he was not and has not been compensated for his revenue-generating sales and other performance, and did not seek alternative employment, as a proximate result of his detrimental reliance on these false statements.

WHEREFORE, Plaintiff prays for judgment against Defendants SIMON BERNSTEIN and TED BERNSTEIN, jointly and severally, for damages in excess of $1,500,000.00 together with prejudgment and post-judgment interest; for the imposition of an equitable lien and constructive trust on the Bernstein real estate described in paragraph 45 and Exhibit "B" as more fully set forth in Counts VII and VIII of this Second Amended Complaint; for his court costs herein expended; and for such other relief as the Court may deem just and proper. STANSBURY reserves the right to move to amend to request punitive damages in accordance with Florida Law.

COUNT IV - FRAUD IN THE INDUCEMENT - CEDING OF LIC HOLDINGS OWNERSHIP INTEREST (Against Ted Bernstein and LIC Holdings, Inc.)

53. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 52, inclusive.

54. In the fourth quarter of 2011, TED BERNSTEIN embarked upon a plan to defraud from STANSBURY his 10% ownership interest in LIC Holdings, Inc. As set forth in paragraph 31 above, Defendant TED BERNSTEIN fraudulently induced STANSBURY to prepare and sign a document giving up his 10% interest in and to LIC Holdings, Inc.

55. The ceding of his shares in LIC Holdings, Inc. was procured by fraud and STANSBURY relied upon the representations made by BERNSTEIN with regard to signing the document apparently ceding his stock.

56. It was reasonable for STANSBURY to rely on the representations made by BERNSTEIN because at that time STANSBURY was unaware of the breaches of fiduciary duty and breaches of the oral contract that had taken place.

57. As a result of STANSBURY's reliance, STANSBURY has been damaged by the loss of 10% of the shares of LIC Holdings and the rights and remedies to a shareholder related thereto.

WHEREFORE, Plaintiff prays for a judgment for damages against Defendants BERNSTEIN and LIC Holdings, Inc. for the damages caused by the fraudulent conduct of BERNSTEIN as described herein, together with reasonable costs, pre-judgment interest and any other relief this Court deems just and proper.

COUNT V - CIVIL CONSPIRACY
(Against Simon Bernstein and Ted Bernstein)

58. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, and Counts III and IV, paragraphs 47 through 57, inclusive.

59. SIMON BERNSTEIN and TED BERNSTEIN, individually and as officers and majority shareholders of LIC Holdings and ARBITRAGE, knowingly, willfully, intentionally, and maliciously conspired, agreed, combined and confederated with each other to make fraudulent, false and misleading statements to STANSBURY intended to induce STANSBURY to continue his employment relationship with LIC Holdings and/or ARBITRAGE during 2008 and thereafter, without ever intending to authorize payment to STANSBURY for the amounts he was due, a relationship that generated substantial revenue for LIC Holdings and/or ARBITRAGE and, ultimately, SIMON BERNSTEIN and TED BERNSTEIN.

60. SIMON BERNSTEIN and TED BERNSTEIN, individually and as officers and majority shareholders of LIC Holdings and ARBITRAGE, knowingly, willfully, intentionally, and maliciously conspired, agreed, combined and confederated with each other to make fraudulent, false and misleading statements to STANSBURY intended to induce STANSBURY to delay pursuing his right to payment for all amounts due him until such time after SIMON BERNSTEIN and TED BERNSTEIN had converted and diverted corporate assets rendering LIC Holdings, and possibly ARBITRAGE, insolvent and uncollectible.

61. SIMON BERNSTEIN and TED BERNSTEIN, individually and as officers and majority shareholders of LIC Holdings and ARBITRAGE, knowingly, willfully, intentionally, and maliciously conspired, agreed, combined and confederated with each other to fraudulently induce STANSBURY, through false and misleading statements, to surrender and cede, without fair value payment, his 10% interest in LIC Holdings.

62. The numerous fraudulent, false and misleading statements made by SIMON BERNSTEIN and TED BERNSTEIN were all overt acts in furtherance of the conspiracy.

63. STANSBURY was injured thereby in that, as a proximate result of the conspiratorial conduct of SIMON BERNSTEIN and TED BERNSTEIN, he continued in his employment with LIC Holdings and/or ARBITRAGE, without payment of the compensation due him, he delayed pursuit of his right to collect the amounts due him, and ceded his 10% interest in LIC Holdings.

WHEREFORE, Plaintiff prays for judgment against Defendants, SIMON BERNSTEIN and TED BERNSTEIN, jointly and severally, for damages in excess of $1,500,000.00 together with prejudgment and post-judgment interest; for the imposition of an equitable lien and constructive trust on the Bernstein real estate described in paragraph 45 and Exhibit "B" as more fully set forth in Counts VII and VIII of this Second Amended Complaint;

for his court costs herein expended; and for such other relief as the Court may deem just and proper. STANSBURY reserves the right to move to amend to request punitive damages in accordance with Florida Law.

COUNT V - CIVIL THEFT
(Against ARBITRAGE INTERNATIONAL MARKETING, LLC)

64. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 63, inclusive.

65. This is an action for Civil Theft under Chapter 772, Florida Statutes, more specifically §772.11, Fla.Stat.

66. In February, 2012 and March, 2012, Defendant ARBITRAGE intercepted two separate checks made payable to William STANSBURY intended as payment to STANSBURY for matters arising wholly outside his business transactions with the BERNSTEINS, LIC Holdings and ARBITRAGE.

67. Notwithstanding that the checks made payable to William STANSBURY was for sums due STANSBURY by a third party not in connection with the aforesaid business transactions, ARBITRAGE and/or someone acting on its behalf, caused the negotiation of STANSBURY's checks, wrongfully endorsing the checks and retaining the sums that should have been payable to STANSBURY.

68. As a result of the foregoing, Defendant ARBITRAGE has been guilty of criminal theft by conversion with the criminal intent to steal his money and deprive STANSBURY of his possession and use thereof.

69. Written demand for payment of all amounts due STANSBURY has been made to Defendants, more than 30 days preceding the filing of this Complaint, to no avail. A copy of the demand letter is attached hereto as Exhibit "A."

WHEREFORE, Plaintiff prays for judgment against Defendant, ARBITRAGE for three times the full amount of the checks made payable to STANSBURY, together with pre-judgment interest and post-judgment interest, attorneys' fees, court costs and any other relief this Court deems just and proper.

COUNT VII - CONVERSION

70. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 63, inclusive.

71. Further, during 2012, Defendants TED BERNSTEIN, SIMON BERNSTEIN, LIC Holdings, Inc., ARBITRAGE, or someone acting on their behalves, received and cashed in excess of $30,000.00 worth of commission checks otherwise payable to Plaintiff.

WHEREFORE, Plaintiff prays for judgment for damages against Defendant, ABRITRAGE, SIMON BERNSTEIN, LIC Holdings, Inc. and TED BERNSTEIN, together with pre-judgment interest and post-judgment interest, court costs and any other relief this Court deems just and proper.

COUNT VIII - UNJUST ENRICHMENT
(LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN)

72. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, paragraphs 1 through 65, above.

73. STANSBURY conferred a benefit on LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN by continuing his employment relationship with LIC Holdings and/or ARBITRAGE as a direct and proximate result of the fraudulent representations of SIMON BERNSTEIN and TED BERNSTEIN, as more fully set forth in Count III herein.

74. STANSBURY's continued employment resulted in the generation of substantial revenue for LIC Holdings and/or ARBITRAGE, which was then diverted and converted by the BERNSTEINS for their own personal use to the financial detriment of STANSBURY.

75. LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN, as officers and majority shareholders of LIC Holdings and ARBITRAGE, had knowledge of the benefit of STANSBURY's continued employment with LIC Holdings and/or ARBITRAGE as they fraudulently induced STANSBURY to continue his productive employment activity while never intending to pay him the compensation he was due.

76. LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN acccpted the revenues generated by STANSBURY in his capacity as employee.

77. There exists no adequate remedy at law as the conduct of the BERNSTEINS in diverting and converting the corporate assets of LIC Holdings and/or ARBITRAGE has resulted in the insolvency of LIC Holdings and possibly ARBITRAGE.

78. The circumstances are such that it would be inequitable for LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN to retain the benefits of the STANSBURY's productive revenue-generating labor without paying fair value for it.

WHEREFORE, Plaintiff prays for judgment against Defendants, LIC Holdings, Inc., ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, SIMON BERNSTEIN and TED BERNSTEIN, jointly and severally, in an amount in excess of $1,500,000.00 which the evidence shows Plaintiff is entitled for the fair value of the services Plaintiff provided to LIC Holdings and ARBITRAGE , together with prejudgment and post-judgment interest; for his court costs herein expended and for such other relief as the Court may deem just and proper.

COUNT IX - EQUITABLE LIEN
(As to SIMON BERNSTEIN, TED BERNSTEIN, BERNSTEIN FAMILY REALTY, LLC and SHIRLEY BERNSTEIN TRUST AGREEMENT)

79. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, the allegations set forth in paragraphs 1 through 34, paragraph 45 and Counts III and VII, above.

80. STANSBURY has alleged essential facts in his General Allegations and Count III that show that SIMON BERNSTEIN and TED BERNSTEIN committed fraud by fraudulently inducing STANSBURY to continue in an employment relationship that proved to be highly lucrative for SIMON BERNSTEIN and TED BERNSTEIN.

81. STANSBURY has alleged essential facts in his General Allegations and Count VII that show that SIMON BERNSTEIN and TED BERNSTEIN were unjustly enriched by STANSBURY's uncompensated continued employment with LIC Holdings and/or ARBITRAGE.

82. The conduct of the BERNSTEINS in depleting the corporate assets of LIC Holdings and ARBITRAGE for their personal benefit by causing the corporation or corporations to make exorbitant and inappropriate distributions to themselves, family members, and BERNSTEIN FAMILY REALT, LLC and SHIRLEY BERNSTEIN TRUST AGREEMENT, at the expense of corporate creditors such as STANSBURY, rendered LIC Holdings and possibly ARBITRAGE insolvent. Therefore STANSBURY has no adequate remedy at law.

83. BERNSTEIN FAMILY REALTY, LLC and SHIRLEY BERNSTEIN TRUSTA AGREEMENT were the transferees of some of the corporate assets of LIC Holdings and/or

ARBITRAGE wrongfully diverted and converted by the BERNSTEIN and thus are proper parties to this action and this Count.

84. An equitable lien on the real estate described in paragraph 45 herein and Exhibit "B" attached hereto is justified as an equitable remedy for the wrongful conduct of the BERNSTEINS.

WHEREFORE, Plaintiff prays for the Court to declare and establish an equitable lien in favor of Plaintiff in an amount equal to the funds wrongfully diverted, on the property described in paragraph 45 and Exhibit "B" attached hereto, and on all other assets of the Defendants named in this Count IX, or third parties as yet unknown, which assets have been purchased wholly or in part, improved or benefitted by the diverted funds due Plaintiff, together with his costs herein expended, and such other and further relief as this Court may deem just and proper.

COUNT X - CONSTRUCTIVE TRUST
(As to SIMON BERNSTEIN, TED BERNSTEIN, BERNSTEIN FAMILY REALTY, LLC and SHIRLEY BERNSTEIN TRUST AGREEMENT)

85. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 79 through 84 above.

WHEREFORE, Plaintiff prays for the Court to declare and establish a constructive trust in favor of Plaintiff on the property described in paragraph 45 and Exhibit "B" attached hereto in an amount equal to the funds wrongfully diverted and on all assets of Defendants or third parties as yet unknown, which assets have been purchased wholly or partly, improved or mortgaged by the diversion of said funds due Plaintiff. Plaintiff further prays for an award of court costs and such other and further relief as the Court may deem just and proper.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives,* 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; at arose@pm-law.com and mchandler@pm-law.com to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc. and Arbitrage International Management, LLC,* 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this 3rd day of September, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554
pfeaman@feamanlaw.com

By: _____
Peter M. Feaman
Florida Bar No. 0260347

The Law Offices
of
PETER M. FEAMAN, P.A.
Strategic Counselor. Proven Advocate.™

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Peter M. Feaman, Esq.
Nancy E. Guffey, Esq.
Of Counsel

Telephone: (561) 734-5552
Facsimile: (561) 734-5554
pfeaman@feamanlaw.com

June 20, 2012

Via Certified Mail, Return Receipt Requested

PERSONAL and CONFIDENTIAL
Mr. Ted Bernstein, President
LIC Holdings, Inc.
950 Peninsula Corp Circle
Suite 3010
Boca Raton, FL 33487

Re: William (Bill) Stansbury

Dear Mr. Bernstein:

The undersigned represents William (Bill) Stansbury and we are writing this letter on his behalf. Mr. Stansbury received your proposed letter agreement reflecting LIC Holdings' proposal to indemnify its shareholders concerning policies sold under the Cambridge Financing Program. As a result of your proposal, Mr. Stansbury has reviewed with me in detail his dealings with you and your companies over the past 4 to 5 years.

After reviewing the facts with Mr. Stansbury, some of which will be summarized below, I was shocked that he had not consulted legal counsel until now. Be that as it may, and based upon the facts presented to us, we believe you have engaged in fraud, civil theft, breaches of fiduciary duties, and breach of contract, just to name a few. The purpose of this letter is to a). respond to your indemnity proposal and b). request that you pass this letter on to your counsel immediately in the off-chance that these very serious matters can be resolved prior to the filing of legal action. The issues can be summarized as follows:

1. The first issue concerns you and your company's failure to pay salary compensation to Mr. Stansbury. Mr. Stansbury has been making inquiries concerning this for the past 5 months, but to no avail. Mr. Stansbury's claim for unpaid salary arises from three categories:

EXHIBIT A

a. Failure to pay salary based on net retained commissions.

i. Based upon reports prepared by your company for the period of 2007 through 2011, LIC Holdings, Inc. and/or Arbitrage International Holdings, n/k/a Arbitrage International Management, LLC, received $35,384,246.00 in net retained commissions. According to Mr. Stansbury's salary arrangement, he is entitled to 15% of those net retained commissions, which amounts to $5,307,636.90. During this time period, Mr. Stansbury's salary compensation was $2,844,910.00. The shortfall in salary owed to Mr. Stansbury is $2,462,726.90.

ii. There is salary compensation owed to Mr. Stansbury as a result of bridge loans in 2008. You received a $2,000,000.00 settlement in 2010 resulting from the resolution of a lawsuit involving Global Secured Capital. Mr. Stansbury is entitled to 15% of those funds, which is $300,000.00.

iii. In addition, you received $507,891.00 in commissions in connection with the Biviano matter. Mr. Stansbury is entitled to 15% of those funds, which is $76,183.65.

iv. In April of 2012, you received three commissions totaling approximately $200,000.00 in the Levine, Wiss and Berley matters. Mr. Stansbury has been requesting payment of this for weeks, again to no avail. Mr. Stansbury is due salary compensation for these items in the amount of $30,000.00.

Therefore, Mr. Stansbury's total claim for salary arising out of net retained commissions is approximately $2,868,910.55.

The liability for payment of this salary is not limited to LIC Holdings, Inc. or Arbitrage International Management, LLC. This liability also flows to you individually as a result of your breaches of your fiduciary duty owed to Mr. Stansbury and utter failure to abide by corporate governance standards, which conduct is more particularly described below.

b. Mr. Stansbury is also due unpaid salary based on 15% of all renewal commissions since 2008. Mr. Stansbury's salary claim for renewal commissions cannot as yet be determined with specificity due to the fact that you and your office have been opening mail directed to Mr. Stansbury and negotiating checks made payable to him by falsifying his endorsement and depositing those checks into accounts which only you control. This conduct constitutes civil theft and breach of fiduciary duty. We believe this claim amounts to hundreds of thousands of dollars.

c. Salary compensation for 2008. Mr. Stansbury has recently learned that you and Mr. Simon Bernstein received $8,982,124.00 in salary in 2008. By contrast, Mr. Stansbury received $420,018.00, paid to him in January 2008, based on policies sold in 2007. He received zero (no salary compensation) for his 2008 production. It is obvious that you and Simon treated your corporations as personal ATM machines, while completely ignoring your fiduciary

responsibilities to your employee and minority shareholder, Mr. Stansbury. It further appears that after the exorbitant salaries were paid to you, you then loaned the money back to the corporation at an interest rate significantly above market rates in order to meet the cash flow needs of the various entities, again, clearly disregarding your corporate governance responsibilities.

2. Indemnification issues.

Mr. Stansbury has been served with three lawsuits from Phoenix Insurance Company and one from Mr. Wright seeking indemnification as a result of agent misconduct which was in no way attributable to the conduct of Mr. Stansbury. Although all of these matters have been settled, because he was the qualifying agent of record for other policies, he could be the subject of future litigation for refunds of commissions paid. All of these commissions were paid over to you or your companies.

The Indemnification Agreement which you sent to Mr. Stansbury is completely insufficient. You have a duty as a matter of law to indemnify Mr. Stansbury. Your offer of future indemnity is contingent upon "all" commissions that have been received by LIC's present or past shareholders be turned over to LIC. This is nothing short of extortion. Further, your second paragraph states that LIC is "presently insolvent" and has a "negative net worth." You then conclude with the sentence that with the indemnification agreement in place, LIC "may" have sufficient funds to meet its current obligations. Therefore, a simple indemnification from LIC Holdings to Mr. Stansbury is insufficient. Any such indemnification would have to be personally guaranteed by you and Mr. Simon Bernstein.

3. Unauthorized interception of U.S. Mail.

I have been given the understanding that your office has been opening mail directed to Mr. Stansbury personally. This is a federal offense and also constitutes a breach of the fiduciary duty you owe to Mr. Stansbury as an employee and minority shareholder.

There has been no accounting to Mr. Stansbury for any of the checks which may have been sent to him personally on which his signature has been forged, the checks cashed and placed out of the reach of Mr. Stansbury. In 2012, Mr. Stansbury has been receiving checks from Phoenix Life Insurance Company and TransAmerica Life Insurance Company. Mr. Stansbury has been holding these checks. They have now been remitted to the undersigned as attorney for Mr. Stansbury. This office is holding these funds in a separate interest-bearing trust account pending the resolution of this matter.

With regard to all of the other insurance companies for whom Mr. Stansbury is listed as the qualifying agent, he has now informed those companies that all future renewal commissions paid to him personally be sent to Mr. Stansbury at his home address. These funds will then be remitted to the undersigned counsel of record for Mr. Stansbury. We will place these funds in a separate interest-bearing trust account as well. Any attempts by you to contact these insurance

companies will be considered a tortious interference of his business relationship and such activity will be added as a claim in any future legal proceedings.

4. Shareholder status.

Mr. Stansbury has been a 10% shareholder of LIC Holdings, Inc., pursuant to the terms of a Shareholders Agreement. On behalf of Mr. Stansbury, demand is hereby made, pursuant to Florida Statute 607.1602, for inspection of the corporate records including the following:

I. Minutes of the Board of Directors meetings from January 1, 2008 to the present.

II. Minutes of Shareholders' meetings from January 1, 2008 to the present.

III. Records of any actions taken by the Shareholders and/or the Board of Directors without a meeting, from January 1, 2008 to the present.

IV. Accounting and financial records of LIC Holdings, Inc., Arbitrage International Management, LLC, formerly known as Arbitrage International Holdings, LLC, and all other subsidiary or affiliated companies under your control, including, without limitation, income tax returns, general ledgers, balance sheets, profit and loss statements, stock books, bank statements, loan agreements or guarantees, and any other financial books and records from January 1, 2008 to the present.

Mr. Stansbury is seeking to inspect these records in good faith and for the purpose of determining if misappropriation of corporate assets for improper purposes has previously taken or is presently taking place.

I have been made aware of a letter dated December 22, 2011 in which Mr. Stansbury purportedly "ceded" his shares of stock in LIC Holdings, Inc. back to the company. This letter was obtained under false pretenses and is not recognized by Mr. Stansbury as validly conveying his ownership interest in LIC Holdings, Inc.

Please have your legal counsel contact us within ten (10) days. Should we fail to receive a response within that time, Mr. Stansbury will take legal action to protect his rights and interests.

Very truly yours,

PETER M. FEAMAN, P.A.

By: Peter M. Feaman

Peter M. Feaman

PMF/mk
cc: William Stansbury
cc Riggs (e-mail)

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Ted Bernstein, Pres.
LIC Holdings, Inc.
950 Peninsula Corp. Cir.
Suite 3010
Boca Raton, FL 33487

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7011 0110 0000 6015 5239

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

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

CIRCUIT CIVIL DIVISION "AA"
CASE NO. 502012CA013933MB

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 MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC; BERNSTEIN FAMILY REALTY, LLC,
Defendant.
_____/

ORDER CLARIFYING ORDER ON DEFENDANT, TED S. BERNSTEIN'S, MOTION TO DISMIS COUNTS III, VII AND VIII

THIS MATTER came before the Court upon the Motion to Clarify Order on Defendant, TED S. BERNSTEIN'S, Motion to Dismiss Counts III, VII and VIII, filed by Plaintiff. The Court has reviewed the motion and the Court's prior Order of June 12, 2013. After review, it is

ORDERED AND ADJUDGED as follows:

1. Plaintiff's Motion to Clarify Order is granted.

2. The June 12, 2013, Order on Defendant, Ted S. Bernstein's, Motion to Dismiss Counts III, VII and VIII is clarified to the following extent:

A. The Order to Dismiss is without prejudice.

B. The Court found that as to the claim set forth in Count III of the Complaint, "Defendant owes no fiduciary duty directly to Plaintiff under Florida law, and

therefore any direct claim is dismissed." However, in an effort to state a valid cause of action, Plaintiff may amend its claim to include alternative or additional allegations which, if appropriate, may again be challenged via Motion to Dismiss.

C. The Court also found in its Order that a derivative claim by a shareholder cannot be asserted on the grounds stated and that Plaintiff has not met the statutory requirements for asserting a derivative claim. However, Plaintiff may amend its claim to include alternative or additional allegations which, if appropriate, may again be challenged via Motion to Dismiss.

D. The Court's Order makes it clear that its ruling applies to Counts VII and VIII as well.

3. Plaintiff shall have thirty (30) days from the date of this Order within which to amend.

DONE AND ORDERED in Chambers, at West Palm Beach, Palm Beach County, Florida, on this 1 day of ~~July~~ August, 2013.

PETER D. BLANC, Circuit Judge

Copies furnished:
PETER M. FEAMAN, ESQ., 3615 West Boynton Beach Boulevard, Boynton Beach, FL 33436 pfeaman@feamanlaw.com; service@feamanlaw.com; mkoskey@feamanlaw.com; (Counsel for Plaintiff)

MARK R. MANCERI, ESQ., 2929 East Commercial Boulevard, Suite 702, Ft. Lauderdale, FL 33309 mrmlaw@comcast.net; mrmlaw1@gmail.com; (Counsel for Donald R. Tescher and Robert Spallina, as co-personal representatives; Bernstein Family Realty, LLC)

ALAN B. ROSE, ESQ., Page, Mrachek, Fitzgerald, Rose, Konopka & Dow, P.A., 505 South Flagler Drive, Suite 600, West Palm Beach, FL 33401 arose@pm-law.com; mchandler@pm-law.com; (Counsel for Ted S. Bernstein, LIC Holdings, Inc., Arbitrage International Mgmt, LLC, Shirley Bernstein Trust Agreement dated May 20, 2008)

Robert Spallina

From: Prindle, Christopher R [christopher.r.prindle@jpmorgan.com]
Sent: Wednesday, June 26, 2013 7:35 PM
To: Robert Spallina
Subject: Re: Stanford Receivership Certification Notice And Form/Notificación Y Forma De Certificación Para La Administración Judicial De Stanford

Rob,
I'm traveling, and can try to call tomorrow? The receiver had a claim process that required investors to submit claims. - think Si had submitted his claims in accordance with requirements.
This is likely to be pennies on the dollar, and judge recently approved very small payment. Happy to discuss further.

The SEC and SIPA issue is in Appelate court and a ruling in favor of SEC could provide SIPC coverage, and most favorable recovery for investors, but still in courts.

From: Robert Spallina [mailto:rspallina@tescherspallina.com]
Sent: Wednesday, June 26, 2013 03:21 PM Eastern Standard Time
To: Prindle, Christopher R
Subject: FW: Stanford Receivership Certification Notice And Form/Notificación Y Forma De Certificación Para La Administración Judicial De Stanford

Chris – what do you know about Si's claim? This is the first I am hearing about this. THanks

---

From: Ted Bernstein [mailto:tbernstein@lifeinsuranceconcepts.com]
Sent: Wednesday, June 26, 2013 2:45 PM
To: Robert Spallina
Subject: FW: Stanford Receivership Certification Notice And Form/Notificación Y Forma De Certificación Para La Administración Judicial De Stanford

Hi Robert > haven't spoken in a few weeks, hope all is well. I am headed to Charlotte, back on Monday. The info below is related to Si's Stanford claim, I think. I was not involved with this in any way.

Ted

From: Gilardi & Co. LLC, Claim Agent [mailto:info@stanfordfinancialclaims.com]
Sent: Tuesday, June 04, 2013 6:00 PM
To: Ted Bernstein
Subject: Stanford Receivership Certification Notice And Form/Notificación Y Forma De Certificación Para La Administración Judicial De Stanford

Pursuant to the Order dated May 30, 2013 (found at http://www.stanfordfinancialclaims.com/pdf/3-09-cv-0298-N,1877OrderGrantingInterimDistributionPlan.pdf), this email and the links below provide you with a Certification Notice and Form for each of the Investor CD Claims you filed. You should open all links included in this email, as each link contains a separate and unique Certification Notice and Form. For your convenience, each Certification Notice and Form has been provided to you in both English and Spanish; however, you should only return either the English or Spanish version of the Certification Form (but not both).

Carefully read the instruction page, which will tell you what you are required to do to complete the Certification Form, including how and where to return each completed Form. You must submit each completed

Certification Form and all necessary attachments to the Receivership within **SIXTY (60) DAYS** of the date you receive this email.

Very Truly Yours,

Gilardi & Company, LLC as Claims Agent for
Receiver Ralph Janvey

Certification Form and Instructions
Certification 1—Click Here

De conformidad con la Orden del Tribunal con fecha 30 de Mayo de 2013 (que se encuentra en el siguiente enlace, http://www.stanfordfinancialclaims.com/pdf/3-09-cv-0298-N,1877OrderGrantingInterimDistributionPlan.pdf), este correo electrónico y los enlaces abajo indicados le proporcionan la Notificación y Forma de Certificación para cada una de las reclamaciones sometidas por Usted como Demandantes Inversor(es) de CD. Usted debe abrir todos los enlaces incluidos en este correo electrónico, ya que cada enlace indica una Notificación y Forma de Certificación única y separada. Para su conveniencia cada Notificación y Forma de Certificación le es disponible en ambos lenguajes, inglés y español; sin embargo, Usted debe regresar la Notificación de Certificación, solamente ya sea la versión en inglés o en español (pero no ambas).

Cuidadosamente lea la página de instrucción, en la cual se le explicara lo que se le requiere para poder completar la Forma de Certificación, incluyendo como y a donde someter cada Forma luego de ser completada. Usted debe someter cada Forma de Certificación completada junto con todos los documentos adjuntos necesarios, a la Administración Judicial dentro de los **SESENTA (60) DIAS** desde la fecha en que recibe este correo electrónico.

Sinceramente suyo,

Gilardi & Company, LLC como Agente de Reclamaciones para el
Administrador Judicial Ralph Janvey

Formulario de Certificación y Instrucciones

Certificación 1—Clic Aquí

This message was intended for: simon@lifeinsuranceconcepts.com
You were added to the system June 4, 2013. For more information click here.
Update your preferences | Unsubscribe

This email is confidential and subject to important disclaimers and conditions including on offers for the purchase or sale of securities, accuracy and completeness of information, viruses, confidentiality, legal privilege, and legal entity disclaimers, available at http://www.jpmorgan.com/pages/disclosures/email.

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: 50 2012 CA 013933 MB AA

v.

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.
_____/

SECOND AMENDED COMPLAINT

WILLIAM E. STANSBURY, by and through undersigned counsel, sues the Defendants and states:

1. This is an action for money damages in excess of $15,000, and for equitable relief.

2. Plaintiff (hereinafter referred to as "STANSBURY") is *sui juris*, and a resident of Palm Beach County, Florida.

3. Defendant TED S. BERNSTEIN ("TED BERNSTEIN"), is *sui juris*, and a resident of Palm Beach County, Florida.

4. SIMON L. BERNSTEIN ("SIMON BERNSTEIN") died on or about September 13, 2012, after the filing of the initial Complaint in this action. At the time of his death, SIMON BERNSTEIN was *sui juris*, and was a resident of Palm Beach County, Florida. Defendants

Donald R. Tescher and Robert L. Spallina are serving as co-personal representatives of the ESTATE OF SIMON L. BERNSTEIN (the "ESTATE")which ESTATE is presently open and pending in the Palm Beach County Circuit Court, *In re: Estate of Simon L. Bernstein*, Case No. 502012CP004391XXXXSB (the "Estate Proceeding"). In accordance with Section 733.705, Florida Statutes, STANSBURY hereby brings this independent action against the ESTATE with respect to his Statement of Claim that was filed and objected to in the Estate Proceeding.

5. Defendant, LIC HOLDINGS, INC. ("LIC Holdings") is a Florida corporation with its principal place of business in Palm Beach County, Florida.

6. Defendant, ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, formerly known as ARBITRAGE INTERNATIONAL HOLDINGS, LLC, ("ARBITRAGE") is a Florida limited liability company with its principal place of business in Palm Beach County, Florida.

7. Defendant, BERNSTEIN FAMILY REALTY, LLC is a Florida limited liability company doing business in Palm Beach County.

8. Defendant, the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008 ("SHIRLEY'S TRUST"), owns real property in Palm Beach County, Florida. Based upon information and belief, Donald R. Tescher and Robert L. Spallina are serving as co-trustees of SHIRLEY'S TRUST. This Court has personal jurisdiction over the trustees and the beneficiaries of SHIRLEY'S TRUST under Section 736.0202, Florida Statutes, as the principal place of administration of SHIRLEY'S TRUST is in Palm Beach County, Florida. This court has subject matter jurisdiction over this action under Section 736.0203, Florida Statutes. Venue is proper in Palm Beach County, Florida, under Section 736.0204, Florida Statutes, as the principal place of administration of SHIRLEY'S TRUST is in Palm Beach County, Florida and one or more of the beneficiaries of SHIRLEY'S TRUST reside in Palm Beach County, Florida.

9. The acts and incidents giving rise to the causes of action alleged herein arose in Palm Beach County, Florida.

General Allegations

10. STANSBURY has worked in the insurance industry for virtually all of his adult life. After 30 years, he had become well-known and highly regarded by major insurance companies, their principals and others throughout the insurance industry, at all levels thereof, as well as by professionals, including attorneys, CPA's, financial advisors, wealth managers and others who were involved in serving, or otherwise dealing with insurers, insurance brokers and life insurance products.

11. SIMON BERNSTEIN dealt at sophisticated levels of the insurance industry and specialized in developing and marketing insurance concepts suitable for persons of high net worth to incorporate into their wealth management and estate planning.

12. TED BERNSTEIN, the son of SIMON BERNSTEIN, was also actively involved in selling life insurance products in conjunction with attorneys, CPAs and other professionals, to be incorporated into high net worth individuals' financial and estate planning.

13. TED BERNSTEIN, acting on his behalf and on behalf of, and in concert with, SIMON BERNSTEIN, approached STANSBURY in 2003, urging STANSBURY to spearhead the marketing of a unique insurance concept, newly developed by a prominent law firm, which was designed for use in the financial and estate planning of high net worth individuals.

14. TED BERNSTEIN told STANSBURY that he knew of STANSBURY's expertise and reputation in the insurance and related industries and that STANSBURY was skilled at and accustomed to speaking and marketing insurance products to groups of professionals. He realized that STANSBURY, because of his knowledge, reputation and abilities, would be well suited to market this concept nationwide through prominent and experienced professionals.

15. In 2006, SIMON BERNSTEIN and TED BERNSTEIN (collectively, "BERNSTEIN" or the "BERNSTEINS") formed, as sole shareholders, Defendants LIC Holdings and ARBITRAGE for the purpose of marketing and selling certain life insurance products to high net worth individuals for their wealth management and estate planning needs.

16. STANSBURY agreed to become an employee of LIC Holdings, Inc. and ARBITRAGE and agreed to a salary of 15% of net retained commissions received on all products sold, including renewals. STANSBURY at this time was responsible for, among other duties, calculating, on a monthly basis, the commissions due him in connection with new business generated in the current year and renewals on business generated in previous years.

17. STANSBURY worked with diligence and skill, traveling throughout the United States, generating ever-increasing sales and generating very large commissions. By 2006, nationwide sales were resulting in substantial commissions on new policies and renewal commissions.

18. Also in 2006, SIMON BERNSTEIN, acting on his behalf and on behalf of, and in concert with, TED BERNSTEIN, told STANSBURY that STANSBURY was being rewarded for his efforts and the explosive growth of the business, such that he would receive a 10% ownership interest in LIC Holdings, Inc. SIMON BERNSTEIN and TED BERNSTEIN, collectively, were majority shareholders while STANSBURY was a minority shareholder in LIC Holdings, Inc.

19. STANSBURY has sued both LIC Holdings and ARBITRAGE because the BERNSTEINS represented that his employment relationship was with LIC Holdings, the company in which he owned a 10% interest, but STANSBURY'S W-2 statements were issued by ARBITRAGE as his employer.

20. In February of 2008, SIMON BERNSTEIN, acting on his behalf and on behalf of, and in concert with TED BERNSTEIN, approached STANSBURY and told him his time would

be better spent building the business rather than performing monthly calculations of income. The plan proposed was that, rather than STANSBURY performing computations on a monthly basis as to how much should be paid to him based upon 15% of the net retained commissions derived from both new policies sold and renewals from previous years, the BERNSTEINS and STANSBURY all would forego monthly payouts and defer compensation until the end of 2008, when year-end computations could be made. It was represented that in December, year-end computations would be made and salaries would be paid in December 2008 or January of 2009. It was specifically represented to STANSBURY that:

a) neither SIMON BERNSTEIN, TED BERNSTEIN nor STANSBURY would take any compensation during fiscal year 2008 but rather they all would wait until the year-end accounting was performed in December of 2008 or January, 2009;

b) SIMON BERNSTEIN, TED BERNSTEIN, and STANSBURY would each be paid a minimum salary of $1,000,000 at year end, and STANSBURY'S salary was to be applied against his earned commissions of 15%. Any compensation due STANSBURY over and above the $1,000,000 would be paid as a distribution on his stock ownership interest in LIC Holdings.

21. In January of 2008, STANSBURY was paid $420,018 for commissions earned on some 2007 sales. However, STANSBURY was not, and has never been, paid the commissions due him on sales in 2008 and thereafter, and he was not and has never been paid the renewal commissions due him on sales made in previous years that were paid to LIC Holdings or ARBITRAGE in 2008 and thereafter, other than a nominal payment of $30,000 made in 2010.

22. When STANSBURY was not paid as agreed in late 2008/2009 and thereafter, SIMON BERNSTEIN and TED BERNSTEIN, on behalf of and in concert with each other, stated to STANSBURY that salary and ownership distributions due and owing to SIMON BERNSTEIN, TED BERNSTEIN and STANSBURY would be deferred to a future time. This

deferral of payment was represented to be important because, as a result of the virtual collapse of the capital lending markets in 2008, it was necessary to retain the funds in the corporate bank accounts to demonstrate to potential lenders the financial stability of the companies.

23. The false statements set forth in paragraphs 18 through 21, above, were made by SIMON BERNSTEIN and TED BERNSTEIN, in concert with each other, with knowledge of their falsity and with the intention of never to fulfilling such promises.

24. Despite the representations to STANSBURY set forth above to the contrary, SIMON BERNSTEIN and TED BERNSTEIN, as officers and majority shareholders of LIC Holdings and ARBITRAGE, authorized LIC Holdings and/or ARBITRAGE to pay themselves $3,756,229.00 and $5,225,825.00, respectively, in 2008. Contrary to the representations made as set forth in paragraph 20, STANSBURY received no compensation for first year commissions and renewal commissions due him in 2008.

25. The net retained commissions by LIC Holdings and ARBITRAGE, not including renewals, for 2008 were approximately $13,442,549.00. As such, STANSBURY was entitled to, at the very minimum, 15% of $13,442,549.00, or $2,016,382.35.

26. Beginning late in 2007 or early in 2008, and continuing through at least 2012, LIC Holdings and/or ARBITRAGE became the alter ego of SIMON BERNSTEIN and TED BERNSTEIN, as officers and majority shareholders, in that they disregarded corporate structure and wrongfully diverted, converted and depleted corporate assets of LIC Holdings and ARBITRAGE for their own personal benefit and the benefit of Bernstein family trusts and other entities as more specifically set forth below. Those trusts have since invested some of these wrongfully diverted and converted corporate assets in real estate, also as more particularly set forth below. The wrongful action of SIMON BERNSTEIN and TED BERNSTEIN in diverting and converting corporate assets rendered LIC Holdings, and possibly ARBITRAGE, insolvent.

27. Throughout 2009, SIMON BERNSTEIN and TED BERNSTEIN continued to make false statements to STANSBURY to hide the fact that LIC Holdings and/or ARBITRAGE was their alter ego, in that they converted corporate property and corporate assets of LIC and/or ARBITRAGE for their own personal benefit in 2008, 2009 and thereafter, all to the exclusion and financial detriment of STANSBURY, all the while fraudulently representing to STANSBURY that no money was being paid as salary or distributions to SIMON BERNSTEIN, TED BERNSTEIN or STANSBURY because it was necessary to hold the funds in the corporate bank accounts to show to potential lenders the financial stability of the company.

28. STANSBURY relied upon these continuing misrepresentations of Defendants to his detriment. Because STANSBURY was told that potential funding sources for the business needed to see that capital of the company was available, he took no action when he did not receive any compensation for 2009 and was paid only $30,000 in 2010.

29. In order to continue their scheme to defraud, SIMON BERNSTEIN and TED BERNSTEIN failed and refused to account for renewal commissions and failed to supply any financial information to STANSBURY concerning LIC Holdings or ARBITRAGE.

30. In furtherance of their scheme to deprive STANSBURY of salary he had earned and shareholder distributions to which he was entitled, SIMON BERNSTEIN and TED BERNSTEIN intercepted mail addressed to STANSBURY, removing commission checks representing commissions due to STANSBURY, deposited the funds into their own accounts and otherwise converted the funds. SIMON BERNSTEIN and TED BERNSTEIN also opened STANSBURY's mail containing checks payable to him which were unrelated to them and the businesses.

31. In December, 2011 STANSBURY had been battling a painful and debilitating disease that could only be managed through the administration of potentially harmful

prescription medications. On December 22, 2011, the Defendants BERNSTEIN, with knowledge of STANSBURY's health issues and his debilitated condition, decided to take advantage of and deceive STANSBURY further. STANSBURY had for years been given K-1 statements reflecting his 10% ownership of LIC Holdings. At that time, TED BERNSTEIN told STANSBURY that the company accountant had discovered a potential significant taxable event which could cause STANSBURY, as one of the owners of LIC Holdings to pay taxes on phantom income. TED BERNSTEIN promised that if STANSBURY would sign a paper ceding his 10% interest in LIC Holdings, he would not have to pay the tax if in fact the tax was due. TED BERNSTEIN promised he would hold the paper, promising it would not become operative until STANSBURY and the Defendants BERNSTEIN discussed the situation further in the first quarter of 2012.

32. Because of the misrepresentations, willful concealments of material facts, duplicity and deceit practiced by Defendants upon STANSBURY, STANSBURY reasonably believed that Defendants had complied, or intended to comply with their obligations to STANSBURY under the contract between them. STANSBURY, therefore, was prevented from knowing for a period of years that the causes of action asserted herein existed.

33. By the second quarter of 2012, STANSBURY developed the belief that the BERNSTEINS' representations over the years were wholly false and he sought legal counsel.

34. STANSBURY has retained the law firm of Peter M. Feaman, P.A. and has agreed to pay it a reasonable fee for its services rendered herein.

COUNT I - ACCOUNTING
(Against LIC Holdings and ARBITRAGE, for Accounting)

35. STANSBURY hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, inclusive.

36. The relationship between STANSBURY and the Defendants, particularly as affected by Defendants' acts described in preceding paragraphs 19 through 27 created a situation where Defendants had sole access to receipts generated by STANSBURY's efforts, and to books and records reflecting said receipts and the other information from which can be calculated all moneys due to STANSBURY under his arrangement with Defendants.

37. The period of time during which STANSBURY has been deprived of monies due him spans approximately four and a half years. The various sources of revenue to Defendants of monies from which the amounts due STANSBURY may be calculated, the manner in which STANSBURY was to be paid, and the amount due STANSBURY all involve extensive and complicated accounts, and STANSBURY's remedy at law cannot be as full, adequate and expeditious as it is in equity.

WHEREFORE, Plaintiff STANSBURY prays for an adjudication of Plaintiff's right to a full and complete accounting from Defendants, LIC Holdings and ARBITRAGE, and for such orders of Court as will require such Defendants to provide STANSBURY with all records and copies of documents from January 1, 2006 to the present, in order to reveal his right to, and the amount of all sums: (a) received as commissions to which STANSBURY was entitled to a share; (b) due to STANSBURY, whether paid or not; (c) paid to STANSBURY, whether for commissions, salary, distributions, expenses or any other reason; (d) paid to each of the BERNSTEIN Defendants out of monies received as commissions; (e) deposits of any and all moneys received as commissions by any Defendants to any accounts, including the name of the entity whose account was involved, the number(s) of each such account; the address of the branch or other facility through which any Defendant dealt with such entity; (f) calculations as to moneys paid , to be paid, or not to be paid to STANSBURY, together with an award of court costs and such other and further relief as the Court may deem just and proper.

COUNT II - BREACH OF ORAL CONTRACT
(Against LIC Holdings, Inc., ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN)

38. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 37, inclusive.

39. The arrangement between STANSBURY and Defendants, as described in paragraphs 13 through 28 above, constituted a contract between them.

40. An express term of that contract involved the commitment of LIC Holdings and ARBITRAGE to calculate and pay to STANSBURY all sums due to him under the contract, whether as commissions, salary, distributions, expenses or any other reason.

41. The Defendants initially performed the duties required of them under said contract.

42. However, Defendants breached their contract with STANSBURY by withholding from STANSBURY monies due him under the contract for renewal commissions earned in 2007 and commissions and renewal commissions earned in 2008 and thereafter.

43. The withholding of such monies constitutes a material breach of the contract between STANSBURY and LIC Holdings and ARBITRAGE.

44. STANSBURY has sued both LIC Holdings and ARBITRAGE because the BERNSTEINS represented that his employment relationship was with LIC Holdings, the company in which he owned a 10% interest, but STANSBURY'S W-2 statements were issued by ARBITRAGE as his employer.

45. SIMON BERNSTEIN and TED BERNSTEIN are personally liable, jointly and severally, for the material breach of the oral employment contract with STANSBURY as LIC Holdings and/or ARBITRAGE were the alter ego of SIMON BERNSTEIN and TED

BERNSTEIN in that the BERNSTEINS depleted corporate assets for their personal benefit by causing the corporation or corporations to make exorbitant and inappropriate distributions to themselves, family members, and BERNSTEIN family trusts and other entities, at the expense of corporate creditors such as STANSBURY, to wit:

a) SIMON BERNSTEIN and TED BERNSTEIN caused LIC Holdings and/or ARBITRAGE to pay to them at least $3,756,229.00 and $5,225,825.00, respectively, in fiscal 2008 during which time STANSBURY, other than the amount referenced in paragraph 21, was paid nothing;

b) According to Palm Beach County public records, in December of 2007 TED BERNSTEIN purchased a property at 880 Berkeley Street, Boca Raton, Florida 33487, for $4,400,000;

c) According to Palm Beach County public records, on December 28, 2008, TED BERNSTEIN paid off the mortgage in the amount of $486,400.00 on a property he owned at 15807 Menton Bay Court, Saturnia Isles, Delray Beach, Florida 33446;

d) According to Palm Beach County public records, SIMON BERNSTEIN paid off the mortgage on property he and his wife owned, and subsequently transferred by quitclaim deed on May 20, 2008 to the trustee of SHIRLEY'S TRUST, at 7020 Lions Head Lane, Boca Raton, Florida, 33496. The amount of the mortgage pay-off is unknown, but in 2013 the property was listed for sale at $2,399,000;

e) According to Palm Beach County public records, on June 18, 2008, BERNSTEIN FAMILY REALTY, LLC acquired a property located at 2753 N.W. 34 Street, Boca Madera Unit 2, Boca Raton, Florida 33432 (the "Boca Madera Property). On July 8, 2008, SIMON BERNSTEIN loaned $365,000 to BERNSTEIN FAMILY REALTY, LLC. The specific

purpose of the loan is unknown, but SIMON BERNSTEIN received a mortgage on the Boca Madera Property to secure the loan;

f) According to Palm Beach County public records, on May 20, 2008 SIMON BERNSTEIN and his wife transferred by quitclaim deed to the trustee of SHIRLEY'S TRUST a 4,220 square foot oceanfront condominium unit in a complex known as "The Aragon" in Boca Raton, located at 2494 South Ocean Boulevard, Boca Raton, Florida. The mortgage on that property was paid off on September 27, 2010.

g) The legal descriptions for each of the above referenced properties are attached hereto as Exhibit "B."

46. There is due to STANSBURY from such Defendants all amounts due under said contract, together with prejudgment and post-judgment interest on said amounts.

WHEREFORE, Plaintiff prays for judgment against SIMON BERNSTEIN and TED BERNSTEIN declaring that Defendants, LIC Holdings, Inc. and ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, are or were the alter ego of SIMON BERNSTEIN and TED BERNSTEIN such that the corporate veil of LIC Holdings and/or ARBITRAGE should be pierced; for judgment against Defendants, LIC Holdings, Inc., ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, SIMON BERNSTEIN and TED BERNSTEIN, jointly and severally, in excess of $1,500,000.00 for the amounts due to Plaintiff under the terms of their contract, together with prejudgment and post-judgment interest; for his court costs herein expended and for such other relief as the Court may deem just and proper.

COUNT III - FRAUD IN THE INDUCEMENT- EMPLOYMENT AGREEMENT (Against SIMON BERNSTEIN and TED BERNSTEIN)

47. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 46, inclusive.

48. At all material times hereto, SIMON BERNSTEIN and TED BERNSTEIN were officers and majority shareholders of LIC Holdings and ARBITRAGE.

49. The statements set forth in paragraphs 18 through 24, above, made by SIMON BERNSTEIN and TED BERNSTEIN, on behalf of and in concert with each other, and as officers and majority shareholders of LIC Holdings and ARBITRAGE, were false statements of material fact that SIMON BERNSTEIN and TED BERNSTEIN knew to be false at the time they were made, as SIMON BERNSTEIN and TED BERNSTEIN never intended to authorize LIC Holdings or ARBITRAGE to pay to STANSBURY the amounts due him as evidenced by the fact that the accountant for LIC Holdings and ARBITRAGE prepared financial worksheets for 2008 showing that the BERNSTEINS would receive compensation, but STANSBURY would not, for fiscal 2008, in direct contravention to their statements and promises to STANSBURY.

50. SIMON BERNSTEIN and TED BERNSTEIN intended for STANSBURY to rely on such statements that he would be ultimately be paid for his productivity in order to induce him into continuing his productive and revenue-generating sales activity as an employee of LIC Holding and/or ARBITRAGE and fraudulently created for STANSBURY the false expectation that STANSBURY would be paid as agreed.

51. STANSBURY in fact relied to his detriment on these false statements and was induced thereby to remain in his employment relationship with LIC Holdings and ARBITRAGE as he continued to sell, with the expectation of payment, products and generate revenue for LIC Holdings and/or ARBITRAGE until 2012, and was further induced not to pursue from LIC Holdings and/ARBITRAGE his right to payment of all amounts due him until after SIMON BERNSTEIN and TED BERNSTEIN had diverted and converted corporate assets for their personal benefit, rendering LIC Holdings, and possibly ARBITRAGE, insolvent.

52. STANSBURY was injured thereby as he was not and has not been compensated for his revenue-generating sales and other performance, and did not seek alternative employment, as a proximate result of his detrimental reliance on these false statements.

WHEREFORE, Plaintiff prays for judgment against Defendants SIMON BERNSTEIN and TED BERNSTEIN, jointly and severally, for damages in excess of $1,500,000.00 together with prejudgment and post-judgment interest; for the imposition of an equitable lien and constructive trust on the Bernstein real estate described in paragraph 45 and Exhibit "B" as more fully set forth in Counts VII and VIII of this Second Amended Complaint; for his court costs herein expended; and for such other relief as the Court may deem just and proper. STANSBURY reserves the right to move to amend to request punitive damages in accordance with Florida Law.

COUNT IV - FRAUD IN THE INDUCEMENT - CEDING OF LIC HOLDINGS OWNERSHIP INTEREST (Against Ted Bernstein and LIC Holdings, Inc.)

53. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 52, inclusive.

54. In the fourth quarter of 2011, TED BERNSTEIN embarked upon a plan to defraud from STANSBURY his 10% ownership interest in LIC Holdings, Inc. As set forth in paragraph 31 above, Defendant TED BERNSTEIN fraudulently induced STANSBURY to prepare and sign a document giving up his 10% interest in and to LIC Holdings, Inc.

55. The ceding of his shares in LIC Holdings, Inc. was procured by fraud and STANSBURY relied upon the representations made by BERNSTEIN with regard to signing the document apparently ceding his stock.

56. It was reasonable for STANSBURY to rely on the representations made by BERNSTEIN because at that time STANSBURY was unaware of the breaches of fiduciary duty and breaches of the oral contract that had taken place.

57. As a result of STANSBURY's reliance, STANSBURY has been damaged by the loss of 10% of the shares of LIC Holdings and the rights and remedies to a shareholder related thereto.

WHEREFORE, Plaintiff prays for a judgment for damages against Defendants BERNSTEIN and LIC Holdings, Inc. for the damages caused by the fraudulent conduct of BERNSTEIN as described herein, together with reasonable costs, pre-judgment interest and any other relief this Court deems just and proper.

COUNT V - CIVIL CONSPIRACY
(Against Simon Bernstein and Ted Bernstein)

58. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, and Counts III and IV, paragraphs 47 through 57, inclusive.

59. SIMON BERNSTEIN and TED BERNSTEIN, individually and as officers and majority shareholders of LIC Holdings and ARBITRAGE, knowingly, willfully, intentionally, and maliciously conspired, agreed, combined and confederated with each other to make fraudulent, false and misleading statements to STANSBURY intended to induce STANSBURY to continue his employment relationship with LIC Holdings and/or ARBITRAGE during 2008 and thereafter, without ever intending to authorize payment to STANSBURY for the amounts he was due, a relationship that generated substantial revenue for LIC Holdings and/or ARBITRAGE and, ultimately, SIMON BERNSTEIN and TED BERNSTEIN.

60. SIMON BERNSTEIN and TED BERNSTEIN, individually and as officers and majority shareholders of LIC Holdings and ARBITRAGE, knowingly, willfully, intentionally, and maliciously conspired, agreed, combined and confederated with each other to make fraudulent, false and misleading statements to STANSBURY intended to induce STANSBURY to delay pursuing his right to payment for all amounts due him until such time after SIMON BERNSTEIN and TED BERNSTEIN had converted and diverted corporate assets rendering LIC Holdings, and possibly ARBITRAGE, insolvent and uncollectible.

61. SIMON BERNSTEIN and TED BERNSTEIN, individually and as officers and majority shareholders of LIC Holdings and ARBITRAGE, knowingly, willfully, intentionally, and maliciously conspired, agreed, combined and confederated with each other to fraudulently induce STANSBURY, through false and misleading statements, to surrender and cede, without fair value payment, his 10% interest in LIC Holdings.

62. The numerous fraudulent, false and misleading statements made by SIMON BERNSTEIN and TED BERNSTEIN were all overt acts in furtherance of the conspiracy.

63. STANSBURY was injured thereby in that, as a proximate result of the conspiratorial conduct of SIMON BERNSTEIN and TED BERNSTEIN, he continued in his employment with LIC Holdings and/or ARBITRAGE, without payment of the compensation due him, he delayed pursuit of his right to collect the amounts due him, and ceded his 10% interest in LIC Holdings.

WHEREFORE, Plaintiff prays for judgment against Defendants, SIMON BERNSTEIN and TED BERNSTEIN, jointly and severally, for damages in excess of $1,500,000.00 together with prejudgment and post-judgment interest; for the imposition of an equitable lien and constructive trust on the Bernstein real estate described in paragraph 45 and Exhibit "B" as more fully set forth in Counts VII and VIII of this Second Amended Complaint;

for his court costs herein expended; and for such other relief as the Court may deem just and proper. STANSBURY reserves the right to move to amend to request punitive damages in accordance with Florida Law.

COUNT V - CIVIL THEFT
(Against ARBITRAGE INTERNATIONAL MARKETING, LLC)

64. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 63, inclusive.

65. This is an action for Civil Theft under Chapter 772, Florida Statutes, more specifically §772.11, Fla.Stat.

66. In February, 2012 and March, 2012, Defendant ARBITRAGE intercepted two separate checks made payable to William STANSBURY intended as payment to STANSBURY for matters arising wholly outside his business transactions with the BERNSTEINS, LIC Holdings and ARBITRAGE.

67. Notwithstanding that the checks made payable to William STANSBURY was for sums due STANSBURY by a third party not in connection with the aforesaid business transactions, ARBITRAGE and/or someone acting on its behalf, caused the negotiation of STANSBURY's checks, wrongfully endorsing the checks and retaining the sums that should have been payable to STANSBURY.

68. As a result of the foregoing, Defendant ARBITRAGE has been guilty of criminal theft by conversion with the criminal intent to steal his money and deprive STANSBURY of his possession and use thereof.

69. Written demand for payment of all amounts due STANSBURY has been made to Defendants, more than 30 days preceding the filing of this Complaint, to no avail. A copy of the demand letter is attached hereto as Exhibit "A."

WHEREFORE, Plaintiff prays for judgment against Defendant, ARBITRAGE for three times the full amount of the checks made payable to STANSBURY, together with pre-judgment interest and post-judgment interest, attorneys' fees, court costs and any other relief this Court deems just and proper.

COUNT VII - CONVERSION

70. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 63, inclusive.

71. Further, during 2012, Defendants TED BERNSTEIN, SIMON BERNSTEIN, LIC Holdings, Inc., ARBITRAGE, or someone acting on their behalves, received and cashed in excess of $30,000.00 worth of commission checks otherwise payable to Plaintiff.

WHEREFORE, Plaintiff prays for judgment for damages against Defendant, ABRITRAGE, SIMON BERNSTEIN, LIC Holdings, Inc. and TED BERNSTEIN, together with pre-judgment interest and post-judgment interest, court costs and any other relief this Court deems just and proper.

COUNT VIII - UNJUST ENRICHMENT
(LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN)

72. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, paragraphs 1 through 65, above.

73. STANSBURY conferred a benefit on LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN by continuing his employment relationship with LIC Holdings and/or ARBITRAGE as a direct and proximate result of the fraudulent representations of SIMON BERNSTEIN and TED BERNSTEIN, as more fully set forth in Count III herein.

74. STANSBURY's continued employment resulted in the generation of substantial revenue for LIC Holdings and/or ARBITRAGE, which was then diverted and converted by the BERNSTEINS for their own personal use to the financial detriment of STANSBURY.

75. LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN, as officers and majority shareholders of LIC Holdings and ARBITRAGE, had knowledge of the benefit of STANSBURY's continued employment with LIC Holdings and/or ARBITRAGE as they fraudulently induced STANSBURY to continue his productive employment activity while never intending to pay him the compensation he was due.

76. LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN accepted the revenues generated by STANSBURY in his capacity as employee.

77. There exists no adequate remedy at law as the conduct of the BERNSTEINS in diverting and converting the corporate assets of LIC Holdings and/or ARBITRAGE has resulted in the insolvency of LIC Holdings and possibly ARBITRAGE.

78. The circumstances are such that it would be inequitable for LIC Holdings, ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN to retain the benefits of the STANSBURY's productive revenue-generating labor without paying fair value for it.

WHEREFORE, Plaintiff prays for judgment against Defendants, LIC Holdings, Inc., ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, SIMON BERNSTEIN and TED BERNSTEIN, jointly and severally, in an amount in excess of $1,500,000.00 which the evidence shows Plaintiff is entitled for the fair value of the services Plaintiff provided to LIC Holdings and ARBITRAGE , together with prejudgment and post-judgment interest; for his court costs herein expended and for such other relief as the Court may deem just and proper.

COUNT IX - EQUITABLE LIEN
(As to SIMON BERNSTEIN, TED BERNSTEIN, BERNSTEIN FAMILY REALTY, LLC and SHIRLEY BERNSTEIN TRUST AGREEMENT)

79. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, the allegations set forth in paragraphs 1 through 34, paragraph 45 and Counts III and VII, above.

80. STANSBURY has alleged essential facts in his General Allegations and Count III that show that SIMON BERNSTEIN and TED BERNSTEIN committed fraud by fraudulently inducing STANSBURY to continue in an employment relationship that proved to be highly lucrative for SIMON BERNSTEIN and TED BERNSTEIN.

81. STANSBURY has alleged essential facts in his General Allegations and Count VII that show that SIMON BERNSTEIN and TED BERNSTEIN were unjustly enriched by STANSBURY's uncompensated continued employment with LIC Holdings and/or ARBITRAGE.

82. The conduct of the BERNSTEINS in depleting the corporate assets of LIC Holdings and ARBITRAGE for their personal benefit by causing the corporation or corporations to make exorbitant and inappropriate distributions to themselves, family members, and BERNSTEIN FAMILY REALT, LLC and SHIRLEY BERNSTEIN TRUST AGREEMENT, at the expense of corporate creditors such as STANSBURY, rendered LIC Holdings and possibly ARBITRAGE insolvent. Therefore STANSBURY has no adequate remedy at law.

83. BERNSTEIN FAMILY REALTY, LLC and SHIRLEY BERNSTEIN TRUSTA AGREEMENT were the transferees of some of the corporate assets of LIC Holdings and/or

ARBITRAGE wrongfully diverted and converted by the BERNSTEIN and thus are proper parties to this action and this Count.

84. An equitable lien on the real estate described in paragraph 45 herein and Exhibit "B" attached hereto is justified as an equitable remedy for the wrongful conduct of the BERNSTEINS.

WHEREFORE, Plaintiff prays for the Court to declare and establish an equitable lien in favor of Plaintiff in an amount equal to the funds wrongfully diverted, on the property described in paragraph 45 and Exhibit "B" attached hereto, and on all other assets of the Defendants named in this Count IX, or third parties as yet unknown, which assets have been purchased wholly or in part, improved or benefitted by the diverted funds due Plaintiff, together with his costs herein expended, and such other and further relief as this Court may deem just and proper.

COUNT X - CONSTRUCTIVE TRUST
(As to SIMON BERNSTEIN, TED BERNSTEIN, BERNSTEIN FAMILY REALTY, LLC and SHIRLEY BERNSTEIN TRUST AGREEMENT)

85. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 79 through 84 above.

WHEREFORE, Plaintiff prays for the Court to declare and establish a constructive trust in favor of Plaintiff on the property described in paragraph 45 and Exhibit "B" attached hereto in an amount equal to the funds wrongfully diverted and on all assets of Defendants or third parties as yet unknown, which assets have been purchased wholly or partly, improved or mortgaged by the diversion of said funds due Plaintiff. Plaintiff further prays for an award of court costs and such other and further relief as the Court may deem just and proper.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives,* 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; at arose@pm-law.com and mchandler@pm-law.com to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc. and Arbitrage International Management, LLC,* 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this 3rd day of September, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554
pfeaman@feamanlaw.com

By: _____
Peter M. Feaman
Florida Bar No. 0260347

The Law Offices
of
PETER M. FEAMAN, P.A.
Strategic Counselor. Proven Advocate.™

Main Office:
3615 Boynton Beach Blvd.
Boynton Beach, FL 33436

Branch Office:
7900 Glades Road
Boca Raton, FL 33434

Peter M. Feaman, Esq.
Nancy E. Guffey, Esq.
Of Counsel

Telephone: (561) 734-5552
Facsimile: (561) 734-5554
pfeaman@feamanlaw.com

June 20, 2012

Via Certified Mail, Return Receipt Requested

PERSONAL and CONFIDENTIAL
Mr. Ted Bernstein, President
LIC Holdings, Inc.
950 Peninsula Corp Circle
Suite 3010
Boca Raton, FL 33487

Re: William (Bill) Stansbury

Dear Mr. Bernstein:

The undersigned represents William (Bill) Stansbury and we are writing this letter on his behalf. Mr. Stansbury received your proposed letter agreement reflecting LIC Holdings' proposal to indemnify its shareholders concerning policies sold under the Cambridge Financing Program. As a result of your proposal, Mr. Stansbury has reviewed with me in detail his dealings with you and your companies over the past 4 to 5 years.

After reviewing the facts with Mr. Stansbury, some of which will be summarized below, I was shocked that he had not consulted legal counsel until now. Be that as it may, and based upon the facts presented to us, we believe you have engaged in fraud, civil theft, breaches of fiduciary duties, and breach of contract, just to name a few. The purpose of this letter is to a). respond to your indemnity proposal and b). request that you pass this letter on to your counsel immediately in the off-chance that these very serious matters can be resolved prior to the filing of legal action. The issues can be summarized as follows:

1. The first issue concerns you and your company's failure to pay salary compensation to Mr. Stansbury. Mr. Stansbury has been making inquiries concerning this for the past 5 months, but to no avail. Mr. Stansbury's claim for unpaid salary arises from three categories:

EXHIBIT A

a. Failure to pay salary based on net retained commissions.

i. Based upon reports prepared by your company for the period of 2007 through 2011, LIC Holdings, Inc. and/or Arbitrage International Holdings, n/k/a Arbitrage International Management, LLC, received $35,384,246.00 in net retained commissions. According to Mr. Stansbury's salary arrangement, he is entitled to 15% of those net retained commissions, which amounts to $5,307,636.90. During this time period, Mr. Stansbury's salary compensation was $2,844,910.00. The shortfall in salary owed to Mr. Stansbury is $2,462,726.90.

ii. There is salary compensation owed to Mr. Stansbury as a result of bridge loans in 2008. You received a $2,000,000.00 settlement in 2010 resulting from the resolution of a lawsuit involving Global Secured Capital. Mr. Stansbury is entitled to 15% of those funds, which is $300,000.00.

iii. In addition, you received $507,891.00 in commissions in connection with the Biviano matter. Mr. Stansbury is entitled to 15% of those funds, which is $76,183.65.

iv. In April of 2012, you received three commissions totaling approximately $200,000.00 in the Levine, Wiss and Berley matters. Mr. Stansbury has been requesting payment of this for weeks, again to no avail. Mr. Stansbury is due salary compensation for these items in the amount of $30,000.00.

Therefore, Mr. Stansbury's total claim for salary arising out of net retained commissions is approximately $2,868,910.55.

The liability for payment of this salary is not limited to LIC Holdings, Inc. or Arbitrage International Management, LLC. This liability also flows to you individually as a result of your breaches of your fiduciary duty owed to Mr. Stansbury and utter failure to abide by corporate governance standards, which conduct is more particularly described below.

b. Mr. Stansbury is also due unpaid salary based on 15% of all renewal commissions since 2008. Mr. Stansbury's salary claim for renewal commissions cannot as yet be determined with specificity due to the fact that you and your office have been opening mail directed to Mr. Stansbury and negotiating checks made payable to him by falsifying his endorsement and depositing those checks into accounts which only you control. This conduct constitutes civil theft and breach of fiduciary duty. We believe this claim amounts to hundreds of thousands of dollars.

c. Salary compensation for 2008. Mr. Stansbury has recently learned that you and Mr. Simon Bernstein received $8,982,124.00 in salary in 2008. By contrast, Mr. Stansbury received $420,018.00, paid to him in January 2008, based on policies sold in 2007. He received zero (no salary compensation) for his 2008 production. It is obvious that you and Simon treated your corporations as personal ATM machines, while completely ignoring your fiduciary

responsibilities to your employee and minority shareholder, Mr. Stansbury. It further appears that after the exorbitant salaries were paid to you, you then loaned the money back to the corporation at an interest rate significantly above market rates in order to meet the cash flow needs of the various entities, again, clearly disregarding your corporate governance responsibilities.

2. Indemnification issues.

Mr. Stansbury has been served with three lawsuits from Phoenix Insurance Company and one from Mr. Wright seeking indemnification as a result of agent misconduct which was in no way attributable to the conduct of Mr. Stansbury. Although all of these matters have been settled, because he was the qualifying agent of record for other policies, he could be the subject of future litigation for refunds of commissions paid. All of these commissions were paid over to you or your companies.

The Indemnification Agreement which you sent to Mr. Stansbury is completely insufficient. You have a duty as a matter of law to indemnify Mr. Stansbury. Your offer of future indemnity is contingent upon "all" commissions that have been received by LIC's present or past shareholders be turned over to LIC. This is nothing short of extortion. Further, your second paragraph states that LIC is "presently insolvent" and has a "negative net worth." You then conclude with the sentence that with the indemnification agreement in place, LIC "may" have sufficient funds to meet its current obligations. Therefore, a simple indemnification from LIC Holdings to Mr. Stansbury is insufficient. Any such indemnification would have to be personally guaranteed by you and Mr. Simon Bernstein.

3. Unauthorized interception of U.S. Mail.

I have been given the understanding that your office has been opening mail directed to Mr. Stansbury personally. This is a federal offense and also constitutes a breach of the fiduciary duty you owe to Mr. Stansbury as an employee and minority shareholder.

There has been no accounting to Mr. Stansbury for any of the checks which may have been sent to him personally on which his signature has been forged, the checks cashed and placed out of the reach of Mr. Stansbury. In 2012, Mr. Stansbury has been receiving checks from Phoenix Life Insurance Company and TransAmerica Life Insurance Company. Mr. Stansbury has been holding these checks. They have now been remitted to the undersigned as attorney for Mr. Stansbury. This office is holding these funds in a separate interest-bearing trust account pending the resolution of this matter.

With regard to all of the other insurance companies for whom Mr. Stansbury is listed as the qualifying agent, he has now informed those companies that all future renewal commissions paid to him personally be sent to Mr. Stansbury at his home address. These funds will then be remitted to the undersigned counsel of record for Mr. Stansbury. We will place these funds in a separate interest-bearing trust account as well. Any attempts by you to contact these insurance

companies will be considered a tortious interference of his business relationship and such activity will be added as a claim in any future legal proceedings.

4. Shareholder status.

Mr. Stansbury has been a 10% shareholder of LIC Holdings, Inc., pursuant to the terms of a Shareholders Agreement. On behalf of Mr. Stansbury, demand is hereby made, pursuant to Florida Statute 607.1602, for inspection of the corporate records including the following:

I. Minutes of the Board of Directors meetings from January 1, 2008 to the present.

II. Minutes of Shareholders' meetings from January 1, 2008 to the present.

III. Records of any actions taken by the Shareholders and/or the Board of Directors without a meeting, from January 1, 2008 to the present.

IV. Accounting and financial records of LIC Holdings, Inc., Arbitrage International Management, LLC, formerly known as Arbitrage International Holdings, LLC, and all other subsidiary or affiliated companies under your control, including, without limitation, income tax returns, general ledgers, balance sheets, profit and loss statements, stock books, bank statements, loan agreements or guarantees, and any other financial books and records from January 1, 2008 to the present.

Mr. Stansbury is seeking to inspect these records in good faith and for the purpose of determining if misappropriation of corporate assets for improper purposes has previously taken or is presently taking place.

I have been made aware of a letter dated December 22, 2011 in which Mr. Stansbury purportedly "ceded" his shares of stock in LIC Holdings, Inc. back to the company. This letter was obtained under false pretenses and is not recognized by Mr. Stansbury as validly conveying his ownership interest in LIC Holdings, Inc.

Please have your legal counsel contact us within ten (10) days. Should we fail to receive a response within that time, Mr. Stansbury will take legal action to protect his rights and interests.

Very truly yours,

PETER M. FEAMAN, P.A.

By: Peter M. Feaman

Peter M. Feaman

PMF/mk
cc: William Stansbury
CC Riggs (e-mail)

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Ted Bernstein, Pres.
LIC Holdings, Inc.
950 Peninsula Corp. Cir.
Suite 3010
Boca Raton, FL 33487

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee

B. Received by (Printed Name) | C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number
(Transfer from service label) 7011 0110 0000 6015 5239

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

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

WILLIAM E. STANSBURY,

Plaintiff,

vs.

CASE NO: 50 2012 CA 013933 MB AA

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.
_____/

DEFENDANTS', TED S. BERNSTEIN, LIC HOLDINGS, INC. AND ARBITRAGE INTERNATIONAL HOLDINGS, LLC, OBJECTION TO NOTICE OF PRODUCTION FROM NON-PARTY CBIZ MHM, LLC

Defendants, Ted S. Bernstein, LIC Holdings, Inc. and Arbitrage International Holdings, LLC (collectively "Defendants"), hereby object to the service of a subpoena duces tecum as identified in a Notice of Production from Non-Party to CBIZ MHM, LLC ("CBIZ") served on July 26, 2013 by Plaintiff, William E. Stansbury ("Plaintiff"), and state:

1. Defendants object to the service of this subpoena on the grounds that the documents sought, or a substantial portion of them, are subject to an accountant/client privilege, and potentially other applicable privileges including attorney/client privilege and work product privilege.

2. Defendants also object on the grounds that these documents are not relevant nor reasonably calculated to lead to the discovery of admissible evidence in connection with the pending

claims and issues. Many of the requested documents exceed the scope of permissible discovery at this time, as these documents relate to Plaintiff's claim for an accounting, which has not yet been granted. In response to Plaintiff's Request to Produce to Defendants, Defendants objected to the production of substantially similar documents, and the Court upheld the objection by Order dated April 19, 2013.

3. Notwithstanding these objections, Defendants are willing to work with Plaintiff's counsel to narrow the scope of these requests and attempt to establish a procedure for Defendants to review relevant, material and non-privileged the documents before production.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to the Service List set forth below by: ■ E-mail Electronic Transmission; ☐ Facsimile; ☐ U.S. Mail; ☐ Overnight Delivery; ☐ Hand-delivery, this 5th day of August, 2013.

PAGE, MRACHEK, FITZGERALD, ROSE,
KONOPKA & DOW, P.A.
505 South Flagler Drive, Suite 600
West Palm Beach, Florida 33401
Telephone: (561) 655-2250
Facsimile: (561) 655-5537
Email: arose@pm-law.com; mchandler@pm-law.com
Email: sshelley@pm-law.com; tclarke@pm-law.com
Email: phely@pm-law.com; mchandler@pm-law.com
Counsel for Ted S. Bernstein; LIC Holdings, Inc.; Arbitrage International Management, LLC; and Shirley Bernstein Trust

By: /s/ Alan B. Rose
Alan B. Rose (Florida Bar No. 961825)
Stefanie R. Shelley (Florida Bar No. 514446)
N. Patrick Hely (Florida Bar No. 0091466

SERVICE LIST

Peter M. Feaman, Esquire
Peter M. Feaman, P.A.
3615 West Boynton Beach Blvd.
Boynton Beach, FL 33436
(561) 734-5552 - Telephone
(561) 734-5554 - Facsimile
Email: (pfeaman@feamanlaw.com); (service@feamanlaw.com); (mkoskey@feamanlaw.com)
Counsel for Plaintiff

Mark R. Manceri, Esq.
Mark R. Manceri, P.A.
2929 East Commercial Blvd., Suite 702
Ft. Lauderdale, FL 33309
(954) 491-7099
Email: (mrmlaw@comcast.net); (mrmlaw1@gmail.com)
Counsel for Donald R. Tescher and Robert L.
Spallina, as Co-Personal Representatives; Bernstein Family
Realty, LLC

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FLORIDA

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 MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC; BERNSTEIN FAMILY REALTY, LLC,

Defendants.
_____/

CIVIL DIVISION

CASE NO: 502012CA013933 MB AA

DIVISION: BLANC

REPLY TO AFFIRMATIVE DEFENSES

COMES NOW, Defendants, Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives of the Estate of Simon L. Bernstein, by and through it's undersigned attorney, and hereby files this their Reply to Affirmative Defenses to the Defendants Counterclaim, pursuant to Florida Rule of Civil Procedure 1.100, and in support thereof state, as follows:

1. The Affirmative Defenses filed by Plaintiff, William E. Stansbury, are hereby denied for the purpose of avoiding same.

MARK R. MANCERI, P.A.● 2929 East Commercial Blvd.● Suite 702 ● Fort Lauderdale, FL 33308 ● (954) 491-7099

502012CA013933 MB AA

MARK R. MANCERI, P.A.
Attorney for Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives
2929 East Commercial Blvd., Suite 702
Ft. Lauderdale, FL 33308
Telephone: (954) 491-7099
E-mail: mrmlaw@comcast.net
mrmlaw1@gmail.com

By: _____
Mark R. Manceri, Esq.
Florida Bar No. 444560

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-mail to the designated address(es) to all parties on the following Service List, this 5th day of August, 2013.

_____
Mark R. Manceri, Esq.

SERVICE LIST

Peter M. Feaman, Esq.
Peter M. Feaman, P.A.
3615 West Boynton Beach Blvd.
Boynton Beach, Florida 33436

Alan B. Rose, Esq.
Page, Mrachek, Fitzgerald, et.al.
505 South Flagler Drive, Suite 600
West Palm Beach, Florida 33401

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FLORIDA

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 MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC; BERNSTEIN FAMILY REALTY, LLC,

Defendants.
_____/

CIVIL DIVISION

CASE NO: 502012CA013933 MB AA

DIVISION: BLANC

DEFENDANTS' OBJECTION TO NOTICE OF PRODUCTION FROM NON-PARTY

COME NOW, Defendants, Donald Tescher and Robert L. Spallina, as Co-Personal Representatives of the Estate of Simon L. Bernstein, by and through their undersigned attorney and hereby files this their Objection to Notice of Production from Non-Party, pursuant to Florida Rule of Civil Procedure 1.351, and in support thereof state, as follows:.

1. Defendants, Donald Tescher and Robert Spallina, as Co-Personal Representatives of the Estate of Simon L. Bernstein hereby object to the Notice of Production from Non-Party directed to the Records Custodian, CBIZ MHM, LLC, f/k/a Goldstein Lewin & Company, 1675 N. Military Trail, Fifth Floor, Boca Raton, Florida 33485, dated July 26, 2013.

MARK R. MANCERI, P.A.● 2929 East Commercial Blvd.● Suite 702 ● Fort Lauderdale, FL 33308 ● (954) 491-7099

MARK R. MANCERI, P.A.
Attorney for Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives
2929 East Commercial Blvd., Suite 702
Ft. Lauderdale, FL 33308
Telephone: (954) 491-7099
E-mail: mrmlaw@comcast.net
mrmlaw1@gmail.com

By: _____
Mark R. Manceri, Esq.
Florida Bar No. 444560

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-mail to the designated address(es) to all parties on the following Service List, this 5th day of August, 2013.

_____
Mark R. Manceri, Esq.

SERVICE LIST

Peter M. Feaman, Esq.
Peter M. Feaman, P.A.
3615 West Boynton Beach Blvd.
Boynton Beach, Florida 33436

Alan B. Rose, Esq.
Page, Mrachek, Fitzgerald, et.al.
505 South Flagler Drive, Suite 600
West Palm Beach, Florida 33401

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

OBJECTIONS BY PLAINTIFF TO DEFENDANTS' TED BERNSTEIN, LIC HOLDINGS, INC. AND ARBITRAGE INTERNATIONAL MANAGEMENT, LLC'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND MOTION FOR EXTENSION OF TIME

COMES NOW Plaintiff, William E. Stansbury, by and through his undersigned counsel, and does hereby file his objections to Defendants' Ted Bernstein, LIC Holdings, Inc. and International Management, LLC First Request for Production of Documents and Motion for Extension of Time, as follows:

1. General objection: Plaintiff objects to all requests that seek documents created during or relevant to time periods prior to January 1, 2007. Responsive documents created during or relevant to the time period after January 1, 2007 will be produced if not otherwise subject to objection on additional or different grounds.

2. Request No. 18: Plaintiff objects on the basis that this request is vague, overly broad and over inclusive.

3. Request No. 22: Plaintiff objects on the basis that the request is vague, overly broad and requests "information," not documents.

4. Request No. 24: Plaintiff objects on the basis that the requested documents are protected by the attorney-client and/or work product privilege.

5. Request No. 25: Plaintiff objects on the basis that the requested documents are protected by the attorney-client and/or work product privilege.

6. Request No. 26: Plaintiff objects on the basis that the requested documents are protected by the attorney-client and/or work product privilege.

7. Request No. 27: Plaintiff objects on the basis that the requested documents are protected by the attorney-client and/or work product privilege.

8. Request No. 39: Plaintiff objects on the basis that the request is vague, overly broad and over inclusive. Further, the request is not limited to Plaintiff's employment with Defendants and this constitutes an invasion of privacy.

9. Request No. 40: Plaintiff objects on the basis that the request is vague, overly broad and over inclusive. Further, the request is not limited to Plaintiff's employment with Defendants and this constitutes an invasion of privacy.

10. Request No. 41: Plaintiff objects on the basis that the request is vague, overly broad and over inclusive. Further, the request is not limited to Plaintiff's employment with Defendants and this constitutes an invasion of privacy.

--- Motion for Extension of Time ---

As to those Requests for Production that are not objected to, Plaintiff requests an additional 30 days within which to respond to the remaining Requests. Due to a personal situation, Plaintiff is unable to search his records in order to respond to Defendants' Request for Production. It is anticipated the responses can be forthcoming if an additional 30 day extension is granted.

WHEREFORE, Plaintiff requests this Honorable Court to sustain the objections as set forth herein and to grant Plaintiff an additional 30 days within which to respond to the remaining Requests for Production of Documents.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives,* 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; at arose@pm-law.com and mchandler@pm-law.com to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc. and Arbitrage International Management, LLC,* 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this 1st day of August, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554
pfeaman@feamanlaw.com

By: _____
Peter M. Feaman
Florida Bar No. 0260347

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FLORIDA

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 MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC; BERNSTEIN FAMILY REALTY, LLC,

Defendants.
_____/

CIVIL DIVISION

CASE NO: 502012CA013933 MB AA

DIVISION: BLANC "AA"

ORDER SETTING SPECIAL SET HEARING

The following matter has been specially set for hearing before Judge Peter D. Blanc in Courtroom 11-A of the Palm Beach County Courthouse, 205 North Dixie Highway, West Palm Beach, Florida 33401:

DATE:	September 30, 2013
TIME:	11:00 a.m. (30 minutes)
MATTER:	Plaintiff's Objections to First Set of Interrogatories to William E. Stansbury and Motion for Extension of Time

THIS MOTION IS SPECIALLY SET AND CANNOT BE CANCELED OR RESET EXCEPT BY COURT ORDER.

It is the intent of this Court to dispose of the subject matter of the specially set motion on

the date and time appearing above. Accordingly, counsel must either: (1) be present personally or by telephone conference call at the hearing (telephone appearance must be approved in advance); or (2) submit an agreed order disposing of the motion.

All memoranda, not to exceed ten (10) double spaced pages, with case authority shall be delivered directly to my office no later than seven (7) days in advance of the hearing and should designate the date and time of the hearing which they reference. Arguments shall be limited to a maximum of fifteen (15) minutes per side or less as the Court deems appropriate.

DONE AND ORDERED in Chambers, at West Palm Beach, Palm Beach County, Florida, this _____ day of July, 2013.

DATED & SIGNED
JUL 29 2013
CIRCUIT JUDGE
PETER D. BLANC

HONORABLE PETER D. BLANC
CIRCUIT JUDGE

Copies furnished to:
Mark R. Manceri, Esq., Mark R. Manceri, P.A., 2929 E. Commercial Blvd, Suite 702, Fort Lauderdale, Florida 33308; (mrmlaw@comcast.net)
Peter M. Feaman, Esq., Peter M. Feaman, P.A., 3615 W. Boynton Beach Blvd., Boynton Beach, Florida 33436; (pfeaman@feamanlaw.com)
Alan B. Rose, Esq., Page, Mrachek, Fitzgerald, et.al., 505 S. Flagler Drive, Suite 600, West Palm Beach, Florida 33401; (arose@pm-law.com)

"If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Germaine English, Americans with Disabilities Act Coordinator, Palm Beach County Courthouse, 205 North Dixie Highway, West Palm Beach, Florida 33401; telephone number (561) 355-4380 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711."

"Si usted es una persona minusvalida que necesita algun acomodamiento para poder participar en este procedimiento, usted tiene derecho, since tener gastos propios, a que se le provea cierta ayuda. Tenga la amabilidad de ponerse en contacto con Germaine English, 205 N. Dixie Highway, West Palm Beach, Florida 33401 telefono numero (561) 355-4380, por lo menos 7 dias antes de la cita fijada para su comparecencia en los tribunales, o immediatamente despues de recibir esta notificacion si el tiempo antes de la comparecencia que se ha programado es menos de 7 dias; si usted tiene discapacitacion del oido o de la voz, llame al 711."

"Si ou se yon moun ki enfim ki bezwen akomodasyon pou w ka patisipe nan pwosedi sa, ou kalifye san ou pa gen okenn lajan pou w peye, gen pwovizyon pou jwen kek ed. Tanpri kontakte Germaine English, koodonate pwogram Lwa pou ameriken ki Enfim yo nan Tribinal Konte Palm Beach la ki nan 205 North Dixie Highway, West Palm Beach, Florida 33401; telefon li se (561) 355-4380 nan 7 jou anvan dat ou gen randevou pou paret nan trbinal la, oubyen imedyatman apre ou fin resevwa konvokasyon an si le ou gen pou w paret nan tribinal la mwens ke 7 jou; si ou gen pwoblem pou w tande oubyen pale, rele 711."

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

ANSWER AND AFFIRMATIVE DEFENSES OF COUNTER-DEFENDANT WILLIAM E. STANSBURY TO THE COUNTERCLAIM OF THE ESTATE OF SIMON BERNSTEIN

Plaintiff/Counter-Defendant, WILLIAM E. STANSBURY ("STANSBURY"), by and through his undersigned counsel, answers the Counterclaim of Defendant/Counter-Plaintiff ESTATE OF SIMON BERNSTEIN ("the Estate") as follows:

1. Admitted.

2. Admitted.

3. Admitted

4. Admits that STANSBURY was listed as the licensed insurance agent of record on various contracts and policies of insurance with various insurance companies but denies the remainder of the paragraph.

5. Admits that STANSBURY was to deliver checks to Arbitrage from time to time pursuant to an agreement of the parties which agreement was breached by Defendants, but denies the remainder of the paragraph.

6. Denied.

7. Admits that certain checks have been deposited in the Trust Account of Peter M. Feaman, P.A., but denies the remainder of the paragraph.

8. Denied.

COUNT 1 – BREACH OF CONTRACT

9. Plaintiff-Counter Defendant reasserts his responses to paragraphs 1 through 8 as if fully reiterated herein.

10. Denied.

11. Admits that Stansbury at times in the past delivered to Arbitrage checks made payable to him but denies the remainder of the paragraph.

12. Admits that Stansbury complied with the parties' oral agreement and delivered to Arbitrage checks he received but denies the remainder of the paragraph.

13. Admits that Stansbury has retained certain checks but denies the remainder of the paragraph.

14. Denied.

15. Denied.

COUNT II – DECLARATORY JUDGMENT

16. Plaintiff-Counter Defendant reasserts his responses to paragraphs 1 through 15 as if fully reiterated herein.

17. Denied.

18. Denied.

19. Denied.

20. Denied.

21. Denied.

22. Denied.

23. Denied.

24. Denied.

25. Denied.

26. Denied.

27. Denied.

AFFIRMATIVE DEFENSES

1. The claims of the Estate are barred, in whole or in part, by the applicable Statute of Limitations.

2. The claims of the Estate are barred, in whole or in part, by the doctrine of laches.

3. The antecedent and material breaches by Defendants, including SIMON BERNSTEIN, of the oral contract sued upon by STANSBURY operated to discharge and excuse STANSBURY from the performance of any further contractual duty thereunder.

4. The Estate does not meet the requirements of Section 86.011(1) or (2), Florida Statutes (2011), and thus the Estate is not entitled to Declaratory relief.

5. The Estate is not the Real Party in Interest, and has no standing as the successor in interest to SIMON BERNSTEIN, individually, to pursue Declaratory relief in this case.

6. The Estate is not the Real Party in Interest, and has no standing as the successor in interest to SIMON BERNSTEIN, individually, to pursue a breach of contract action in this case.

7. The Estate is estopped from bringing this action due to the unclean hands and the wrongful conduct of SIMON BERNSTEIN, individually and as an officer and director of LIC Holding, Inc. and Arbitrage International Management, LLC.

8. The Estate is estopped from asserting an alleged Breach of Contract action due to the breaches and tortious conduct of SIMON BERNSTEIN.

WHEREFORE, Plaintiff/Counter-Defendant WILLIAM E. STANSBURY requests this Honorable Court to dismiss the Counterclaim, with prejudice, together with an award of reasonable costs and attorneys' fees incurred herein, and such other relief as the Court deems just and reasonable.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives of the Estate of Simon Bernstein* and *Bernstein Family Realty,* 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; at arose@pm-law.com and mchandler@pm-law.com to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc, Arbitrage International Management, LLC and the Shirley Bernstein Trust,* 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this 25 day of July, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel.: 561073405552
Fax: 561-734-5554
pfeaman@feamanlaw.com

By: _____
Peter M. Feaman
Florida Bar No.: 0260347

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

WILLIAM E. STANSBURY,

Plaintiff,

v.

CASE NO: **50 2012 CA 013933 MB AA**

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.
_____/

NOTICE OF PRODUCTION FROM NON-PARTY
(F.R.Civ.P. 1.351)

YOU ARE NOTIFIED that ten (10) days from the date of service of this Notice, if service is by delivery, or fifteen (15) days from the date of service if service is by mail, and if no objection is received from any party, the undersigned will issue, or will apply to the Clerk of this Court for issuance of, the attached Subpoena directed to Records Custodian of the following:

CBIZ MHM, LLC
f/k/a Goldstein Lewin & Company
1675 N. Military Trail
Fifth Floor
Boca Raton, Florida 33486

The above listed entity is not a party to this action, and the address for such entity is listed above. The listed entity will be requested to produce the items listed at the time and place specified in the Subpoena, which is attached hereto.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives,* 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; at

arose@pm-law.com and mchandler@pm-law.com to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc. and Arbitrage International Management, LLC,* 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this 26th day of July, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554
pfeaman@feamanlaw.com

By: _____
Peter M. Feaman
Florida Bar No. 0260347

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

SUBPOENA DUCES TECUM WITHOUT DEPOSITION
(RECORDS MAY BE MAILED IN LIEU OF APPEARANCE)

TO: **CBIZ MHM, LLC**
f/k/a Goldstein Lewin & Company
1675 N. Military Trail, Fifth Floor
Boca Raton, Florida 33486
ATTENTION: Gerald R. Lewin, CPA

DEFINITIONS

A. As used herein, the singular shall include the plural and the plural shall include the singular.

B. When the terms "you" "your" and "yours" are used herein, they shall mean CBIZ MHM, LLC, f/k/a Goldstein Lewin & Company, or any agent, representative, employee, attorney, accountant or person acting, or purporting to act on its behalf.

C. When the term "document," as used herein, means any document, letter, log, record, report, memorandum, note, telegram, message, agreement, communication, e-mail,

telecopy, facsimile reproduction or "fax" (including cover sheets and proof of sending), State or Federal governmental hearing or report, summary or record of telephone conversations, e-mail (including attachments), summary or record of personal conversations or interviews, diary, graph, notebook, note chart, plan, drawing, sketch, map, summary or record of meeting or conferences, summary or report of investigations or negotiations, opinion or report of consultants, photograph, motion picture, film, brochure, pamphlet, advertisement, circular, press release, draft, letter, any marginal comments appearing on any document or any other form of written or recorded matter of every kind or description, however produced or reproduced, whether draft or final, original or reproduction, in the custody or control of you and/or your attorneys or anyone acting on your behalf.

DOCUMENTS TO PRODUCE

YOU ARE COMMANDED to appear at the offices of Peter Feaman, at 3615 West Boynton Beach Boulevard Boynton Beach, Florida 33436-4501, telephone number (561) 734-5552, within fifteen (15) days from the date of service of this Subpoena and to produce the following documents:

1. All documents provided to you by, or prepared by you on behalf of, LIC Holdings, Inc. ("LIC") and Arbitrage International Management, LLC f/k/a Arbitrage International Holdings, LLC ("Arbitrage") that show the total revenue generated by LIC and Arbitrage for the tax years 2007, 2008, 2009, 2010, 2011, and 2012.

2. All documents provided to you by, or prepared by you on behalf of, LIC and Arbitrage that show the expenses paid by LIC and Arbitrage for the tax years 2007, 2008, 2009, 2010, 2011, and 2012.

3. All documents provided to you by, or prepared by you on behalf of, LIC and Arbitrage that show the salaries, distributions and other compensation paid to Simon Bernstein, Ted Bernstein and William Stansbury by LIC and Arbitrage in the tax years 2007, 2008, 2009, 2010, 2011, and 2012.

4. All documents provided to you by, or prepared by you on behalf of, LIC and Arbitrage that list, by company name, the commissions, both first time commissions and renewal commissions, paid to LIC and Arbitrage for the tax years 2007, 2008, 2009, 2010, 2011, and 2012.

5. All documents provided to you by, or prepared by you on behalf of, LIC and Arbitrage entitled "Estimated Income Projection & Allocation" for the tax years 2007, 2008, 2009, 2010, 2011, and 2012.

6. All documents provided to you by, or prepared by you on behalf of, LIC for the tax years 2007, 2008, 2009, 2010, 2011, and 2012 that stated, estimated or projected that Simon Bernstein, Ted Bernstein and/or William Stansbury would incur, or potentially may incur, taxable "phantom" income related to their respective equity interests in LIC.

7. All documents provided to you by, or prepared by you on behalf of, LIC that supports that a shareholder distribution in the amount of $184,530 was made to William Stansbury attributable to tax year 2008.

8. All documents provided to you by, or prepared by you on behalf of, LIC that supports that a shareholder distribution in the amount of $184,530 was in fact actually paid to William Stansbury attributable to tax year 2008.

9. A copy of each Form K-1, including all amendments, revisions, or restatements thereto, prepared for and distributed to Simon Bernstein, Ted Bernstein and William Stansbury for the tax years 2007, 2008, 2009, 2010, 2011 and 2012.

You are required to produce the records by mail or in person to Peter Feaman, at 3615 West Boynton Beach Boulevard Boynton Beach, Florida 33436-4501.

These items will be inspected and may be copied at that time. You will not be required to surrender the original items. You may comply with this subpoena by providing legible copies of the items to be produced to the attorney whose name appears on this subpoena on or before the scheduled date of production. You may condition the preparation of the copies upon the payment in advance of the reasonable cost of preparation. **YOU MAY MAIL OR DELIVER THE COPIES TO THE ATTORNEY WHOSE NAME APPEARS ON THIS SUBPOENA AND THEREBY ELIMINATE YOUR APPEARANCE ON THE DATE SPECIFIED ABOVE.** You have the right to object to the production pursuant to this subpoena at any time before production by giving written notice to the attorney whose name appears on this subpoena. **THIS IS NOT A DEPOSITION. NO TESTIMONY WILL BE TAKEN.**

If you fail to:

(1) appear as specified; or
(2) furnish the materials requested instead of appearing as provided above; or
(3) object to this subpoena;

you may be in contempt of court. You are subpoenaed to appear by the following attorney, and unless excused from this subpoena by this attorney or the court, you shall respond to this subpoena as directed.

DATED this ____ day of _____, 2013.

Issued by: _____
PETER M. FEAMAN, ESQ.
FOR THE COURT

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554

By: _____
Peter M. Feaman
Florida Bar No. 0260347

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

OBJECTIONS TO FIRST SET OF INTERROGATORIES
TO WILLIAM E. STANSBURY AND MOTION FOR EXTENSION OF TIME

COMES NOW Plaintiff, WILLIAM E. STANSBURY, by and through his undersigned counsel and moves for an extension of time to respond to Defendant, ESTATE OF SIMON L. BERNSTEIN's First Set of Interrogatories and requests an additional 30 days in which to respond to the Interrogatories not objected to, as follows:

1. Plaintiff, WILLIAM E. STANSBURY, objects to the following numbered Interrogatories:

3. List every incident or occurrence after January 1, 2006 in which you believe that the Decedent perpetrated a fraud upon you. Please identify the details of each incident or occurrence, including the nature, date and location of each incident or occurrence as well as the name, address and the phone number of all witnesses of each incident or occurrence.

Objection: This Interrogatory is overly broad. The fraud perpetrated by the decedent is described in the Amended Complaint and the Second Amended Complaint assuming that the Court allows Plaintiff to amend.

4. Please describe in detail your involvement in the Decedent's business affairs on or after January 1, 2006. Your answer should include, but not be limited to, a detailed description of all duties that you undertook in connection with performing services, paying bills, expenses, balancing check books, writing checks, and receiving deposits or other income. Describe in detail how you became involved in the Decedent's business affairs. The term "business" shall be deemed to include all of the named Corporate and LLC Defendants.

Objection: This Interrogatory is overly broad when it asks Plaintiff to "describe in detail your involvement in the Decedent's business affairs ..." for the last 7 years.

5. Describe in detail the circumstances relating to each and every business related meeting you attended on or after January 1, 2006 at which the Decedent was present.

Objection: This Interrogatory is overly broad.

7. State the substance of each and every communication between the Decedent and any other person regarding his alleged intent, on or after January 1, 2006, to transfer or pay any money or assets to you as a result of your involvement in his business affairs. For each such communication, state the date of the communication, the form of the communication (written, by telephone, or in person) and the names, addresses and telephone numbers of any other individuals who were either present for or who m ay have overheard all or part of the communication.

Objection: This Interrogatory is overly broad.

8. Identify each and every gift, check, cash payment, mortgage, loan or advance of $500.00 or more made by the Decedent to you, any member of your family, or any business of which you are or were an owner, investor, shareholder or creditor on or after January 1, 2006. For each such item, furnish the date, who the payment was made to, the amount, the form of the payment (in cash, check, property, etc.), the purpose of the payment, and whether it was ever repaid.

Objection: This Interrogatory is overly broad, vague and ambiguous

9. Please state whether you or anyone action [*sic*] on your behalf obtained statements from any person with knowledge of any issues or facts relating to the Amended Complaint filed by you in this cause dated February 12, 2013. If so, state (a) the names and addresses of the persons from whom the statements were taken; (b) the date the statements were taken; (c) the names and addresses of the persons who took the statements, and/or who have custody of the statements; (d) whether the statements were written or oral; and (e) whether the statements were memorialized by recording device, court reporter, video, cd, stenographer, or otherwise.

Objection: This is work product.

10. Identify by name, address and telephone number each person you requested to personally observe, meet or talk to the Decedent on or after January 1, 2006 relating to your involvement in his business affairs.

Objection: This Interrogatory is overly broad.

11. If, in furtherance of answering any of the above Interrogatories, you referred to any document or item, describe in detail each such document or item and state the Interrogatory number to which such document or item relates.

Objection: This Interrogatory is overly broad, vague and ambiguous.

2. As to the remaining Interrogatories (1, 2 and 6), Plaintiff requests an extension of 30 days to respond, no prejudice will result to Defendant as this cause is not yet at issue.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives of the Estate of Simon Bernstein* and *Bernstein Family Realty,* 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; at arose@pm-law.com and mchandler@pm-law.com to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc, Arbitrage International Management, LLC and the Shirley Bernstein Trust,* 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this 17th day of July, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel: 561-734-5552
Fax: 561-734-5554
pfeaman@feamanlaw.com

By: Peter Feaman
Peter M. Feaman
Florida Bar No.: 0260347

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

WILLIAM E. STANSBURY,

Plaintiff,

vs.

CASE NO: 50 2012 CA 013933 MB AA

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.
_____/

AGREED ORDER DEFENDANT'S, SHIRLEY BERNSTEIN TRUST, MOTION TO DISMISS

THIS MATTER came before the Court upon the Motion to Dismiss (the "Motion") filed by Shirley Bernstein Trust Agreement dated May 20, 2008, and the agreement of the parties. The Court having heard argument of counsel and being otherwise fully advised, does hereby

ORDER and ADJUDGE as follows:

1. The Motion is granted in part. The service of process attempted by Plaintiff was ineffective because Plaintiff failed to serve process on the Successor Trustee. Therefore, the service is quashed and Plaintiff shall have 60 days to effect proper service.

2. The Court defers ruling on the other grounds set forth in the Motion pending proper service.

3. The hearing set for July 15, 2013, at 9:30 a.m., is hereby canceled.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida, this 11 day of July, 2013.

PETER BLANC
Circuit Court Judge

Copies furnished to:

Peter M. Feaman, Esq., Peter M. Feaman, P.A., 3615 West Boynton Beach Blvd., Boynton Beach, FL 33436, Email: (pfeaman@feamanlaw.com); (service@feamanlaw.com); (mkoskey@feamanlaw.com) Counsel for Plaintiff

Mark R. Manceri, Esq., Mark R. Manceri, P.A., 2929 East Commercial Blvd., Suite 702, Ft. Lauderdale, FL 33309, Email: (mrmlaw@comcast.net); (mrmlaw1@gmail.com) Counsel for Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives; Bernstein Family Realty, LLC

Alan B. Rose, Esq., Page, Mrachek, Fitzgerald, Rose, Konopka & Dow, P.A., 505 South Flagler Drive, Suite 600, West Palm Beach, FL 33401, Email: (arose@pm-law.com); (mchandler@pm-law.com) Counsel for Ted S. Bernstein, LIC Holdings, Inc., Arbitrage International Management, LLC, Shirley Bernstein Trust Agreement dated May 20, 2008

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

CASE NO: **50 2012 CA 013933 MB AA**

WILLIAM E. STANSBURY,
Plaintiff,

v.

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.
_____/

MOTION TO CLARIFY ORDER ON DEFENDANT'S, TED S. BERNSTEIN, MOTION TO DISMISS COUNTS III, VII AND VIII

COMES NOW Plaintiff, William E. Stansbury, by and through his undersigned counsel and moves this Court for clarification of its Order dated June 12, 2013 granting Defendant Ted S. Bernstein's Motion to Dismiss Counts III, VII and VIII, as follows:

1. On June 12, 2013 this Court entered an Order granting the Motion to Dismiss Counts III, VII and VIII of the Amended Complaint. A copy of the Order is attached hereto as Exhibit "A."

2. The Order does not state whether its dismissal is without prejudice and that Plaintiff is granted leave to amend, nor does it state that the dismissal is with prejudice.

3. The Court found in paragraph 2 of the Order that "Defendant owes no fiduciary duty directly to Plaintiff under Florida law," and in paragraph 3 that a breach of fiduciary duty claim would be derivative and cannot be asserted in this case. The Order does not state whether such findings are "without prejudice" such that Plaintiff may amend his Amended Complaint to correct any pleading deficiencies.

4. A dismissal with prejudice should not be ordered without giving the party the opportunity to amend unless it is clear that the pleading cannot be amended so as to state a cause of action. Central Florida Investments, Inc. v. Levin, 659 So. 2d 492 (Fla. 5th DCA 1995). Additionally, Rule 1.180 of the Florida Rules of Civil Procedure provides that amending of pleadings "shall be given freely when justice so requires." Further, leave to amend should not be denied unless the privilege has been abused, there is prejudice to the opposing party, or further amendment would be futile. Life General Security Insurance Company v. Horal, 667 So. 2d 967 (Fla. 4th DCA 1996).

5. In this case a determination that the dismissal is "without prejudice" with leave to amend is appropriate. There has been no abuse of the amendment privilege as there has been only one Amended Complaint filed in response to a prior Motion to Dismiss. There is no prejudice to the Defendant, Ted S. Bernstein, as the case is not at issue and Defendant has been on notice of these claims since the filing of the original Complaint.

6. The Amended Complaint **can** be amended to state a cause of action. Florida law recognizes that individual claims for breach of fiduciary duty and other torts may be brought against majority shareholders or officers of a corporation when there is a special duty alleged between the parties and the plaintiff/shareholder has suffered injury separate and distinct from that suffered by other shareholders. *See,* Biltmore Motor Corp. v. Roque, 291 So. 2d 114 (Fla. 3rd DCA 1974); Mortellite v. American Tower, L.P., 819 So.2d 928 (Fla. 2nd DCA 2002). As a matter of law, Plaintiff should be granted leave to amend to allege such special duty and/or distinct injury.

7. The Biltmore Motor Corp. and Mortellite cases also underscore that the Court's findings in paragraphs 2, 3 and, for the same reasons, 4 of its Order should be considered "without prejudice" based on the current allegations of Counts III, VII and VIII. Otherwise, the Court will have resolved critical factual and legal issues improperly through its resolution of a Motion to Dismiss. A motion to

dismiss should not be used "to determine issues of ultimate fact" and "may not act as a substitute for summary judgment." Roberts v. Children's Med. Servs., 751 So. 2d 672, 673 (Fla. 2d DCA 2000).

WHEREFORE, Plaintiff, William E. Stansbury, respectfully requests that this Court clarify its Order to provide that:

1. Its dismissal of Counts III, VII and VIII of the Amended Complaint is "without prejudice," with leave to amend within 20 days of the date of this Order;

2. The findings of the Court in paragraphs 2, 3 and 4 of the Order are similarly "without prejudice" and Plaintiff will be given one more opportunity to state a claim consistent with the principles of law set forth in Biltmore Motor Corp. v. Roque, 291 So. 2d 114 (Fla. 3rd DCA 1974), Mortellite v. American Tower, L.P., 819 So.2d 928 (Fla. 2nd DCA 2002) and other similar cases.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives of the Estate of Simon Bernstein* and *Bernstein Family Realty*, 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; at arose@pm-law.com and mchandler@pm-law.com to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc, Arbitrage International Management, LLC and the Shirley Bernstein Trust,* 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this 21 day of June, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel: 561-734-5552
Fax: 561-734-5554
pfeaman@feamanlaw.com

By: _____
Peter M. Feaman
Florida Bar No.: 0260347

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

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 MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC; BERNSTEIN FAMILY REALTY, LLC,

Defendants.
_____/

CASE NO: 50 2012 CA 013933 MB AA

ORDER ON DEFENDANT'S, TED S. BERNSTEIN, MOTION TO DISMISS COUNTS III, VII, AND VIII

THIS MATTER came before the Court on June 10, 2013 on Defendant's Ted S. Bernstein, Motion to Dismiss Counts III, VII and VIII (the "Motion"). The Court having heard argument of counsel and being otherwise fully advised, does hereby

ORDER and ADJUDGE as follows:

1. The Motion is granted.

EXHIBIT A

6/12/13

2. As to the claim set forth in Count III of the Complaint, Defendant owes no fiduciary duty directly to Plaintiff under Florida law, and therefore any direct claim is dismissed.

3. To the extent that Plaintiff is asserting that Defendant owed a fiduciary duty to a corporation of which Plaintiff claims to be a shareholder, this would be a derivative claim which cannot be asserted in this case. Moreover, Plaintiff has not met the statutory requirements for asserting a derivative claim.

4. Likewise, the claims asserted in Counts VII and VIII are derivative claims and are dismissed for the same reason.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida, this 12 day of June, 2013.

GLENN KELLEY
Circuit Court Judge

Copies furnished to:

Peter M. Feaman, Esq., Peter M. Feaman, P.A., 3615 West Boynton Beach Blvd., Boynton Beach, FL 33436, Email: (pfeaman@feamanlaw.com); (service@feamanlaw.com); (mkoskey@feamanlaw.com) Counsel for Plaintiff

Mark R. Manceri, Esq., Mark R. Manceri, P.A., 2929 East Commercial Blvd., Suite 702, Ft. Lauderdale, FL 33309, Email: (mrmlaw@comcast.net); (mrmlaw1@gmail.com) Counsel for Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives; Bernstein Family Realty, LLC

Alan B. Rose, Esq., Page, Mrachek, Fitzgerald, Rose, Konopka & Dow, P.A., 505 South Flagler Drive, Suite 600, West Palm Beach, FL 33401, Email: (arose@pm-law.com); (mchandler@pm-law.com) Counsel for Ted S. Bernstein, LIC Holdings, Inc., Arbitrage International Management, LLC, Shirley Bernstein Trust Agreement dated May 20, 2008

The Law Offices
of
PETER M. FEAMAN, P.A.
Strategic Counselor. Proven Advocate.™

Peter M. Feaman, Esq.
Nancy E. Guffey, Esq.
Jeffrey T. Royer, Esq.



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3615 W. Boynton Beach Blvd.
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June 11, 2013

Honorable Glenn Kelley
Courtroom 11A
Palm Beach County Circuit Court
205 No. Dixie Highway
West Palm Beach, FL 33401

Re: Stansbury v. Bernstein et al
Case No: 50 2012 CA 013933 MB AA

Dear Judge Kelley:

Enclosed please find a proposed Order Setting Hearing. Opposing counsel have no objection to the proposed date of the hearing.

If the proposed Order meets your satisfaction, please forward conformed copies to counsel via the e-mail addresses contained therein.

Thank you for your attention to this matter.

Respectfully,

PETER M. FEAMAN, P.A.

By: Peter M. Feaman

PMF/mk
Enclosure
cc: Allan Rose, Esq.
Mark R. Manceri, Esq.

THE 15TH JUDICIAL CIRCUIT OF FLORIDA
CIRCUIT CIVIL - DIVISION AA

You have successfully scheduled a hearing before Division AA.

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Scheduled Hearing Details

Confirmation Number:	DIVAA20130610200824
Law Firm:	Peter M. Feaman, P.A.
Hearing Type:	Special Set
Date and Time:	07/15/13 09:30am Monday
Hearing Length:	30 minutes
Case Number (Style):	50-2012-CA-013933 (WILLIAM STANSBURY V TED BERNSTEIN)
Motion 1:	Motion to Dismiss
File Date:	05/13/2013
Movant:	Defendant
Note:	by Def, Shirley Bernstein Trust
Motion 2:	Motion for More Definite Statement
File Date:	05/10/2013
Movant:	Defendant
Note:	by Def, Bernstein Family Realty
Attorney:	Peter Feaman (561-734-5552) (pfeaman@feamanlaw.com)
Contact:	Maryanne Koskey (561-734-5552) (mkoskey@feamanlaw.com)

Next

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

ORDER SETTING HEARING

The following matter has been specially set for hearing before Judge Glenn D. Kelley in Courtroom 11A of the Palm Beach County Courthouse, 205 North Dixie Highway, West Palm Beach, FL 33401.

DATE: **July 15, 2013**

TIME: **9:30 a.m. (time allotted: 30 minutes)**

MATTERS: **Defendant's (Shirley Bernstein Trust) Motion to Dismiss; and**

Defendant's (Bernstein Family Realty LLC) Motion for a More Definite Statement

NOTE: THIS HEARING IS SPECIALLY SET BY COURT ORDER AND CANNOT BE CANCELLED OR RESET EXCEPT BY COURT ORDER. ALL MEMORANDA MUST BE SUBMITTED TO JUDGE'S CHAMBERS NO LATER THAN FIVE (5) DAYS PRIOR TO HEARING.

DONE and ORDERED in Chambers, West Palm Beach, Palm Beach County, Florida this ___ day of June, 2013.

_____
Honorable Glenn Kelley
Circuit Judge

Copies to:
Alan Rose, Esq., Page Mrachek, 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401; e-mail: arose@pm-law.com;
Mark R. Manceri, Exq., Mark R. Manceri, P.A., 2929 E. Commercial Blvd., suite 702, Fort Lauderdale, FL 33308; e-mail: mrmlaw@comcast.net
Peter M. Feaman, Esq., Peter M. Feaman, P.A., 3615 W. Boynton Beach Blvd., Boynton Beach, FL; e-mail: pfeaman@feamanlaw.com

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Germaine English, Americans with Disabilities Act Coordinator, Palm Beach County Courthouse, 205 North Dixie Highway West Palm Beach, Florida 33401; telephone number (561) 355 4380 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711."

"Si usted es una persona minusválida que necesita algún acomodamiento para poder participar en este procedimiento, usted tiene derecho, sin tener gastos propios, a que se le provea cierta ayuda. Tenga la amabilidad de ponerse en contacto con Germaine English, 205 N. Dixie Highway, West Palm Beach, Florida 33401; teléfono número (561) 355-4380, por lo menos 7 días antes de la cita fijada para su comparecencia en los tribunales, o inmediatamente después de recibir esta notificación si el tiempo antes de la comparecencia que se ha programado es menos de 7 días; si usted tiene discapacitación del oído o de la voz, llame al 711."

"Si ou se yon moun ki enfim ki bezwen akomodasyon pou w ka patisipe nan pwosedi sa, ou kalifye san ou pa gen okenn lajan pou w peye, gen pwovizyon pou jwen kèk èd. Tanpri kontakte Germaine English, kòòdonatè pwogram Lwa pou ameriken ki Enfim yo nan Tribinal Konte Palm Beach la ki nan 205 North Dixie Highway, West Palm Beach, Florida 33401; telefòn li se (561) 355 4380 nan 7 jou anvan dat ou gen randevou pou parèt nan tribinal la, oubyen imedyatman apre ou fin resevwa konvokasyon an si lè ou gen pou w parèt nan tribinal la mwens ke 7 jou; si ou gen pwoblèm pou w tande oubyen pale, rele 711."

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FLORIDA

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 MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC; BERNSTEIN FAMILY REALTY, LLC,

Defendants.
_____/

CIVIL DIVISION

CASE NO: 502012CA013933 MB AA

DIVISION: KELLEY

ANSWER, AFFIRMATIVE DEFENSES AND COUNTERCLAIM TO AMENDED COMPLAINT

COME NOW, Defendants, Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives of the Estate of Simon L. Bernstein (hereinafter the "Defendants"), by and through their undersigned counsel and hereby files this their Answer, Affirmative Defenses and Counterclaim to Amended Complaint and in support thereof state, as follows:

ANSWER

1. Paragraph 1 is admitted solely for jurisdictional purposes.

2. The Defendants are presently without sufficient knowledge to either admit or deny the allegations in paragraph 2.

MARK R. MANCERI, P.A. • 2929 East Commercial Blvd. • Suite 702 • Fort Lauderdale, FL 33308 • (954) 491-7099

3. Paragraph 3 is Admitted.

4. Paragraph 4 is admitted solely to the extent of the record in the Estate of Simon L. Bernstein, Case No. 502012CP004391.

5. Paragraph 5 is Admitted.

6. Paragraph 6 is Admitted.

7. Paragraph 7 is Admitted.

8. Paragraph 8 is Denied.

9. Paragraph 9 is admitted solely for jurisdictional purposes.

10. Defendants are presently without sufficient knowledge to either admit or deny the allegations in paragraph 10.

11. Paragraph 11 is Admitted.

12. Paragraph 12 is Admitted.

13. Defendants are presently without sufficient knowledge to either admit or deny the allegations in paragraph 13.

14. Defendants are presently without sufficient knowledge to either admit or deny the allegations in paragraph 14.

15. Paragraph 15 is Admitted.

16. Defendants are presently without sufficient knowledge to either admit or deny the allegations in paragraph 16.

17. Defendants are presently without sufficient knowledge to either admit or deny the

allegations in paragraph 17.

18. Paragraph 18 is admitted solely to the extent that the Plaintiff, at some point in time, became a 10% shareholder.

19. Paragraph 19 is Denied.

20. Paragraph 20 is Denied.

21. Paragraph 21 is Denied.

22. Defendants are presently without sufficient knowledge to either admit or deny the allegations in paragraph 22.

23. Paragraph 23 is Denied.

24. Paragraph 24 is Denied.

25. Paragraph 25 is Denied.

26. Paragraph 26 is Denied.

27. Paragraph 27 is Denied.

28. Paragraph 28 is Denied.

29. Paragraph 29 is Denied.

30. Paragraph 30 is Denied.

31. Paragraph 31 is admitted solely to the extent that the Plaintiff, at some point in time, was no longer a 10% shareholder.

32. Paragraph 32 is Denied.

33. Paragraph 33 is Denied.

34. Defendants are presently without sufficient knowledge to either admit or deny the allegations in paragraph 34.

COUNT I

35. No response is required from the Defendants with respect to Count I.

COUNT II

36. No response is required from the Defendants with respect to Count II.

COUNT III

37. Defendants reaver and incorporate herein their responses 1-36 above.

38. Paragraph 46 is Admitted.

39. Paragraph 47 is Denied.

40. Paragraph 48 is Denied.

41. Paragraph 49 is Denied.

42. Paragraph 50 is Denied.

43. Paragraph 51 is Denied.

44. Paragraph 52 is Denied.

45. Paragraph 53 is Denied.

46. Paragraph 54 is Denied.

47. Paragraph 55 is Denied.

48. Paragraph 56 is Denied.

49. Paragraph 57 is Denied.

50. Paragraph 58 is Denied.

51. Paragraph 59 is Denied.

COUNT IV

52. No response is required from the Defendants with respect to Count IV.

COUNT V

53. Defendants reaver and incorporate herein their responses 1-52 above.

54. Paragraph 67 is Denied.

COUNT VI

55. No response is required from the Defendants with respect to Count VI.

COUNT VII

56. Defendants reaver and incorporate herein their responses 1-55 above.

57. Paragraph 74 is Denied.

58. Paragraph 75 is Denied.

59. Paragraph 76 is Denied.

60. Paragraph 77 is Denied.

COUNT VIII

61. Defendants reaver and incorporate herein their responses 1-60 above.

COUNT IX

62. No response is required from the Defendants with respect to Count IX.

AS TO ALL COUNTS

63. All other allegations not specifically admitted are denied.

AFFIRMATIVE DEFENSES

1. As and for the Defendants First Affirmative Defense, Plaintiff's claims are barred in whole or in part by the applicable statute of limitations and/or laches.

2. As and for the Defendants Second Affirmative Defense, Plaintiff's claims are barred in whole or in part by the statute of frauds.

3. As and for the Defendants Third Affirmative Defense, Plaintiff's claims are barred in whole or in part because Plaintiff lacks standing to pursue derivative claims because he is no longer a shareholder in LIC and lacks standing to pursue other claims because is no longer an employee of LIC or Arbitrage.

4. As and for the Defendants Fourth Affirmative Defense, Plaintiff's claims are barred in whole or in part by because Plaintiff has misjoined causes of action held in different capacities, and therefore, the Complaint is improper and, at a minimum, certain claims must be dismissed such that Plaintiff pursues only those claims he has in one capacity.

5. As and for the Defendants Fifth Affirmative Defense, Plaintiff's claims are barred in whole or in part by the doctrine of waiver. Plaintiff was aware of the facts and circumstances of the companies' operations, and the financial transactions and dealings within the companies and was aware of the alleged actions which form the basis of his claim, and waived any claims against Defendants.

6. As and for the Defendants Sixth Affirmative Defense, Plaintiff's claims are barred in whole or in part by the doctrine of ratification. Plaintiff was aware of the facts and circumstances of the companies' operations, and the financial transactions and dealings within the companies, and the alleged actions which form the basis of his claim, and ratified such alleged actions.

7. As and for the Defendants Seventh Affirmative Defense, Plaintiff's claims are barred in whole or in part by the doctrine of estoppel. Plaintiff was aware of the facts and circumstances of the companies' operations, and the financial transactions and dealings within the companies, and was aware of the alleged actions which form the basis of his claim, and therefore is estopped to assert any claims against Defendants.

8. As and for the Defendants Eighth Affirmative Defense, Plaintiff's claims are barred in whole or in part by the doctrine of acquiescence. Plaintiff was aware of the facts and circumstances of the companies' operations, and the financial transactions and dealings within the companies, and was aware of the alleged actions which form the basis of his claim, and therefore acquiesced in the conduct about which he now complains.

9. As and for the Defendants Ninth Affirmative Defense, Plaintiff's claims against Simon L. Bernstein (hereinafter the "Decedent") are barred in whole or in part by the corporate shield doctrine. All of the actions allegedly taken by the Decedent were actions taken on behalf of a legal entity (corporation or limited liability company), and not on behalf of himself individually, and therefore, any claims against the Decedent individually are barred.

10. As and for the Defendants Tenth Affirmative Defense, Plaintiff has failed to comply with the requirements of section 607.07401 of the Florida Statutes.

11. As and for the Defendants Eleventh Affirmative Defense, Plaintiff failed to properly include the relief requested in Counts III, V, VII, VIII within his Claim filed in the Decedent's probate proceedings. As such, those Claims are now barred and the Plaintiff is estopped from pursuing same as the three (3) month statutory period for filing Claims against the Estate has expired.

12. As and for the Defendants Twelfth Affirmative Defense, Plaintiff's claims against the Decedent in Counts III, VII and VIII are barred as a result of the Court Order dated June 12, 2013. The allegations in Counts III, VII and VIII against the Decedent are the same as those alleged against Ted S. Bernstein. As such, the Plaintiff is estopped from pursuing same against the Defendants. A copy of said Order is attached hereto as Exhibit "A" and incorporated herein by reference.

13. As and for the Defendants Thirteenth Affirmative Defense, the Plaintiff has failed to state a cause of action against the Decedent for a Constructive Trust. The Plaintiff has failed to plead the four (4) required elements of a promise, reliance, confidential relationship and unjust enrichment. As such, Count VIII must be dismissed.

WHEREFORE, having answered the Complaint, Defendants demand judgment in their favor, together with an award of costs and, pursuant to any applicable contract or statute, attorneys' fees, and such other relief as the Court determines just and equitable.

COUNTERCLAIM

Counter-Plaintiff, the Estate of Simon L. Bernstein (hereinafter the "Estate"), sues Defendant, William E. Stansbury ("Stansbury"), and states:

1. The Estate is being administered in Palm Beach County, Florida.

2. Stansbury is a resident of Palm Beach County, Florida.

3. At all material times referenced herein during the lifetime of Simon L. Bernstein, he was an officer and shareholder of Arbitrage and LIC Holdings, Inc.

4. As part of his work for Arbitrage and its affiliated company, LIC Holdings, Inc., Stansbury was listed as the licensed insurance agent of record on various contracts and policies of insurance with various insurance companies, under which those insurance companies would make payments of commissions and renewals due to Arbitrage only by way of a check payable in many cases to Stansbury individually.

5. Pursuant to the agreement of the parties, Stansbury was to deliver all such checks to Arbitrage, because all receipts for commissions, renewals or other revenue received by Stansbury for contracts or policies generated during the time of his employment were property of his employer.

6. Upon information and belief, before the time that Stansbury voluntarily terminated his employment with Arbitrage, Stansbury received and collected checks made payable to him, but which properly belonged to Arbitrage, and retained those funds for his sole and exclusive use and benefit.

7. Further, after Stansbury voluntarily terminated his employment with Arbitrage, Stansbury continued to receive checks made payable to him, but which properly belonged to Arbitrage, and Stansbury retained the benefit of such checks for his sole and exclusive use and benefit. In addition, for some period of time after he voluntarily terminated his employment, Stansbury has been depositing certain checks into the trust account of his attorney, Peter Feaman.

8. All conditions precedent to the bringing of his action have been met, satisfied or waived.

COUNT I - BREACH OF CONTRACT

9. The Estate realleges paragraphs 1 though 8 above.

10. This is an action for breach of contract and seeks damages in excess of $15,000, exclusive of interest, costs and attorneys' fees.

11. Pursuant to the agreement between Arbitrage and Stansbury, Stansbury was required to deliver to Arbitrage all checks made payable to him for contracts or policies of insurance which relate to work done during the time of Stansbury's employment.

12. For the vast majority of the duration of Stansbury's employment, Stansbury complied with the parties' oral agreement and, as far as Arbitrage is presently aware, Stansbury did in fact deliver to Arbitrage all checks he received. However, upon information and belief, Stansbury may have withheld checks from Arbitrage at various times.

13. At some point before the voluntary termination of his employment, and for all times after the voluntary termination of his employment, Stansbury has retained for himself and

refused to turn over to Arbitrage checks received by him, payable to him individually, but which otherwise should have been turned over to Arbitrage.

14. By his actions in retaining checks payable to him but which should have been turned over to Arbitrage, Stansbury has breached his agreement with Arbitrage.

15. As a direct and proximate result of Stansbury breach of the parties' agreement, Arbitrage and consequently the Estate have been damaged in an amount to be determined through discovery and at trial, including the amount held in the attorney trust account of Peter Feaman.

WHEREFORE, the Estate demands judgment in its favor against Stansbury for compensatory damages, together with an award of costs and, pursuant to any applicable statute or contract, an award of attorneys' fees, and such other relief as is just.

COUNT II - DECLARATORY JUDGMENT

16. The Estate realleges paragraphs 1 though 8 and 10 through 15 above.

17. This is an action for a declaratory judgment and for supplemental relief.

18. There is a genuine and immediate dispute between the parties as to the entitlement to certain Checks which are made payable to Stansbury individually, but which properly belong to Arbitrage as the commissions and renewals received for contracts and policies of insurance, and other revenues of Arbitrage which are payable directly to Stansbury individually.

19. There is a bona fide, actual, present and practical need for the declaration.

20. The declaration deals with a present, ascertained or ascertainable state of facts or present controversy as to a state of facts regarding who is entitled to the Checks held by Stansbury

or his counsel.

21. An immunity, power, privilege or right of Arbitrage is dependent upon the facts or the law applicable to the facts.

22. Stansbury has, or reasonably may have, an actual, present, adverse and antagonistic interest in the subject matter, either in fact or law.

23. The antagonistic and adverse interests are all properly before the Court.

24. The relief sought is not merely the giving of legal advice or the answer to questions propounded from curiosity.

25. Based upon the foregoing, the Estate seeks a declaration that Stansbury is required to turn over to Arbitrage all checks received by him, which are payable to Stansbury individually, but which relate to contracts or policies of insurance, or other revenues generated by Arbitrage or by Stansbury while he was employed by Arbitrage.

26. Moreover, the Estate requests a declaratory judgment that it is entitled to all funds currently being held in the attorney trust account of Peter Feaman, which represent Checks received by Stansbury which are made payable to Stansbury individually, but which otherwise properly belong to Arbitrage.

27. The Estate also seeks a declaration that its rights to all such funds are superior to the rights and claims of Stansbury.

WHEREFORE, the Estate seeks a declaratory judgment as to its rights to the personal property described above, together with supplemental relief to the extent necessary, an award of

costs and, pursuant to any applicable statute or contract, an award of attorneys' fees, and such other relief the Court determines just and equitable.

GENERAL PRAYER FOR ATTORNEY'S FEES AND COSTS

Defendants, Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives of the Estate of Simon L. Bernstein, hereby requests an award of attorney's fees and costs pursuant to Florida Statutes 733.106 and 733.609 and/or Florida decisional case law, and that same be taxed against the Plaintiff.

MARK R. MANCERI, P.A.
Attorney for Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives
2929 East Commercial Blvd., Suite 702
Ft. Lauderdale, FL 33308
Telephone: (954) 491-7099
E-mail: mrmlaw@comcast.net
mrmlaw1@gmail.com

By: _____
Mark R. Manceri, Esq.
Florida Bar No. 444560

502012CA013933 MB AA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-mail to the designated address(es) to all parties on the following Service List, this 21st day of June, 2013.

Mark R. Manceri, Esq.

SERVICE LIST

Peter M. Feaman, Esq.
Peter M. Feaman, P.A.
3615 West Boynton Beach Blvd.
Boynton Beach, Florida 33436

Alan B. Rose, Esq.
Page, Mrachek, Fitzgerald, et.al.
505 South Flagler Drive, Suite 600
West Palm Beach, Florida 33401

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

WILLIAM E. STANSBURY,

Plaintiff,

vs.

CASE NO: 50 2012 CA 013933 MB AA

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.
_____/

ORDER ON DEFENDANT'S, TED S. BERNSTEIN, MOTION TO DISMISS COUNTS III, VII, AND VIII

THIS MATTER came before the Court on June 10, 2013 on Defendant's Ted S. Bernstein, Motion to Dismiss Counts III, VII and VIII (the "Motion"). The Court having heard argument of counsel and being otherwise fully advised, does hereby

ORDER and ADJUDGE as follows:

1. The Motion is granted.

EXHIBIT "A"

2. As to the claim set forth in Count III of the Complaint, Defendant owes no fiduciary duty directly to Plaintiff under Florida law, and therefore any direct claim is dismissed.

3. To the extent that Plaintiff is asserting that Defendant owed a fiduciary duty to a corporation of which Plaintiff claims to be a shareholder, this would be a derivative claim which cannot be asserted in this case. Moreover, Plaintiff has not met the statutory requirements for asserting a derivative claim.

4. Likewise, the claims asserted in Counts VII and VIII are derivative claims and are dismissed for the same reason.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida, this 12 day of June, 2013.

GLENN KELLEY
Circuit Court Judge

Copies furnished to:

Peter M. Feaman, Esq., Peter M. Feaman, P.A., 3615 West Boynton Beach Blvd., Boynton Beach, FL 33436, Email: (pfeaman@feamanlaw.com); (service@feamanlaw.com); (mkoskey@feamanlaw.com) Counsel for Plaintiff

Mark R. Manceri, Esq., Mark R. Manceri, P.A., 2929 East Commercial Blvd., Suite 702, Ft. Lauderdale, FL 33309, Email: (mrmlaw@comcast.net); (mrmlaw1@gmail.com) Counsel for Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives; Bernstein Family Realty, LLC

Alan B. Rose, Esq., Page, Mrachek, Fitzgerald, Rose, Konopka & Dow, P.A., 505 South Flagler Drive, Suite 600, West Palm Beach, FL 33401, Email: (arose@pm-law.com); (mchandler@pm-law.com) Counsel for Ted S. Bernstein, LIC Holdings, Inc., Arbitrage International Management, LLC, Shirley Bernstein Trust Agreement dated May 20, 2008

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FLORIDA

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 MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC; BERNSTEIN FAMILY REALTY, LLC,

Defendants.
_____/

CIVIL DIVISION

CASE NO: 502012CA013933 MB AA

DIVISION: KELLEY

NOTICE OF SERVING FIRST SET OF INTERROGATORIES TO WILLIAM E. STANSBURY

TO: WILLIAM E. STANSBURY
c/o Peter M. Feaman, Esq.
Peter M. Feaman, P.A.
3615 West Boynton Beach Blvd.
Boynton Beach, Florida 33436

COMES NOW, Defendants, Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives of the Estate of Simon L. Bernstein, by and through their undersigned attorney, pursuant to Florida Rule of Civil Procedure 1.340, and hereby propound their First Set of Interrogatories to the Personal Representative, consisting of Nos. 1 through 11, to be answered in writing, under oath, within thirty (30) days from the date of service of these Interrogatories.

MARK R. MANCERI, P.A.● 2929 East Commercial Blvd.● Suite 702 ● Fort Lauderdale, FL 33308 ● (954) 491-7099

CASE NO: 502012CA013933 MB AA

MARK R. MANCERI, P.A.
Attorney for Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives
2929 East Commercial Blvd., Suite 702
Ft. Lauderdale, FL 33308
Telephone: (954) 491-7099
E-mail: mrmlaw@comcast.net
mrmlaw1@gmail.com

By: _____
Mark R. Manceri, Esq.
Florida Bar No. 444560

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-mail to the designated address(es) to all parties on the following Service List, this 18th day of June, 2013.

_____
Mark R. Manceri, Esq.

SERVICE LIST

Peter M. Feaman, Esq.
Peter M. Feaman, P.A.
3615 West Boynton Beach Blvd.
Boynton Beach, Florida 33436

Alan B. Rose, Esq.
Page, Mrachek, Fitzgerald, et.al.
505 South Flagler Drive, Suite 600
West Palm Beach, Florida 33401

CASE NO: 502012CA013933 MB AA

A. INSTRUCTIONS.

1. Give all information known to you, your agents or your attorneys when you answer each Interrogatory, even if the information is contained in records or is hearsay.

2. If you cannot answer any one of these Interrogatories fully, after trying in good faith to find the information required to answer the Interrogatory, put down as much information as you have found in your Answer.

3. Any question that asks for information about a document or asks you to identify the document may be answered by attaching a copy of the document to your answer.

B. DEFINITIONS.

As used in these Interrogatories:

1. "Communication" means any oral or written utterance between tow or mor persons. A "communication" includes a letter, a conversation, a discussion, an interview, a consultation, or an agreement and any other like understanding between two or more persons.

2. As used in these interrogatories, "Decedent" means Simon Bernstein.

3. The word "Document(s)" shall mean any written or graphic matter or other means of preserving thought or expression, and all tangible things from which information can be processed or transcribed, including the original and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including, but not limited to, e-mail, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax bulletins, meetings, or other communications, interoffice and intra-office telephone calls, diaries, chronological data, minutes, books, reports, charts, ledgers, invoices, worksheets, receipts, returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, transcripts, statistics, surveys, magazine or newspaper articles, releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphs or oral records or representations of any kind, including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings, motion pictures and electronic, mechanical or electric records or representations of any kind (including without limitations, tapes, cassettes, discs and recordings).

MARK R. MANCERI, P.A.● 2929 East Commercial Blvd.● Suite 702 ● Fort Lauderdale, FL 33308 ● (954) 491-7099

4. "Identify" means to give the following information about a natural human person:

(a) the person's last name, first name and middle initial;
(b) the person's residence address;
(c) the person's business or employer's name and address;
(d) the person's social security number;
(e) all telephone numbers at which the person can be contacted.

5. "Identify" means to give the following information about a corporation:

(a) The corporation's full corporate name;
(b) Any assumed business names used by the corporation;
(c) The address of its principal place of business;
(d) The address of each place of business in [specify the geographic region, if the address is unavailable];
(e) all telephone numbers of the corporation.

6. "Identify" means to give the following information about a document:

(a) the name of each person who prepared the document;
(b) the number of pages in the entire document;
(c) the kind of document;
(d) the title of the document;
(e) the date of the document;
(f) the location of the document;
(g) the person who is custodian of the document.

7. "Identify" means to give the following information about a communication:

(a) the name of each person who made any part of the communication;
(b) whether the communication was written or oral;
(c) to identify any written portion of the communication as a document.

8. "Photograph" means any still photographs, X-ray films, video tapes and motion pictures. A "photograph" is a "document."

9. "Property" means all property whether real, tangible or intangible, whether held by the Decedent individually, jointly or in a Trust.

10. A communication or document "Relating" to any given subject means any communication or document that constitutes, contains, embodies, reflects, identifies, states, refers to, or is in any way pertinent to that subject, including, without limitation, documents concerning the preparation of other documents.

11. "You" and "Yours" means the party to who these interrogatories are addressed, and any predecessor in interest, any successor in interest, and any employee or agent of the party. "You" also means a party's attorney, unless the subject matter of the Interrogatory calls for a privileged communication.

CASE NO: 502012CA013933 MB AA

FIRST SET OF INTERROGATORIES TO WILLIAM E. STANSBURY

1. Identify by name, address and telephone number each person who assisted you, in any way, in answering these Interrogatories.

MARK R. MANCERI, P.A.● 2929 East Commercial Blvd.● Suite 702 ● Fort Lauderdale, FL 33308 ● (954) 491-7099

2. Identify the name, address and telephone number of each and every person believed or known by you, your agents, or your attorneys to have any knowledge relating to the allegations made in the Amended Complaint filed by you in this cause dated February 12, 2013. In so doing, state with specificity the subject matter and substance of the person's knowledge.

3. List every incident or occurrence after January 1, 2006 in which you believe that the Decedent perpetrated a fraud upon you. Please identify the details of each incident or occurrence, including the nature, date and location of each incident or occurrence as well as the name, address and the phone number of all witnesses of each incident or occurrence.

4. Please describe in detail your involvement in the Decedent's business affairs on or after January 1, 2006. Your answer should include, but not be limited to, a detailed description of all duties that you undertook in connection with performing services, paying bills, expenses, balancing check books, writing checks, and receiving deposits or other income. Describe in detail how you became involved in the Decedent's business affairs. The term "business" shall be deemed to include all of the named Corporate and LLC Defendants.

5. Describe in detail the circumstances relating to each and every business related meeting you attended on or after January 1, 2006 at which the Decedent was present.

Include in your answer:

A) who arranged the meeting;

B) how you become aware of the meeting;

C) the name, address and telephone number of every person who know about the meeting in advance;

D) your understanding of the purpose of the meeting;

E) who spoke at the meeting and what that person said;

F) the name, address and telephone number of each person in attendance for any portion or all of the meeting;

G) identify all documents reviewed or referred to during the meeting;

H) the length of the meeting;

I) the month, date and year of the meeting; and

J) the location of the meeting.

6. State the identity of each and every person who you have reason to believe may now have or may previously have had any knowledge concerning the circumstances relating to the allegations made by you in paragraph 31 of the Amended Complaint filed by you in this cause dated February 12, 2013. For each such person, state the following: (a) name; (b) address; (c) telephone number; (d) the nature of such knowledge; and (e) the date such knowledge was acquired.

7. State the substance of each and every communication between the Decedent and any other person regarding his alleged intent, on or after January 1, 2006, to transfer or pay any money or assets to you as a result of your involvement in his business affairs. For each such communication, state the date of the communication, the form of the communication (written, by telephone, or in person) and the names, addresses and telephone numbers of any other individuals who were either present for or who may have overheard all or part of the communication.

8. Identify each and every gift, check, cash payment, mortgage, loan, or advance of $500.00 or more made by the Decedent to you, any member of your family, or any business of which you are or were an owner, investor, shareholder or creditor on or after January 1, 2006. For each such item, furnish the date, who the payment was made to, the amount, the form of the payment (in cash, check, property, etc.), the purpose of the payment, and whether it was ever repaid.

9. Please state whether you or anyone action on your behalf obtained statements from any person with knowledge of any issues or facts relating to the Amended Complaint filed by you in this cause dated February 12, 2013. If so, state (a) the names and addresses of the persons from whom the statements were taken; (b) the date the statements were taken; (c) the names and addresses of the persons who took the statements, and/or who have custody of the statements; (d) whether the statements were written or oral; and (e) whether the statements were memorialized by recording device, court reporter, video, cd, stenographer, or otherwise.

10. Identify by name, address and telephone number each person you requested to personally observe, meet or talk to the Decedent on or after January 1, 2006 relating to your involvement in his business affairs.

11. If, in furtherance of answering any of the above Interrogatories, you referred to any document or item, describe in detail each such document or item and state the Interrogatory number to which such document or item relates.

CASE NO: 502012CA013933 MB AA

_____
WILLIAM E. STANSBURY

STATE OF _____

COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared, William E. Stansbury, who is personally known to me or who produced _____ as identification and who upon being duly sworn, deposes and states that he has read the Answers to the First Set of Interrogatories propounded to him by the Defendants, Donald Tescher and Robert Spallina, as Co-Personal Representatives of the Estate of Simon L. Bernstein , and that the statements contained therein are true and correct to the best of his knowledge.

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 2013.

My Commission No. is:

My Commission Expires:

_____
NOTARY PUBLIC
STATE OF _____

_____
[Print or stamp name of Notary Public]

MARK R. MANCERI, P.A. • 2929 East Commercial Blvd. • Suite 702 • Fort Lauderdale, FL 33308 • (954) 491-7099

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

ANSWER AND AFFIRMATIVE DEFENSES COUNTER-DEFENDANT WILLIAM E. STANSBURY TO THE COUNTERCLAIM OF COUNTER-PLAINTIFF ARBITRAGE INTERNATIONAL MANAGEMENT, LLC

Plaintiff/Counter-Defendant, WILLIAM E. STANSBURY ("STANSBURY"), by and through his undersigned counsel, as his Answer to the Counterclaim of Defendant/Counter-Plaintiff ARBITRAGE INTERNATIONAL MANAGEMENT, LLC ("ARBITRAGE") does hereby state as follows:

1. Admitted.

2. Admitted.

3. Admits that STANSBURY was listed as the licensed insurance agent of record on various contracts and policies of insurance with various insurance companies but denies the remainder of the paragraph.

4. Admits that STANSBURY was to deliver checks to Arbitrage from time to time but denies the remainder of the paragraph.

5. Denied.

6. Admits that certain checks have been deposited in the Trust Account of attorney Peter Feaman but denies the remainder of the paragraph.

7. Denied.

COUNT 1 – BREACH OF CONTRACT

8. Plaintiff-Counter Defendant reasserts his responses to paragraphs 1 through 7 as if fully reiterated herein.

9. Denied.

10. Admits that Stansbury delivered to Arbitrage checks made payable to him from time to time but denies the remainder of the paragraph.

11. Admits that Stansbury complied with the parties' oral agreement and delivered to Arbitrage checks he received but denies the remainder of the paragraph.

12. Admits that Stansbury has retained certain checks but denies the remainder of the paragraph.

13. Denied.

14. Denied.

COUNT II – DECLARATORY JUDGMENT

15. Plaintiff-Counter Defendant reasserts his responses to paragraphs 1 through 14 as if fully reiterated herein.

16. Denied.

17. Denied.

18. Denied.

19. Denied.

20. Denied.

21. Denied.

22. Denied.

23. Denied.

24. Denied.

25. Denied.

26. Denied.

AFFIRMATIVE DEFENSES

1. The claims of Arbitrage are barred, in whole or in part, by the applicable Statute of Limitations.

2. The claims of Arbitrage are barred, in whole or in part, by the doctrine of laches.

3. The antecedent and material breaches by Defendants of the oral contract sued upon by STANSBURY operated to discharge and excuse STANSBURY from the performance of any further contractual duty thereunder.

4. Arbitrage does not meet the requirements of Section 86.011(1) or (2), Florida Statutes (2011), and thus Arbitrage is not entitled to Declaratory relief.

5. Arbitrage is estopped from bringing this action due to its own unclean hands and the wrongful conduct of its officers and directors.

6. Arbitrage is estopped from asserting its alleged Breach of Contract action due to its own breaches.

WHEREFORE, Plaintiff/Counter-Defendant WILLIAM E. STANSBURY requests this Honorable Court to dismiss the Counterclaim, with prejudice, together with an award of reasonable costs and attorneys' fees incurred herein, and such other relief as the Court deems just and reasonable.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives of the Estate of Simon Bernstein* and *Bernstein Family Realty*, 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; at arose@pm-law.com and mchandler@pm-law.com to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc, Arbitrage International Management, LLC and the Shirley Bernstein Trust*, 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this 4th day of June, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel.: 561073405552
Fax: 561-734-5554
pfeaman@feamanlaw.com

By: _____
Peter M. Feaman
Florida Bar No.: 0260347

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

WILLIAM E. STANSBURY,

Plaintiff,

vs.

CASE NO: 50 2012 CA 013933 MB AA

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.
_____/

DEFENDANTS', TED S. BERNSTEIN, LIC HOLDINGS, INC. AND ARBITRAGE INTERNATIONAL HOLDINGS, LLC, REQUEST FOR COPIES

Defendants, Ted S. Bernstein, LIC Holdings, Inc. and Arbitrage International Holdings, LLC (collectively "Defendants"), pursuant to Florida Rule of Civil Procedure 1.351(e), hereby file their Request for Copies with respect to Plaintiff's, William E. Stansbury, Amended Notice of Production from Non-Party dated May 23, 2013:

1. All documents produced in response to the Subpoena Duces Tecum without Deposition from Phoenix Life Insurance Company;

2. All documents produced in response to the Subpoena Duces Tecum without Deposition from Penn Mutual Life Insurance Companies;

3. All documents produced in response to the Subpoena Duces Tecum without Deposition from Lincoln National Life Insurance Company;

4. All documents produced in response to the Subpoena Duces Tecum without Deposition from Massachusetts Mutual Life;

5. All documents produced in response to the Subpoena Duces Tecum without Deposition from Freund & Associates Insurance Services;

6. All documents produced in response to the Subpoena Duces Tecum without Deposition from Sun Life Assurance Company of Canada;

7. All documents produced in response to the Subpoena Duces Tecum without Deposition from Bisys Insurance Services, Inc.;

8. All documents produced in response to the Subpoena Duces Tecum without Deposition from American General Life Companies;

9. All documents produced in response to the Subpoena Duces Tecum without Deposition from Transamerica Life Insurance Company;

10. All documents produced in response to the Subpoena Duces Tecum without Deposition from Hartford Life Insurance Company;

11. All documents produced in response to the Subpoena Duces Tecum without Deposition from Pacific Life Insurance Company;

12. All documents produced in response to the Subpoena Duces Tecum without Deposition from Alliance Financial Group

13. All documents produced in response to the Subpoena Duces Tecum without Deposition from Summit Alliance Financial;

14. All documents produced in response to the Subpoena Duces Tecum without Deposition from Principal Financial Group;

15. All documents produced in response to the Subpoena Duces Tecum without Deposition from Minnesota Life Insurance Company; and

16. All documents produced in response to the Subpoena Duces Tecum without Deposition from AXA Equitable.

17. The undersigned agrees to pay all reasonable photocopying charges for documents produced.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to the Service List set forth below by: ■ E-mail Electronic Transmission; ☐ Facsimile; ☐ U.S. Mail; ☐ Overnight Delivery; ☐ Hand-delivery, this 6th day of June, 2013.

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KONOPKA & DOW, P.A.
505 South Flagler Drive, Suite 600
West Palm Beach, Florida 33401
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Facsimile: (561) 655-5537
Email: arose@pm-law.com; mchandler@pm-law.com
Email: sshelley@pm-law.com; tclarke@pm-law.com
Email: phely@pm-law.com; mchandler@pm-law.com
Counsel for Ted S. Bernstein; LIC Holdings, Inc.; Arbitrage International Management, LLC; and Shirley Bernstein Trust

By: /s/ Alan B. Rose
Alan B. Rose (Florida Bar No. 961825)
Stefanie R. Shelley (Florida Bar No. 514446)
N. Patrick Hely (Florida Bar No. 0091466

SERVICE LIST

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Counsel for Plaintiff

Mark R. Manceri, Esq.
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Counsel for Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives; Bernstein Family Realty, LLC

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

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 MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC; BERNSTEIN FAMILY REALTY, LLC,

Defendants.
_____/

CASE NO: 50 2012 CA 013933 MB AA

DEFENDANTS', TED S. BERNSTEIN, LIC HOLDINGS, INC., AND ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF, WILLIAM E. STANSBURY

Defendants, Ted S. Bernstein, LIC Holdings, Inc. and Arbitrage International Holdings, LLC (collectively "Defendants"), request Plaintiff, William E. Stansbury, to file a written response within 30 days of service, and to produce and permit Defendants to inspect and copy the documents listed on Exhibit "A" attached hereto at such place and time as may be agreed upon by counsel.

INSTRUCTIONS AND DEFINITIONS

A. The term "documents" as used in this request is defined as including, but not limited to, the original and any non-incidental copy (which is different from the original because of notations on such copy or otherwise) or draft of all correspondence, telegrams, telexes, teletype messages,

contracts, memoranda, pencil jottings, diary entries, desk calendar entries, reported recollections and other written form of notation of events or intentions, transcripts and recordings of conversations and telephone calls, books, records, photographs, reports, charts, ledgers, invoices, financial statements, purchase orders, receipts, canceled checks, data compilations and other documentary material not subject to attorney/client privilege, together with any attachments thereto, or enclosures therewith.

B. The following additional definitions apply:

1. "Plaintiff," "You," "Your" or "Stansbury" shall mean Plaintiff, William E. Stansbury, as well as his agents, servants, employees, representatives, accountants, experts, attorneys, and assigns, or other persons acting or purporting to act on his behalf.

2. "LIC" shall mean Defendant, LIC Holdings, Inc., and/or its subsidiaries, as well as its agents, servants, employees, representatives, accountants, experts, attorneys, and assigns, or other persons acting or purporting to act on its behalf.

3. "AIM" shall mean Defendant, Arbitrage International Management, LLC f/k/a Arbitrage International Holdings, LLC, and/or its subsidiaries, as well as its agents, servants, employees, representatives, accountants, experts, attorneys, and assigns, or other persons acting or purporting to act on its behalf.

C. This request for production calls for production of all responsive documents in the possession, custody or control of you, your agents, or representatives without regard to physical location of said documents.

D. All documents shall be originals unless otherwise indicated. If the "original" is a photocopy (or other copy), then the photocopy should be produced as the original.

E. If you possess no documents responsive to a paragraph in this request, state this fact, specifying the paragraph concerned and where the documents may be found to the best of your belief.

F. If you object in part to any request for production, please produce the portion of the documents requested to which you do not object, and state your objections to the remainder.

G. If you claim a privilege of any type with respect to any of the documents, please identify the documents by date, title and each other descriptive information as will clearly identify the document. Further, the objection should state the legal basis of the privilege claim and provide such supporting information as will establish the claimed privilege.

H. In the event you do not have "possession" of any of the documents requested in this production, but you know that they are in the possession of other parties, give a brief description of the document(s) and the name and address of the party thought to be in possession thereof.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to the Service List set forth below by: ■ E-mail Electronic Transmission; ☐ Facsimile; ☐ U.S. Mail; ☐ Overnight Delivery; ☐ Hand-delivery, this_____ day of May, 2013.

PAGE, MRACHEK, FITZGERALD, ROSE,
KONOPKA & DOW, P.A.
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Email: sshelley@pm-law.com; tclarke@pm-law.com
Email: phely@pm-law.com; mchandler@pm-law.com
Counsel for Ted S. Bernstein; LIC Holdings, Inc.; Arbitrage International Management, LLC; and Shirley Bernstein Trust

By: /s/ Alan B. Rose
Alan B. Rose (Florida Bar No. 961825)
Stefanie R. Shelley (Florida Bar No. 514446)
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Counsel for Plaintiff

Mark R. Manceri, Esq.
Mark R. Manceri, P.A.
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(954) 491-7099
Email: (mrmlaw@comcast.net); (mrmlaw1@gmail.com)
Counsel for Donald R. Tescher and Robert L.
Spallina, as Co-Personal Representatives; Bernstein Family
Realty, LLC

EXHIBIT "A"

1. All written contracts or agreements between William Stansbury ("Stansbury") and LIC Holdings, Inc. and/or its subsidiaries (collectively "LIC"), including Arbitrage International Management, LLC f/k/a Arbitrage International Holdings, LLC ("AIM").

2. All written contracts or agreements between Stansbury and Ted Bernstein.

3. All written contracts or agreements between Stansbury and Simon Bernstein.

4. All documents evidencing, referring to or relating to oral contracts or agreement between Stansbury and LIC or AIM.

5. All documents evidencing, referring to or relating to oral contracts or agreement between Stansbury and Ted Bernstein.

6. All documents evidencing, referring to or relating to oral contracts or agreement between Stansbury and Simon Bernstein.

7. All documents evidencing, referring to or relating to any discussion, understanding or agreement evidencing Stansbury's alleged compensation arrangement between Stansbury and LIC and/or AIM.

8. All e-mails that pertain to the alleged compensation agreement between Stansbury and LIC and/or AIM.

9. All e-mails that pertain to the alleged compensation agreement between Stansbury and Ted Bernstein.

10. All e-mails that pertain to the alleged compensation agreement between Stansbury and Simon Bernstein.

11. All written notes pertaining to the alleged compensation agreement between Stansbury and LIC, AIM, Ted Bernstein or Simon Bernstein.

12. All electronic files saved by Stansbury to other electronic storage devices (flash drives, CDs, etc.) that were previously stored on any drive or other storage device of the LIC Holdings, Inc. or its affiliates.

13. All commission statements received by Stansbury from life insurance carriers on business written by Stansbury since he became affiliated with LIC, AIM, Ted Bernstein or Simon Bernstein.

14. Detail listing of all amounts and dates of receipt of all amounts received from the parties

during the time of Stansbury's relationship with the company.

15. Forms 1099 received by Stansbury from life insurance carriers for commissions earned from the date he became affiliated with the parties through the present.

16. All Net Retained Commission Reports in Stansbury's possession (whether prepared by him or other parties).

17. All Net Retained Commission Reports submitted to Ted Bernstein as a basis for processing payments to Stansbury and other employees

18. Detail listing of all commission checks received by Stansbury relating to policies sold to clients during the time Stansbury was affiliated with LIC, including all predecessor companies that existed prior to the formation of LIC and all entities that ever became affiliated with LIC.

19. Any hand written notes, electronic notes or other communication regarding commissions received by Stansbury relating to policies sold to clients during the time Stansbury was affiliated with LIC, AIM, Ted Bernstein or Simon Bernstein.

20. Forms 1099 submitted to Arbitrage International Marketing, Inc. or any affiliate by Stansbury that reflects commissions for which Stansbury was the agent on the life insurance applications.

21. All information regarding Stansbury's ownership of LIC Holdings, Inc. stock., including stock certificate(s), K-1s, and other documents.

22. Information regarding the consideration paid by Stansbury for LIC Holdings, Inc. stock.

23. The portion of Form 1040 for Stansbury (or Stansbury and spouse, if joint income tax return) relating to any taxable income derived from LIC Holdings, Inc. or its affiliates, including K-1s. This request specifically includes any taxable income Stansbury received from insurance carriers for policies sold or commissions earned from the date Stansbury became affiliated with LIC, AIM, Ted Bernstein and Simon Bernstein, through the present.

24. Written memoranda or other information regarding Stansbury's relationship with LIC Holdings, Inc. that was prepared in connection with defending Stansbury in case of Phoenix v. Stansbury, et. al.

25. Retainer Agreement between Stansbury and Barnes & Thornburg for his defense in Phoenix v. Stansbury, et. al.

26. All correspondence with memoranda , etc, between Stansbury and Barnes & Thornburg an/or David Orenstein regarding Stansbury's position in the litigation between Phoenix v. Stansbury, et. al.

27. Retainer Agreement between Stansbury and Greenberg Traurig in connection with his defense in John Wright v. Stansbury, et. al., and all files or communications with any party regarding that case.

28. All communications regarding the automobiles provided by the company to Stansbury during his affiliation with the company.

29. Copies of the lease agreements for the automobiles provided by the company Stansbury during his affiliation with the company.

30. Cancelled checks or other evidence of payment for all amounts loaned or contributed to the company by Stansbury for the support of the company's negative cash flow.

31. Letters, e-mails and other correspondence to or from life insurance carriers relating to changing the addressee for payment of renewal commissions.

32. E-mails, memoranda and any other communications regarding commission chargebacks, including but not limited to William Close, Frances Peaty and Jerome Samuels.

33. Detail listing of all commission chargebacks relating to William Close and any other chargebacks.

34. All communications with agents (including but not limited to Alfred Prince and Mike Mazarek) regarding commissions due to them for policies placed through Stansbury on behalf of LIC.

35. Correspondence from Stansbury to Ted Bernstein and Simon Bernstein regarding Stansbury's 10% interest in LIC and any correspondence from Ted Bernstein or Simon Bernstein regarding his 10% interest in LIC.

36. For all checks received from 2008 to the present by Stansbury which were not turned over to LIC or AIM, please provide copies of the check; documents showing the location of the funds; proof of who was responsible for originating or generating the customer or insured; and all documents which support any claim that Stansbury is entitled to such funds.

37. For all checks received from 2008 to the present by Stansbury which Stansbury believes he earned independent of his involvement with LIC, AIM, Ted Bernstein or Simon Bernstein, provide copies of all documents showing who was responsible for originating or generating the customer or insured; and all documents which support any claim that Stansbury is entitled to such funds, including copies of any commission agreements or related documents.

38. For all checks received by LIC, AIM, Ted Bernstein or Simon Bernstein which Stansbury believes he earned independent of his involvement with LIC, AIM, Ted Bernstein or Simon Bernstein, provide copies of all documents showing who was responsible for originating or generating the customer

or insured; and all documents which support any claim that Stansbury is entitled to such funds, including copies of any commission agreements or related documents.

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

WILLIAM E. STANSBURY,

Plaintiff,

vs.

CASE NO: 50 2012 CA 013933 MB AA

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.
_____/

DEFENDANTS', TED S. BERNSTEIN, LIC HOLDINGS, INC., AND ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF, WILLIAM E. STANSBURY

Defendants, Ted S. Bernstein, LIC Holdings, Inc. and Arbitrage International Holdings, LLC (collectively "Defendants"), request Plaintiff, William E. Stansbury, to file a written response within 30 days of service, and to produce and permit Defendants to inspect and copy the documents listed on Exhibit "A" attached hereto at such place and time as may be agreed upon by counsel.

INSTRUCTIONS AND DEFINITIONS

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B. The following additional definitions apply:

1. "Plaintiff," "You," "Your" or "Stansbury" shall mean Plaintiff, William E. Stansbury, as well as his agents, servants, employees, representatives, accountants, experts, attorneys, and assigns, or other persons acting or purporting to act on his behalf.

2. "LIC" shall mean Defendant, LIC Holdings, Inc., and/or its subsidiaries, as well as its agents, servants, employees, representatives, accountants, experts, attorneys, and assigns, or other persons acting or purporting to act on its behalf.

3. "AIM" shall mean Defendant, Arbitrage International Management, LLC f/k/a Arbitrage International Holdings, LLC, and/or its subsidiaries, as well as its agents, servants, employees, representatives, accountants, experts, attorneys, and assigns, or other persons acting or purporting to act on its behalf.

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D. All documents shall be originals unless otherwise indicated. If the "original" is a photocopy (or other copy), then the photocopy should be produced as the original.

E. If you possess no documents responsive to a paragraph in this request, state this fact, specifying the paragraph concerned and where the documents may be found to the best of your belief.

F. If you object in part to any request for production, please produce the portion of the documents requested to which you do not object, and state your objections to the remainder.

G. If you claim a privilege of any type with respect to any of the documents, please identify the documents by date, title and each other descriptive information as will clearly identify the document. Further, the objection should state the legal basis of the privilege claim and provide such supporting information as will establish the claimed privilege.

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Email: phely@pm-law.com; mchandler@pm-law.com
Counsel for Ted S. Bernstein; LIC Holdings, Inc.; Arbitrage International Management, LLC; and Shirley Bernstein Trust

By: /s/ Alan B. Rose
Alan B. Rose (Florida Bar No. 961825)
Stefanie R. Shelley (Florida Bar No. 514446)
N. Patrick Hely (Florida Bar No. 0091466

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Counsel for Donald R. Tescher and Robert L.
Spallina, as Co-Personal Representatives; Bernstein Family
Realty, LLC

EXHIBIT "A"

1. All written contracts or agreements between William Stansbury ("Stansbury") and LIC Holdings, Inc. and/or its subsidiaries (collectively "LIC"), including Arbitrage International Management, LLC f/k/a Arbitrage International Holdings, LLC ("AIM").

2. All written contracts or agreements between Stansbury and Ted Bernstein.

3. All written contracts or agreements between Stansbury and Simon Bernstein.

4. All documents evidencing, referring to or relating to oral contracts or agreement between Stansbury and LIC or AIM.

5. All documents evidencing, referring to or relating to oral contracts or agreement between Stansbury and Ted Bernstein.

6. All documents evidencing, referring to or relating to oral contracts or agreement between Stansbury and Simon Bernstein.

7. All documents evidencing, referring to or relating to any discussion, understanding or agreement evidencing Stansbury's alleged compensation arrangement between Stansbury and LIC and/or AIM.

8. All e-mails that pertain to the alleged compensation agreement between Stansbury and LIC and/or AIM.

9. All e-mails that pertain to the alleged compensation agreement between Stansbury and Ted Bernstein.

10. All e-mails that pertain to the alleged compensation agreement between Stansbury and Simon Bernstein.

11. All written notes pertaining to the alleged compensation agreement between Stansbury and LIC, AIM, Ted Bernstein or Simon Bernstein.

12. All electronic files saved by Stansbury to other electronic storage devices (flash drives, CDs, etc.) that were previously stored on any drive or other storage device of the LIC Holdings, Inc. or its affiliates.

13. All commission statements received by Stansbury from life insurance carriers on business written by Stansbury since he became affiliated with LIC, AIM, Ted Bernstein or Simon Bernstein.

14. Detail listing of all amounts and dates of receipt of all amounts received from the parties

during the time of Stansbury's relationship with the company.

15. Forms 1099 received by Stansbury from life insurance carriers for commissions earned from the date he became affiliated with the parties through the present.

16. All Net Retained Commission Reports in Stansbury's possession (whether prepared by him or other parties).

17. All Net Retained Commission Reports submitted to Ted Bernstein as a basis for processing payments to Stansbury and other employees

18. Detail listing of all commission checks received by Stansbury relating to policies sold to clients during the time Stansbury was affiliated with LIC, including all predecessor companies that existed prior to the formation of LIC and all entities that ever became affiliated with LIC.

19. Any hand written notes, electronic notes or other communication regarding commissions received by Stansbury relating to policies sold to clients during the time Stansbury was affiliated with LIC, AIM, Ted Bernstein or Simon Bernstein.

20. Forms 1099 submitted to Arbitrage International Marketing, Inc. or any affiliate by Stansbury that reflects commissions for which Stansbury was the agent on the life insurance applications.

21. All information regarding Stansbury's ownership of LIC Holdings, Inc. stock., including stock certificate(s), K-1s, and other documents.

22. Information regarding the consideration paid by Stansbury for LIC Holdings, Inc. stock.

23. The portion of Form 1040 for Stansbury (or Stansbury and spouse, if joint income tax return) relating to any taxable income derived from LIC Holdings, Inc. or its affiliates, including K-1s. This request specifically includes any taxable income Stansbury received from insurance carriers for policies sold or commissions earned from the date Stansbury became affiliated with LIC, AIM, Ted Bernstein and Simon Bernstein, through the present.

24. Written memoranda or other information regarding Stansbury's relationship with LIC Holdings, Inc. that was prepared in connection with defending Stansbury in case of Phoenix v. Stansbury, et. al.

25. Retainer Agreement between Stansbury and Barnes & Thornburg for his defense in Phoenix v. Stansbury, et. al.

26. All correspondence with memoranda , etc, between Stansbury and Barnes & Thornburg an/or David Orenstein regarding Stansbury's position in the litigation between Phoenix v. Stansbury, et. al.

27. Retainer Agreement between Stansbury and Greenberg Traurig in connection with his defense in John Wright v. Stansbury, et. al., and all files or communications with any party regarding that case.

28. All communications regarding the automobiles provided by the company to Stansbury during his affiliation with the company.

29. Copies of the lease agreements for the automobiles provided by the company Stansbury during his affiliation with the company.

30. Cancelled checks or other evidence of payment for all amounts loaned or contributed to the company by Stansbury for the support of the company's negative cash flow.

31. Letters, e-mails and other correspondence to or from life insurance carriers relating to changing the addressee for payment of renewal commissions.

32. E-mails, memoranda and any other communications regarding commission chargebacks, including but not limited to William Close, Frances Peaty and Jerome Samuels.

33. Detail listing of all commission chargebacks relating to William Close and any other chargebacks.

34. All communications with agents (including but not limited to Alfred Prince and Mike Mazarek) regarding commissions due to them for policies placed through Stansbury on behalf of LIC.

35. Correspondence from Stansbury to Ted Bernstein and Simon Bernstein regarding Stansbury's 10% interest in LIC and any correspondence from Ted Bernstein or Simon Bernstein regarding his 10% interest in LIC.

36. For all checks received from 2008 to the present by Stansbury which were not turned over to LIC or AIM, please provide copies of the check; documents showing the location of the funds; proof of who was responsible for originating or generating the customer or insured; and all documents which support any claim that Stansbury is entitled to such funds.

37. For all checks received from 2008 to the present by Stansbury which Stansbury believes he earned independent of his involvement with LIC, AIM, Ted Bernstein or Simon Bernstein, provide copies of all documents showing who was responsible for originating or generating the customer or insured; and all documents which support any claim that Stansbury is entitled to such funds, including copies of any commission agreements or related documents.

38. For all checks received by LIC, AIM, Ted Bernstein or Simon Bernstein which Stansbury believes he earned independent of his involvement with LIC, AIM, Ted Bernstein or Simon Bernstein, provide copies of all documents showing who was responsible for originating or generating the customer

or insured; and all documents which support any claim that Stansbury is entitled to such funds, including copies of any commission agreements or related documents.

The Law Offices
of
PETER M. FEAMAN, P.A.
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June 3, 2013

Via hand delivery by courier

Honorable Glenn Kelley
Courtroom 11A
Palm Beach County Circuit Court
205 No. Dixie Highway
West Palm Beach, FL 33401

Re: Stansbury v. Bernstein et al
Materials for Special Set Hearing Monday, June 10, 2013
Case No: 50 2012 CA 013933 MB AA

Dear Judge Kelley:

Enclosed for your review are:

1. Plaintiff, William Stansbury's Responses to the Motions to Dismiss filed by Defendant, the Estate of Simon L. Bernstein and Defendant, Ted S. Bernstein;

2. The Motions to Dismiss;

3. Relevant case law cited in the Responses;

4. A courtesy copy of the Amended Complaint.

The Motions to Dismiss are set for hearing before Your Honor on **Monday, June 10, 2013** at **1:30 p.m.**

Thank you for your attention to this matter.

Respectfully,
PETER M. FEAMAN, P.A.

By: Peter M. Feaman

PMF/mk
Enclosure
cc: Mark Manceri, Esq.
Alan Rose, Esq.

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

CASE NO: **50 2012 CA 013933 MB AA**

WILLIAM E. STANSBURY,
Plaintiff,

v.

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.
_____/

RESPONSE OF PLAINTIFF TO THE MOTION TO DISMISS FILED BY DEFENDANT TED S. BERNSTEIN

Plaintiff William E. Stansbury ("Plaintiff" or "Stansbury"), by and through his undersigned counsel, files this Response to the Motion to Dismiss as to Counts III, VII and VIII of the Amended Complaint filed by Defendant Ted S. Bernstein, as follows:

--- Count III - Breach of Fiduciary Duty ---

1. The breach of fiduciary duty claim is a direct action to redress an injury sustained specifically and uniquely by Plaintiff, individually. For this reason all grounds for dismissal asserted in the Motion to Dismiss as to Count III should be denied.

2. Generally, Bernstein is correct that a shareholder may not sue in his own name for injuries to a corporation unless there is a special duty between the wrongdoer and the shareholder and the shareholder has suffered an injury separate and apart from that suffered by other

shareholders. See, Braun v. Buyers Choice Mortgage Corp., 851 So. 2d 199, 203 (Fla. 4th DCA 2003). If a Plaintiff has been specifically harmed, he has a personal claim. Shareholders may bring a direct suit "in their own right to redress an injury sustained directly by them individually." Fort Pierce Corp. v. Ivey, 671 So. 2d 206, 207 (Fla. 4th DCA 1996).

3. There are two established exceptions to the rule that a shareholder cannot sue individually for injuries to a corporation:

A. Where there is a special duty, such as a contractual duty, between the wrongdoer and the shareholder; and,

B. Where the shareholder suffered an injury separate and distinct from that suffered by other shareholders. See, Harrington v. Batchelor, 781 So. 2d 1133, 1135 (Fla. 3d DCA 2001) (quoting William Meade Fletcher, Fletcher Cyclopedia of the Law of Private Corporations §5911, at 458 (2000)). The Court in Harrington cited the following from Fletcher:

> Where the wrongful acts are not only wrongs against the corporation but are also violations by the wrongdoer of a duty arising from contract or otherwise, and owing directly to the shareholders, individual shareholders can sue in their own right. Id. §5913, at 470 (footnote omitted)

4. In Fort Pierce Corp. v. Ivey, supra, the Fourth District Court of Appeal reversed the trial court, finding that the minority shareholder's action was personal, not derivative. She had showed that she personally was entitled to a thirty-three percent interest in the stock of the corporation, and the failure to issue the stock to her did not cause injury to the corporation or the stockholders. Ivey, 671 So. 2d at 207. As the Court stated:

> ... [The minority shareholder] was suing to enforce a right of action existing in her, and attempting to redress her own injury. She was the only person injured by the corporation's decision not to issue the stock. Such an action is personal and did not entitle her to fees under the statute.

5. In this case, the facts as alleged in the Amended Complaint as they relate to a cause of action for breach of fiduciary duty are sufficient to sustain an individual claim by Stansbury for damages. This Court is to look to the body of the Amended Complaint to determine whether sufficient facts have been alleged to sustain a cause of action for injuries that are personal and direct to the shareholder. See, Karten v. Woltin, 23 So.3d 839, 841(Fla. 4th DCA 2009). In his Amended Complaint, STANSBURY makes the following pertinent allegations:

(¶15) In 2006, Simon Bernstein and Ted Bernstein formed Defendants LIC Holdings and Arbitrage for the purpose of marketing and selling certain life insurance products to high net worth individuals for their wealth management and estate planning needs.

(¶16) Plaintiff agreed to become an employee of Defendants LIC Holdings, Inc. and Arbitrage and agreed to a salary of 15% of net commissions received on all products, including renewals.

(¶18) Also in 2006, Simon Bernstein told Plaintiff that he was being rewarded for his efforts and would receive a 10% ownership interest in LIC Holdings, Inc.

(¶19) In February of 2008 Simon Bernstein proposed to Plaintiff that, rather than get paid monthly on 15% of net commissions, Plaintiff, Ted Bernstein and Simon Bernstein would wait until year end when all computations for the entire year would be made and paid in December 2008 or January 2009. None of the three were to draw any salaries until year end 2008.

(¶20) At year end 2008, Plaintiff, Defendant Simon Bernstein, and Defendant Ted Bernstein were each to be paid a minimum salary of $1 million dollars. Plaintiff's

amount would be applied against Plaintiff's 15% earned commissions. Additionally, Simon Bernstein also represented to Plaintiff, in what can be described as a shareholder agreement, that: **"Any compensation to Stansbury over and above his 15% would be paid to him in accordance with his ownership interest of 10%."** (Emphasis supplied.)

(¶¶46, 47, 48) Simon and Ted Bernstein were, at all material times, majority shareholders and officers of LIC Holdings and Arbitrage. As majority shareholders and officers, Simon and Ted Bernstein owed Plaintiff, a minority shareholder, a fiduciary duty of good faith.

(¶¶49, 51, 54) Plaintiff placed his trust and confidence in Simon and Ted Bernstein that they would deal honestly with him, both as an employee and minority shareholder, and would not withhold information about amounts due him, and the Bernsteins accepted that trust.

(¶55) Simon and Ted Bernstein breached their fiduciary duty to Plaintiff by their repeated conduct of self-dealing.

6. The facts as alleged in the Amended Complaint show that Plaintiff has asserted a) a special duty owed by the Bernsteins as majority shareholders to Stansbury as an employee and minority shareholder; and b) that Stansbury has an individual claim that is unique and personal to him as an employee and minority shareholder pursuant to his compensation agreement.

7. The breach of fiduciary duty count in this case satisfies both exceptions because Simon and Ted Bernstein owed special contractual duties to Plaintiff pursuant to his employment agreement. Plaintiff's injuries were clearly distinct from any other shareholder. Simon and Ted conspired in the scheme to deprive Plaintiff of his compensation due him. Plaintiff, as the sole shareholder to whom a specific contractual duty was owed, can sue in his own right.

8. The damages to Plaintiff are unique and individual as no other shareholder suffered the injuries that Plaintiff has suffered. Other than Simon and Ted Bernstein, Plaintiff was the only shareholder with a compensation arrangement that paid both a salary based on a percentage of net commissions, plus a 10% distribution based on Plaintiff's performance and company revenues. (Simon Bernstein, Ted Bernstein and Plaintiff were the only shareholders with any kind of compensation arrangement with LIC Holdings. See, generally, ¶¶15, 16, 18, 19 and 20 of the Amended Complaint.) Simon and Ted Bernstein, as controlling shareholders, disregarded any shareholder compensation agreements and constrictions whatsoever, especially as they related to the Plaintiff, and instead freely looted the corporation at will for their own personal benefit and as a means to deprive Plaintiff of the compensation due him.

--- Counts VII and VIII – Equitable Lien and Constructive Trust ---

9. Ted Bernstein also moves to dismiss Count VII for an Equitable Lien and Count VII, for Constructive Trust. Both allege claims against specific property of Ted Bernstein. Defendant has offered no argument or legal authority for his claimed entitlement to dismissal.

10. Finally, Ted Bernstein claims that Plaintiff lacks standing to bring any derivative claim on behalf of LIC or Arbitrage because he ceded his 10% interest in LIC and thus was not a shareholder when suit was filed. Plaintiff's claims herein are individual and personal, not derivative, so this basis for dismissal does not apply.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court deny Defendant Ted Bernstein's Motion to Dismiss and order Defendant to file an Answer within 10 days of the date of the Order, together with any other relief this Court deems just and proper.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives,* 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; at arose@pm-law.com and mchandler@pm-law.com to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc. and Arbitrage International Management, LLC,* 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this 3rd day of June, 2013.

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Fax: 561-734-5554
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By: _____
Peter M. Feaman
Florida Bar No.: 0260347

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

RESPONSE OF PLAINTIFF WILLIAM E. STANSBURY TO THE MOTION TO DISMISS FILED BY DEFENDANT, THE ESTATE OF SIMON BERNSTEIN

Plaintiff WILLIAM E. STANSBURY ("Plaintiff"), by and through his undersigned counsel, files this Response to the Motion to Dismiss filed by Defendant, the Estate of Simon Bernstein ("SIMON"), as follows:

Court III – Breach of Fiduciary Duty

1. The thrust of Bernstein's argument for dismissal of Count III is that the Amended Complaint should be dismissed for failure to comply with Fla. R. Civ. P. 1.130(a). This is based on SIMON's erroneous contention that, because Plaintiff has alleged that SIMON and Defendant Ted Bernstein, were "officers and majority shareholders" of Defendants LIC Holdings ("LIC") and Arbitrage International Management ("Arbitrage") Plaintiff fails to state a cause of action because he did not attach written proof of SIMON's ownership interest in LIC or Arbitrage. This argument is frivolous.

2. Rule 1.130(a) spcifically states:

Rule 1.130. Attaching Copy of Cause of Action and Exhibits

(a) Instruments Attached. All bonds, notes, bills of exchange, contracts, accounts or documents **upon which action may be brought or defense made**,....shall be incorporated in or attached to the pleadings. (Emphasis added.)

3. A plain reading of the Rule makes clear that incorporation or attachment of a document to a pleading is required only when a particular cause of action is based on a written document or instrument. This interpretation of the Rule is supported by the Fourth District in Samuels v. King Motor Company of Fort Lauderdale, 782 So.2d 489 (Fla. 4th DCA 2001), wherein the Court stated:

> Florida Rule of Civil Procedure 1.130(a) provides that all contracts or documents "upon which action may be brought...shall be incorporated in or attached to the pleading." When a party brings an action **based upon a contract** and fails to attach a necessary exhibit under Rule 1.130(a), the opposing party may attack the failure to attach a necessary exhibit through a motion to dismiss. See Safeco Ins. Co. v. Ware, 401 So.2d 1129, 1130 (Fla. 4th DCA 1981).

4. In this case, the claim is that SIMON breached his fiduciary duty to Plaintiff causing him harm is a cause of action based upon SIMON's conduct, not a written document or instrument. Establishing the ownership interest of SIMON will be Plaintiff's burden of proof at trial. This proof can be proffered in many forms and through various types of witnesses and documents. Hence, this is not a cause of action based on a particular, discrete, identifiable document or instrument, such as a contract, will, deed or promissory note. As such, Rule 1.130(a) does not apply.

Count V – Conversion

5. SIMON alleges that Plaintiff, in his Statement of Claim filed against the Estate of Simon Bernstein in the Probate Division of this Circuit Court (the "Estate"), incorporated by reference the initial Complaint filed in this action. In the initial Complaint, conversion was not

an alleged cause of action against the Estate. Rather, in the Amended Complaint a cause of action for conversion was substituted for Civil Theft. As a result, SIMON contends the Amended Complaint's "new" allegation of conversion fails to state a cause of action because under §733.703(1), Fla. Stat. (2012), "no additional charge may be imposed by a Claimant who files a claim against the estate."

6. SIMON's reliance on §733.703(1) is wholly misplaced. Under the Florida Probate Code, all that is required in the Probate Statement of Claim is "the basis for the claim." *See*, Fla. Prob. R. 5.490(a)(1)(2012). Moreover, the Probate rules strongly suggest that the intent behind the "basis for the claim" requirement is simply to adequately notify interested persons of the claim's substance. Fla. Prob. R. 5.490(e), relating to amending claims, states "**If a claim as filed is sufficient to notify interested persons of its substance** but is otherwise defective as to form, the court may permit the claim to be amended at any time." (Emphasis added.)

7. In this case, the initial Complaint contained the same basic allegations against SIMON in the Count entitled "Civil Theft," as are subsequently alleged in the Amended Complaint (see, Count V, Conversion). Paragraph 57 of the initial Complaint alleges that by refusing to pay to Plaintiff funds due him under their agreement, but by paying said sums to themselves or to others, "Defendants (SIMON included) have been guilty of criminal theft by conversion." Paragraph 67 of the Amended Complaint alleges that a number of the Defendants, SIMON included, "or someone acting on their behalves, received and cashed in excess of $30,000 worth of commission checks otherwise payable to Plaintiff."

8. The Amended Complaint supplies more factual clarity of the offending conduct by SIMON and other Defendants compared to the initial Complaint. The substance of Plaintiff's allegations against SIMON in both pleadings as they relate to conversion are the same: that

SIMON and/or other Defendants stole from Plaintiff funds that were rightfully his and that such conduct constitutes conversion. As such, SIMON was on sufficient notice of "the basis of the claim" to warrant denial of SIMON's attempt to dismiss this Count, whether the claim is alleged as a "Civil Theft" claim as found in the initial Complaint, or is alleged as a "Conversion" claim as found in the Amended Complaint.

Count VII – Equitable Lien
Count VIII – Constructive Trust

9. SIMON's Motion to Dismiss as to Counts VII and VIII is premised on the same argument as the attempt to dismiss Count V: that is, that Plaintiff is barred from alleging a "new" cause of action. The initial Complaint sought an equitable lien and constructive trust as to "bank" or other "accounts" in which commissions were deposited. Defendant argues that because the Amended Complaint now seeks an equitable lien and constructive trust on three specifically identified parcels of real estate not previously identified in the initial Complaint, these Counts as to SIMON should be dismissed. SIMON again relies on §733.703 (1), Fla. Stat. (2012).

10. SIMON's motion to dismiss as to these counts must fail for the same reason that its Motion to dismiss the conversion count must fail. Further, SIMON has no standing to object to the equitable lien and constructive trust counts because they relate to real property in which the Estate has no ownership interest.

11. As to the property known as 7020 Lions Head Lane, Boca Raton, Florida ("the St. Andrews Property"), on May 20, 2008, Shirley Bernstein and Simon Bernstein, as grantors, transferred title to the St. Andrews Property by quit claim deed to Shirley Bernstein as Trustee of the Shirley Bernstein Trust Agreement. As alleged in the Amended Complaint, the Shirley

Bernstein Trust Agreement is the current owner of the St. Andrews Property. (The Shirley Bernstein Trust is a party Defendant in this action.)

12. As to the property known as 2753 NW 34 Street, Boca Raton, Florida ("the Boca Madeira Property"), by Warranty Deed dated June 18, 2008, title to the Boca Madeira Property was transferred to Bernstein Family Realty, LLC. As alleged in the Amended Complaint, Bernstein Family Realty, LLC is the current owner of the Boca Madeira Property. (Bernstein Family Realty, LLC is a party Defendant in this action.)

13. As to the property known as 15807 Menton Bay Court, Delray Beach, Florida ("the Saturnia Isles Property"), as of July 10, 2006, the Saturnia Isles Property was owned by Ted S. Bernstein and Deborah L. Bernstein.

14. As a result of the property information set forth in paragraphs 11, 12 and 13, the Estate of Simon Bernstein is not the titled owner of the St. Andrews, Boca Madeira or Saturnia Isles Properties and hence has no standing to contest the imposition of an equitable lien or constructive trust on any of these properties. As such, SIMON's Motion to Dismiss should be denied.

The General Prayer for Attorney Fees and Costs Should be Stricken

15. SIMON is not entitled to attorney fees and costs as requested in the prayer for relief.

A) Section 733.106, which SIMON cites as authority, is part of the Probate Code (Chapter 733, *et seq.*) and does not apply in this case. Section 733.106(1) specifically states that "In all probate proceedings costs may be awarded as in chancery actions." This is not a probate proceeding. This is a civil action in which the Estate of Simon Bernstein has been substituted as a party defendant for acts committed by decedent Simon Bernstein prior to his death. On similar grounds subsections 733.106(2), (3) and (4) also do not apply. They either directly or by

implication pertain to cases litigated in the Probate Court. As such, the statutory provisions cited are inapplicable to this civil action in the general jurisdiction division of this Circuit Court.

B) Similarly, Section 733.609 is equally inapplicable. It applies to attorney fees that may be awardable in cases wherein breach of fiduciary duty may be alleged and proven against a personal representative. This statute is wholly irrelevant in this case.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court deny Defendant the Estate of Simon Bernstein's Motion to Dismiss and order the Estate to file an Answer within 10 days of the date of the Order.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives of the Estate of Simon Bernstein* and *Bernstein Family Realty,* 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; at arose@pm-law.com and mchandler@pm-law.com to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc, Arbitrage International Management, LLC and the Shirley Bernstein Trust,* 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this 3rd day of June, 2013.

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June 3, 2013

The Hon. Glenn Kelley
Circuit Court Judge
205 North Dixie Highway
Room 11.1208
West Palm Beach, FL 33401

Re: *William E. Stansbury v. Ted S. Bernstein, Donald Tescher and Robert Spallina, as co-personal representatives of the Estate of Simon L. Bernstein, etc., et al.*
Case No. 502012CA013933XXXXMBAA

Dear Judge Kelley:

Enclosed please find a hearing binder containing Defendant's, Ted S. Bernstein, materials in support of Motion to Dismiss Counts II, VII, and VII of the Amended Complaint including highlighted case law. This matter is scheduled before this Court for a **special set, 30-minute, hearing at 1:30 p.m. on June 10, 2013.**

We appreciate Your Honor's time and attention to this matter.

Respectfully submitted,

Alan B. Rose

ABR/bl
Enclosure
cc: Peter M. Feaman, Esq., w/enclosure, via e-mail
Mark R. Manceri, Esq., w/enclosure, via e-mail

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

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 MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC; BERNSTEIN FAMILY REALTY, LLC,

Defendants.
_____/

CASE NO: 50 2012 CA 013933 MB AA

MATERIALS SUBMITTED ON BEHALF OF DEFENDANT, TED S. BERNSTEIN, IN SUPPORT OF MOTION TO DISMISS COUNTS III, VII, AND VIII

Monday, June 10, 2013 at 1:30 p.m.

Submitted by:
Alan B. Rose, Esq. - Fla. Bar No.: 961825
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Counsel for Defendant, Ted S. Bernstein

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MOTION PAPERS

1. Order Setting Hearing

2. Amended Complaint

3. Defendant's, Ted Bernstein, Motion to Dismiss Counts III, VII, and VIII

4. Defendants', Tescher and Spallina, as Co-Personal Representatives of the Estate of Simon L. Bernstein, Motion to Dismiss Counts III, V, VII and VIII of the Amended Complaint

HIGHLIGHTED AUTHORITY

5. *Department of Ins. v. Coopers & Lybrand*, 570 So. 2d 369 (Fla. 3d DCA 1990)

6. *Karnegis v. Lazzo*, 243 So. 2d 642 (Fla. 3d DCA 1971)

7. Fla. R. Civ. P. 1.110(g)

8. § 607.07401, Fla. Stat.

9. *Timko v. Triarsi*, 898 So. 2d 89, 91 (Fla. 5th DCA 2005)

10. *Alario v. Miller*, 354 So. 2d 925, 926 (Fla. 2d DCA 1978)

11. *Kloha v. Duda*, 246 F. Supp. 2d 1237, 1242 (M.D. Fla. 2003)

12. *Empire Life Ins. Co. of Am. v. Valdak Corp.*, 468 F.2d 330, 335 (5th Cir. 1972)

TAB # 1

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

ORDER SETTING HEARING

The following matter has been specially set for hearing before Judge Glenn D. Kelley in Courtroom 11A of the Palm Beach County Courthouse, 205 North Dixie Highway, West Palm Beach, FL 33401.

DATE: **June 10, 2013**

TIME: **1:30 p.m. (time allotted: 30 minutes)**

MATTERS: **Defendants' (co-personal representatives of the Estate of Simon Bernstein) Motion to Dismiss; and**

Defendant's (Ted Bernstein) Motion to Dismiss

NOTE: THIS HEARING IS SPECIALLY SET BY COURT ORDER AND CANNOT BE CANCELLED OR RESET EXCEPT BY COURT ORDER. ALL MEMORANDA MUST BE SUBMITTED TO JUDGE'S CHAMBERS NO LATER THAN FIVE (5) DAYS PRIOR TO HEARING.

DONE and ORDERED in Chambers, West Palm Beach, Palm Beach County, Florida this 16th day of May, 2013.

Honorable Glenn Kelley
Circuit Judge

Copies to:
Alan Rose, Esq., Page Mrachek, 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401; e-mail: arose@pm-law.com;
Mark R. Manceri, Exq., Mark R. Manceri, P.A., 2929 E. Commercial Blvd., suite 702, Fort Lauderdale, FL 33308; e-mail: mrmlaw@comcast.net
Peter M. Feaman, Esq., Peter M. Feaman, P.A., 3615 W. Boynton Beach Blvd., Boynton Beach, FL; e-mail: pfeaman@feamanlaw.com

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Germaine English, Americans with Disabilities Act Coordinator, Palm Beach County Courthouse, 205 North Dixie Highway West Palm Beach, Florida 33401; telephone number (561) 355 4380 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711."

"Si usted es una persona minusválida que necesita algún acomodamiento para poder participar en este procedimiento, usted tiene derecho, sin tener gastos propios, a que se le provea cierta ayuda. Tenga la amabilidad de ponerse en contacto con Germaine English, 205 N. Dixie Highway, West Palm Beach, Florida 33401; teléfono número (561) 355-4380, por lo menos 7 días antes de la cita fijada para su comparecencia en los tribunales, o inmediatamente después de recibir esta notificación si el tiempo antes de la comparecencia que se ha programado es menos de 7 días; si usted tiene discapacitación del oído o de la voz, llame al 711."

"Si ou se yon moun ki enfim ki bezwen akomodasyon pou w ka patisipe nan pwosedi sa, ou kalifye san ou pa gen okenn lajan pou w peye, gen pwovizyon pou jwen kèk èd. Tanpri kontakte Germaine English, kòòdonatè pwogram Lwa pou ameriken ki Enfim yo nan Tribinal Konte Palm Beach la ki nan 205 North Dixie Highway, West Palm Beach, Florida 33401; telefòn li se (561) 355 4380 nan 7 jou anvan dat ou gen randevou pou parèt nan tribinal la, oubyen imedyatman apre ou fin resevwa konvokasyon an si lè ou gen pou w parèt nan tribinal la mwens ke 7 jou; si ou gen pwoblèm pou w tande oubyen pale, rele 711."

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

IN RE: STANDING ORDER ON SPECIALLY SET MOTIONS

CIVIL DIVISION "AA"

_____/

This motion has been specially set by Court Order and cannot be canceled except by further Court Order.

It is the intent of this Court to dispose of the subject matter of the specially set motion on the date and time appearing on the order. Accordingly, counsel must either: (1) argue the motion on the date and time set for the hearing; (2) submit an agreed order disposing of the motion; or (3) show good cause why the hearing should be canceled. Any request to cancel a hearing for good cause shall be made by motion and shall be set for hearing on the Court's Uniform Motion Calendar.

All memoranda and/or case authority shall be delivered to my office and to all parties no later than five business days in advance of the hearing and no sooner than ten days prior to the hearing and should designate the date and time of the hearing which they reference.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida this 4th day of September, 2012.

JUDGE GLENN D. KELLEY
CIRCUIT COURT JUDGE

TAB # 2

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

AMENDED COMPLAINT

WILLIAM E. STANSBURY, by and through undersigned counsel, sues the Defendants and states:

1. This is an action for money damages in excess of $15,000, and for equitable relief.

2. Plaintiff (hereinafter referred to as "STANSBURY") is *sui juris*, and a resident of Palm Beach County, Florida.

3. Defendant TED S. BERNSTEIN ("TED BERNSTEIN"), is *sui juris*, and a resident of Palm Beach County, Florida.

4. SIMON L. BERNSTEIN ("SIMON BERNSTEIN") died on or about September 13, 2012, after the filing of the initial Complaint in this action. At the time of his death, SIMON BERNSTEIN was *sui juris*, and was a resident of Palm Beach County, Florida. Defendants

Donald R. Tescher and Robert L. Spallina are serving as co-personal representatives of the ESTATE OF SIMON L. BERNSTEIN (the "ESTATE")which ESTATE is presently open and pending in the Palm Beach County Circuit Court, *In re: Estate of Simon L. Bernstein*, Case No. 502012CP004391XXXXSB (the "Estate Proceeding"). In accordance with Section 733.705, Florida Statutes, STANSBURY hereby brings this independent action against the ESTATE with respect to his Statement of Claim that was filed and objected to in the Estate Proceeding.

5. Defendant, LIC HOLDINGS, INC. ("LIC Holdings") is a Florida corporation with its principal place of business in Palm Beach County, Florida.

6. Defendant, ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, formerly known as ARBITRAGE INTERNATIONAL HOLDINGS, LLC, ("ARBITRAGE") is a Florida limited liability company with its principal place of business in Palm Beach County, Florida.

7. Defendant, BERNSTEIN FAMILY REALTY, LLC is a Florida limited liability company doing business in Palm Beach County.

8. Defendant, the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008 ("SHIRLEY'S TRUST"), owns real property in Palm Beach County, Florida. Based upon information and belief, Donald R. Tescher and Robert L. Spallina are serving as co-trustees of SHIRLEY'S TRUST. This Court has personal jurisdiction over the trustees and the beneficiaries of SHIRLEY'S TRUST under Section 736.0202, Florida Statutes, as the principal place of administration of SHIRLEY'S TRUST is in Palm Beach County, Florida. This court has subject matter jurisdiction over this action under Section 736.0203, Florida Statutes. Venue is proper in Palm Beach County, Florida, under Section 736.0204, Florida Statutes, as the principal place of administration of SHIRLEY'S TRUST is in Palm Beach County, Florida and one or more of the beneficiaries of SHIRLEY'S TRUST reside in Palm Beach County, Florida.

9. The acts and incidents giving rise to the causes of action alleged herein arose in Palm Beach County, Florida.

Background

10. STANSBURY has worked in the insurance industry for virtually all of his adult life. After 30 years, he had become well-known and highly regarded by major insurance companies, their principals and others throughout the insurance industry, at all levels thereof, as well as by professionals, including attorneys, CPA's, financial advisors, wealth managers and others who were involved in serving, or otherwise dealing with insurers, insurance brokers and life insurance products.

11. SIMON BERNSTEIN dealt at sophisticated levels of the insurance industry and specialized in developing and marketing insurance concepts suitable for persons of high net worth to incorporate into their wealth management and estate planning.

12. TED BERNSTEIN, the son of SIMON BERNSTEIN, was also actively involved in selling life insurance products in conjunction with attorneys, CPAs and other professionals, to be incorporated into high net worth individuals' financial and estate planning.

13. TED BERNSTEIN approached STANSBURY, urging STANSBURY to spearhead the marketing of a unique insurance concept, newly developed by a prominent law firm, which was designed for use in the financial and estate planning of high net worth individuals.

14. TED BERNSTEIN told STANSBURY that he knew of STANSBURY's expertise and reputation in the insurance and related industries, and that STANSBURY was skilled at and accustomed to speaking and marketing insurance products to groups of professionals. He realized that STANSBURY, because of his knowledge, reputation and abilities, would be well suited to market this concept nationwide through prominent and experienced professionals.

15. In 2006, SIMON BERNSTEIN and TED BERNSTEIN (collectively, "BERNSTEIN" or the "BERNSTEINS") formed Defendants LIC Holdings and ARBITRAGE for the purpose of marketing and selling certain life insurance products to high net worth individuals for their wealth management and estate planning needs.

16. STANSBURY agreed to become an employee of LIC Holdings, Inc. and ARBITRAGE and agreed to a salary of 15% of net commissions received on all products, including renewals.

17. STANSBURY worked with diligence and skill, traveling throughout the United States, generating ever-increasing sales and generating very large commissions. By 2006, nationwide sales were resulting in substantial commissions on new policies and renewal commissions.

18. Also in 2006, SIMON BERNSTEIN told STANSBURY that STANSBURY was being rewarded for his efforts and the explosive growth of the business, such that he would receive a 10% ownership interest in LIC Holdings, Inc.

19. In February of 2008, SIMON BERNSTEIN approached STANSBURY with the suggestion that rather than STANSBURY performing computations on a monthly basis as to how much should be paid to him based upon 15% of the commissions derived from policies sold by STANSBURY, the BERNSTEINS and STANSBURY should forego monthly payouts and defer compensation until the end of 2008, when year-end computations could be made. It was suggested that in December, year-end computations would be made and salaries would be paid in December 2008 or January of 2009. It was specifically represented to STANSBURY that neither SIMON BERNSTEIN, TED BERNSTEIN nor STANSBURY would take any compensation until the year-end accounting was performed in December of 2008 or January, 2009.

20. STANSBURY relied on SIMON BERNSTEIN's representations that, among other things, his time would be better spent building the business rather than performing monthly calculations of income. STANSBURY relied on SIMON BERNSTEIN's representation that they would all be paid identical annual salaries of not less than $1,000,000 at the end of 2008 to be applied against STANBURY's 15%. Any compensation to STANSBURY over and above his 15% would be paid to him in accordance with his ownership percentage of 10%.

21. STANSBURY, having no reason to believe that the representations by SIMON BERNSTEIN were false and only a ruse to keep him from inquiring as to corporate revenue and distributions, acceded to his being relieved of the bookkeeping duties regarding calculating the disposition of monies on a monthly basis throughout the year.

22. In 2008, STANSBURY received only $420,018.00, all from commissions earned for sales in 2007 but paid in the January of 2008. STANSBURY received no payments for commissions received after January, 2008.

23. Unbeknownst to STANSBURY at that time, SIMON BERNSTEIN was paid $3,756,229.00 and TED BERNSTEIN was paid $5,225,825.00 in 2008.

24. The net retained commissions by LIC Holdings and ARBITRAGE, not including renewals for 2008 were approximately $13,442,549.00. As such, STANSBURY was entitled to, at the very minimum, 15% of $13,442,549.00, or $2,016,382.35.

25. Since that time, SIMON BERNSTEIN and TED BERNSTEIN have secreted commissions received by LIC Holdings and ARBITRAGE into Bernstein family trusts and other entities as more specifically set forth below. Those trusts have since invested in real estate, also as more particularly set forth below.

26. Throughout 2009, SIMON BERNSTEIN and TED BERNSTEIN continued to make false statements to STANSBURY to hide the fact that they had looted the corporations for their

own personal benefit by withdrawing millions in 2008 and 2009, all to the financial detriment of STANSBURY. The BERNSTEINS represented that the money was not being paid as salary or distributions because the funds needed to be held in the corporate bank accounts to show to potential lenders the financial stability of the company.

27. STANSBURY relied upon these continuing representations of Defendants to his detriment. Because STANSBURY was told that potential funding sources for the business needed to see that capital of the company was available, he took no action when he did not receive any compensation for 2009 and paid only $30,000 in 2010.

28. STANSBURY believes that some or all of the funds to which he was entitled and/or assets attributable to such funds were placed into certain entities, including but not limited to BERNSTEIN FAMILY REALTY, LLC and SHIRLEY'S TRUST. For example, based on information and belief, some or all of the funds to which STANSBURY was entitled were invested in certain parcels of real property, which parcels were conveyed to the trustee of SHIRLEY'S TRUST on or about May 20, 2008, including but not limited to a 4,220 square foot oceanfront condominium unit in a complex known as "The ARAGON" in Boca Raton, located at 2494 So. Ocean Boulevard, Boca Raton, Florida and a mansion in St. Andrew's Country Club located at 7020 Lions Head Lane, Boca Raton, Florida.

29. In order to continue their scheme to defraud, SIMON BERNSTEIN and TED BERNSTEIN failed and refused to account for renewal commissions and failed to supply any financial information to STANSBURY concerning LIC Holdings, Inc. or ARBITRAGE INTERNATIONAL MANAGEMENT, LLC.

30. In furtherance of their scheme to deprive STANSBURY of salary he had earned and shareholder distributions to which he was entitled, SIMON BERNSTEIN and TED BERNSTEIN intercepted mail addressed to STANSBURY, removing commission checks representing

commissions due to STANSBURY, deposited the funds into their own accounts and otherwise converted the funds. SIMON BERNSTEIN and TED BERNSTEIN also opened STANSBURY's mail containing checks payable to him which were unrelated to them and the businesses.

31. In 2011, the Defendants BERNSTEIN decided to deceive STANSBURY further. STANSBURY had for years been given K-1 statements reflecting his 10% ownership of LIC Holdings. At the end of 2011, TED BERNSTEIN told STANSBURY that the company accountant had discovered a taxable event which could cause STANSBURY, as an owner of LIC Holdings to pay taxes on phantom income. TED BERNSTEIN promised that if STANSBURY would sign a paper ceding his 10% interest in LIC Holdings, he would not have to pay the tax. TED BERNSTEIN promised he would hold the paper, promising it would not become operative until STANSBURY and the Defendants BERNSTEIN discussed the situation further in the first quarter of 2012.

32. Because of the misrepresentations, willful concealments of material facts, duplicity and deceit practiced by Defendants upon STANSBURY, STANSBURY reasonably believed that Defendants had complied, or intended to comply with their obligations to STANSBURY under the contract between them. STANSBURY, therefore, was prevented from knowing for a period of years that the causes of action ASSERTED HEREIN existed.

33. By the second quarter of 2012, STANSBURY developed the belief that the BERNSTEINS' representations over the years were wholly false and he sought legal counsel.

34. STANSBURY has retained the law firm of Peter M. Feaman, P.A. and has agreed to pay it a reasonable fee for its services rendered herein.

COUNT I - ACCOUNTING
(Against LIC Holdings and ARBITRAGE, for Accounting)

35. STANSBURY hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, inclusive.

36. The relationship between STANSBURY and the Defendants, particularly as affected by Defendants' acts described in preceding paragraphs 19 through 27 created a situation where Defendants had sole access to receipts generated by STANSBURY's efforts, and to books and records reflecting said receipts and the other information from which can be calculated all moneys due to STANSBURY under his arrangement with Defendants.

37. The period of time during which STANSBURY has been deprived of monies due him spans approximately four and a half years. The various sources of revenue to Defendants of monies from which the amounts due STANSBURY may be calculated, the manner in which STANSBURY was to be paid, and the amount due STANSBURY all involve extensive and complicated accounts, and STANSBURY's remedy at law cannot be as full, adequate and expeditious as it is in equity.

WHEREFORE, Plaintiff STANSBURY prays for an adjudication of Plaintiff's right to a full and complete accounting from Defendants, LIC Holdings and ARBITRAGE, and for such orders of Court as will require such Defendants to provide STANSBURY with all records and copies of documents from January 1, 2006 to the present, in order to reveal his right to, and the amount of all sums: (a) received as commissions to which STANSBURY was entitled to a share; (b) due to STANSBURY, whether paid or not; (c) paid to STANSBURY, whether for commissions, salary, distributions, expenses or any other reason; (d) paid to each of the BERNSTEIN Defendants out of monies received as commissions; (e) deposits of any and all moneys received as commissions by any Defendants to any accounts, including the name of the

entity whose account was involved, the number(s) of each such account; the address of the branch or other facility through which any Defendant dealt with such entity; (f) calculations as to moneys paid , to be paid, or not to be paid to STANSBURY, together with an award of court costs and such other and further relief as the Court may deem just and proper.

II. BREACH OF ORAL CONTRACT
(Against LIC Holdings, Inc. and Arbitrage International Management, LLC)

38. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, inclusive.

39. The arrangement between STANSBURY and Defendants as described in paragraphs 16 and 24 above, constituted a contract between them.

40. An express term of that contract involved the commitment of LIC Holdings and ARBITRAGE to calculate and to pay to STANSBURY all sums due to him under the contract, whether as commissions, salary, distributions, expenses or any other reason.

41. The Defendants initially performed the duties required of them under said contract.

42. However, Defendants breached their contract with STANSBURY by withholding from STANSBURY monies due him under the contract.

43. The withholding of such monies constitutes a material breach of the contract between STANSBURY and LIC Holdings and ARBITRAGE.

44. There is due to STANSBURY from such Defendants all amounts due under said contract, together with prejudgment and post-judgment interest on said amounts.

WHEREFORE, Plaintiff prays for judgment against Defendants, LIC Holdings, Inc. and ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, jointly and severally, in excess of $1,500,000.00 for the amounts due to Plaintiff under the terms of their contract, together with

prejudgment and post-judgment interest, court costs and such other relief as the Court may deem just and proper.

III. BREACH OF FIDUCIARY DUTY
(Against SIMON BERNSTEIN and TED BERNSTEIN ["BERNSTEINS"])

45. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, inclusive.

46. At all material times hereto, SIMON BERNSTEIN and TED BERNSTEIN were officers and majority shareholders of LIC Holdings and ARBITRAGE.

47. As shareholders and officers of LIC Holdings and ARBITRAGE, SIMON BERNSTEIN and TED BERNSTEIN did have and have a fiduciary duty to STANSBURY to act in good faith towards STANSBURY and to act in the best interests of LIC Holdings and ARBITRAGE.

48. At all material times hereto, STANSBURY was and is a shareholder of LIC Holdings.

49. STANSBURY reposed trust and confidence in SIMON BERNSTEIN and TED BERNSTEIN as a result of their position as majority shareholders and officers of LIC Holdings and ARBITRAGE.

50. Further, SIMON BERNSTEIN and TED BERNSTEIN held positions of advantage and control over STANSBURY, not only by virtue of their majority shareholder status, but by having access to the accounting books and records of LIC Holdings and ARBITRAGE, to the exclusion of STANSBURY.

51. STANSBURY reasonably believed that the BERNSTEIN Defendants would deal with STANSBURY honestly and fairly and believed that such Defendants had no intention of

hiding from STANSBURY any information as to the amounts due STANSBURY or payment of the money due to STANSBURY.

52. Moreover, when Defendants proposed to STANSBURY that STANSBURY cease being the one to calculate monies due from the commissions received, STANSBURY trusted the BERNSTEINS to make proper, accurate and complete calculations just as STANSBURY had done and to pay STANSBURY accordingly. As majority shareholders and directors of LIC Holdings and ARBITRAGE, the BERNSTEINS were in a superior position of knowledge and control concerning the finances and affairs of those companies.

53. As a result of the foregoing, a fiduciary relationship existed between the BERNSTEINS and STANSBURY and there existed in STANSBURY complete trust in the BERNSTEIN Defendants.

54. The BERNSTEIN Defendants accepted the trust which STANSBURY reasonably placed in them.

55. The BERNSTEIN Defendants breached their fiduciary duty to STANSBURY by repeated conduct of self-dealing and violations of corporate protocol, including:

a) directing LIC Holdings and ARBITRAGE to make payments to third parties not employed by the corporations and who had performed no services on behalf of the corporations for the personal benefit of the BERNSTEINS;

b) directing the corporations to pay for personal expenses of the wives and other friends of the BERNSTEIN Defendants through corporate credit cards and other forms of payment, notwithstanding that they provided no services for the corporations;

c) transferring monies from LIC Holdings and ARBITRAGE to third party entities including the BERNSTEIN Defendants, the BERNSTEIN FAMILY REALTY, LLC and the

SHIRLEY BERNSTEIN TRUST AGREEMENT for the benefit of the BERNSTEINS, personally;

d) paying themselves exorbitant compensation to the exclusion of STANSBURY;

e) treating LIC Holdings and ARBITRAGE as alter egos of themselves and otherwise handling the affairs of LIC Holdings and ARBITRAGE without regard to corporate protocol;

f) failing to convene annual meetings of the stockholders of LIC Holdings and ARBITRAGE, in violation of Florida law;

g) committing corporate waste by unnecessarily expending corporate assets on unrelated corporate activities;

h) failing to account for the revenue and expenses of LIC Holdings and ARBITRAGE to STANSBURY, who was entitled to compensation as an employee and as a minority shareholder;

i) directing LIC Holdings and ARBITRAGE to take actions to reduce the profit of LIC Holdings and ARBITRAGE so as to prevent STANSBURY from earning his just compensation, in violation of prior agreement of the parties.

56. SIMON BERNSTEIN further breached his fiduciary duty owed to STANSBURY as a minority shareholder by neglecting to perform his duties as an officer and director in a prudent and reasonable fashion.

57. Through Defendants BERNSTEINS' willful misrepresentations and withholding of material information as to their intentions and the purposes for which STANSBURY's payments were not being paid, and through their diversion from STANSBURY of amounts which should have been paid to him, such Defendants abused and betrayed STANSBURY's trust and confidence in them to STANSBURY's great detriment. STANSBURY has been deprived of the amounts due him, the precise amount of which cannot be calculated without access to Defendants' books and records and a full accounting by them.

58. The monetary damages suffered by STANSBURY as a result of the foregoing conduct was suffered by STANSBURY individually and not to the corporation LIC Holdings as a whole, because the conduct as described above prevented STANSBURY from obtaining the benefits of the bargain of his oral agreement with the corporations as more particularly described in Count II above.

59. The foregoing conduct by the BERNSTEINS was done with gross and intentional disregard of the rights of STANSBURY as an employee and minority shareholder of LIC Holdings.

WHEREFORE, Plaintiff prays for judgment against Defendants, SIMON BERNSTEIN and TED BERNSTEIN, jointly and severally, for damages in excess of $1,500,000.00 together with prejudgment and post-judgment interest, court costs and such other relief as the Court may deem just and proper. STANSBURY reserves the right to move to amend to request punitive damages in accordance with Florida Law.

IV. CIVIL THEFT
(Against ARBITRAGE INTERNATIONAL MARKETING, LLC)

60. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, inclusive.

61. This is an action for Civil Theft under Chapter 772, Florida Statutes, more specifically §772.11, Fla.Stat.

62. In February, 2012 and March, 2012, Defendant ARBITRAGE intercepted two separate checks made payable to William STANSBURY intended as payment to STANSBURY for matters arising wholly outside his business transactions with the BERNSTEINS, LIC Holdings and ARBITRAGE.

63. Notwithstanding that the checks made payable to William STANSBURY was for sums due STANSBURY by a third party not in connection with the aforesaid business transactions, ARBITRAGE and/or someone acting on its behalf, caused the negotiation of STANSBURY's checks, wrongfully endorsing the checks and retaining the sums that should have been payable to STANSBURY.

64. As a result of the foregoing, Defendant ARBITRAGE has been guilty of criminal theft by conversion with the criminal intent to steal his money and deprive STANSBURY of his possession and use thereof.

65. Written demand for payment of all amounts due STANSBURY has been made to Defendants, more than 30 days preceding the filing of this Complaint, to no avail. A copy of the demand letter is attached hereto as Exhibit "A."

WHEREFORE, Plaintiff prays for judgment against Defendant, ARBITRAGE for three times the full amount of the check made payable to STANSBURY, together with pre-judgment interest and post-judgment interest, attorneys' fees, court costs and any other relief this Court deems just and proper.

V. CONVERSION

66. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 60 through 65, inclusive.

67. Further, during 2012, Defendants TED BERNSTEIN, SIMON BERNSTEIN, LIC Holdings, Inc., ARBITRAGE, or someone acting on their behalves, received and cashed in excess of $30,000.00 worth of commissions checks otherwise payable to Plaintiff.

WHEREFORE, Plaintiff prays for judgment for damages against Defendant, ABRITRAGE, SIMON BERNSTEIN, LIC Holdings, Inc. and TED BERNSTEIN, together with

pre-judgment interest and post-judgment interest, court costs and any other relief this Court deems just and proper.

VI. FRAUD IN THE INDUCEMENT
(Against Ted Bernstein and LIC Holdings, Inc.)

68. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 34, inclusive.

69. In the fourth quarter of 2011, TED BERNSTEIN embarked upon a plan to defraud from STANSBURY his 10% ownership interest in LIC Holdings, Inc. As set forth in paragraph 31 above Defendant TED BERNSTEIN fraudulently induced STANSBURY to sign a document giving up his 10% interest in and to LIC Holdings, Inc.

70. The ceding of his shares in LIC Holdings, Inc. was procured by fraud and STANSBURY relied upon the representations made by BERNSTEIN with regard to signing the document apparently ceding his stock.

71. It was reasonable for STANSBURY to rely on the representations made by BERNSTEIN because at that time STANSBURY was unaware of the breaches of fiduciary duty and breaches of the oral contract that had taken place.

72. As a result of STANSBURY's reliance, STANSBURY has been damaged by the loss of 10% of the shares of LIC Holdings and the rights and remedies to a shareholder related thereto.

WHEREFORE, Plaintiff prays for a judgment for damages against Defendants BERNSTEIN and LIC Holdings, Inc. for the damages caused by the fraudulent conduct of BERNSTEIN as described herein, together with reasonable costs, pre-judgment interest and any other relief this Court deems just and proper.

VII. EQUITABLE LIEN

73. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, paragraphs 1 through 34, above.

74. Defendants, SIMON BERNSTEIN and/or TED BERNSTEIN wrongfully diverted funds from LIC Holdings and ARBITRAGE that rightfully should have been paid to STANSBURY pursuant to their oral agreement.

75. Upon information and belief, SIMON BERNSTEIN and/or TED BERNSTEIN, or both, wrongfully diverted funds from LIC Holdings and/or ARBITRAGE and acquired and/or maintained or improved property located at 7020 Lion's Head Lane, Boca Raton, Florida, legally described as

> Lot 781, St. Andrews Country Club (a PUD) Plat No. 14 according to the plat thereof recorded in Plat Book 57, Page 132 of the public records of Palm Beach County, Florida.

76. Further, upon information and belief, as a result of the funds being wrongfully diverted from LIC Holdings and/or ARBITRAGE, which otherwise rightfully belonged to and should have been paid to STANSBURY, the property legally described as

> Lot 68, Block G Boca Madeira, Unit 2 according to the plat thereof recorded in Plat Book 32, Pages 59 and 60 of the public records of Palm Beach County, Florida, with a property address of 2753 NW 34 Street, Boca Raton, Florida,

was encumbered with a mortgage representing wrongfully diverted funds which were loaned in the form of a second mortgage to Defendant, BERNSTEIN FAMILY REALTY, LLC, a Florida limited liability company.

77. Upon information and belief, as a result of the funds being wrongfully diverted from LIC Holdings and/or ARBITRAGE which otherwise should have been paid to STANSBURY, such funds were used to satisfy a mortgage for the benefit of TED BERNSTEIN on property legally described as

Lot 139, Saturnia Isles, Plat One, recorded in Plat Book 91 at Page 108 of the property records of Palm Beach County, Florida, with a property address of 15807 Menton Bay Court, Delray Beach, Florida

WHEREFORE, Plaintiff prays for the Court to declare and establish an equitable lien in favor of Plaintiff in an amount equal to the funds wrongfully diverted, on the property described herein, and on all other assets of Defendants or third parties as yet unknown, which assets have been purchased wholly or in part, improved or benefitted by the diverted funds due Plaintiff, together with court costs and such other and further relief as this Court may deem just and proper.

VIII. CONSTRUCTIVE TRUST

78. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 73 through 77 above.

WHEREFORE, Plaintiff prays for the Court to declare and establish a constructive trust in favor of Plaintiff on the property described in paragraphs 75 through 77 in an amount equal to the funds wrongfully diverted and on all assets of Defendants or third parties as yet unknown, which assets have been purchased wholly or partly, improved or mortgaged by the diversion of said funds due Plaintiff. Plaintiff further prays for an award of court costs and such other and further relief as the Court may deem just and proper.

IX. VIOLATION OF FLA. STAT. 607.1602
(As to Defendant, LIC Holdings, Inc.)

79. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, paragraphs 1 through 34, above.

80. STANSBURY owns 10% of the issued and outstanding shares of LIC Holdings and has owned these shares since 2006.

81. Pursuant to §607.1602 Fla. Stat. (2012), STANSBURY made demand on LIC Holdings to inspect and copy certain records. A copy of the Demand is attached hereto as Exhibit "A." LIC Holdings refused to respond to the request in direct violation of 607.1602 Fla. Stat. (2012).

82. Section 607.1604(2) Fla. Stat. (2012) states:

> If a corporation does not, within a reasonable time, allow a shareholder to inspect and copy any other record, the shareholder who complies with §607.1602(2) and (3) may apply to the Circuit Court in the county where the corporation's principal office is located for an order to permit inspection and copying of the records demanded.

83. Section 607.1604 Fla. Stat. (2012) requires that the court dispose of an application brought under this section "on an expedited basis."

84. Pursuant to §607.1604(2) Fla. Stat. (2012), Plaintiff requests that this court summarily order inspection and copying of the record previously demanded at the corporation's expense.

85. Pursuant to §607.1604(3) Fla. Stat. (2012), STANSBURY is entitled to an award of his costs including reasonable attorneys' fees incurred in order to obtain the order and enforce his rights unless the corporation or its officers, director or agent proves that the refusal of the inspection is made in good faith because the corporation had a reasonable basis for doubt about the right of the shareholder to inspect or copy the records demanded.

WHEREFORE, Plaintiff, WILLIAM E. STANSBURY requests this Honorable Court to summarily order inspection and copying of the records of LIC Holdings, Inc. previously demanded, at the corporation's expense, together with an award of reasonable costs and attorneys' fees incurred herein.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail at swergoldj@gtlaw.com; ciaffik@gtlaw.com; steffesj@gtlaw.com; and FLService@gtlaw.com to Jon Swergold, Esq., Greenberg Traurig, P.A., 401 East Las Olas Blvd., Suite 2000, Fort Lauderdale, FL 33301 this 12th day of FEBRUARY, 2013.

PETER M. FEAMAN, P.A.
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Tel.: 561073405552
Fax: 561-734-5554
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By: Peter M. Feaman
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Florida Bar No.: 0260347

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June 20, 2012

Via Certified Mail, Return Receipt Requested

PERSONAL and CONFIDENTIAL
Mr. Ted Bernstein, President
LIC Holdings, Inc.
950 Peninsula Corp Circle
Suite 3010
Boca Raton, FL 33487

Re: William (Bill) Stansbury

Dear Mr. Bernstein:

The undersigned represents William (Bill) Stansbury and we are writing this letter on his behalf. Mr. Stansbury received your proposed letter agreement reflecting LIC Holdings' proposal to indemnify its shareholders concerning policies sold under the Cambridge Financing Program. As a result of your proposal, Mr. Stansbury has reviewed with me in detail his dealings with you and your companies over the past 4 to 5 years.

After reviewing the facts with Mr. Stansbury, some of which will be summarized below, I was shocked that he had not consulted legal counsel until now. Be that as it may, and based upon the facts presented to us, we believe you have engaged in fraud, civil theft, breaches of fiduciary duties, and breach of contract, just to name a few. The purpose of this letter is to a). respond to your indemnity proposal and b). request that you pass this letter on to your counsel immediately in the off-chance that these very serious matters can be resolved prior to the filing of legal action. The issues can be summarized as follows:

1. The first issue concerns you and your company's failure to pay salary compensation to Mr. Stansbury. Mr. Stansbury has been making inquiries concerning this for the past 5 months, but to no avail. Mr. Stansbury's claim for unpaid salary arises from three categories:

EXHIBIT A

a. Failure to pay salary based on net retained commissions.

i. Based upon reports prepared by your company for the period of 2007 through 2011, LIC Holdings, Inc. and/or Arbitrage International Holdings, n/k/a Arbitrage International Management, LLC, received $35,384,246.00 in net retained commissions. According to Mr. Stansbury's salary arrangement, he is entitled to 15% of those net retained commissions, which amounts to $5,307,636.90. During this time period, Mr. Stansbury's salary compensation was $2,844,910.00. The shortfall in salary owed to Mr. Stansbury is $2,462,726.90.

ii. There is salary compensation owed to Mr. Stansbury as a result of bridge loans in 2008. You received a $2,000,000.00 settlement in 2010 resulting from the resolution of a lawsuit involving Global Secured Capital. Mr. Stansbury is entitled to 15% of those funds, which is $300,000.00.

iii. In addition, you received $507,891.00 in commissions in connection with the Biviano matter. Mr. Stansbury is entitled to 15% of those funds, which is $76,183.65.

iv. In April of 2012, you received three commissions totaling approximately $200,000.00 in the Levine, Wiss and Berley matters. Mr. Stansbury has been requesting payment of this for weeks, again to no avail. Mr. Stansbury is due salary compensation for these items in the amount of $30,000.00.

Therefore, Mr. Stansbury's total claim for salary arising out of net retained commissions is approximately $2,868,910.55.

The liability for payment of this salary is not limited to LIC Holdings, Inc. or Arbitrage International Management, LLC. This liability also flows to you individually as a result of your breaches of your fiduciary duty owed to Mr. Stansbury and utter failure to abide by corporate governance standards, which conduct is more particularly described below.

b. Mr. Stansbury is also due unpaid salary based on 15% of all renewal commissions since 2008. Mr. Stansbury's salary claim for renewal commissions cannot as yet be determined with specificity due to the fact that you and your office have been opening mail directed to Mr. Stansbury and negotiating checks made payable to him by falsifying his endorsement and depositing those checks into accounts which only you control. This conduct constitutes civil theft and breach of fiduciary duty. We believe this claim amounts to hundreds of thousands of dollars.

c. Salary compensation for 2008. Mr. Stansbury has recently learned that you and Mr. Simon Bernstein received $8,982,124.00 in salary in 2008. By contrast, Mr. Stansbury received $420,018.00, paid to him in January 2008, based on policies sold in 2007. He received zero (no salary compensation) for his 2008 production. It is obvious that you and Simon treated your corporations as personal ATM machines, while completely ignoring your fiduciary

responsibilities to your employee and minority shareholder, Mr. Stansbury. It further appears that after the exorbitant salaries were paid to you, you then loaned the money back to the corporation at an interest rate significantly above market rates in order to meet the cash flow needs of the various entities, again, clearly disregarding your corporate governance responsibilities.

2. Indemnification issues.

Mr. Stansbury has been served with three lawsuits from Phoenix Insurance Company and one from Mr. Wright seeking indemnification as a result of agent misconduct which was in no way attributable to the conduct of Mr. Stansbury. Although all of these matters have been settled, because he was the qualifying agent of record for other policies, he could be the subject of future litigation for refunds of commissions paid. All of these commissions were paid over to you or your companies.

The Indemnification Agreement which you sent to Mr. Stansbury is completely insufficient. You have a duty as a matter of law to indemnify Mr. Stansbury. Your offer of future indemnity is contingent upon "all" commissions that have been received by LIC's present or past shareholders be turned over to LIC. This is nothing short of extortion. Further, your second paragraph states that LIC is "presently insolvent" and has a "negative net worth." You then conclude with the sentence that with the indemnification agreement in place, LIC "may" have sufficient funds to meet its current obligations. Therefore, a simple indemnification from LIC Holdings to Mr. Stansbury is insufficient. Any such indemnification would have to be personally guaranteed by you and Mr. Simon Bernstein.

3. Unauthorized interception of U.S. Mail.

I have been given the understanding that your office has been opening mail directed to Mr. Stansbury personally. This is a federal offense and also constitutes a breach of the fiduciary duty you owe to Mr. Stansbury as an employee and minority shareholder.

There has been no accounting to Mr. Stansbury for any of the checks which may have been sent to him personally on which his signature has been forged, the checks cashed and placed out of the reach of Mr. Stansbury. In 2012, Mr. Stansbury has been receiving checks from Phoenix Life Insurance Company and TransAmerica Life Insurance Company. Mr. Stansbury has been holding these checks. They have now been remitted to the undersigned as attorney for Mr. Stansbury. This office is holding these funds in a separate interest-bearing trust account pending the resolution of this matter.

With regard to all of the other insurance companies for whom Mr. Stansbury is listed as the qualifying agent, he has now informed those companies that all future renewal commissions paid to him personally be sent to Mr. Stansbury at his home address. These funds will then be remitted to the undersigned counsel of record for Mr. Stansbury. We will place these funds in a separate interest-bearing trust account as well. Any attempts by you to contact these insurance

companies will be considered a tortious interference of his business relationship and such activity will be added as a claim in any future legal proceedings.

4. Shareholder status.

Mr. Stansbury has been a 10% shareholder of LIC Holdings, Inc., pursuant to the terms of a Shareholders Agreement. On behalf of Mr. Stansbury, demand is hereby made, pursuant to Florida Statute 607.1602, for inspection of the corporate records including the following:

I. Minutes of the Board of Directors meetings from January 1, 2008 to the present.

II. Minutes of Shareholders' meetings from January 1, 2008 to the present.

III. Records of any actions taken by the Shareholders and/or the Board of Directors without a meeting, from January 1, 2008 to the present.

IV. Accounting and financial records of LIC Holdings, Inc., Arbitrage International Management, LLC, formerly known as Arbitrage International Holdings, LLC, and all other subsidiary or affiliated companies under your control, including, without limitation, income tax returns, general ledgers, balance sheets, profit and loss statements, stock books, bank statements, loan agreements or guarantees, and any other financial books and records from January 1, 2008 to the present.

Mr. Stansbury is seeking to inspect these records in good faith and for the purpose of determining if misappropriation of corporate assets for improper purposes has previously taken or is presently taking place.

I have been made aware of a letter dated December 22, 2011 in which Mr. Stansbury purportedly "ceded" his shares of stock in LIC Holdings, Inc. back to the company. This letter was obtained under false pretenses and is not recognized by Mr. Stansbury as validly conveying his ownership interest in LIC Holdings, Inc.

Please have your legal counsel contact us within ten (10) days. Should we fail to receive a response within that time, Mr. Stansbury will take legal action to protect his rights and interests.

Very truly yours,

PETER M. FEAMAN, P.A.

By: Peter M. Feaman

Peter M. Feaman

PMF/mk
cc: William Stansbury
CC Riggs (e-mail)

TAB # 3

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

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 MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC; BERNSTEIN FAMILY REALTY, LLC,

Defendants.
_____/

CASE NO: 50 2012 CA 013933 MB AA

DEFENDANT'S, TED S. BERNSTEIN, MOTION TO DISMISS COUNTS III, VII, AND VIII

Defendant, Ted S. Bernstein ("Bernstein"), moves to dismiss Counts III, VII, and VIII of the Amended Complaint (the "Complaint"), and states:

1. The claims asserted in Counts III and VIII by Plaintiff against Bernstein belong to one or both of the legal entities known as LIC Holdings, Inc., a Florida corporation ("LIC") and/or Arbitrage International Management, LLC, a Florida limited liability company ("Arbitrage") (collectively the "Companies"). Plaintiff asserts that Bernstein breached a fiduciary duty owed to the Companies and seeks an award of monies which necessarily would flow back to the Companies, not directly to Plaintiff. Thus, in Counts III and VIII, Plaintiff asserts derivative claims on behalf of the Companies.

4-23-13

2. For example, in paragraph 47, Plaintiff alleges that Bernstein had a fiduciary duty "to act in good faith towards Stansbury and to act in the best interests of LIC Holdings and Arbitrage." The breaches alleged in paragraph 55, if proven, would result only in direct harm to the Companies by virtue, of among other things, (a) directing payments of Company money to third parties; (b) directing Companies to pay improper expenses; (c) transferring monies from Companies to third parties; (d) paying exorbitant compensation; and (e) committing corporate waste.

3. Any damages for these claims, if proven, would flow to and be property of the Companies, and nothing would flow directly to any shareholder. Thus, these are classic derivative claims. Plaintiff senses that, so he alleges that any damages were suffered by him individually and not to the corporation (Complaint, ¶58), but such allegation cannot change the character of these derivative claims. If, hypothetically, the Company paid $100 in extra compensation to someone, that would mean, at best, that the Company will receive $100, which the Company is under no obligation to distribute to anyone. In Counts III and VIII, Plaintiff does not assert any injury to himself which is separate from the injury allegedly suffered by the Companies, as the only injury claimed by Plaintiff would be a pro-rata percentage of the alleged damages which would have been suffered solely by the Companies. Thus, these claims are wholly (or at least partly) derivative.

4. The derivative action claims must be dismissed for several reasons. First, because Plaintiff in this case has direct and derivative claims filed in the same lawsuit, there is a misjoinder issue which mandates the dismissal of the Complaint. Plaintiff cannot sue in different capacities in the same lawsuit. *Department of Ins. v. Coopers & Lybrand*, 570 So. 2d 369, 370 (Fla. 3d DCA 1990); *Karnegis v. Lazzo*, 243 So. 2d 642 (Fla. 3d DCA 1971) (plaintiff may not by shareholders' derivative action seek in same lawsuit accounting from corporation when he personally sought

accounting and damages from majority stockholders, officers, and directors); 1 Am.Jur.2d *Actions* § 94 (1994) ("One cannot in the same action sue in more than one distinct right or capacity" citing *Coopers & Lybrand*); Fla. R. Civ. P. 1.110(g) ("A pleader may set up in the same action as many claims or causes of action ... *in the same right* as he has ...") (emphasis added).

5. Second, Plaintiff lacks standing to bring derivative claims on behalf of Arbitrage because he was never a shareholder of Arbitrage, and makes no such allegation in his Complaint.

6. Third, Plaintiff lacks standing to bring any derivative claims on behalf of LIC or Arbitrage because, as alleged in paragraph 31, Plaintiff ceded his 10% interest in LIC. Even if Plaintiff is no longer a shareholder as a result of alleged fraud, the fact remains that Plaintiff is not currently a shareholder of LIC. Therefore, Counts III and VIII of the Complaint should be dismissed. As a disgruntled former shareholder of the Corporation, Plaintiff has no legal standing to assert derivative claims at this juncture because he was not a shareholder at the time the suit was filed and he is no longer a shareholder of the Corporation, as required by Florida law. *See* § 607.07401, Fla. Stat.; *Timko v. Triarsi*, 898 So. 2d 89, 91 (Fla. 5th DCA 2005) (holding that once the complaining shareholders' shares were repurchased, the complaining former shareholder could not continue to prosecute a derivative claim).

7. Fourth, Plaintiff also fails to state a derivative claim because the Complaint fails to allege that Plaintiff made a demand on the Corporation to bring these claims before filing their Counterclaim. Allegations of a demand is a statutory pre-requisite for maintaining a derivative action. § 607.07401(2). The Complaint also is not verified as required by that statute.

8. Fifth, as to the merits, Plaintiff's individual claim against Bernstein for the alleged breaches of fiduciary duty relating to Plaintiff's rights as shareholder of LIC are improper. As an

officer and director of LIC, Bernstein owed a fiduciary duty to the Company and the shareholders as a whole, not as to any particular shareholder or group of shareholders. Shareholders must bring a derivative action to pursue a claim against an officer or director unless the alleged injury is separate and distinct from any injury the complaining party suffered as a shareholder, in common with all other shareholders. Because Plaintiff fails to allege any injury separate and apart from the alleged injury Plaintiff suffered as a shareholder, in common with all other shareholders, Plaintiff lacks standing to bring any individual claim against Bernstein.

9. There is a clear and necessary distinction between an individual action and one brought in a derivative capacity. *Alario v. Miller*, 354 So. 2d 925, 926 (Fla. 2d DCA 1978). The body of the complaint determines whether the injury is direct to the stockholder making the cause of action individual to him or whether the injury is indirect as to the stockholder and the cause of action is derivative from the corporation. *Id.* The nature of the injuries alleged and the wrongs sought to be remedied are the key to determining whether an action is derivative or individual. *Id.*

10. The law "is well-established that if a plaintiff sues in a stockholder capacity for corporate mismanagement, she must sue derivatively in the corporation's name." *Kloha v. Duda*, 246 F. Supp. 2d 1237, 1242 (M.D. Fla. 2003)(citing *Empire Life Ins. Co. of Am. v. Valdak Corp.*, 468 F.2d 330, 335 (5th Cir. 1972)). This rule is a necessity because "[i]f each shareholder could sue individually for his losses, the wrongdoer would be subject to as many suits as there were stockholders in the corporation." *Empire Life*, 468 F.2d at 335 (citations and quotations omitted). If the injury to the individual shareholder is not direct, but rather indirect, the injury is insufficient to allow the shareholder to bring a direct claim. *Id.* In other words, the member can bring a direct claim:

> in a case where the stockholder shows a violation of duty owed directly to him. ***That exception to the general rule does not arise, however, merely because the acts complained of resulted in damage both to the corporation and to the stockholder, but is confined to cases where the wrong itself amounts to a breach of duty owed to the stockholder personally.***

Empire Life, 468 F.2d at 335 (citation omitted) (emphasis added).

WHEREFORE, Defendant, Ted S. Bernstein, respectfully requests that this Court dismiss Counts III, VII, and VIII; award Defendant his costs and attorneys' fees pursuant to any applicable contract or statute; and grant such other relief as is just.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to the Service List set forth below by: ■ E-mail Electronic Transmission; ☐ Facsimile; ☐ U.S. Mail; ☐ Overnight Delivery; ☐ Hand-delivery, this 23rd day of April, 2013.

PAGE, MRACHEK, FITZGERALD, ROSE,
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505 South Flagler Drive, Suite 600
West Palm Beach, Florida 33401
Telephone: (561) 655-2250
Facsimile: (561) 655-5537
Email: arose@pm-law.com; mchandler@pm-law.com
Email: sshelley@pm-law.com; tclarke@pm-law.com
Email: phely@pm-law.com; mchandler@pm-law.com
Counsel for Ted S. Bernstein; LIC Holdings, Inc.; and Arbitrage International Management, LLC

By: /s/ Alan B. Rose
Alan B. Rose (Florida Bar No. 961825)
Stefanie R. Shelley (Florida Bar No. 514446)
N. Patrick Hely (Florida Bar No. 0091466

SERVICE LIST

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Peter M. Feaman, P.A.
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Counsel for Plaintiff

Mark R. Manceri, Esq.
Mark R. Manceri, P.A.
2929 East Commercial Blvd., Suite 702
Ft. Lauderdale, FL 33309
(954) 491-7099
Email: (mrmlaw@comcast.net); (mrmlaw1@gmail.com)
Counsel for Donald R. Tescher and Robert L.
Spallina, as Co-Personal Representatives

TAB # 4

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FLORIDA

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 MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC; BERNSTEIN FAMILY REALTY, LLC,

Defendants.
_____/

CIVIL DIVISION

CASE NO: 502012CA013933 MB AA

DIVISION: KELLEY

MOTION TO DISMISS COUNTS III, V, VII AND VIII OF THE AMENDED COMPLAINT

COME NOW, Defendants, Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives of the Estate of Simon L. Bernstein, by and through their undersigned counsel and hereby files this their Motion to Dismiss Counts III, V, VII and VIII of the Amended Complaint pursuant to Florida Rules of Civil Procedure 1.140 and 1.130 and in support thereof state, as follows:

INTRODUCTION

1. This Motion will only address Counts III, V, VII and VIII of the Plaintiff's Amended Complaint dated February 12, 2013, as those are the only Counts with allegations

MARK R. MANCERI, P.A. • 2929 East Commercial Blvd. • Suite 702 • Fort Lauderdale, FL 33308 • (954) 491-7099

directed against the moving Defendants directed toward Simon L. Bernstein.

2. The Plaintiff's original Complaint dated July 30, 2012 may also be referred to herein as the "Pending Action".

I. COUNT III - BREACH OF FIDUCIARY DUTY

1. The Plaintiff's allegations in Court III are based on the premise that he was owed a fiduciary duty by Simon Bernstein as a result of being, at all material times, a shareholder of LIC Holdings. See paragraph 48 of the Amended Complaint.

3. However, the Plaintiff fails to attach any document as an Exhibit to the Amended Complaint evidencing an ownership interest of any kind in LIC Holdings.

4. Florida Rule of Civil Procedure 1.130(a) reads, as follows:

> (a) **Instruments Attached.** All bonds, notes, bills of exchange, contracts, accounts, or documents upon which action may be brought or defense made, or a copy thereof or a copy of the portions thereof material to the pleadings, shall be incorporated in or attached to the pleadings. No papers shall be unnecessarily annexed as exhibits. The pleadings shall contain no unnecessary recitals of deeds, documents, contracts, or other instruments. (emphasis added).

A copy of Florida Rule of Civil Procedure 1.130 is attached hereto as Exhibit "A" and incorporated hereto by reference.

5. As the Plaintiff has failed to attach any paper or other document to the Amended Complaint to substantiate his alleged shareholder status in LIC Holdings, a Florida Corporation there can be no cause of action against the moving Defendants for a breach of fiduciary duty.

6. As such, Count III must be dismissed for failure to state a cause of action.

II. COUNT V - CONVERSION

1. On November 6, 2012, the Plaintiff filed his Statement of Claim in the Estate of Simon Bernstein, pending in Palm Beach County, Florida. Exhibit "A" to the Statement of Claim is a copy of the Plaintiffs then pending Complaint and Jury Demand (identified as the "Pending Action") filed by the Plaintiff on July 30, 2012. A copy of the Statement of Claim (w/Exhibit "A" thereto) is attached hereto as Exhibit "B" and incorporated herein by reference.

3. Paragraph 3 of the Statement of Claim expressly states, "The amount of the Claim is in excess of 2.5 million dollars, which the Claimant is entitled to recover under the claims set forth in the Complaint..." (emphasis added).

4. As can be seen, the Pending Action does not contain a Count for Conversion.

5. Florida Statute 733.703(1) clearly states that, "no additional charge may be imposed by a Claimant who files a claim against the estate." A copy of Florida Statute 733.703 is attached hereto as Exhibit "C" and incorporated herein by reference.

6. As such, the Plaintiff cannot now bring an action for Conversion against the moving Defendants as he is limited to the claims in the Pending Action, incorporated by reference into his Statement of Claim.

7. Based on the foregoing, Count V of the Amended Complaint must be dismissed for failure to state of cause of action.

COUNT VII - EQUITABLE LIEN

1. Count VIII of the Pending Action is also titled "Equitable Lien", comprised of

paragraphs 59 through 61.

2. Paragraph 59 of the Pending Action refers to paragraphs 54 through 58, inclusive.

3. Paragraphs 54 through 58 of the Pending Action are part of Count VII, titled "Fraud", (against all Defendants).

4. While the Amended Complaint does include Count VI, titled "Fraud in the Inducement" against Ted Bernstein and LIC Holdings Inc., it does not contain a Count for Fraud against the moving Defendants.

5. As a result and to the extent Count VII of the Amended Complaint is based, in whole or in part, on an alleged Fraud, it cannot now be raised against the moving Defendants.

6. Additionally and more significantly, Count VII of the Pending Action is directed solely to "bank" or other "accounts" into which commissions were allegedly deposited.

7. However, Count VII of the Amended Complaint goes beyond such accounts and requests an equitable lien against three (3) parcels of real property located in Palm Beach County, Florida. See paragraphs 75, 76 and 77 of the Amended Complaint.

8. Florida Statute 733.703(1) clearly states that "no additional charge may be imposed by a Claimant who files a claim against the estate."

9. As such, the Plaintiff cannot now bring an action for an Equitable Lien against the referenced parcels of real property, as he is limited to the claims in the Pending Action incorporated by reference into his Statement of Claim.

10. Based on the foregoing, Count VII of the Amended Complaint must be dismissed

for failure to state a cause of action.

COUNT VIII - CONSTRUCTIVE TRUST

1. Count VIII of the Amended Complaint also refers to the same three (3) parcels of real property located in Palm Beach County, Florida which were not part of the Plaintiff's allegations in the Pending Action incorporated by reference into his Statement of Claim.

2. Count X of the Pending Action is titled "Constructive Trust", is comprised solely of paragraphs 66 through 68.

3. Paragraphs 67 and 68 refer to "bank" or "other accounts" into which commissions were deposited. There is no allegation of any kind directed to any parcel of real property.

4. Florida Statute 733.703(1) clearly states that "no additional charge may be imposed by a Claimant who files a claim against the Estate."

5. As such, the Plaintiff cannot now bring an action for a Constructive Trust against the three (3) parcels of real property referenced in Count VIII of the Amended Complaint, as he is limited to the claims in the Pending Action incorporated by reference into his Statement of Claim.

6. Based on the foregoing, Count VIII of the Amended Complaint must be dismissed for failure to state a cause of action.

CASE NO: 502012CA013933 MB AA

GENERAL PRAYER FOR ATTORNEY'S FEES AND COSTS

Defendants, Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives of the Estate of Simon L. Bernstein, hereby requests an award of attorney's fees and costs pursuant to Florida Statutes 733.106 and 733.609 and/or Florida decisional case law, and that same be taxed against the Plaintiff.

MARK R. MANCERI, P.A.
Attorney for Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives
2929 East Commercial Blvd., Suite 702
Ft. Lauderdale, FL 33308
Telephone: (954) 491-7099
E-mail: mrmlaw@comcast.net
mrmlaw1@gmail.com

By: _____
Mark R. Manceri, Esq.
Florida Bar No. 444560

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-mail to the designated address(es) and U.S. mail to all parties on the following Service List, this 18th day of March, 2013.

_____
Mark R. Manceri, Esq.

502012CA013933 MB AA

SERVICE LIST

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3615 West Boynton Beach Blvd.
Boynton Beach, Florida 33436

Jon Swergold, Esq.
Greenberg Traurig, P.A.
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Fort Lauderdale, Florida 33301

TAB # 5

570 So.2d 369
15 Fla. L. Weekly D2772
(Cite as: 570 So.2d 369)
<KeyCite Citations>

District Court of Appeal of Florida,
Third District.

The DEPARTMENT OF INSURANCE OF the STATE OF FLORIDA, etc., Appellants,
v.
COOPERS & LYBRAND, a general, partnership, Appellees.

No. 89-2940.

Nov. 13, 1990.
Rehearing Denied Dec. 19, 1990.

Department of Insurance appealed from order of the Circuit Court, Dade County, Steven D. Robinson, J., dismissing its complaint against accounting firm in eight of nine capacities. The District Court of Appeal held that Department could not bring action against accounting firm for breach of contract, negligence, misrepresentation, and breach of fiduciary duty in more than one capacity.

Affirmed.

West Headnotes

Action ⇐ 50(2)
13k50(2)
Department of Insurance could not bring action against accounting firm for breach of contract, negligence, misrepresentation, and breach of fiduciary duty in more than one capacity; Department was required to enforce its rights in alternate capacities in separate actions, and was required to choose which capacity it would pursue in each individual action. West's F.S.A. RCP Rule 1.110(g).

***370** Conrad, Scherer & James and Joseph S. Kashi, Fort Lauderdale, for appellants.

Hughes Hubbard & Reed and Herschel E. Sparks, Jr. and Jack Geckler, Miami, for appellees.

Before BASKIN, JORGENSON and GODERICH, JJ.

PER CURIAM.

The plaintiff, the Department of Insurance of the State of Florida [Department], appeals the trial court's order dismissing its complaint in eight of nine capacities. We affirm.

The Department filed an amended complaint against the accounting firm of Coopers & Lybrand [C & L] seeking damages for breach of contract, negligence, misrepresentation, and breach of fiduciary duty. In its complaint the Department set up causes of action accruing to it in nine distinct capacities: as the Department, as the court appointed receiver of the Insurance Exchange of the Americas; and as the court appointed receiver of seven different insurance syndicates. The causes of action accruing to the Department in each capacity were not set forth in separate counts or otherwise pleaded separately.

C & L responded to the amended complaint by filing an omnibus motion to dismiss and for a more definite statement. The trial court advised the parties that rather than dismissing the amended complaint, it would enter a final order dismissing the causes of action brought by the Department in eight of its nine capacities to facilitate an appeal. The trial court then directed the Department to choose in which capacity it would pursue in this action. In response, the Department chose to continue the lawsuit in its capacity as the court appointed receiver of the Insurance Exchange of the Americas. The trial court then dismissed the claims brought by the Department in its other eight capacities without prejudice to file separate actions on those claims. The Department appeals from the order dismissing its claims in eight of its nine capacities.

Rule 1.110(g), Florida Rules of Civil Procedure (1989) states in pertinent part: "A pleader may set up in the same action as many claims or causes of action or defenses in the same right as he has ...". This rule "forbids the joinder of causes which arise out of separate rights." Horowitz v. United Investors Corp., 227 So.2d 719, 721 (Fla. 3d DCA 1969), cert. denied, 237 So.2d 180 (Fla.1970); see also General Dynamics Corp. v. Hewitt, 225 So.2d 561, 563 (Fla. 3d DCA 1969) (quoting 1 Am.Jur.2d Actions § 125 (1962)) ("One cannot in the same action sue in more than one distinct right or

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capacity."). Causes of action accruing to a plaintiff in different capacities must be brought separately regardless of whether or not the causes of action arise "out of the same occurrence because the respective causes of action are not 'in the same right.' " Metropolitan Dade County v. Hicks, 323 So.2d 590, 591 (Fla. 3d DCA 1975) (citing Pensacola Elec. Co. v. Soderlind, 60 Fla. 164, 53 So. 722 (1910) and Latimer v. Sears Roebuck & Co., 285 F.2d 152 (5th Cir.1960)).

Upon a review of the amended complaint filed in the instant case, we find that the Department improperly attempted to sue in *371 more than one capacity in one lawsuit. The Department joined causes of action accruing to it in nine different capacities. Therefore, the trial court properly found that the Department could not sue in more than one capacity in the same action. The Department, as a party holding rights of action in separate capacities, must enforce those rights in separate actions. The trial court also correctly directed the Department to choose in which capacity it would pursue this action and dismissed the claims the Department elected not to pursue in this action without prejudice to the Department to institute separate actions on the dismissed causes of action. See Pensacola Elec. Co. v. Soderlind, 60 Fla. 164, 53 So. 722 (1910) (proper procedure is for party to elect which of improperly joined claims it wishes to proceed on in original suit); Karnegis v. Lazzo, 243 So.2d 642 (Fla. 3d DCA 1971) (trial court should have granted motion to dismiss, with leave to plaintiff to file amended complaint, and without prejudice to plaintiff to file separate action on cause of action not included in new amended complaint).

Affirmed.

570 So.2d 369, 15 Fla. L. Weekly D2772

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TAB # 6

District Court of Appeal of Florida, Third District.

James G. KARNEGIS, George C. Karnegis, Theodora Karnegis and Royal Baking Co., Inc., a Florida corporation, Appellants,
v.
Aristides LAZZO, Appellee.

No. 70--1220.

Feb. 9, 1971.

Minority stockholder brought suit against majority stockholders and corporation, alleging practices of individual defendants which were financially detrimental to the corporation, and seeking both accounting by individual defendants to the corporation and accounting and damages from individual defendants to plaintiff personally, and defendants moved to dismiss and to strike portions of the amended complaint. The Circuit Court for Dade County, George E. Schulz, J., denied motions, and defendants brought interlocutory appeal. The District Court of Appeal held that complaint stated cause of action, but that complaint contained misjoinder of causes of action, and that court should have granted the motion to dismiss, with leave to plaintiff to file an amended complaint setting forth either derivative stockholder's cause of action or plaintiff's separate personal cause of action, without prejudice to file a separate action on cause of action not so included in new amended complaint.

Order affirmed in part and reversed in part, and cause remanded.

West Headnotes

[1] Corporations and Business Organizations ⇐ 2202
101k2202
(Formerly 101k320(7))
Allegations by plaintiff, both as stockholder and as individual, that practices of individual defendant majority stockholders, including payment to themselves of excessive salaries and negotiation of proposed sale of all assets of corporation to an outside party at price alleged to be less than value of assets with separate financial benefits to accrue from sale to individual defendants in indirect violation of agreement between stockholders, were sufficient to state cause of action either by plaintiff as derivative stockholder for accounting by majority stockholders to the corporation or by plaintiff personally for accounting and damages from the individual stockholders.

[2] Pleading ⇐ 52(2)
302k52(2)

[2] Pleading ⇐ 360
302k360

[2] Pretrial Procedure ⇐ 555
307Ak555
(Formerly 302k355)

[2] Pretrial Procedure ⇐ 695
307Ak695
(Formerly 302k360(19))
Where plaintiff, by way of derivative stockholder action, sought accounting by individual defendants, the majority stockholders and officers and directors, to the corporation where plaintiff personally also sought accounting and damages from those defendants and where the two causes of action were not set forth in separate counts or otherwise pleaded separately, there was a misjoinder of causes of action, and trial court should have granted motion to dismiss, with leave to file an amended complaint setting forth either derivative stockholder's cause of action or separate personal cause of action, without prejudice to file separate action on cause of action not so included.

***643** Hendricks & Hendricks, Miami, for appellants.

Alfred Gustinger, Bolles, Goodwin, Ryskamp & Ware, Miami, for appellee.

Before PEARSON, C.J., and CHARLES CARROLL and HENDRY, JJ.

PER CURIAM.

This is an interlocutory appeal by the defendants below from an order denying their motions to dismiss and to strike portions of the amended complaint. The appellee-plaintiff was a minority stockholder in the defendant corporation. The

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individual defendants owned the remainder of the stock, representing the majority interest. Plaintiff was secretary of the corporation. The individual defendants were officers and directors thereof. Alleging various actions and practices of the individual defendants which were financially detrimental to the corporation, including payment to themselves of excessive salaries, and alleging their negotiation of a proposed sale of all assets of the corporation to an outside party, at a price alleged to be less than the value thereof with separate financial benefits to accrue therefrom to the individual defendants, and which was alleged to be an indirect violation of an agreement between the stockholders against sale of stock without opportunity of stockholders to buy the same, proceeding by derivative stockholder action for the benefit of the corporation, the plaintiff sought accounting by the individual defendants to the corporation. Also, plaintiff personally sought accounting and damages from said defendants. In the amended complaint the two causes of action were not set forth in separate counts, or otherwise pleaded separately.

The defendants filed a lengthy motion to dismiss the amended complaint, contending generally that the allegations were insufficient upon which to predicate relief, and including a ground claiming improper joinder of causes of action. The defendants also filed a motion to strike certain portions of the amended complaint. The trial court denied the motions to dismiss and to strike, and the defendants appealed.

[1][2] We uphold the order of the trial court to the extent that it constituted a ruling that the allegations of the amended complaint were sufficient to state the causes of action referred to above. However, on authority of General Dynamics Corporation v. Hewitt, Fla.App.1969, 225 So.2d 561, we are of the opinion that the trial court committed error in rejecting the ground of the motion to dismiss claiming misjoinder of causes of action. On the authority of the cited cases, we hold that the trial court should have granted the motion to dismiss, with leave to the plaintiff to file an amended complaint setting forth either the derivative stockholder's (corporation's) cause of action or the plaintiff's separate personal cause of action against the individual defendants, without prejudice to the plaintiff to file a separate action on the cause of action not so included in such new amended complaint.

Accordingly, the order appealed from is affirmed in part and reversed in part, and the cause is remanded to the circuit court for further proceedings not inconsistent herewith.

243 So.2d 642

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TAB # 7

(3) A final disposition form (form 1.998) shall be filed with the clerk by the prevailing party at the time of the filing of the order or judgment which disposes of the action. If the action is settled without a court order or judgment being entered, or dismissed by the parties, the plaintiff or petitioner immediately shall file a final disposition form (form 1.998) with the clerk. The clerk shall complete the final disposition form for a party appearing pro se, or when the action is dismissed by court order for lack of prosecution pursuant to rule 1.420(e).

(d) Motion in Lieu of Scire Facias. Any relief available by scire facias may be granted on motion after notice without the issuance of a writ of scire facias.

Committee Notes

1971 Amendment. The change requires a more complete designation of the document that is filed so that it may be more rapidly identified. It also specifies the applicability of the subdivision to all of the various documents that can be filed. For example, a motion to dismiss should now be entitled "defendant's motion to dismiss the complaint" rather than merely "motion" or "motion to dismiss."

1972 Amendment. Subdivision (a) is amended to make a reply mandatory when a party seeks to avoid an affirmative defense in an answer or third-party answer. It is intended to eliminate thereby the problems exemplified by *Tuggle v. Maddox*, 60 So. 2d 158 (Fla. 1952), and *Dickerson v. Orange State Oil Co.*, 123 So. 2d 562 (Fla. 2d DCA 1960).

1992 Amendment. Subdivision (b) is amended to require all notices of hearing to specify the motions or other matters to be heard.

2010 Amendment. Subdivision (c) is amended to address separately the caption for in rem proceedings, including in rem forfeiture proceedings.

RULE 1.110. GENERAL RULES OF PLEADING

(a) Forms of Pleadings. Forms of action and technical forms for seeking relief and of pleas, pleadings, or motions are abolished.

(b) Claims for Relief. A pleading which sets forth a claim for relief, whether an original claim, counterclaim, crossclaim, or third-party claim, must state a cause of action and shall contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, unless the court already has jurisdiction and the claim needs no new grounds of jurisdiction to support it, (2) a short and plain statement of the ultimate facts showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief to which the pleader deems himself or herself entitled. Relief in the alternative or of several different types may be demanded. Every complaint shall be considered to demand general relief.

When filing an action for foreclosure of a mortgage on residential real property the complaint shall be verified. When verification of a document is required, the document filed shall include an oath, affirmation, or the following statement:

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

(c) The Answer. In the answer a pleader shall state in short and plain terms the pleader's defenses to each claim asserted and shall admit or deny the averments on which the adverse party relies. If the defendant is without knowledge, the defendant shall so state and such statement shall operate as a denial. Denial shall fairly meet the substance of the averments denied. When a pleader intends in good faith to deny only a part of an averment, the pleader shall specify so much of it as is true and shall deny the remainder. Unless the pleader intends in good faith to controvert all of the averments of the preceding pleading, the pleader may make denials as specific denials of designated averments or may generally deny all of the averments except such designated averments as the pleader expressly admits, but when the pleader does so intend to controvert all of its averments, including averments of the grounds upon which the court's jurisdiction depends, the pleader may do so by general denial.

(d) Affirmative Defenses. In pleading to a preceding pleading a party shall set forth affirmatively accord and satisfaction, arbitration and award, assumption of risk, contributory negligence, discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, injury by fellow servant, laches, license, payment, release, res judicata, statute of frauds, statute of limitations, waiver, and any other matter constituting an avoidance or affirmative defense. When a party has mistakenly designated a defense as a counterclaim or a counterclaim as a defense, the court, on terms if justice so requires, shall treat the pleading as if there had been a proper designation. Affirmative defenses appearing on the face of a prior pleading may be asserted as grounds for a motion or defense under rule 1.140(b); provided this shall not limit amendments under rule 1.190 even if such ground is sustained.

(e) Effect of Failure to Deny. Averments in a pleading to which a responsive pleading is required, other than those as to the amount of damages, are admitted when not denied in the responsive pleading. Averments in a pleading to which no responsive pleading is required or permitted shall be taken as denied or avoided.

(f) Separate Statements. All averments of claim or defense shall be made in consecutively numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances, and a paragraph may be referred to by number in all subsequent pleadings. Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense when a separation facilitates the clear presentation of the matter set forth.

(g) Joinder of Causes of Action; Consistency. A pleader may set up in the same action as many claims or causes of action or defenses in the same right as the pleader has, and claims for relief may be stated in the alternative if separate items make up the cause of action, or if 2 or more causes of action are joined. A party may also set forth 2 or more statements of a claim or defense alternatively, either in 1 count or defense or in separate counts or defenses. When 2 or more statements are made in the alternative and 1 of them, if made independently, would be sufficient, the pleading is not made insufficient by the insufficiency of 1 or more of the alternative statements. A party may also state as many separate claims or defenses as that party has, regardless of consistency and whether based on legal or equitable grounds or both. All pleadings shall be construed so as to do substantial justice.

(h) Subsequent Pleadings. When the nature of an action permits pleadings subsequent to final judgment and the jurisdiction of the court over the parties has not terminated, the initial pleading subsequent to final judgment shall be designated a supplemental complaint or petition. The action shall then proceed in the same manner and time as though the supplemental complaint or petition were the initial pleading in the action, including the issuance of any needed process. This subdivision shall not apply to proceedings that may be initiated by motion under these rules.

Committee Notes

1971 Amendment. Subdivision (h) is added to cover a situation usually arising in divorce judgment modifications, supplemental declaratory relief actions, or trust supervision. When any subsequent proceeding results in a pleading in the strict technical sense under rule 1.100(a), response by opposing parties will follow the same course as though the new pleading were the initial pleading in the action. The time for answering and authority for defenses under rule 1.140 will apply. The last sentence exempts post judgment motions under rules 1.480(c), 1.530, and 1.540, and similar proceedings from its purview.

RULE 1.120. PLEADING SPECIAL MATTERS

(a) Capacity. It is not necessary to aver the capacity of a party to sue or be sued, the authority of a party to sue or be sued in a representative capacity, or

TAB # 8

Select Year: 2012 Go

The 2012 Florida Statutes

Title XXXVI BUSINESS ORGANIZATIONS | Chapter 607 CORPORATIONS | View Entire Chapter

607.07401 Shareholders' derivative actions.—

(1) A person may not commence a proceeding in the right of a domestic or foreign corporation unless the person was a shareholder of the corporation when the transaction complained of occurred or unless the person became a shareholder through transfer by operation of law from one who was a shareholder at that time.

(2) A complaint in a proceeding brought in the right of a corporation must be verified and allege with particularity the demand made to obtain action by the board of directors and that the demand was refused or ignored by the board of directors for a period of at least 90 days from the first demand unless, prior to the expiration of the 90 days, the person was notified in writing that the corporation rejected the demand, or unless irreparable injury to the corporation would result by waiting for the expiration of the 90-day period. If the corporation commences an investigation of the charges made in the demand or complaint, the court may stay any proceeding until the investigation is completed.

(3) The court may dismiss a derivative proceeding if, on motion by the corporation, the court finds that one of the groups specified below has made a determination in good faith after conducting a reasonable investigation upon which its conclusions are based that the maintenance of the derivative suit is not in the best interests of the corporation. The corporation shall have the burden of proving the independence and good faith of the group making the determination and the reasonableness of the investigation. The determination shall be made by:

(a) A majority vote of independent directors present at a meeting of the board of directors, if the independent directors constitute a quorum;

(b) A majority vote of a committee consisting of two or more independent directors appointed by a majority vote of independent directors present at a meeting of the board of directors, whether or not such independent directors constitute a quorum; or

(c) A panel of one or more independent persons appointed by the court upon motion by the corporation.

(4) A proceeding commenced under this section may not be discontinued or settled without the court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interest of the corporation's shareholders or a class, series, or voting group of shareholders, the court shall direct that notice be given to the shareholders affected. The court may determine which party or parties to the proceeding shall bear the expense of giving the notice.

(5) On termination of the proceeding, the court may require the plaintiff to pay any defendant's reasonable expenses, including reasonable attorney's fees, incurred in defending the proceeding if it finds that the proceeding was commenced without reasonable cause.

(6) The court may award reasonable expenses for maintaining the proceeding, including reasonable attorney's fees, to a successful plaintiff or to the person commencing the proceeding who receives any relief, whether by judgment, compromise, or settlement, and require that the person account for the remainder of any proceeds to the corporation; however, this subsection does not apply to any relief rendered for the benefit of injured shareholders only and limited to a recovery of the loss or damage of the injured shareholders.

(7) For purposes of this section, "shareholder" includes a beneficial owner whose shares are held in a voting trust or held by a nominee on his or her behalf.

History.—s. 67, ch. 89-154; s. 148, ch. 90-179; s. 19, ch. 97-102; s. 11, ch. 2003-283.

Note.—Former s. 607.0740.

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TAB # 9

898 So.2d 89
30 Fla. L. Weekly D417
(Cite as: 898 So.2d 89)
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District Court of Appeal of Florida,
Fifth District.

Mark TIMKO, Appellant,
v.
Onofrio TRIARSI, et al., Appellees.

No. 5D04-986.

Feb. 11, 2005.
Rehearing Denied April 15, 2005.

Background: Shareholder in closely-held corporation brought derivative action. After shareholder lost his shares in action to dissolve the corporation, the Circuit Court for Orange County, Renee A. Roche, J., granted defendants' motion to dismiss. Shareholder appealed.

Holding: The District Court of Appeal, Torpy, J., held that shareholder lost standing to prosecute derivative action when his ownership interest in his shares was terminated.

Affirmed.

Monaco, J., dissented and filed opinion.

West Headnotes

[1] Corporations and Business Organizations ⇐ 2073
101k2073
(Formerly 101k207.5)
In shareholder derivative suits, shareholders are permitted to redress rights of action that belong to corporations that have been injured by the acts of the corporations' officers and directors.

[2] Corporations and Business Organizations ⇐ 2028
101k2028
(Formerly 101k203)
The purpose of statute establishing standing requirement for shareholder derivative suits is to prevent predatory strike suits and ensure that derivative actions are brought only by those individuals who have a legitimate stake in the corporation so that its interests are adequately represented. West's F.S.A. § 607.07401.

[3] Corporations and Business Organizations ⇐ 2031
101k2031
(Formerly 101k207, 101k203)
Shareholder of closely-held corporation lost standing to prosecute derivative action when his ownership interest in his shares was subsequently terminated in separate action to dissolve corporation while derivative action was still pending; statute which was intended to impose additional restrictions on a shareholder's common law right to maintain a derivative suit did not abrogate common law requirement that shareholder have continuous ownership of his shares during the pendency of the derivative action. West's F.S.A. § 607.07401.

***90** John F. Mariani and Christopher Kammerer of Gunster, Yoakley Stewart, P.A., West Palm Beach, for Appellant.

Michael V. Elsberry and W. Drew Sorrell of Lowndes, Drosdick, Doster, Kantor Reed, P.A., Orlando, for Appellees.

TORPY, J.

The question presented in this shareholder derivative action is whether a plaintiff/shareholder, to have standing to prosecute such an action, is required to have continuous ownership of his or her shares throughout the pendency of the action. Our resolution of this issue requires that we construe Florida's "contemporaneous ownership rule," embodied in section 607.07401, Florida Statutes (2002). We conclude that continuous ownership is required. Therefore, Appellant lost standing to prosecute this action when he was divested of his ownership interest in his shares.

When Appellant commenced the instant shareholder derivative action, he was a shareholder of the closely-held corporation that is the subject of this dispute. However, as a result of another legal proceeding, Appellant's ownership interest in his shares was terminated while the instant action was still pending. [FN1] Based thereon, the trial court determined that Appellant lacked standing to proceed and granted Appellees' Motion to Dismiss. [FN2] In affirming the trial court, we begin our analysis by briefly discussing the history of

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derivative proceedings.

FN1. Appellant initiated another proceeding to dissolve the corporation pursuant to section 607.1430, Florida Statutes (1999). As a result, Appellee, Onofrio Triarsi, exercised his right to purchase all of Appellant's shares pursuant to section 607.1436, Florida Statutes.

FN2. In granting the motion to dismiss, the trial judge considered evidence extrinsic to the complaint. Ordinarily, this would not be proper. Here, however, at oral argument, Appellant's counsel, Mr. Mariani, expressly waived this argument and suggested that this court treat the lower court's order as a summary judgment. We appreciate and commend counsel's willingness to forego this procedural objection in the interest of both judicial economy and reducing the costs to the litigants.

[1][2] Shareholder derivative suits were originally created by common law as a means to enable shareholders to police "faithless directors and managers." Larsen v. Island Developers, Ltd., 769 So.2d 1071, 1072 (Fla. 3d DCA 2000) (quoting Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541, 548, 69 S.Ct. 1221, 93 L.Ed. 1528 (1949)). In such suits, shareholders are permitted to redress rights of action that belong to corporations that have been injured by the acts of the corporations' officers and directors. Provence v. Palm Beach Taverns, Inc., 676 So.2d 1022, 1024 (Fla. 4th DCA 1996). Historically, this right of action spawned abusive, predatory practices, wherein persons acquired shares of stock for the sole purpose of instituting suits. To prevent such "predatory strike suits," Florida, like most jurisdictions, has, by statute, interposed a restriction on would-be plaintiffs known as the "contemporaneous stock ownership rule," which "expressly provides when a shareholder has standing to bring a derivative action." [FN3] Kaplus v. First Continental Corp., 711 So.2d 108, 110 (Fla. 3d DCA 1998) (Emphasis added). "The purpose of this ***91** standing requirement is to ensure that derivative actions are brought only by those individuals who have a legitimate stake in the corporation so that its interests are adequately represented." Id. (citing South End Improvement Group, Inc. v. Mulliken, 602 So.2d 1327, 1330 (Fla. 4th DCA 1992)) (Emphasis added).

FN3. § 607.07401, Fla. Stat. (2002).

[3] Ironically, Appellant relies upon Florida's "contemporaneous stock ownership rule," which was intended to impose additional restrictions on a shareholder's common law right to maintain a derivative suit, to argue that he is not required to have any present stake in the corporation to continue the prosecution of this action. Thus, our analysis of this argument requires that we examine the language of section 607.07401(1), which provides in pertinent part:

> 607.07401 Shareholders' derivative actions.--
> (1) A person may not commence a proceeding in the right of a ... corporation unless the person was a shareholder of the corporation when the transaction complained of occurred....

(Emphasis added). Based on this language, Appellant argues that, because the statute does not expressly require present share ownership, one whose shares are disposed of during the pendency of the suit may nevertheless continue to prosecute a 'shareholder' derivative suit. Indeed, Appellant also acknowledges and advocates that, under his interpretation of the statute, share ownership by the plaintiff is not even essential at the outset of the litigation. We think this construction ignores the language of the statute and does violence to the legislative intent underlying the statute.

Because section 607.07401 does not, by its express terms, purport to create a right of action, we interpret it to recognize the pre-existence of this common law right. By use of the phrase "may not" and the word "unless" the legislature has simply manifested its intent to place additional limits upon this preexisting right to ensure that a plaintiff's stake in the lawsuit is "legitimate," meaning an ownership interest that is not acquired for predatory purposes. The requirement of some continuous stake in the corporation, however, clearly required at common law, is not vitiated by the statute. See Fox v. Prof'l Wrecker Operators of Florida, Inc., 801 So.2d 175 (Fla. 5th DCA 2001) (recognizing that common law right to bring derivative claim against not-for-profit corporation not abrogated by 1993 statutory amendment deleting reference to derivative actions in not-for-profit statute). To hold otherwise would undermine the very purpose for which the statute was enacted by permitting the anomalous result that a plaintiff with absolutely no "dog in the hunt" is permitted to pursue a right of action that belongs

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solely to the corporation. Such a result clearly thwarts the statutory prophylactic designed to ensure "adequate representation" of the corporation by derivative plaintiffs. Nothing in the language of the statute suggests that the legislature intended to so drastically expand this historic right of action in the face of a clear legislative trend in this and other jurisdictions to do just the opposite.

In conclusion, we hold that a plaintiff in a derivative suit, in addition to meeting the requirements of the statute, must meet the common law requirement of continuous ownership throughout the pendency of the suit. [FN4] In holding as we have today, we ***92** align ourselves with the overwhelming majority of courts in other jurisdictions that have confronted this issue. See Schilling v. Belcher, 582 F.2d 995 (5th Cir.1978) (construing Federal Rule 23.1 and precursor to section 607.07401; sale of stock during pendency of appeal from judgment in derivative suit defeats standing to continue); Lewis v. Ward, 852 A.2d 896 (Del.2004) (under Delaware statute, similar to Florida's, loss of ownership of stock through merger during pendency of suit divests plaintiff of standing); Lewis v. Turner Broad. Sys., Inc., 232 Ga.App. 831, 503 S.E.2d 81, 84 (1998) (after loss of share ownership through merger, plaintiffs lost standing to maintain derivative action); A-Plus Janitorial & Carpet Cleaning v. Employers' Workers' Compensation Ass'n, 936 P.2d 916, 924 (Okla.1997), and cases cited therein (under Oklahoma statute, similar to Florida's, continuous ownership required to maintain derivative claim); Christopher v. Liberty Oil & Gas Corp., 665 So.2d 410, 411 (La.Ct.App.1995) (former shareholders of corporation lacked standing under similar statutory scheme); U.S. Fid. & Guar. Co. v. Griffin, 541 N.E.2d 553, 554-55 (Ind.Ct.App.1989) (continuous ownership required to have standing); Weil v. Northwest Indus., Inc., 168 Ill.App.3d 1, 118 Ill.Dec. 717, 522 N.E.2d 172, 174, n. 1 (1988) (share ownership by plaintiff must be maintained during pendency of suit); Yanow v. Teal Indus., Inc., 178 Conn. 262, 422 A.2d 311, 323 (1979) (continuous ownership from time acts occur until judgment required to have standing to maintain derivative suit). [FN5]

FN4. We acknowledge that "shareholder" is a term of art that includes a "beneficial owner." § 607.07401, Fla. Stat. (2002); Provence, 676 So.2d at 1024. Here, however, we reject Appellant's argument that he is a "beneficial owner."

FN5. We recognize that the other proceeding, wherein Appellant's ownership interest was extinguished, is pending on appeal in this court. Should that judgment be reversed in such a manner as to once again vest Appellant with shares in the corporation, the dismissal of this action is without prejudice.

AFFIRMED.

PLEUS, J., concurs.

MONACO, J., dissents with opinion.

MONACO, J., dissenting.

I respectfully dissent. I do so from a number of different perspectives, but the two most important are, first, because I believe the legislature is fully aware of how to draft a statute; and second, because I believe that the appellant, Mark Timko, has a full sized "dog in the hunt." A few of the facts of this case may make clear my position.

In August of 1998, Mr. Timko and one of the appellees, Onofrio Triarsi, formed Ferrari of Central Florida, Inc. ("Ferrari"), in order to operate a Ferrari franchise car dealership in the Central Florida area. The parties agreed that each would own 50% of the shares and, in addition, the individual shareholders agreed that Mr. Timko would act as the president and general manager. In his position as president Mr. Timko was to be responsible for the day-to-day operations of the dealership, and was to receive a salary and benefits, as well as any dividends that might be distributed to him by virtue of his stock ownership interest. The dealership was financed by borrowing $400,000.00 from a person named Oscar Davis. The debt was secured by a promissory note to Mr. Davis. In November of 1998, the dealership opened. While Mr. Timko handled the management of the Ferrari dealership, Mr. Triarsi stayed in New Jersey.

Some time later Mr. Timko was informed by attorneys representing Mr. Triarsi that Mr. Triarsi's recently formed company, Triarsi Enterprises, Ltd., had purchased the $400,000.00 note and other loan documents from Mr. Davis, and that Triarsi

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Enterprises was exercising a "conversion ***93** right" contained within the documents. According to the attorneys representing Mr. Triarsi, this event converted the unpaid balance of the loan from Mr. Davis into 100% of the equity in Ferrari, thus giving Triarsi Enterprises total control over Ferrari, and completely divesting Mr. Timko of his 50% ownership interest in the company.

Following his purported ouster from Ferrari, Mr. Timko filed an action consisting of a four count complaint seeking declaratory relief, an accounting, damages for breach of fiduciary duty, and dissolution of the corporation. Initially, the trial court rendered an order on Mr. Timko's action seeking dissolution of Ferrari pursuant to section 607.1430, Florida Statutes (2000). The court noted that Mr. Triarsi and Triarsi Enterprises had elected their right under section 607.1436, Florida Statutes (2000), to purchase the interest of Mr. Timko in Ferrari for its fair value. The court found that Mr. Timko's share of Ferrari was 50%, and that the value of his 50% share was $138,000.00. The court, however, deferred ruling on the terms and conditions under which payment were to be made to Mr. Timko.

On November 13, 2003, the lower court entered an order and partial final judgment on Mr. Triarsis motion for entry of final judgment determining valuation. The court confirmed that Mr. Triarsi was to pay Mr. Timko $138,000 within ten days after the order became final, and dismissed the remainder of the complaint. The trial court then ordered further that:

> [E]ffective the date of this order, Mr. Timko shall no longer have any rights or status as a shareholder of Ferrari of Central Florida, except the right to receive the amounts awarded by this order, which, subject to all provisions of this order and section 607.1436, shall be enforceable in the same manner as any other judgment.

Mr. Timko appealed this order, and that appeal is currently pending in another proceeding before this court.

Before the entry of the November 13, 2003, partial final judgment, and while he was still a shareholder of Ferrari, Mr. Timko brought a shareholder derivative suit on behalf of Ferrari. His suit sought relief for breach of fiduciary duty and conversion, alleging a usurpation of corporate opportunity by Mr. Triarsi, as well as self-dealing and conversion. In addition, Mr. Timko noted that the corporation had earned substantial profits, about $733,000 of which were attributed to him as a 50% shareholder in income tax documents filed by Ferrari. He asserted that his pro rata share of these profits, however, had never been distributed to him.

After entry of the November 13, 2003, partial final judgment in the earlier suit, Mr. Triarsi and Triarsi Enterprises moved to dismiss the shareholder's derivative action, asserting that Mr. Timko lacked standing to pursue that action, as he was no longer a shareholder of Ferrari. They argued that Mr. Timko lost any rights that he might have had as a shareholder upon the entry of the earlier judgment. The trial court granted the motion to dismiss, and Mr. Timko timely appealed.

The statute governing shareholder derivative actions is section 607.07401, Florida Statutes (2003), the first subsection of which reads, as follows:

> A person may not commence a proceeding in the right of a domestic or foreign corporation unless the person was a shareholder of the corporation when the transaction complained of occurred or unless the person became a shareholder through transfer by operation of law from one who was a shareholder at that time.

***94** Two things are immediately apparent from a plain reading of this statute. First, the only requirement that it places on someone who wishes to bring a shareholder derivative suit is that the person be a shareholder of the corporation when the transaction complained of occurred. It simply does not say that the person seeking to bring the suit must also be a shareholder at all times that the suit is pending. Second, the legislature chose broadly to allow "a person" to commence a proceeding, not the more restrictive "a shareholder." This is of particular interest because the preamble to earlier versions of the statute began "In any action commenced or maintained by a shareholder." See, e.g., § 607.147 Fla. Stat. (1976). Thus, "shareholder" became "person" as the statute matured.

Our legislature is fully capable of drafting statutes. If the legislature had chosen to require that the person maintaining the suit be a shareholder at all times, it would have said so, and it would have

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done so in unambiguous language. There is absolutely no indication in the wording of the statute that would suggest that the legislature was somehow building on a pre-existing common law requirement. Surely it would have said so if that is what it intended. As the statute is clear, there is no reason to resort to statutory interpretation to force additional requirements into it.

The majority nevertheless posits that the legislature in drafting the present statute intended to place additional limits on the common law right of a person to bring a derivative suit, and apparently did not bother to mention that there is another unstated common law requirement that is a prerequisite to standing. With all due respect to the majority, if section 607.07401 is in derogation of the common law, then the tenets of statutory construction dictate that it must be strictly construed. See Florida Dep't of Health and Rehab. Services v. S.A.P., 835 So.2d 1091 (Fla.2002); Humana Health Plans v. Lawton, 675 So.2d 1382 (Fla. 5th DCA 1996). If the statute is strictly construed, then we cannot engraft additional unarticulated requirements into it that have not been approved by the legislature.

The trial court in this action appears to have been convinced that the decision in Schilling v. Belcher, 582 F.2d 995 (5th Cir.1978), compelled a ruling that Mr. Timko lacked standing to bring the derivative action. I think the statutory treatment of Schilling militates in favor of the opposite conclusion.

Schilling involved a derivative action governed by Florida law in which the ultimate holding was that a shareholder who sells his or her stock pending appeal loses standing to further prosecute or defend the case, except to the extent that the judgment runs personally in favor of that person. The federal court rejected an opinion of the Second District Court of Appeal in DiGiovanni v. All-Pro Golf, Inc., 332 So.2d 91 (Fla. 2d DCA 1976), in which the Florida appellate court interpreting a predecessor to the present derivative suit statute held that "one need not even be a stockholder at the time of filing a derivative suit so long as he was one at the time of the transaction complained of." The Schilling court dismissed this holding as "gratuitous dictum," and said simply that the DiGiovanni court "did not correctly state the law." The federal court went on to apply federal law and the federal rules of procedure to this question of standing. Schilling, 582 F.2d at 1001. Among other things, the Schilling court noted that the preamble to the statute referred to the individual bringing the suit as a "stockholder," and apparently drew an inference that the use of that word signaled that one must own shares at the time one commences the suit.

***95** Curiously, however, under the statute through which the Schilling derivative claim was brought, [FN1] one had to demonstrate that the plaintiff was "a stockholder of such corporation at the time of bringing the action and that he was a stockholder of such corporation at the time of the transaction of which he complains," or that he obtained his interest by operation of law. The succeeding statute, [FN2] however, which is quite similar to the current statute, omitted that part of the language requiring the plaintiff to be a stockholder at the time of the bringing of the action. When the DiGiovanni court noticed this glaring omission, it opined that the contemporaneous ownership provision has been eliminated by the legislature. Surprisingly, the Schilling court disagreed.

FN1. § 608.131, Fla. Stat. (1974).

FN2. § 607.147, Fla. Stat. (1976).

It seems to me that if the statute at one time contained a provision for contemporaneous ownership, and if the legislature later removed that language, the legislature is telling us that the requirement has been eliminated. While I certainly respect the Schilling court's determination to apply federal standing requirements to derivative actions, I do not believe that we are bound by or ought to be bound by that conclusion. See Gaillard v. Natomas Co., 173 Cal.App.3d 410, 219 Cal.Rptr. 74 (1985).

I dissent, as well, because I believe that Mr. Timko specifically fulfills all of the requirements imposed by law upon a person seeking to bring a shareholder's derivative suit. He was unquestionably a shareholder at the time of the transaction about which he complains, as required by the statute, and he only ceased being a shareholder as a result of an action taken by the circuit court. He was, as well, as shareholder of Ferrari at the time he filed the derivative action. That he was a shareholder at the time of the commencement of suit is evidenced by the fact that

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Ferrari continued to treat him as a shareholder for tax purposes--even attributing a large share of the profits to him--even though it did not pay him any part of that fund. Of course, I recognize that he put himself at risk for being bought out when he commenced his first suit seeking, among other things, dissolution of Ferrari. Nevertheless, he did not willingly disgorge himself of the shares of that company. It strikes me that the reason the statute is written as it is takes into account this and similar scenarios in which the shareholder loses that status by an operation of law.

Supporting this view is Gaillard. There, where a person lost her status as shareholder by virtue of a merger, the California court concluded that it would be inequitable to require continuing ownership in order to maintain a shareholder derivative suit, saying:

> Moreover, the imposition of a continuing ownership requirement in this case would lead to the incongruous result of barring a lawsuit which challenges the wrongful acts of management in bringing about the merger, because of the merger itself. To hold that a merger has the effect of destroying such causes of action would be tantamount to giving free reign to deliberate corporate pilfering by management and immunizing those responsible from liability by virtue of the merger which they arranged. This would be a grossly inequitable result.

Gaillard, 219 Cal.Rptr. at 79. The same rationale applies to the present controversy.

Finally, the intention behind the standing rule is to ensure that the plaintiff has a ***96** legitimate stake in the corporation in order to adequately represent the corporations interests in the derivative suit. See Provence v. Palm Beach Taverns, Inc., 676 So.2d 1022, 1024 (Fla. 4th DCA 1996). The statute is, indeed, intended to prevent predatory strike suits, as the majority notes. In the present case, however, it is clear that Mr. Timko did not obtain shares of stock in order to bring a strike suit, and that he is fully motivated to represent the interests of the corporation in this action. I see no reason to deny him this opportunity.

I would reverse.

898 So.2d 89, 30 Fla. L. Weekly D417

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TAB # 10

District Court of Appeal of Florida, Second District.

Charles A. ALARIO and Syndicated Cinemas, Inc., a Florida Corporation, Appellants,
v.
Fred H. MILLER and Monica F. Miller, his wife, Appellees.

No. 77-29.

Feb. 1, 1978.

Corporate stockholders brought suit against the corporation's other stockholder and its chief executive officer alleging negligence, breach of fiduciary duty, corporate mismanagement, misappropriation and fraud, resulting in the corporation's being rendered virtually insolvent and the shareholders' investment rendered worthless. The Circuit Court, Sarasota County, Gilbert A. Smith, J., rendered judgment for the plaintiffs and defendants appealed. The District Court of Appeal, Boardman, C. J., held that the action could not be brought by the shareholders as individuals, but was a stockholder's derivative action.

Reversed.

West Headnotes

[1] Corporations and Business Organizations ⊜ 2048
101k2048
(Formerly 101k211(2))
Body of complaint determines whether injury is direct as to stockholder and cause of action individual to him, or is indirect as to stockholder and cause of action derivative from corporation.

[2] Corporations and Business Organizations ⊜ 2074
101k2074
(Formerly 101k320(1))

[2] Corporations and Business Organizations ⊜ 2174
101k2174
(Formerly 101k320(1), 101k190)
Action by corporate stockholders against other stockholder and corporation's chief executive officer alleging negligence, breach of fiduciary duty, corporate mismanagement misappropriation of corporate assets, and fraud, resulting in corporation having been rendered virtually insolvent and shareholders' investment rendered worthless, was stockholder's derivative action and not individual action.

[3] Corporations and Business Organizations ⊜ 2029
101k2029
(Formerly 101k202)
If damages are only indirectly sustained by stockholder as result of injury to corporation, stockholder does not have cause of action as individual.

[4] Corporations and Business Organizations ⊜ 2044
101k2044
(Formerly 101k210)
In derivative action, corporation on behalf of which stockholders sue is indispensable party and court has no jurisdiction to adjudicate rights of that corporation in its absence as a party.

[5] Appeal and Error ⊜ 187(3)
30k187(3)
Assertion that suit against corporate shareholder and chief executive officer should have been brought as stockholders' derivative suit could be raised for first time on appeal.

*925 L. Norman Vaughan-Birch of Kirk, Pinkerton, McClelland, Savary & Carr, Sarasota, for appellants.

Allen J. Levin, Port Charlotte, for appellees.

BOARDMAN, Chief Judge.

Appellants, Charles A. Alario and Syndicated Cinemas, Inc. (Syndicated), appeal a final judgment rendered in favor of appellees, Fred and Monica Miller, in the sum of $8,900. We reverse.

*926 Appellees in their individual capacity filed suit against Alario and Syndicated seeking a judgment for damages. Appellees were stockholders of twenty shares of the stock of Englewood Syndicated Cinemas, Inc. (Englewood). The

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remaining eighty shares of stock of Englewood were owned by Syndicated. Alario was at all pertinent times the president, chairman of the board of directors, and chief executive officer of both Englewood and Syndicated. Appellees alleged negligence, breach of fiduciary duty, corporate mismanagement and misappropriation of the corporate assets of Englewood, and fraud by Alario. They alleged that as a proximate result of the wrongful acts of appellants, Englewood had been rendered virtually insolvent and appellees' investment rendered worthless. Englewood was not a party to this suit.

[1][2] The threshold question for our determination is whether appellees have a cause of action in their own right or whether their cause of action is derived from the corporation's right to bring the action. It is the body of the complaint which determines whether the injury is direct as to the stockholder and the cause of action individual to him or is indirect as to the stockholder and the cause of action derivative from the corporation. 13 W. Fletcher, Cyclopedia of the Law of Private Corporations s 5912 (rev. ed. 1970). We have carefully examined the record and have concluded that the gravamen of appellees' action, that is the nature of the injuries alleged and the wrongs sought to be remedied, is a stockholder's derivative action and not an individual action. [FN1] See Gadd v. Pearson, 351 F.Supp. 895 (M.D.Fla. 1972).

FN1. Appellees' allegations of fraud are intertwined with the other allegations and only arguably constitute an individual cause of action. We need not treat this point, however, because our review of the record indicates that the cause of action was not proved and that the judgment was not based on fraud, but if it had been, the judgment would be reversible for failure to carry the burden of proof.

[3] There is a clear and necessary distinction between an individual action and a derivative one. The general rule is stated in 19 Am.Jur.2d Corporations s 528 (1965).

> A stockholder's derivative action is an action brought by one or more stockholders of a corporation to enforce a corporate right or to prevent or remedy a wrong to the corporation in cases where the corporation, because it is controlled by the wrongdoers or for other reasons, fails and refuses to take appropriate action for its own protection. An action brought by a stockholder is derivative if the gravamen of the complaint is injury to the corporation or to the whole body of its stock or property and not injury to the plaintiff's individual interest as a stockholder.

This court in Citizens National Bank v. Peters, 175 So.2d 54 (Fla. 2d DCA 1965) held that:

> A Florida court has defined a derivative suit as an action in which a stockholder seeks to enforce a right of action existing in the corporation. See James Talcott, Inc. v. McDowell, Fla.App.1962, 148 So.2d 36. Conversely, a direct action, or as some prefer, an individual action, is a suit by a stockholder to enforce a right of action existing in him.
>
> What these definitions attempt to convey is that a stockholder may bring a suit in his own right to redress an injury sustained directly by him, and which is separate and distinct from that sustained by other stockholders. If, however, the injury is primarily against the corporation, or the stockholders generally, then the cause of action is in the corporation and the individual's right to bring it is derived from the corporation.

Citizens National Bank, supra, at 56. If the damages are only indirectly sustained by the stockholder as a result of injury to the corporation, the stockholder does not have a cause of action as an individual. See 13 W. Fletcher, Cyclopedia of the Law of Private Corporations ss 5911, 5924, 5926, 5928 (rev. ed. 1970).

***927** In view of our conclusion that the thrust of appellees' action is derivative, appellees by filing this action as individuals misconceived their remedy. For with respect to a stockholder's derivative action:

> The action is not to establish a personal right. Stockholders are permitted to sue ex necessitate rei, and although by the record the corporation may be made a party defendant, the stockholder bringing the action is in fact its representative. Otherwise than in name the action is by the corporation, and if relief be obtained it belongs, not to the stockholder bringing the action, but to the corporation. The cause of action belongs to the corporation and not to the stockholders individually or collectively, and hence the decree ordinarily must award relief to the corporation rather than to the actual plaintiff.

13 W. Fletcher, Cyclopedia of the Law of Private

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Corporations s 5953 (rev. ed. 1970).

[4] The corollary of these principles of law is that in a derivative action the corporation on behalf of which the stockholders sue is an indispensable party, and the court has no jurisdiction to adjudicate the rights of that corporation in its absence as a party, as was the case here.

> The corporation is a necessary defendant. In other words, the corporation on behalf of which plaintiffs sue must be made a party defendant so that a decree may appropriately give the corporation the fruit of any recovery by the plaintiffs. The corporation is not merely a proper party, but is an essential, indispensable party, and the failure to make the corporation a party is not a mere defect of parties but leaves the stockholder without a cause of action and the court without jurisdiction. (Emphasis added.)

13 W. Fletcher, Cyclopedia of the Law of Private Corporations s 5997 (rev. ed. 1970). See 19 Am.Jur.2d Corporations s 572 (1965). It follows that entry of final judgment in favor of appellees in the case before us is contrary to law and constitutes reversible error.

[5] With due respect to the trial judge the issue of the lack of an indispensable party was not raised in the trial court nor did either party argue the point on this appeal. Nevertheless, this issue may be raised for the first time on appeal, and we do so sua sponte. See Martinez v. Balbin, 76 So.2d 488 (Fla.1954); McAdoo v. Moses, 101 Fla. 936, 132 So. 638 (1931); Kephart v. Pickens, 271 So.2d 163 (Fla. 4th DCA 1972).

Accordingly, the final judgment is reversed without prejudice to appellees to institute a derivative action.

REVERSED.

HOBSON and RYDER, JJ., concur.

354 So.2d 925

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TAB # 11

United States District Court,
M.D. Florida,
Orlando Division.

Elizabeth Duda KLOHA, individually and on behalf of A. Duda & Sons, Inc., Plaintiff,
v.
Edward D. DUDA, Ferdinand S. Duda, Clark Daugherty, R. Ray Goode, Allan R. Nagle, William W. Heintz, And A. Duda & Sons, Inc., Defendants.

No. 6:01-CV-1371-ORL-31JGG.

Feb. 14, 2003.

Minority shareholder brought derivative action against corporation and six of corporation's 10 director's, alleging that directors knowingly caused the corporation to become less profitable, and that corporation's refusal to initiate a derivative lawsuit was not based on independent, good faith investigation of shareholder's allegations. The District Court, 226 F.Supp.2d 1342, denied motion to dismiss. Defendants moved for summary judgment. The District Court, Presnell, J., held that: (1) controlling trustee did not exceed authority in voting shares deposited in voting trust in accordance with wishes of controlling shareholders; (2) shareholder could not maintain direct, as opposed to derivative, action; and (3) directors' decision to remain in unprofitable vegetable and citrus businesses was protected by business judgment rule.

Motions granted.

West Headnotes

[1] Trusts ⇐ 177
390k177
Under Florida law, a court cannot interfere with a trustee's actions pursuant to a trust agreement unless the actions were arbitrary, in bad faith, or outside of the trust's authority.

[2] Trusts ⇐ 217.4
390k217.4
Controlling trustee of voting trust did not exceed authority, under Florida law, when he voted deposited shares in accordance with directions of majority shareholders.

[3] Corporations and Business Organizations ⇐ 2174
101k2174
(Formerly 101k190)
Under Florida law, minority shareholder failed to show she suffered any injury, other than diminution in value of her stock shared equally with other shareholders, precluding direct as opposed to derivate suit against controlling shareholders, alleging their actions caused harm to corporation and value of stock.

[4] Corporations and Business Organizations ⇐ 1842
101k1842
(Formerly 101k310(1))
Under Florida law, court is to initially determine whether there was evidence of bad faith, abuse of discretion, fraud or illegal acts, before applying business judgment rule to challenged acts of board of directors. West's F.S.A. § 607.0831.

[5] Corporations and Business Organizations ⇐ 1910
101k1910
(Formerly 101k320(11))
Under the "business judgment rule," as found in Florida law, a court presumes that corporate directors acted in good faith.

[6] Corporations and Business Organizations ⇐ 1885
101k1885
(Formerly 101k310(1))
Under Florida law, directors of corporation engaged in food business exercised their business judgment, in deciding to continue in unprofitable vegetable and citrus fruit production. precluding shareholder's derivative action based on claim that operations were retained in bad faith, to ensure continued employment for controlling shareholders' families.

[7] Corporations and Business Organizations ⇐ 1885
101k1885
(Formerly 101k310(1))
Under Florida law, directors of corporation engaged in food business exercised their business judgment,

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in deciding to continue in unprofitable vegetable and citrus fruit production. precluding shareholder's derivative action brought after those areas of business continued to lose money; subject was thoroughly reviewed, and input received from management, before continuation alternative was chosen in good faith over termination option.

[8] Corporations and Business Organizations ⇐ 1865
101k1865
(Formerly 101k312(5))
Under Florida law, directors of corporation engaged in food business exercised their business judgment, in deciding to sell certain assets as part of ongoing business plan, precluding liability for losses sustained by corporation, despite claim they should have sold other assets in unprofitable vegetable and citrus areas of their business. West's F.S.A. § 607.0830(3).

***1238** Stephen D. Busey, James Arthur Bolling, Smith, Hulsey & Busey, Jacksonville, FL, for plaintiff.

Julie M. O'Daniel, Theodore Joseph Sawicki, Alston & Bird, LLP, Atlanta, GA, Darryl M. Bloodworth, Dean, Mead, Egerton, Bloodworth, Capouano & Bozarth, P.A., Orlando, FL, for defendants.

ORDER

PRESNELL, District Judge.

This cause comes before this Court for consideration on:

1) Defendant Ferdinand S. Duda's Motion for Summary Judgment and, in the Alternative, for Judgment on the Pleadings (Doc. 71), F.S. Duda's Memorandum in Support (Doc. 72), and Plaintiff's Opposition (Doc. 121) thereto; and

***1239** 2) Defendants', Edward D. Duda, Ferdinand S. Duda, Clark Daugherty, R. Ray Goode, Allan R. Nagle, William W. Heintz, and A. Duda & Sons, Inc., Motion for Summary Judgment (Doc. 73), Defendants' Memorandum in Support (Doc. 74), and Plaintiff's Opposition (Doc. 122) thereto.

The Court heard oral argument on January 30, 2003.

I. Background

In 1926, Andrew Duda began farming celery in central Florida, thus starting the family-owned and family-operated company that would become A. Duda & Sons, Inc. ("Duda" or the "Company"). Andrew Duda had three children--Ferdinand, Andrew Luther ("Andrew L. Sr."), and John--all of whom worked for the Company and are otherwise known as "the Three Seniors." In 1953, Duda incorporated, with each of the Three Seniors owning equal shares of the stock. Subsequently, two of the Three Seniors (John and F.S. Duda) joined together to exercise majority control of the Company, and Andrew L. Duda Sr., thus became the minority shareholder. Plaintiff Elizabeth Duda Kloha hails from the Andrew L. Duda Sr. family line.

While vegetables has remained the Company's core business, it has diversified over time into other areas of business, including citrus, real estate, sod, sugarcane, and cattle. In 1996, the Company employed 1,013 full-time workers, with 25 of those employees coming primarily from the third and fourth generations of the Ferdinand and John Duda family lines. Out of those 25 family employees, seven worked directly in the vegetable business, and one worked in citrus. [FN1] Duda reduced the number of full-time employees to 859 in 1999, with six family members in vegetables, and one in citrus. Plaintiff never has worked for the company. [FN2] Defendant Ferdinand S. ("F.S.") Duda (Ferdinand family line) is currently the President and CEO of the Company and serves on the Board of Directors. Defendant Edward Duda (John family line) worked for the Company from 1957 until 1998, but today serves only as Chairman of the Board.

FN1. Plaintiff does not contest the number of family members directly involved in vegetables but notes that most of the other family employees held corporate overhead positions that predominantly supported vegetables and citrus. Moreover, Plaintiff does not assert that the Company should have hired more members from her family line.

FN2. Plaintiff worked part-time at Duda during one summer when she was in college; her husband never did. (Doc. 93 at 14). Plaintiff has not

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attended Board meetings in person, though they have been attended for her by proxy. (Id. at 147-48).

In 1989, a consultant suggested that Duda restructure its seven-member Board of Directors so that a majority of the directors hailed from outside the family. That same year, on November 10, 1989, a majority of Duda's signing shareholders, [FN3] entered a ten-year Voting Trust Agreement (the "Trust"). [FN4] Under this Trust, the signing shareholders transferred their voting rights to the co-trustees, Defendants John [FN5] and F.S. Duda. According to the Trust, the co-trustees were to vote on behalf of the signing shareholders in accordance with the wishes of the majority of Trust shareholders. (Trust at ¶ 5). The current Board has each of the Three Seniors' ***1240** family lines represented by two family members. [FN6]

FN3. None of the Andrew L. Sr. family line participated in the Trust.

FN4. A true and correct copy of the Trust was attached as Exhibit 1 to Defendant F.S. Duda's Memorandum in Support of Summary Judgment (Doc. 72).

FN5. John Duda, who is employed by Duda, hails from the John Duda family line.

FN6. The Company's Bylaws also were amended in June 1997 to provide for a ten-person, rather than a seven-person, Board in which six directors would come from the three Duda family lines, and the remaining four would come from outside the family. As a result of that Amendment, each family line, which previously held one director spot each, was allowed to nominate a second family director. Those six family members then would decide upon a full slate of directors to be voted upon by the shareholders at the annual meetings. The Ferdinand and John family lines nominated their second director per the Amendment. The Andrew L. Sr. line elected not to take advantage of its opportunity to double its representation on the Board. Also in 1997, the family attempted to mediate an agreement to buy out the minority shareholders' stock.

The six Defendant Directors [FN7] were voted onto the Board at various times while the Trust was in place. The Trust was dissolved in mid-1999. At each of the shareholders' meetings held since the Trust's dissolution, a simple majority of shareholders have voted for these same six Defendant Directors.

FN7. Defendant Directors include six of the ten current directors on Duda's Board. The six Defendant Directors are Edward D. Duda, F.S. Duda, Clark Daugherty, R. Ray Goode, Allan Nagle, and William W. Heintz. Of these directors, only Edward and F.S. Duda are members of the Duda family; the others are considered "outside directors." Andrew L. Duda Sr. also was on the Board during the relevant time frame, but is not being sued.

During the 1990s, Duda experienced financial difficulties due to the volatile nature of the vegetable and citrus industries. As a result, the Company's financial records showed substantial losses, and Duda was unable to pay dividends to its shareholders on an annual basis. Concerned with this volatility and loss, the Board of Directors discussed ways to reduce risk and improve profits. Over the course of several years, the Directors implemented several strategies, including: 1) increase handle deals in which Duda would sell crops grown by other companies; 2) enter into contracts with large national retailers, such as Wal-Mart, to provide an established supply of produce at a set price; 3) diversify both business-wise (by expanding certain sod, sugarcane, cattle, and real estate operations in the 1990s), and geographically (by increasing vegetable operations in Texas and California); and 4) redeploy, divest, reorganize, and sell certain vegetable, citrus, and real estate assets to reduce debt, respond to cash-flow deficits, and focus on more profitable operations.

On September 26, 2001, believing these actions to be inadequate, Plaintiff demanded that the Company either purchase the minority shareholders' interests or initiate a shareholder derivative suit. On November 2, 2001, Plaintiff again requested the filing of a derivative suit. In response, the Company ordered an independent investigation of Plaintiff's allegations, but found in its Special Litigation Committee Report that the claims were meritless and that a derivative suit was not in the Company's best interests.

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On November 21, 2001, Plaintiff filed this action, bringing Counts I and II derivatively on behalf of Duda, and Count III individually. In Count I, Plaintiff alleges that F.S. Duda breached the Trust by electing a Board of Directors he knew would agree with him and would not sell the vegetable and citrus operations, which employed members the Ferdinand and John Duda family lines. In Count II, Plaintiff alleges that the Defendant Directors breached their fiduciary duties as corporate directors by failing to exit the losing vegetable and citrus operations. In *1241 Count III, Plaintiff also alleges that F.S. Duda breached the Trust, but brings the claim on behalf of herself as an individual shareholder.

II. Standard of Review

A party is entitled to judgment as a matter of law when the party can show that there is no genuine issue as to any material fact. Fed.R.Civ.P. 56(c). The substantive law applicable to the case determines which facts are material. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986). Summary judgment is mandated "against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof." Celotex Corp. v. Catrett, 477 U.S. 317, 322, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986). The moving party bears the burden of proving that no genuine issue of material fact exists. Id. at 323, 106 S.Ct. 2548. In determining whether the moving party has satisfied its burden, the court considers all inferences drawn from the underlying facts in a light most favorable to the party opposing the motion, and resolves all reasonable doubts against the moving party. Anderson, 477 U.S. at 255, 106 S.Ct. 2505. If the record presents factual issues, the court must not decide them, but rather, must deny the motion and proceed to trial. Environmental Def. Fund v. Marsh, 651 F.2d 983, 991 (5th Cir.1981). [FN8]

FN8. All decisions of the Fifth Circuit prior to October 1, 1981 are binding precedent on this Court. Bonner v. City of Prichard, 661 F.2d 1206, 1209 (11th Cir.1981) (en banc).

III. Analysis

A. Count I--Derivative Claim of Breach of Trust

[1][2] Plaintiff argues that F.S. Duda [FN9] breached his Trust duties to all shareholders by purposefully electing a Board of Directors who would agree not to exit unprofitable operations in order to continue employment of Duda family members.

FN9. Plaintiff elected to sue only F.S. Duda, rather than both F.S. and John Duda as co-trustees, because she claims that F.S. Duda was the controlling trustee.

A court cannot interfere with a trustee's actions pursuant to a trust agreement unless the actions were arbitrary, in bad faith, or outside of the trust's authority. In re Moir Hotel, 186 F.2d 377, 382 (7th Cir.1950) ("So long as a trustee is exercising discretionary powers conferred upon him, honestly and reasonably, a court ... has no right to interfere."); Scott v. Arden Farms Co., 28 A.2d 81 (Del.Ch.1942) [FN10] (holding that voting trust certificate holders [FN11] were bound by the voting trustees' acts if those acts were done in good faith and within the scope of their authority). The Court cannot stray from the plain terms of the Trust. Warehime v. Warehime, 563 Pa. 400, 761 A.2d 1138 (2000) (reversing lower court for straying from the requirements set forth in the plain terms of the trust agreement). Here, the terms of the Trust limited the scope of F.S. Duda's authority as co-trustee to vote the shares deposited pursuant to the Trust *1242 "in accordance with the direction of the holders of Trust Certificates not representing less than a majority of the shares deposited hereunder." (Trust at ¶ 5(i)). Thus, F.S. Duda had no discretion to vote in a particular way, but in fact was obligated to vote as the majority wished. The only semblance of discretion afforded to F.S. Duda as co-trustee was a directive to exercise "reasonable care." (Id. at ¶ 10).

FN10. In re Southeast Banking Corp., 855 F.Supp. 353, 359 n. 4 (S.D.Fla.1994) (Florida courts may rely on Delaware law to construe Florida's corporate doctrines); accord Connolly v. Agostino's Ristorante, Inc., 775 So.2d 387, 388 n. 1 (Fla. 2d DCA 2000).

FN11. The Court recognizes that Plaintiff here is not a Voting Trust Certificate Holder, but that fact does not render the holding of the Scott case--that a court will not disturb a trustee's good faith acts

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done within the scope of his authority--inapplicable to the case at bar.

Plaintiff has cited no evidence demonstrating that F.S. Duda voted in any manner other than the manner that the majority of the Trust Certificate Holders wished, as required by the plain terms of the Trust. Plaintiff also has not produced any evidence that F.S. Duda acted unreasonably, fraudulently, or in bad faith in violation of the Trust's terms or applicable case law. Plaintiff claims there is "record evidence" of F.S. Duda's bad faith and purposeful mismanagement, but the "evidence" she cites includes only conclusory statements that F.S. Duda purposefully elected a "yes men" Board. [FN12] Such unsubstantiated, conclusory allegations are insufficient [FN13] to survive summary judgment. [FN14] Moir Hotel, 186 F.2d at 382 (a court will not interfere with the exercise of a trustee's powers absent proof of fraud, bad faith, or abuse of discretion).

FN12. Plaintiff cites, for example, the deposition of her sister, Dorothy Wise, who states: "I think [the Directors] purposefully accommodated Ferdinand's wishes." (Doc. 98 at 48), and "If they considered [getting out of vegetables], I know that Ferdinand would stonewall that, that he does not want us to ever get out of vegetables." (Id. at 56).

FN13. In fact, the record establishes the opposite. First, the Directors continued to vote for the same Board for several years after the Trust's dissolution in 1999. Second, F.S. Duda did not support only a "yes men" Board, for in 1999, he nominated Bruce Hrncir, who, prior to the nomination, regularly voiced objections to and voted against F.S. Duda in shareholder meetings.

FN14. Plaintiff claims that F.S. Duda has put forth a "Nuremberg" defense by ignoring his duty to resign as fiduciary. In support, Plaintiff cites In re Kitchen Factors, 143 B.R. 560 (9th Cir.BAP 1992), which held that an attorney should seek to withdraw or recommend the client to obtain a second legal opinion where the trustee/debtor-in-possession continues to pursue efforts to collect a debt in a non-cost effective manner. Id. at 562-63. Not only are the facts in that case wholly dissimilar to the facts at bar, but the holding also has no bearing on this shareholder's breach of trust claim against a corporate director. Kitchen Factors in no way compels the result that F.S. Duda should have resigned as fiduciary, and in fact, the Court does not see how the case has any relevance to the instant matter.

B. Count III--Direct Claim of Breach of Trust

[3] Plaintiff asserts that she has standing [FN15] to bring a direct claim against F.S. Duda for breach of trust because under the terms of the Trust, F.S. Duda owes her, as a shareholder, a fiduciary duty. The Court notes, however, that the law is well-established that if a plaintiff sues in a stockholder capacity for corporate mismanagement, she must sue derivatively in the corporation's name. Empire Life Ins. Co. of Amer. v. Valdak Corp., 468 F.2d 330, 335 (5th Cir.1972). Plaintiff argues that because the Trust explicitly names all shareholders as beneficiaries that she falls into the one exception to the rule regarding derivative suits. That one exception allows an individual to sue on her own *1243 behalf if she: a) is not similarly situated to other shareholders; b) suffers a distinct injury--i.e., special damages--from the other shareholders; and c) does not have the same opportunity to be made whole by a corporate recovery. Citibank v. Data Lease Fin. Corp., 828 F.2d 686, 693 (11th Cir.1987). Plaintiff must show, therefore, that she seeks to enforce a right of action unique to her, rather than address an injury mainly to the corporation, or to the whole body of its stock. Hodges v. Buzzeo, 193 F.Supp.2d 1279, 1288 (M.D.Fla.2002).

FN15. Plaintiff claims--without any legal support--that F.S. Duda waived any lack-of-standing defense to bring Count III directly. The Federal Rules of Civil Procedure do not require a party to plead a lack-of-standing defense with particularity, as Plaintiff asserts. Thus, Defendant's blanket affirmative defense stating that "Plaintiff does not have standing to bring the claims asserted ..." is sufficient to plead the affirmative defense of standing.

In support, Plaintiff relies primarily on Salit v. Ruden, McClosky, 742 So.2d 381 (Fla. 4th DCA 1999), in which the court held that an injurious falsehood count properly was brought as a direct claim. Id. at 389. Salit, however, does not help Plaintiff's case, for the direct claim in Salit was proper only because those plaintiffs allegedly

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suffered property damages unique to themselves and distinct from the other shareholders. Id. Thus, those plaintiffs did not sue the majority shareholders for decreased value of stock but rather for their personal property interests. Id.

Plaintiff in the instant case does not claim to enforce any personal property interests distinct from other shareholders but rather claims that her damages were distinct because, unlike family shareholders who were employed by Duda, she did not receive compensation and benefits from the Company. [FN16] The fact that certain family shareholders are employees and thus receive compensation does not, however, distinguish Plaintiff as a shareholder for purposes of her damages suffered in relation to other shareholders. By her own implication, Plaintiff admits that the family employees at Duda have suffered the same stock value decline, and would have suffered the same stock decline with or without their employment. For this reason, Plaintiff has failed to show that her damages are distinct from those of any other shareholder. Rather, she has demonstrated only injury to the corporation that indirectly affected her as a shareholder. Such indirect injury is insufficient to maintain a direct claim for breach of trust. Hodges, 193 F.Supp.2d at 1289 (requiring a counterclaim to be brought as a derivative action unless the counterclaimant could show direct injury). Accordingly, Plaintiff cannot bring this claim on her own behalf, and summary judgment also is appropriate as to Count III. [FN17]

FN16. Specifically, Plaintiff asserts that where F.S. and Edward Duda cushioned their decline in stock value by substantial income resulting from employing themselves and their family members, Plaintiff and her immediate family bore the full burden of her stock's decline in value. It is of no relevance for a breach of trust claim, but the Court notes that Plaintiff admitted she never sought to or wanted to work for Duda. (Doc. 93 at 15).

FN17. This Court's decision is supported by the policy behind derivative actions: "If each shareholder could sue individually for his losses, the wrongdoer would be subject to 'as many suits ... as there were stockholders in the corporation.' " Empire Life Ins. Co. of Amer., 468 F.2d at 335. Indeed, in her deposition, Plaintiff testified that she hopes to recover losses that she personally suffered as a shareholder, i.e., her eight percent share of the Company. (Doc. 93 at 106).

C. Count II--Derivative Claim of Breach of Fiduciary Duty

[4][5] Defendant Directors move for summary judgment on Count II, asserting that the business judgment rule shields them from liability. [FN18] Under the business ***1244** judgment rule, a court presumes that corporate directors acted in good faith. In re Bal Harbour Club, Inc., 316 F.3d 1192 (11th Cir.2003); [FN19] Cottle v. Storer Comm., Inc., 849 F.2d 570, 574 (11th Cir.1988). The rule prevents a court--which may possess less business expertise than the corporate directors--from calling upon directors to account for their actions, no matter how poor their business judgment, absent a showing by the plaintiff of abuse of discretion, fraud, bad faith, or illegality. Bal Harbour Club, 316 F.3d at 1192; Cottle, 849 F.2d at 575. The rule also prevents a factfinder from using hindsight to second-guess directors' business decisions. Bal Harbour Club, 316 F.3d at 1192 (citing F.D.I.C. v. Stahl, 89 F.3d 1510, 1517 (11th Cir.1996)). [FN20]

FN18. Plaintiff asserts that based on Florida Statute § 607.0831(1)(b)(4), the Court must resolve whether the Defendant Directors acted with conscious disregard for the Company's interests before determining whether those Directors are protected by the business judgment rule. This statement is not true. Rather, the Court initially must determine whether the business judgment rule applies by assessing whether there is evidence of bad faith, abuse of discretion, fraud, or illegal acts. The Court only needs to apply the conscious disregard standard if the business judgment rule is overcome and liability is asserted against corporate directors in a personal capacity. Connolly v. Agostino's Ristorante, Inc., 775 So.2d 387, 388 (Fla. 2d DCA 2000) (noting that Florida Statute § 607.0831 "neither imposes any duties on corporate directors nor creates any causes of action against them.").

FN19. "In using the word 'presumption' ... in articulating the business judgment rule, the courts have not intended to create a presumption in the classical procedural sense.... Rather, the courts are merely expressing the substantive rule of director liability." Bal Harbour Club, 316 F.3d at 1192.

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FN20. The case law--such as Stahl--remains unclear as regards the complete relationship between the business judgment rule and Florida Statute § 607.0830. That statute provides that: A director shall discharge his or her duties as a director, including his or her duties as a member of a committee: (a) In good faith; (b) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and (c) In a manner he or she reasonably believes to be in the best interests of the corporation. Although addressing that statute in various contexts, including non-derivative claims, the courts appear to read the three prongs of the statute--good faith, due care, and acting in the company's best interests--in the conjunctive when applying the business judgment rule. That is, in order to find liability, a plaintiff must establish not just that the corporate directors acted negligently--as in prong (b) of the statute, Stahl, 89 F.3d at 1517--but rather a plaintiff must show the directors acted negligently, and in bad faith, and in a manner not reasonably believed to be in the company's best interests. The business judgment rule thus appears to be in harmony with the statute.

Plaintiff claims that the Defendant Directors breached their fiduciary duties by: 1) making decisions based on family employment concerns; 2) failing to exit the historically and predictably unprofitable vegetable and citrus operations; and 3) selling assets to fund the operating losses of vegetables and citrus.

1) Family Employment

[6] Plaintiff claims that Defendant Directors caused the Company to remain in the losing operations of vegetables and citrus because they were beholden to F.S. Duda, who wanted to ensure continued family employment. In support of this claim, Plaintiff cites Larry Singleton's testimony, Minutes from both Shareholders' and Board of Directors' Meetings, and an Interview Summary by the Special Litigation Committee, as identified in detail below.

a) Larry Singleton's Testimony

When Larry Singleton--who has been submitted to this Court as an expert for Plaintiff [FN21]--was serving as a consultant to ***1245** the Company, he heard outside director Clark Daugherty say at a 2000 Board meeting:

FN21. Defendants moved this Court In Limine to preclude Singleton from testifying at trial for several reasons. Specifically, Defendants claimed that Singleton improperly would opine on an ultimate issue if the Court permitted testimony that the Defendant Directors breached their fiduciary duties by failing to sell the losing citrus and vegetables operations. For example, Plaintiff proposed to submit Singleton's testimony that: I think it was a breach of their fiduciary duty to not have actually been out by the end of '95. There was adequate evidence in the earlier years, going back seven years, of what was going on there.... They should have seen it. It was predictable and they should have done something about it so they never would have suffered the losses from '96 through '99. (Doc. 94 at 260-61). Without ruling on Defendant's Motion In Limine, the Court notes that it will not here consider this or any other part of Singleton's testimony regarding such ultimate conclusions.

> There is nothing that you're saying that's rocket science. We've considered these alternatives before, but there are family considerations. If it weren't for the family, we probably wouldn't be in vegetables at all.

(Doc. 118, Pl.'s Ex. 23, at ¶ D; see also Doc. 94 at 225). Singleton testified that after Daugherty made this statement, no Board member disagreed. (Doc. 94 at 226-228).

In this same report, Singleton also claimed that when discussing termination or reorganization of unprofitable operations, F.S. Duda responded, "if Duda family members couldn't work in the business, [I] might as well sell it." (Doc. 118, Pl.'s Ex. 23, at ¶ E; see also Doc. 94 at 229-32).

b) January 1997 Shareholders' Meeting Minutes

Plaintiff testified that family, rather than business, concerns drove the Defendant Directors' decisions. (Doc. 93 at 99-101). Plaintiff cites an Overhead Cost Reduction Committee report, saying it "is not looking at family members" when implementing cost reductions. (Doc. 83, Tab 17, at 7).

c) Minutes from Board of Directors' Meeting of

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June 4, 1992

Plaintiff points out that the Minutes from a Board of Directors' Meeting list as one of six rationales for continuing to participate in the vegetable business, "More than half a dozen Duda family members have interesting and challenging jobs in the fresh market business." [FN22] (Doc. 82).

FN22. The other five listed rationales were: 1) the Company's strategic capabilities lay in production and marketing of fresh market product; 2) expectation of continued market growth due to health-conscious aging population and reduced competition; 3) short-term and long-term cost competitive production locations; 4) ties between the fresh citrus and fresh vegetable business; 5) fresh vegetable business provides operating capital for other divisions during fiscal year. (Doc. 82).

d) Special Litigation Committee Interview Summary

According to a Special Litigation Committee Interview Summary, Dorothy Wise [FN23] said that "citrus and vegetables were 'Ferdinand's baby,' " and that " 'If I and my children can't have jobs in this family what do I need Duda for?' " (Doc. 123 at 2).

FN23. Dorothy Wise never worked for the Company. Her husband worked there for only a summer or two during college, about three decades ago. (Doc. 98 at 28). She has attended most Board meetings from 1989 to the present. (Id. at 38).

e) Sufficiency of the Evidence

Plaintiff has not produced evidence sufficient to overcome the presumption that the *1246 Defendant Directors acted in good faith. This Court will not substitute its judgment where the Board's decisions can be attributed to rational business purposes. Unocal Corp. v. Mesa Petroleum Co., 493 A.2d 946, 954 (Del.1985).

Directors may, under Florida law, consider how a business decision will affect employees. Fla. Stat. § 607.0830(3). Here, the record establishes that Defendant Directors properly considered impact on employees, including family members, as one of many factors. (See, e.g., Doc. 90 at 85: "We looked at all our employees to see whether we needed them or not, family included."). No Director, including F.S. Duda himself, disputes that F.S. Duda felt strongly about family employment as an important facet to this family-run business. (See, e.g., Doc. 97 at 158; Doc. 90 at 103, 106). However, there is no evidence that F.S. Duda continued operating the vegetable and citrus businesses solely or even primarily to employ his family members. Plaintiff also has produced no evidence that the family employees lacked qualifications, received unreasonable compensation, or enjoyed undue advantage. In fact, the record shows the opposite. The family employees' compensation was reasonable and consistent with the pay for similar positions in the market. [FN24] In addition, Plaintiff's accusation makes no sense economically, for it would be irrational for a family-run business to intentionally lose millions of dollars of shareholder value in order to sustain family employment when the employees' compensation is meager compared to shareholder dividends. (Doc. 84, Tab 22 at ¶¶ 41-44). Plaintiff has produced no evidence to show that the Defendant Directors, by continuing to employ family members, exercised bad faith, acted fraudulently or illegally, or abused their discretion.

FN24. (See Doc. 84, Tab 22 at ¶¶ 46-7).

2) Defendants Should Have Known to Exit Losing Operations Before 1996

[7] Plaintiff asserts that the Board knew that citrus and vegetables were predictable losers or underperformers by 1995 but failed to sell those operations to the detriment of the shareholders. Plaintiff points to several pieces of evidence in support of this assertion, including Larry Singleton's testimony, Directors' discussions, depositions of minority shareholders, and certain other documents, as identified below.

a) Singleton's Testimony

Singleton testified that, based on his analysis using the economic value added ("EVA") method, [FN25] citrus was a "value destructor" or underperformer and the vegetable business was a predictable loser for Duda. (Doc. 94 at 109-10). Singleton also testified, based on an analysis of the Company's financial records and allocation of

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expenses (or lack thereof), [FN26] that the Defendant Directors should have seen the downward trend in vegetables and citrus and sold or restructured those operations. [FN27]

FN25. The EVA method is a tool to measure a company's profitability.

FN26. Singleton claims the records show that vegetable and citrus operations lost tens of millions of dollars during the years 1989-95. Defendant Directors assert that the Company's actual performance contradicts Singleton's figures, but the Court must consider the facts in a light most favorable to Plaintiff.

FN27. When Singleton served as a consultant to Duda, he recommended that the Board sell the vegetable and real estate businesses, not the citrus business.

*1247 b) The Defendant Directors Often Discussed the Businesses' Volatility

Plaintiff suggests that the Defendant Directors knew that the vegetable and citrus businesses should be cut by 1995 because they often discussed the volatility and weaknesses of those businesses. In support, Plaintiff submits portions of Duda Minutes, memoranda, and reports. First, Plaintiff submitted the Minutes of the December 9, 1994, Annual Shareholders Meeting (Doc. 83, Tab 17), which stated, "Chairman [Edward] Duda ... indicated that the major problem was in vegetables, but that other areas did fairly well. [He] noted that vegetables have always been, and will continue to be, very volatile in nature...." Plaintiff did not note that this sentence continues, "but that the company has been working very hard since 1986 to diversify its holdings." (Id.).

Second, Plaintiff submits a June 5, 1996, Memorandum from Edward Duda to the Board of Directors (Doc. 99, Pl.'s Ex. 56), which notes, "The past ten years have demonstrated that ... fiscal 1996 will represent the fourth loss in seven years." Of course, this sentence is but one in a two-page memorandum, which goes on to discuss various studies of Duda's vegetable operations and plans to increase California vegetable operations in order to help stabilize prices and "improve our financial position."

Third, Plaintiff submits the Final Report of Vegetable Restructure Committee of July 1997 (Doc. 99, Pl.'s Ex. 3), which states, "The viability of the vegetable business has been questioned often and seriously for quite some time."

c) Historically Unsuccessful Actions

Plaintiff claims that steps the Defendant Directors did take to address the Company's financial problems were historically unsuccessful. For example, Plaintiff offers a 1993-94 Profit Plan & Strategic Plan Review by Barton Weeks, [FN28] which recognized NAFTA as a threat posed to Florida agriculture but that never dealt with how to alleviate the problem. (Doc. 72, at Ex. I). Plaintiff also cites the depositions of minority shareholders. For example, Dorothy Wise testified, "I don't know that [the Directors] accomplished anything or really did anything different than they had in the past." (Doc. 98 at 47). Luther Duda testified, "They've [the Directors] gone through the motions [of taking steps to increase profitability]. They've made some changes but they are woefully inadequate." (Doc. 91 [FN29] at 51-52). Plaintiff cites the Special Litigation Committee Report, insisting that the Defendant Directors also failed to adequately deal with environmental factors, perishability, foreign competition, pests and diseases, and diminished grapefruit consumption. (Special Litigation Committee Report at 36-37).

FN28. Weeks is currently the CFO of Duda's real estate company, Viera. (Doc. 97 at 9). He attends Board meetings, though not regularly. (Id. at 12).

FN29. Luther Duda worked for the Company from 1961 until 1995, and served on the Board until it was reduced to seven members. (Doc. 91 at 8, 16).

Finally, Plaintiff argues that because some steps--such as diversification into California and Texas and targeting large customers for contract or handle deals--were begun in the early 1990s but did not show immediate success, the Defendant Directors should have predicted by 1995 that these steps were not working and instead should have sold the relevant agribusinesses.

d) Sufficiency of the Evidence

Rather than producing evidence that the Defendant

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Directors acted in bad faith, *1248 Plaintiff has convinced this Court of the opposite, i.e., that they acted with good faith in contemplating how to deal with the volatile agribusinesses. [FN30] Indeed, the Defendant Directors not only knew about the threats and weaknesses to the agribusinesses, but they addressed them via reports, studies, discussions, and committees, and ultimately conceived of and implemented strategies and plans to reduce risks and increase profits. (See, e.g., Doc. 97 at 76, 86, 117-19; Doc. 89 at 53-54, 69; Doc. 96 at 63-64, 88; Doc. 90 at 64). Consistent with Florida Statute § 607.0830(2)(a) and (b), the Board regularly requested materials from management to help guide its decisions and to arrive at a consensus of best next steps. (See Doc. 84, Tab. 23, at ¶¶ 4-7; Id., Tab 24; at ¶¶ 2-5; Doc. 114 at ¶¶ 4-7; Doc. 108 at ¶ ¶ 5-8; Doc. 109 at ¶¶ 2-5; Doc. 107 at ¶¶ 2-5). The Defendant Directors, along with the rest of the Board, even discussed and contemplated the very strategy urged by Plaintiff--exiting the vegetable business. Ultimately, the Board determined that exit would not be valuable to shareholders [FN31] and thus decided instead to pursue long-term [FN32] strategies to reduce volatility, including: 1) increasing handle deals, 2) increasing contracts with national retailers, 3) diversifying, and 4) redeploying assets. [FN33] The fact that those strategies may not have produced immediate profits or annual dividends in no way evinces bad faith to prevent application of Florida's business judgment rule. See, e.g., Unocal, *1249 493 A.2d at 958 (holding that the board's actions were entitled to business judgment rule standards because the board acted in good faith and upon reasonable investigation); Treadway Cos. v. Care Corp., 638 F.2d 357, 384 (2d Cir.1980) (holding that the record--which revealed the directors engaged outside firms, were informed, and asked numerous questions to help them deliberate on a proposed merger--provided no adequate basis for finding lack of good faith). Plaintiff here has not overcome the presumption of the business judgment rule that Defendants acted in good faith. [FN34]

FN30. It is not surprising that Plaintiff had to base her lawsuit only on the results of the Board's actions, i.e., loss and lack of dividends in certain years, for she and other minority shareholders admit that they did not know what actions the Board took to improve profitability of the operations at issue. (See, e.g., Doc. 93 at 36-37, 161; Doc. 98 at 47). Indeed, Plaintiff admits, as she must, that it is the Board's, not the shareholders', responsibility to resolve the problems at hand. (See, e.g., Doc. 93 at 91, 118). The only thing Plaintiff knew for certain was that "whatever [the Directors] tried didn't work." (Id. at 92). She bases her complaint on one accusation: "they did not solve the problem by cutting the losses in vegetables and citrus." (Id. at 158). Plaintiff even admitted that she could only speculate as to what the Board considered when they decided to stay in the vegetable business. (Id. at 101). Wise also admits that she was not "privileged" to what the Board used to decide whether to stay in the vegetable business, (Doc. 98 at 57) and that it is "not my job" to know what the Board could have done to improve profitability. (Id. at 69). Luther Duda also testified that he only knows the results of what the Board did, not necessarily what the Directors actually did or did not do as far as steps taken. (Doc. 91 at 34).

FN31. As Clark Daugherty testified, "You don't just go out of major parts of your business simply because they have one or two bad years, even in a row, if you feel that there's an opportunity to move forward with them." (Doc. 86 at 178). In fact, the last two years have shown profits for the Company. (Doc. 90 at 70).

FN32. Plaintiff also has shown no evidence that the Defendant Directors knew of threats and weaknesses and took actions they knew to be historically unsuccessful. First, as discussed, they did take some actions, and some directors testified that these risk-reducing changes could not have been made any faster. (See, e.g., Doc. 86 at 71; Doc. 90 at 124). Second, implementing a strategy that does not produce results until five to ten years hence does not reveal bad faith. Moreover, directors testified that "history" is not always a reliable predictor when an industry is in flux and/or a transitional period. (Doc. 97 at 133). Indeed, during the years at issue, both the vegetable and citrus industries were volatile, not just for Duda, but for all involved in those businesses. (Doc. 90 at 60; see also Doc. 86 at 71: "This is an industrial [sic] that is in evolution and flux and I think substantial progress has been made.").

FN33. It is of no import, as Plaintiff asserts, that the assets were not deployed in a manner to give shareholders dividends in certain years. (Doc. 93

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at 120-21).

FN34. Although the Court need not reach the issue of conscious disregard in relation to these Defendant Directors, it notes that if it had, Defendants did not cite case law which would have served as precedent. Coleman v. Associated Pipeline Contractors, Inc., 444 F.2d 737 (5th Cir.1971), a wrongful death case, construes Mississippi law regarding a contractor's duty, not a corporate director's duty. Rommell v. Auto. Racing Club of America, Inc., 964 F.2d 1090 (11th Cir.1992) is a car explosion case construing Alabama law and has nothing to do with corporations or standards for corporate directors.

Moreover, Defendants did not wholly fail to allocate expenses. (See, e.g., Doc. 97 at 25, 31, 41-44; see also Doc. 84, Tab 22 at ¶¶ 50-55). Rather, Plaintiff's own evidence shows that Duda did allocate, just not to the same degree or in the same manner as Singleton suggests. (See, e.g., Doc. 118, referring to Overhead Allocation figures by Goldman Sachs, Lancaster, and Duda, gleaned from Pl.'s Ex. 20, 21, and 29, respectively; see also Doc. 97 at 42-43; Doc. 89 at 34). Even if the Court adopted Singleton's EVA allocation approach--which itself is but one method of economic analysis (Doc. 97 at 132)--which reveals significant losses, that still does not provide evidence sufficient to overcome the business judgment rule. Bal Harbour Club., 316 F.3d at 1192 (directors will not be called to account for their actions, no matter how poor their business judgment, absent a showing of abuse of discretion, fraud, bad faith, or illegality).

3) Selling of Assets

[8] Finally, Plaintiff asserts that the Defendant Directors approved asset sales in the 1990s to fund operating losses. As evidence, Plaintiff offers a Long-Range Strategic Plan adopted by the Board of Directors on November 1, 1996, and a Table from the Special Litigation Committee Report, which reflect that assets were sold to reduce debt and respond to cash-flow deficits. Plaintiff testified that the Defendant Directors should have sold the vegetable and citrus operations rather than the assets they did sell, because the vegetable and citrus operations were the ones losing money. (Doc. 93 at 95).

As above, there is no evidence that the Defendant Directors sold the relevant assets in bad faith. Defendant Directors do not dispute that they sold assets to reduce debt and to use the sales' proceeds to mitigate certain operating losses. (Doc. 97 at 68; Doc. 90 at 65-66). However, the record establishes that the Company sold these assets under threat of condemnation, as part of the Company's reorganization and disposal of under-productive assets, or simply as part of the company's consistent practice to buy and sell assets. Thus, the assets were sold based on rational business purposes, not as part of a bad-faith design to cover for operating losses. (Doc. 84, Tab 30 at ¶¶ 1-3; Doc. 84, Tab 22 at ¶¶ 34-36). Plaintiff has produced no evidence, other than conclusory statements, to the contrary.

IV. Conclusion

There are no material facts in dispute in this case. The only dispute is the inference ***1250** Plaintiff seeks to draw from the facts--that Defendants acted in bad faith by not selling the Company's citrus and vegetable operations. Such an inference, however, is simply not supported by the facts. At best, Plaintiff's claims reflect hindsight judgment that the Defendant Directors could have done a better job developing and implementing different plans to address complex financial problems. Because the business judgment rule shields these Directors from liability, the Court need not reach the issue of their personal liability nor of damages. For all the foregoing reasons, it is therefore

ADJUDGED and ORDERED that Defendant's, Ferdinand S. Duda, Motion for Summary Judgment as to Counts I and III (Doc. 71) is GRANTED, and Defendants,' Edward D. Duda, Ferdinand S. Duda, Clark Daugherty, R. Ray Goode, Allan R. Nagle, William W. Heintz, and A. Duda & Sons, Inc., Motion for Summary Judgment as to Count II (Doc. 73) is GRANTED. All other pending motions are DENIED AS MOOT. This case is removed from this Court's April trial docket, and the Pretrial Conference scheduled for March 12, 2003, is cancelled.

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TAB # 12

468 F.2d 330
11 UCC Rep.Serv. 594
(Cite as: 468 F.2d 330)
<KeyCite Citations>

United States Court of Appeals,
Fifth Circuit.

EMPIRE LIFE INSURANCE COMPANY OF AMERICA, Plaintiff-Appellee,
v.
VALDAK CORPORATION, Defendant-Appellant.

No. 72-1063.

Oct. 12, 1972.
Rehearing Denied Nov. 10, 1972.

Action for deficiency judgment after plaintiff's foreclosure sale of stock pledged by defendant as collateral for loan, wherein defendant filed counterclaim for fraudulent depletion of the collateral. The United States District Court for the District of Texas, at Dallas, Sarah Tilghman Hughes, J., dismissed the counterclaim and defendant appealed. The Court of Appeals, Goldberg, Circuit Judge, held that security agreement entered into ten months before effective date of Uniform Commercial Code in Texas, where acts were to be performed, or in North Dakota, where the agreement was executed, was governed by the prior law, even as to those aspects of transaction, including the foreclosure, that took place after the effective date of the Code. The Court also held that counterclaim of defendant stated cause of action for intentional depletion of collateral by plaintiff which controlled the company represented by the stock pledged.

Reversed and remanded.

West Headnotes

[1] Secured Transactions ⇦ 9
349Ak9
Security agreement entered into ten months before effective date of Uniform Commercial Code in Texas, where acts were to be performed, or in North Dakota, where the agreement was executed, was governed by the prior law, even as to those aspects of transaction, including the foreclosure, that took place after the effective date of the Code. V.T.C.A., Bus. & C. §§ 10.101 et seq., 10.102(2).

[2] Pledges ⇦ 56(1)
303k56(1)
Law prior to Uniform Commercial Code with respect to foreclosure sale merely required pledgee to dispose of collateral in good faith.

[3] Federal Courts ⇦ 614
170Bk614
(Formerly 30k171(1))
Generally, party should be held bound by whatever theory of law he argued in lower court and, in absence of manifest injustice, appellate court should not allow party to attempt a whole new theory after he has been unsuccessful at trial.

[4] Federal Courts ⇦ 614
170Bk614
(Formerly 30k171(1))
Rationale for rule that party should be held bound by whatever theory of law he argued in lower court is derived from need of judicial economy and desirability of having all parties present all their claims in court of first instance.

[5] Federal Courts ⇦ 937.1
170Bk937.1
(Formerly 170Bk937, 106k406.9(9), 106k9(9))
Court of Appeals, as matter of discretion, in case which must be remanded for trial on counterclaim, would remand case for retrial of plaintiff's claim which had been tried by both parties and trial court under improper assumption that the Uniform Commercial Code applied.

[6] Federal Courts ⇦ 611
170Bk611
(Formerly 30k169)
As matter of discretion, appellate court may pass upon issues not pressed before it or raised below when ends of justice will be best served by doing so.

[7] Federal Courts ⇦ 611
170Bk611
(Formerly 30k169)
Appellate review does not consist of supine submission to erroneous legal concepts, even though none of the parties declaimed the applicable law below.

[8] Federal Courts ⇦ 611

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170Bk611
(Formerly 30k169)
Court of Appeals has duty to enunciate law on the record facts and neither parties nor trial judge, by agreement or passivity, can force Court of Appeals to abdicate its appellate responsibility.

[9] Corporations and Business Organizations ⚿ 2079
101k2079
(Formerly 101k320(4))
Generally, plaintiff who sues in stockholder capacity for corporate mismanagement, must bring suit derivatively in name of corporation so that each shareholder will be made whole if corporation obtains compensation or restitution from the wrongdoer.

[10] Corporations and Business Organizations ⚿ 1933
101k1933
(Formerly 101k320(4))
If act of corporate mismanagement creates not only cause of action in favor of corporation but also in favor of one stockholder, as an individual, for violation of a duty owing directly to him, stockholder, individually, may sue wrongdoer.

[11] Secured Transactions ⚿ 165
349Ak165
Generally, law implies duty in pledgee of stock to preserve value of any collateral held by him to secure a loan.

[12] Secured Transactions ⚿ 165
349Ak165
Fact that pledgee of stock controls company represented by stock does not eliminate its duty not to deplete the collateral intentionally.

[13] Secured Transactions ⚿ 171
349Ak171
Fact that pledge by defendant, who was sued for deficiency judgment at foreclosure sale, was stock and that any manipulated depreciation of the stock by plaintiff, which controlled the corporation represented by the stock, would give rise to derivative suit by defendant as stockholder did not foreclose defendant from maintaining counterclaim as individual pledgor against plaintiff based on the precipitous diminution in value of the stock.

[14] Secured Transactions ⚿ 171
349Ak171
Counterclaim of defendant, who was sued for deficiency judgment after foreclosure sale on stock pledged by defendant as collateral for loan, stated good cause of action for intentional depletion of collateral by plaintiff which controlled the corporation represented by the stock pledged.

*331 Donnie R. Duplissey, Dean Carlton, Dallas, Tex., Byron Edwards, Grand Forks, N. D., for defendant-appellant.

Stewart Frazer, Douglas E. Bergman, Dallas, Tex., for plaintiff-appellee.

Before BELL, GOLDBERG and RONEY, Circuit Judges.

*332 GOLDBERG, Circuit Judge:

In this diversity case involving the precipitous diminution in value of stock pledged by defendant as collateral for a loan, plaintiff, suing for a deficiency judgment after a foreclosure sale, advocated one theory of the Uniform Commercial Code; defendant advanced a different reading of the U.C.C., and the trial court applied yet a third application of the Code. Finding the Code to be inapplicable to the transaction at issue, and finding defendant's counterclaim for fraudulent depletion of the collateral wrongfully dismissed, we reverse and remand the case for a new trial.

The facts show that on September 30, 1965, plaintiff, an insurance company residing in Texas, loaned defendant, a North Dakota corporation, $350,000 with repayment due on September 30, 1970. As collateral for the loan, defendant pledged 50,000 shares of stock in National Insurance Company (hereinafter "National") in accordance with a written security agreement dated September 30, 1965, and apparently signed in North Dakota. Sometime in 1965 plaintiff gained control of National, and defendant alleges that at the time plaintiff took control the 50,000 shares held as collateral were worth approximately $24 a share ($1,200,000). When the note came due on September 30, 1970, defendant failed to pay. Shortly thereafter plaintiff notified defendant that the collateral would be liquidated at a given time and place at a private sale and that unless defendant

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paid the debt prior to the date of sale, plaintiff would file suit for whatever deficiency resulted from the foreclosure sale. Defendant failed to respond to the notice of sale and on November 30, 1970, plaintiff, allegedly in accordance with a provision in the security agreement permitting such action, sold the stock to itself for $3.00 a share ($150,000). In January of 1971, plaintiff filed this suit in federal court, claiming that defendant still owed $261,950 on the loan. [FN1]

FN1. The figure was computed as follows:

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incipal	$350,000
Interest (to 11/30/70)	24,500
Attorney's Fees	37,450
	411,950
Credit from Sale	(150,000)
TOTAL AMOUNT DUE	$261,950

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Defendant answered that the purported private sale was invalid and that therefore no deficiency was owing, and further counterclaimed that since 1965 plaintiff fraudulently and illegally used its control of National to devalue the corporation and in consequence to deplete its assets in violation of plaintiff's duty to defendant as pledgee of the collateral. The fraudulent acts of plaintiff alleged by defendant included, inter alia, execution of a service agreement between the plaintiff insurance company and National which depleted National; discharge of experienced employees and depletion of National's agency force; sale of certain mortgages by plaintiff to National which resulted in a loss to National; and loans to officers and directors at lower rates of interest than the going rate, contrary to statute. Prior to trial, the district court granted plaintiff's motion to dismiss the counterclaim. [FN2]

FN2. The record does not reveal the specific reasons relied upon by the trial court for granting the dismissal. From our reading of the record, we assume the dismissal was based upon plaintiff's contentions that (1) the counterclaim was essentially derivative in nature and the failure to join National as a party plaintiff rendered the claim procedurally deficient under Rule 23.1, Fed.R.Civ.P.; and (2) the statute of limitations barred the counterclaim.

At the trial on plaintiff's main claim for the deficiency judgment, extensive evidence was introduced by both sides as to the value of the stock at various times and the case was sent to the jury with instructions to decide (1) whether the foreclosure sale met the standards of "commercial reasonableness" as defined in the Uniform Commercial Code, particularly section 9-504; and (2) what the fair market value of the National stock was on November 30, 1970. The jury returned a verdict finding that (1) the *333 sale was not "commercially reasonable," and (2) the fair market value of the stock on November 30, 1970, was $3.25 per share. The court thereby allowed defendant a set-off of $162,500 and gave plaintiff judgment for the deficiency, interest, and attorney's fees, totalling $249,400. From this judgment defendant appeals, claiming that (1) under the U.C.C., no deficiency should have been entered since there was a factual finding that the foreclosure sale was not commercially reasonable, and (2) the counterclaim for depletion of the collateral was wrongfully dismissed.

The Foreclosure Sale & Deficiency Judgment

At oral argument of this appeal, the bench raised the threshold question (apparently for the first time in the litigation) of whether the U.C.C., upon the standards of which the trial was based, was applicable to the transactions at issue. [FN3] The security agreement was drafted on September 30, 1965, and the effective date of the Code in both Texas and North Dakota [FN4] was July 1, 1966. Section 10-102(2) of the Code [FN5] provides:

FN3. The parties were given an opportunity to file supplemental briefs on the issue of whether the U.C.C. or prior law should be applied.

FN4. Inasmuch as the security agreement was apparently executed in North Dakota and involved acts to be performed in Texas, the trial court, on remand, must determine on the basis of the relevant facts which jurisdiction's pre-Code law should govern the instrument. Regardless of the determination of that issue, it is clear that the Code was not effective in either jurisdiction when the transaction was entered into.

FN5. We are cognizant of the rather enigmatic fact that Texas failed to re-enact article 10 of the Code when it enacted the Business and Commerce Code in 1967. Even assuming Texas law applies to the instant transaction (and we do not pass on that question), we do not believe that the Code was enacted with the intention of retroactive application. See Lack's Stores, Inc. v. Waisath, 464 S.W.2d 220 (Tex.Civ.App.1971), rev'd on other grounds, 474 S.W.2d 444 (Tex.Sup.Ct.).

"Transactions validly entered into before the effective date specified in Section 10-101 of this Act and the rights, duties and interests flowing from them remain valid thereafter and may be terminated, completed, consummated, or enforced as required or permitted by any statute or other law repealed or modified by this Act as though such repeal or modification had not occurred."

[1] In the overwhelming majority of cases where retroactivity of the Code has been in issue, it has been found that when a transaction was entered into [FN6] prior to the effective date of the Code, the transaction would thereafter be governed for all purposes by the law in effect when the transaction

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was entered into. E. g., In re Kokomo Times Publishing and Printing Corp., D.Ind.1968, 301 F.Supp. 529; Phoenix v. Kovacevich, 246 Cal.App.2d 774, 55 Cal.Rptr. 135 (1966); Leiter v. Arnold, 114 Ga.App. 323, 151 S.E.2d 175 (1966); Wellbro Building Co. v. McConnico, 421 P.2d 837 (Okl.1966); McCormack v. E. E. McCormack Co., 239 Or. 264, 397 P.2d 198 (1964); and Lack's Stores, Inc. v. Waisath, supra note 5. Contra, United Sec. Corp. v. Bruton, 213 A.2d 892 (D.C.App. 1965). The conclusion is therefore inescapable that this security agreement, entered into ten months before the effective date of the Code in both Texas and North Dakota, is governed by the prior law, even as to those aspects of the transaction, including the foreclosure, that took place after the effective date of the Code.

FN6. In cases such as the one before us, the transaction is considered to be "entered into" at the time the security agreement is executed.

[2] From our reading of the pre-Code law, it is clear that the standard for judging the validity of a foreclosure sale is significantly different from the standard enunciated in the U.C.C. Rather than employing a standard of "commercial reasonableness," which requires *334 the secured party to meet various prerequisites regardless of prearranged foreclosure provisions in the security agreement, the prior law merely requires the pledgee to dispose of the collateral in "good faith." Compliance with a prior contractual agreement as to the mode of disposal has, under the prior law, generally been considered good faith, absent some gross impropriety. See Taylor v. Banks, 392 S.W.2d 856 (Tex.Sup.Ct.1965); Anchor v. Gose, 8 S.W.2d 690 (Tex.Civ.App.1928); Elmer v. Elmer, 203 So.2d 391 (La.App. 1967); In re Kiamie's Estate, 309 N.Y. 325, 130 N.E.2d 745 (1955). The U.C.C. introduced into our commerce a new set of business folkways and commercial mores. The trial below, however, was wrongfully predicated upon that new set of folkways and mores. The commencement date of the Code was set by statute, and we are not at liberty to apply the law nunc pro tunc.

[3][4][5][6] We are fully cognizant of the fact that both parties and the trial court tried this case under the assumption that the U.C.C. was applicable, and we are aware that a new trial will be burdensome on all parties. We are aware that as a general rule parties should be held bound by whatever theory of law they argued below and absent some manifest injustice, an appellate court should not allow a party to attempt a whole new theory after he has been unsuccessful at trial. See e. g., D. H. Overmyer Co. v. Loflin, 5 Cir. 1971, 440 F.2d 1213. The rationale for this rule derives from the needs of judicial economy and the desirability of having all parties present all their claims in the court of first instance. See Hormel v. Helvering, 1940, 312 U.S. 552, 556-560, 61 S.Ct. 719, 721-723, 85 L.Ed. 1037, 1040-1043. Here, however, it is not one of the parties seeking to advance a new theory, rather, it is this court, in fulfillment of its duty to apply the correct law, that is seeking to put the case back on the right track. [FN7] Since the case must, in any event, be remanded for trial on the counterclaim, neither the ends of judicial economy nor the ends of justice would be well served by our acquiescence in the erroneous application of law indulged in by all parties below. It is well established that as a matter of discretion, an appellate court may pass upon issues not pressed before it or raised below when the ends of justice will be best served by doing so. See American Surety Co. of N. Y. v. Colblentz, 5 Cir. 1967, 381 F.2d 185; In re Linda Coal and Supply Company, 1 Cir. 1958, 255 F.2d 653; De Fonce Construction Company v. City of Miami, 5 Cir. 1958, 256 F.2d 425. See, generally, Hormel v. Helvering, supra. We feel this is such an instance and that we would be amiss if we did otherwise.

FN7. Inasmuch as we find that the U.C.C. is inapplicable to the instant transaction, we find it unnecessary to pass on the correctness of the trial court's interpretation of the substantive provisions of the Code.

[7][8] Appellate review does not consist of supine submission to erroneous legal concepts even though none of the parties declaimed the applicable law below. McCrea v. Harris County Houston Ship Channel Navigation Dist., 5 Cir. 1970, 423 F.2d 605, 610; Kurdziel v. Pittsburgh Tube Co., 6 Cir. 1969, 416 F.2d 882, 886; Foster v. United States, 2 Cir. 1964, 329 F.2d 717, 718. See also International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America v. Zantop Air Transport Corp., 6 Cir. 1968, 394 F.2d 36, 40. Our duty is to enunciate the law on the record facts. Neither the parties nor the trial judge, by agreement

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or passivity, can force us to abdicate our appellate responsibility. We therefore must remand the case for retrial of plaintiff's claim for a deficiency judgment applying pre-Code standards.

Defendant's Counterclaim for Depletion of Collateral

[9] In his counterclaim defendant alleges various facts that, if true, show that plaintiff intentionally funneled the assets of National into Empire, which *335 consequently caused the value of the National shares to diminish substantially. With this claim, plaintiff as stockholder would clearly have a right to sue qua stockholder for fraudulent mismanagement of National. It is, however, an established rule that if a plaintiff sues in a stockholder capacity for corporate mismanagement, he must bring the suit derivatively in the name of the corporation. Schaffer v. Universal Rundle Corp., 5 Cir. 1968, 397 F.2d 893. The reason for this rule is that each shareholder suffers relatively in proportion to the number of shares he owns and each will be made whole if the corporation obtains compensation or restitution from the wrongdoer. If each shareholder could sue individually for his losses, the wrongdoer would be subject to "as many suits . . . as there were stockholders in the corporation." Sutter v. General Petroleum Corp., 28 Cal.2d 525, 170 P.2d 898 (1946).

[10] There exists, however, a wellrecognized exception to this general rule. Where the act complained of creates not only a cause of action in favor of the corporation but also creates a cause of action in favor of the stockholder, as an individual, for violation of a duty owing directly to him, the stockholder may bring suit as an individual. Buschmann v. Professional Men's Ass'n, 7 Cir. 1969, 405 F.2d 659, 661-663; Sutter v. General Petroleum Corp., supra; Sacks v. American Fletcher Nat'l Bank & Trust Co., 279 N.E.2d 807 (Ind.Sup.Ct.1972); Stinnett v. Paramount-Famous-Lasky Corp., 37 S.W.2d 145, 149 (Tex.Com. App.1931). See also Dann v. Studebaker-Packard Corp., 6 Cir. 1961, 288 F.2d 201; Bookout v. Schine Chain Theatres, Inc., 2 Cir. 1958, 253 F.2d 292, 295; Erlich v. Glasner, 9 Cir. 1969, 418 F.2d 226; Kauffman v. Dreyfus Fund, Inc., 3 Cir. 1970, 434 F.2d 727; Fisher v. Pederson, 100 N.W.2d 156 (N.D.Sup.Ct. 1959); 13 Fletcher Cyc. Corp. § 5921, pp. 303-05. We have stated the exception to the general rule in Schaffer v. Universal Rundle Corp., supra, as follows:

> "The rule does not apply in a case where the stockholder shows a violation of duty owed directly to him. That exception to the general rule does not arise, however, merely because the acts complained of resulted in damage both to the corporation and to the stockholder, but is confined to cases where the wrong itself amounts to a breach of duty owed to the stockholder personally."

397 F.2d at 896.

[11] Defendant here alleges that plaintiff's acts not only violated its fiduciary duty to National but further violated its duty as pledgee not to deplete the value of the collateral intentionally. As a general proposition, the law implies a duty in the pledgee of stock to preserve the value of any collateral held by him to secure a loan. Eden v. Miller, 2 Cir. 1930, 37 F.2d 8; State Trust & Savings Bank v. Dunn, 5 Cir. 1928, 24 F.2d 477, rev'd on other grounds, 278 U.S. 582, 49 S.Ct. 184, 73 L.Ed. 518 (1929); Reed v. Central National Bank, 10 Cir. 1970, 421 F.2d 113; Kono v. Roeth, 237 App.Div. 252, 260 N.Y.S. 662 (1932); Grace v. Sterling, Grace & Co., 30 A.D.2d 61, 289 N.Y.S.2d 632 (1968).

[12] The fact that the pledgee of stock controls the company represented by the stock does not eliminate its duty not to deplete the collateral intentionally. The general rule was stated by Judge (later Chief Justice) Taft in Ritchie v. McMullen, 6 Cir. 1897, 79 F. 522, cert. denied, 168 U.S. 710, 18 S.Ct. 945, 42 L. Ed. 1212:

> The bailee owes a direct duty to the pledgor to be reasonably careful that no harm shall come through his custody to the subject-matter of the pledge . . . It is true that the obligations of the pledgee of stock to the pledgor would not be violated by the pledgee if the stock held in pledge suffered a loss in value through negligence of the pledgee in acting as director of the company or through ill-advised or negligent voting of other stock owned by him. The fact that *336 the pledgee of stock owns other stock in the same company, or is a director or officer therein, does not impose any greater duty upon him, in respect to the stock pledged, than if he had no relation to the company at all. But, if such pledgee use his position as director and his vote as stockholder intentionally to depreciate the stock of his pledgor

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held in pledge with the dishonest purpose of acquiring ownership of the stock at forced sale, this is a direct injury done by him to his pledgor, and he cannot avoid direct liability to his pledgor for it, by pledging that the means by which he accomplished this wrong and violated his duty as pledgee, involved an injury to the corporation, for which it may also recover damages.

79 F. at 533-534. See 12A Fletcher Cyc. Corp. § 5649, pp. 413-18.

[13][14] Here, the defendant seeks damages as a pledgor. The fact that his pledge is stock and that if the manipulated depreciation of the stock is proven would also give rise to a derivative suit by defendant as stockholder should not foreclose the suit as pledgor. The role of pledgor and stockholder are not identical and defendant may play the part he chooses; when the curtain drops, the facts will invite finis. We find that defendant has alleged facts that, if proven, would state a good cause of action for intentional depletion of the collateral and is entitled to bring his claim as individual pledgor.

Plaintiff next argues that regardless of the form in which the suit is brought, since defendant failed to institute the action within two years after he had notice of the alleged fraud, the suit is barred by the Texas statute of limitations for actions for debt not evidenced by a contract in writing. See Tex.Rev. Civ.Stat.Ann. art. 5526. We do not know if the trial court addressed itself to the limitations question when dismissing the counterclaim. Irrespective of whether the two or four year statute of limitations applies, however, facts will have to be brought out with respect to the time or times of the alleged corporate depredations by plaintiff. The trial court could not rule on the limitations question on the basis of the pleadings filed in this action. There are no facts conclusively established by pleadings or evidence that would definitely determine which statute of limitations applies and at what time the cause of action accrued.

The trial court's dismissal of defendant's counterclaim is therefore reversed and remanded for trial in accordance with the appropriate rules involving a pledgee's duty to preserve collateral. Inasmuch as no facts were put into evidence below on the counterclaim, we make no findings as to the factual merit of defendant's claim.

Reversed and remanded.

468 F.2d 330, 11 UCC Rep.Serv. 594

END OF DOCUMENT

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

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 MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC; BERNSTEIN FAMILY REALTY, LLC,

Defendants.
_____/

CASE NO: 50 2012 CA 013933 MB AA

DEFENDANTS', TED S. BERNSTEIN, LIC HOLDINGS, INC., AND ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF, WILLIAM E. STANSBURY

Defendants, Ted S. Bernstein, LIC Holdings, Inc. and Arbitrage International Holdings, LLC (collectively "Defendants"), request Plaintiff, William E. Stansbury, to file a written response within 30 days of service, and to produce and permit Defendants to inspect and copy the documents listed on Exhibit "A" attached hereto at such place and time as may be agreed upon by counsel.

INSTRUCTIONS AND DEFINITIONS

A. The term "documents" as used in this request is defined as including, but not limited to, the original and any non-incidental copy (which is different from the original because of notations on such copy or otherwise) or draft of all correspondence, telegrams, telexes, teletype messages,

contracts, memoranda, pencil jottings, diary entries, desk calendar entries, reported recollections and other written form of notation of events or intentions, transcripts and recordings of conversations and telephone calls, books, records, photographs, reports, charts, ledgers, invoices, financial statements, purchase orders, receipts, canceled checks, data compilations and other documentary material not subject to attorney/client privilege, together with any attachments thereto, or enclosures therewith.

B. The following additional definitions apply:

1. "Plaintiff," "You," "Your" or "Stansbury" shall mean Plaintiff, William E. Stansbury, as well as his agents, servants, employees, representatives, accountants, experts, attorneys, and assigns, or other persons acting or purporting to act on his behalf.

2. "LIC" shall mean Defendant, LIC Holdings, Inc., and/or its subsidiaries, as well as its agents, servants, employees, representatives, accountants, experts, attorneys, and assigns, or other persons acting or purporting to act on its behalf.

3. "AIM" shall mean Defendant, Arbitrage International Management, LLC f/k/a Arbitrage International Holdings, LLC, and/or its subsidiaries, as well as its agents, servants, employees, representatives, accountants, experts, attorneys, and assigns, or other persons acting or purporting to act on its behalf.

C. This request for production calls for production of all responsive documents in the possession, custody or control of you, your agents, or representatives without regard to physical location of said documents.

D. All documents shall be originals unless otherwise indicated. If the "original" is a photocopy (or other copy), then the photocopy should be produced as the original.

E. If you possess no documents responsive to a paragraph in this request, state this fact, specifying the paragraph concerned and where the documents may be found to the best of your belief.

F. If you object in part to any request for production, please produce the portion of the documents requested to which you do not object, and state your objections to the remainder.

G. If you claim a privilege of any type with respect to any of the documents, please identify the documents by date, title and each other descriptive information as will clearly identify the document. Further, the objection should state the legal basis of the privilege claim and provide such supporting information as will establish the claimed privilege.

H. In the event you do not have "possession" of any of the documents requested in this production, but you know that they are in the possession of other parties, give a brief description of the document(s) and the name and address of the party thought to be in possession thereof.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to the Service List set forth below by: ■ E-mail Electronic Transmission; ☐ Facsimile; ☐ U.S. Mail; ☐ Overnight Delivery; ☐ Hand-delivery, this 3rd day of June, 2013.

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EXHIBIT "A"

1. All written contracts or agreements between William Stansbury ("Stansbury") and LIC Holdings, Inc. and/or its subsidiaries (collectively "LIC"), including Arbitrage International Management, LLC f/k/a Arbitrage International Holdings, LLC ("AIM").

2. All written contracts or agreements between Stansbury and Ted Bernstein.

3. All written contracts or agreements between Stansbury and Simon Bernstein.

4. All documents evidencing, referring to or relating to oral contracts or agreements between Stansbury and LIC or AIM.

5. All documents evidencing, referring to or relating to oral contracts or agreements between Stansbury and Ted Bernstein.

6. All documents evidencing, referring to or relating to oral contracts or agreements between Stansbury and Simon Bernstein.

7. All documents evidencing, referring to or relating to any discussion, understanding or agreement evidencing Stansbury's alleged compensation arrangement between Stansbury and LIC and/or AIM.

8. All e-mails that pertain to the alleged compensation agreement between Stansbury and LIC and/or AIM.

9. All e-mails that pertain to any alleged compensation agreement between Stansbury and Ted Bernstein.

10. All e-mails that pertain to any alleged compensation agreement between Stansbury and Simon Bernstein.

11. All written notes pertaining to any alleged compensation agreement between Stansbury and LIC, AIM, Ted Bernstein or Simon Bernstein.

12. All electronic files saved by Stansbury to other electronic storage devices (flash drives, CDs, etc.) that were previously stored on any drive or other storage device of the LIC Holdings, Inc. or its affiliates.

13. All commission statements received by Stansbury from life insurance carriers on business written by Stansbury since he became affiliated with LIC, AIM, Ted Bernstein or Simon Bernstein.

14. Documents showing all amounts and dates of receipt of all amounts received by Stansbury from LIC, AIM, Ted Bernstein and/or Simon Bernstein during the time of Stansbury's relationship with the LIC/AIM.

15. Forms 1099 received by Stansbury from life insurance carriers for commissions earned from the date he became affiliated with LIC/AIM through the present.

16. All Net Retained Commission Reports in Stansbury's possession (whether prepared by him or other parties).

17. All Net Retained Commission Reports submitted to Ted Bernstein as a basis for processing payments to Stansbury and other employees.

18. Detail listing of all commission checks received by Stansbury relating to policies sold to clients during the time Stansbury was affiliated with LIC/AIM, including all predecessor companies that existed prior to the formation of LIC and all entities that ever became affiliated with LIC.

19. Any hand written notes, electronic notes or other communication regarding commissions received by Stansbury relating to policies sold to clients during the time Stansbury was affiliated with LIC, AIM, Ted Bernstein or Simon Bernstein.

20. Forms 1099 submitted to Arbitrage International Marketing, Inc. or any affiliate by Stansbury that reflects commissions for which Stansbury was the agent on the life insurance applications.

21. All information regarding Stansbury's ownership of LIC Holdings, Inc. stock., including stock certificate(s), K-1s, and other documents.

22. Information regarding the consideration paid by Stansbury for LIC Holdings, Inc. stock.

23. The portion of Form 1040 for Stansbury (or Stansbury and spouse, if joint income tax return) relating to any taxable income derived from LIC Holdings, Inc. or its affiliates, including K-1s. This request specifically includes any taxable income Stansbury received from insurance carriers for policies sold or commissions earned from the date Stansbury became affiliated with LIC, AIM, Ted Bernstein and Simon Bernstein, through the present.

24. Written memoranda or other information regarding Stansbury's relationship with LIC Holdings, Inc. that was prepared in connection with defending Stansbury in case of *Phoenix v. Stansbury, et. al.*

25. Retainer Agreement between Stansbury and Barnes & Thornburg for his defense in *Phoenix v. Stansbury, et. al.*

26. All correspondence with memoranda , etc, between Stansbury and Barnes & Thornburg and/or David Orenstein regarding Stansbury's position in *Phoenix v. Stansbury, et. al.*

27. Retainer Agreement between Stansbury and Greenberg Traurig in connection with his defense of the case *John Wright v. Stansbury, et. al.*, and all files or communications with any party regarding that case.

28. All communications regarding the automobiles provided by the company to Stansbury during his affiliation with the company.

29. Copies of the lease agreements for the automobiles provided by the company Stansbury during his affiliation with the company.

30. Cancelled checks or other evidence of payment for all amounts loaned or contributed to the company by Stansbury for the support of the company's negative cash flow.

31. Letters, e-mails and other correspondence to or from life insurance carriers relating to changing the addressee for payment of renewal commissions.

32. E-mails, memoranda and any other communications regarding commission chargebacks, including but not limited to William Close, Frances Peaty and Jerome Samuels.

33. Detail listing of all commission chargebacks relating to William Close and any other chargebacks.

34. All communications with agents (including but not limited to Alfred Prince and Mike Mazarek) regarding commissions due to them for policies placed through Stansbury on behalf of LIC.

35. Correspondence from Stansbury to Ted Bernstein regarding Stansbury's 10% interest in LIC.

36. Correspondence from Ted Bernstein to Stansbury regarding Stansbury's 10% interest in LIC.

37. Correspondence from Stansbury to Simon Bernstein regarding Stansbury's 10% interest in LIC.

38. Correspondence from Simon Bernstein to Stansbury regarding Stansbury's 10% interest in LIC.

39. For all checks received from 2008 to the present by Stansbury which were not turned over to LIC or AIM, please provide copies of the check; documents showing the location of the funds; proof of who was responsible for originating or generating the customer or insured; and all documents which support any claim that Stansbury is entitled to such funds.

40. For all checks received from 2008 to the present by Stansbury which Stansbury believes he earned independent of his involvement with LIC, AIM, Ted Bernstein or Simon Bernstein, provide copies of all documents showing who was responsible for originating or generating the customer or insured; and all documents which support any claim that Stansbury is entitled to such funds, including copies of any commission agreements or related documents.

41. For all checks received by LIC, AIM, Ted Bernstein or Simon Bernstein which Stansbury believes he earned independent of his involvement with LIC, AIM, Ted Bernstein or Simon Bernstein, provide copies of all documents showing who was responsible for originating or generating the customer or insured; and all documents which support any claim that Stansbury is entitled to such funds, including copies of any commission agreements or related documents.

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

WILLIAM E. STANSBURY,

Plaintiff,

vs.

CASE NO: 50 2012 CA 013933 MB AA

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.
_____/

DEFENDANTS', TED S. BERNSTEIN, LIC HOLDINGS, INC. AND ARBITRAGE INTERNATIONAL HOLDINGS, LLC, SUPPLEMENTAL RESPONSE TO REQUEST TO PRODUCE AND NOTICE OF COMPLIANCE WITH OMNIBUS ORDER

Defendants, Ted S. Bernstein, LIC Holdings, Inc. and Arbitrage International Holdings, LLC (collectively "Defendants"), submit their supplemental response as to Plaintiff's Request to Produce and their Notice of Complying with the Court's Omnibus Order compelling discovery, as follows:

Items 1-3.

Defendants are producing printouts of e-mails which show, evidence or reflect any communications between LIC Holdings, Arbitrage Management or Ted Bernstein or anyone acting on their behalf, from January 1, 2007 to the present, either:

to William Stansbury;
from William Stansbury;
which mention William Stansbury; or
which are related to William Stansbury.

At present, there are 15,500 such emails which are being produced. Although Defendants' believe, based upon consultation with their IT professionals, that this production is complete, Defendants' have instructed their IT consultants to verify this and conduct a further search for any additional documents, and any such documents located will be produced separately. These will be mailed on a flash drive to Plaintiffs' counsel.

Item 4.

Defendants are required to produce all documents that show evidence or reflect any business relationships you (LIC, Arbitrage, or Ted) have or had with William Stansbury since January 1, 2007 to the present. The documents produced in response to Items 1-3, and 5-6 and 16, and 8-9 would be responsive to this request, and Defendants are not aware of having possession of any documents other than those being produced under the above-listed categories.

Items 5-6 and 16.

Defendants are producing herewith a summary of compensation and distributions paid to William E. Stansbury from 2007 to 2012.

Defendants also are producing herewith a Net Retained Commission computer file for 2007 and 2008, in hardcopy printout and also in an Excel spreadsheet. The Net Retained Commission Report was not maintained after 2008. Defendants have not located copies of the actual monthly Net Retained Commission reports created by Stansbury and used on a monthly basis to determine the compensation due to Stansbury when he was entitled to any such compensation.

Items 8-9.

Defendants are producing herewith a list of the ownership of LIC Holdings, Inc. ("LIC") from 2006 to the present. Arbitrage, at all times, was wholly owned by LIC.

Defendants also are producing herewith a list of officers with titles for each entity.

Item 14.

All 1099s from Ted, Simon or William Stansbury to the corporation from 2007 to present, which include the year ranges set forth below, are being produced herewith:

WES	2007-2011
SB	2007-2011
TB	2008-2010

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to the Service List set forth below by: ■ E-mail Electronic Transmission; ☐ Facsimile; ☐ U.S. Mail; ☐ Overnight Delivery; ☐ Hand-delivery, this 30th day of May, 2013.

PAGE, MRACHEK, FITZGERALD, ROSE,
KONOPKA & DOW, P.A.
505 South Flagler Drive, Suite 600
West Palm Beach, Florida 33401
Telephone: (561) 655-2250
Facsimile: (561) 655-5537
Email: arose@pm-law.com; mchandler@pm-law.com
Email: sshelley@pm-law.com; tclarke@pm-law.com
Email: phely@pm-law.com; mchandler@pm-law.com
Counsel for Ted S. Bernstein; LIC Holdings, Inc.; Arbitrage International Management, LLC; and Shirley Bernstein Trust

By: /s/ Alan B. Rose
Alan B. Rose (Florida Bar No. 961825)
Stefanie R. Shelley (Florida Bar No. 514446)
N. Patrick Hely (Florida Bar No. 0091466

SERVICE LIST

Peter M. Feaman, Esquire
Peter M. Feaman, P.A.
3615 West Boynton Beach Blvd.
Boynton Beach, FL 33436
(561) 734-5552 - Telephone
(561) 734-5554 - Facsimile
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Counsel for Plaintiff

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2929 East Commercial Blvd., Suite 702
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(954) 491-7099
Email: (mrmlaw@comcast.net); (mrmlaw1@gmail.com)
Counsel for Donald R. Tescher and Robert L.
Spallina, as Co-Personal Representatives; Bernstein Family
Realty, LLC

DOCUMENTS RESPONSIVE TO REQUEST NUMBER(S) 5-6 and 16

LIC-AIM-TB-000001

DOCUMENTS RESPONSIVE TO REQUEST NUMBER(S) 5-6 and 16

Part of 5-6 & 16

Analysis of Stansbury Salary & Distributions

LIC Holdings, Inc.
Analysis of Shareholder Salaries and Distributions
William Stansbury
2007 - 2012

	Per Form W-2 Wage and Tax Statement		
	Wages, Tips, Other Compensation	Medicare Wages and Tips	Shareholder Distributions
2007	2,374,891.80	2,394,891.80	1,142,282.00
2008	399,518.00	420,018.00	0
2009	0		0
2010	30,000.00	30,000.00	
2011	0		70,000.00
2012	0		0

LIC-AIM-TB-000003

Copy B, to be filed with employee's FEDERAL tax return

Form W-2 Wage and Tax Statement 2007

a Control number 0038-L616	Void	c Employer's name, address, and ZIP code	Department of the Treasury - Internal Revenue Service OMB No. 1545-0008	
[redacted]		ARBITRAGE INTERNATIONAL HOLDINGS 7700 CONGRESS AVE SUITE 3209 BOCA RATON FL 33487	1 Wages, tips, other compensation 2374391.80	2 Federal income tax withheld 798639.41
b Employer's employer	Statutory employee	Retirement plan X	Third-party sick pay	3 Social security wages 97500.00	4 Social security tax withheld 6045.00
12 See instrs. for box 12 D 20500.00	14 Other	d Employee's name, address, and ZIP code WILLIAM E STANSBURY 6920 CAVIRO LANE BOYNTON BEACH FL 33437	5 Medicare wages and tips 2394891.80	6 Medicare tax withheld 34725.94
			7 Social security tips	8 Allocated tips
			9 Advance EIC payment	10 Dependent care benefits
			11 Nonqualified plans	

15 State	Employer's state ID No.	16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax	20 Locality name

This information is being furnished to the Internal Revenue Service

LIC-AIM-TB-000004

EMPLOYEE W-2 WAGE SUMMARY 2008

0038-L616 000100

ARBITRAGE INTERNATIONAL HOLDINGS
7700 CONGRESS AVE SUITE 3209
BOCA RATON FL 33487

FEDERAL WITHHOLDING EXEMPTIONS M 0
FL WITHHOLDING EXEMPTIONS M 0

REGULAR WAGES FOR 2008 420018.00

WILLIAM E STANSBURY
6920 CAVIRO LANE
BOYNTON BEACH FL 33437

The chart below indicates your 2008 voluntary payroll adjustments which are included (+), excluded (-), or did not affect (N/A) your federal wages (Box 1) and state wages.

VOLUNTARY ADJUSTMENTS	YTD AMOUNT	FEDERAL WAGES
401K	15500.00	-15500.00
401K CTHUP	5000.00	-5000.00

PAYROLL BY PAYCHEX

Copy C, for employee's records

Form W-2 Wage and Tax Statement 2008

a Control number 0038-L616 000007-000100	Void	c Employer's name, address, and ZIP code ARBITRAGE INTERNATIONAL HOLDINGS 7700 CONGRESS AVE SUITE 3209 BOCA RATON FL 33487	Department of the Treasury - Internal Revenue Service OMB No. 1545-0008
b [redacted]			1 Wages, tips, other compensation 399518.00 / 2 Federal income tax withheld 137246.72
Statutory employee: — / Retirement plan: X / Third-party sick pay: —			3 Social security wages 102000.00 / 4 Social security tax withheld 6324.00
12 See instrs. for Box 12: D 20500.00 / 14 Other		e Employee's name, address, and ZIP code WILLIAM E STANSBURY 6920 CAVIRO LANE BOYNTON BEACH FL 33437	5 Medicare wages and tips 420018.00 / 6 Medicare tax withheld 6090.26
			7 Social security tips / 8 Allocated tips
			9 Advance EIC payment / 10 Dependent care benefits
			11 Nonqualified plans

15 State	Employer's state ID No.	16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax	20 Locality name

This information is being furnished to the Internal Revenue Service

Copy B, to be filed with employee's FEDERAL tax return

Form W-2 Wage and Tax Statement 2008

a Control number 0038-L616 000007-000100	Void	c Employer's name, address, and ZIP code ARBITRAGE INTERNATIONAL HOLDINGS 00 CONGRESS AVE SUITE 3209 BOCA RATON FL 33487	Department of the Treasury - Internal Revenue Service OMB No. 1545-0008
[redacted]			1 Wages, tips, other compensation 399518.00 / 2 Federal income tax withheld 137246.72
Employee: — / Plan: X / Sick pay: —			3 Social security wages 102000.00 / 4 Social security tax withheld 6324.00
12 See instrs. for Box 12: D 20500.00 / 14 Other		e Employee's name, address, and ZIP code WILLIAM E STANSBURY 6920 CAVIRO LANE BOYNTON BEACH FL 33437	5 Medicare wages and tips 420018.00 / 6 Medicare tax withheld 6090.26
			7 Social security tips / 8 Allocated tips
			9 Advance EIC payment / 10 Dependent care benefits
			11 Nonqualified plans

15 State	Employer's state ID No.	16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax	20 Locality name

This information is being furnished to the Internal Revenue Service

Form W-2 Wage and Tax Statement 2008

a Control number	Void X	c Employer's name, address, and ZIP code	Department of the Treasury - Internal Revenue Service OMB No. 1545-0008
b Employer's identification number / d Employee's social security number			1 Wages, tips, other compensation / 2 Federal income tax withheld
13 Statutory employee / Retirement plan / Third-party sick pay			3 Social security wages / 4 Social security tax withheld
12 See instrs. for Box 12 / 14 Other		e Employee's name, address, and ZIP code	5 Medicare wages and tips / 6 Medicare tax withheld
			7 Social security tips / 8 Allocated tips
			9 Advance EIC payment / 10 Dependent care benefits
			11 Nonqualified plans

15 State	Employer's state ID No.	16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax	20 Locality name

LIC-AIM-TB-000005

ARBITRAGE INTERNATIONAL MANAGEMENT
950 PENINSULA CORPORATE CIRCLE
BOCA RATON FL 33487

0038-L616
100 Executive

12/31/2010 DATE

Unknown CHECK NO.

Payrolls by Paychex, Inc.

PAY TO THE ORDER OF

WILLIAM E STANSBURY
6920 CAVIRO LANE
BOYNTON BEACH FL 33437

For Reference Purposes Only
$27705.00
AMOUNT

VOID THIS IS NOT A CHECK ..... DOLLARS

NON-NEGOTIABLE
AUTHORIZED SIGNATURE(S)

TO VERIFY AUTHENTICITY OF THIS DOCUMENT, THE BACK CONTAINS HEAT SENSITIVE INK THAT CHANGES FROM BLUE TO CLEAR AND ALSO CONTAINS AN ARTIFICIAL WATERMARK WHICH CAN BE VIEWED WHEN HELD AT AN ANGLE

FOLD AND REMOVE

FOLD AND REMOVE

PERSONAL AND CHECK INFORMATION
William E Stansbury
6920 Caviro Lane
Boynton Beach, FL 33437

Soc Sec #: xxx-xx-9407 Employee ID: 7
Home Department: 100 Executive

Pay Period: 12/18/10 to 12/31/10
Check Date: 12/31/10 Check #: Unknown

NET PAY ALLOCATIONS

DESCRIPTION	THIS PERIOD ($)	YTD ($)
Check Amount	27705.00	27705.00
NET PAY	27705.00	27705.00

EARNINGS	DESCRIPTION	HOURS	RATE	THIS PERIOD ($)	YTD HOURS	YTD ($)
	Regular			30000.00		30000.00
	EARNINGS			30000.00		30000.00

WITHHOLDINGS	DESCRIPTION	FILING STATUS	THIS PERIOD ($)	YTD ($)
	Social Security	S1860	1860.00	1860.00
	Medicare	S435	435.00	435.00
	TOTAL		2295.00	2295.00

NET PAY	THIS PERIOD ($)	YTD ($)
	27705.00	27705.00

Payrolls by Paychex, Inc.

0038 0038-L616 Arbitrage International • Management • 950 Peninsula Corporate Circle • Boca Raton FL 33487

LIC-AIM-TB-000006

0038 0038-L616 Arbitrage International

EMPLOYEE EARNINGS RECORD

(Check Dates 01/04/2010 - 12/31/2010)

	HOURS, EARNINGS, AND REIMBURSEMENTS & OTHER PAYMENTS							WITHHOLDINGS						NET
CHECK DATE	DESCR	REGULAR HOURS	OVERTIME HOURS	REGULAR AMOUNT	OVERTIME AMOUNT	TOTAL EARNINGS	REIMB & OTHER PAYMENTS	SOC SEC + MED	FEDERAL TAX	STATE TAX	LOCAL TAX	OTHER		PAY
12/31	Reg			30000.00		30000.00		2295.00						27705.00 Manual
QTR 4				30000.00		30000.00		S 1860.00 M 435.00						27705.00
YTD 2010				30000.00		30000.00		S 1860.00 M 435.00						27705.00

LIC-AIM-TB-000007

Stansbury, William E Soc Sec#: xxx-xx-9407 6920 Caviro Lane Boynton Beach, FL 33437	ID Home Dept: Gender: Birthdate: Hire Date: Inactive Date: Rehire Date:	7 100 Executive Not Specified 01/28/1950 11/29/2000	Term Date: Pay Frequency: Standard Hrs: Last Raise Date:	Bi-weekly	Withholding Method: Earnings:	Federal: Married, 0	Deductions:

DOCUMENTS RESPONSIVE TO REQUEST NUMBER(S) 5-6 and 16

Part of 5-6 & 16

2007 Net Retained Commissions (also provided in Excel format)

Loan No.	Last Name	First Name	Carrier	Fund Date	Fees Amount (millions)	Loan Amount	Target Commission	Carrier Adjustment Factor		Appreciation Percentage	Appreciation Amount	Retained Commission	LT Fee Year 1	Application Fee	LT Fee Year 2	LT Fee Total	Percent of Total Commission	Cash Flow Swap		Total	Percentage	Amount	Amount Paid to Other Advisors, Etc.	Amount	Percent of Total Commissions	Origination Fee, Etc
00 017	Cohen	James	Hartford	01/17/07	5.000	187,000	143,500	1.0000	158,750	-	0	158,750	(15,740)			(15,740)	0.1554			(15,740)	141,010			(1,425)	139,585	0.8905	10,000
00 017	Cohen	James	Phoenix	01/17/07	10.000	329,784	229,784	1.0000	362,762	-	0	362,762	(39,134)			(39,134)	0.1079			(39,134)	323,628				323,628	0.8921	
00 018	Fox	Richard	Phoenix	04/25/07	8.000	414,000	290,000	1.0000	429,000	-	0	429,000	(40,123)		(499)	(40,677)	0.0948			(40,677)	388,323				388,323	0.8953	10,000
00 019	Samuels	Rosalind	Phoenix	02/07/07	4.000	161,584	137,584	1.0000	151,342	0.03	(98,373)	52,970	(13,698)			(13,698)	0.1038			(13,698)	39,272	0.05	(5,679)		30,409	0.2009	10,000
00 019	Samuels	Rosalind	Phoenix	02/07/07	4.000	141,148	141,148	1.0000	198,268	0.05	(100,921)	54,342	(13,698)			(13,698)	0.0882			(13,698)	40,644	0.05	(7,057)		33,587	0.2183	
00 020	Bell	Martin	Hartford	02/08/07	8.000	307,896	264,396	1.0000	312,785	0.00	(187,671)	125,114	(38,374)			(38,374)	0.1258			(38,374)	85,740			(1,127)	84,613	0.3708	10,000
00 021	Blackburn	Sadie	Mass Mut	02/23/07	5.000	297,650	292,650	0.9350	273,628	0.00	(164,177)	109,451	(36,917)		0	(36,917)	0.1335			(36,917)	72,534				72,534	0.2625	
00 022	Cohen	James	Penn Mut	02/27/07	10.000	331,300	319,800	0.9800	312,787	-	0	312,787	(19,679)		-	(19,679)	0.0629	(120,408)		(140,084)	172,683				172,683	0.5521	
00 023	Fitzel	Bernard	Phoenix	04/06/07	5.000	281,742	257,742	1.0000	263,518	0.03	(184,266)	99,231	(27,342)			(27,342)	0.0984			(27,342)	71,889				71,889	0.2536	10000
00 024	Mulloy	David	Mass Mut	04/12/07	10.000	262,000	239,300	0.9350	222,748	0.03	(145,439)	78,311	(25,804)			(25,804)	0.1140			(25,804)	52,507				52,507	0.2360	10,000
00 025	Morello	Lucille	Phoenix	04/13/07	10.000	542,082	518,582	1.0000	570,418	0.03	(370,772)	199,646	(52,806)			(52,806)	0.0922			(52,806)	147,040			-199646.4	(52,806)	(0.0922)	10000
00 026	Bader	Sidney	Penn Mut	04/24/07	10.000	712,500	668,500	0.9800	681,815	0.00	(377,995)	303,820	(88,147)		(15,109)	(94,256)	0.1236			(94,256)	210,373				210,373	0.3218	10,000
00 027	Freedman	Kole	Phoenix	05/04/07	8.000	414,000	380,000	1.0000	429,000	0.03	(278,850)	150,150	(40,178)		(600)	(40,978)	0.0956			(40,978)	109,172				109,172	0.2543	10,000
00 028	Shapiro	Dorothy	Phoenix	05/08/07	6.000	267,835	244,835	1.0000	268,639	0.70	(187,807)	80,832	(25,984)			(25,984)	0.0967			(25,984)	54,588	0.05	(5,055)		49,533	0.1844	10,000
00 029	Raymes	Frederick	Phoenix	05/09/07	5.000	327,264	303,264	1.0000	333,590	0.70	(233,513)	100,077	(31,760)			(31,760)	0.0952			(31,760)	68,317	0.05	(3,004)		63,313	0.1896	10,000
00 030	Kaun	Dorothy	Trans	05/15/07	20.000	1,423,500	955,200	1.0850	1,036,435	0.03	(673,683)	362,898	(138,147)		(78,100)	(216,247)	0.2086			(216,247)	146,449				146,449	0.4113	10,000
00 031	Gordon	Esther	Phoenix	05/17/07	10.000	412,737	388,737	1.0000	427,811	0.03	(277,947)	149,864	(40,058)			(40,058)	0.0937			(40,058)	109,808	0.05	(21,381)		88,227	0.2063	10,000
00 032	Sebal	Walter	Phoenix	05/30/07	5.000	262,172	230,672	1.1000	282,539	0.70	(183,777)	78,762	(25,443)			(25,443)	0.0969			(25,443)	53,318	0.05	(3,560)		49,739	0.1895	10,000
00 033	Goodisch	Jan	Jeff Pilot	05/30/07	5.750	161,836	129,893	1.0849	140,920	0.80	(84,552)	56,368	(22,517)		(239)	(22,742)	0.1614			(22,742)	33,626			(97)	33,529	0.2380	11,200
00 034	Stern	William	Jeff Pilot	06/06/07	10.000	685,500	531,500	1.0998	584,544	0.60	(350,726)	233,817	(78,900)		(45,991)	(122,390)	0.2094			(122,390)	111,418	0.05	(29,227)		82,191	0.1408	10,000
00 035	Mulloy	David	Mass Mut	06/14/07	10.000	240,000	239,300	0.9350	223,748	0.65	(145,435)	78,311	(23,874)			(23,874)	0.1087			(23,874)	54,437				54,437	0.2433	1,200
00 036	Severnick	David	Jeff Pilot	06/15/07	10.000	493,800	469,800	1.0998	516,886	0.65	(336,048)	180,848	(68,434)		(26,879)	(95,312)	0.1845			(95,312)	85,527	0.05	(29,879)		55,648	0.1135	10,000
00 037	Pace	Emily	Hartford	06/15/07	5.000	269,433	229,500	1.1000	252,450	0.65	(164,093)	88,358	(26,143)		(20,915)	(47,058)	0.1864			(47,058)	41,295			(883)	40,412	0.1809	10,000
00 038	Zydel	Stephanie	Jeff Pilot	06/15/07	8.000	272,180	244,980	1.0849	265,779	0.60	(159,467)	106,312	(37,720)		(903)	(38,623)	0.1449			(38,623)	67,792				67,792	0.2551	13,700
00 039	Donatelli	Richard	Jeff Pilot	06/19/07	4.500	247,830	222,830	1.0849	241,857	0.60	(145,114)	96,743	(34,488)		(9,195)	(43,684)	0.1806			(43,684)	53,059				53,059	0.2194	11,200
00 040	Martin	Wanche	Jeff Pilot	06/19/07	5.000	196,350	111,850	1.0849	121,129	0.60	(72,677)	48,452	(18,828)			(18,828)	0.1554			(18,828)	29,626				29,626	0.2448	11,200
00 041	Glassberg	Daniel	Phoenix	06/22/07	8.000	291,496	272,296	1.1000	299,526			299,526	(28,269)			(28,269)	0.0944			(28,269)	271,257	0.50	(109,800)		161,457	0.5390	13,700
00 042	Hebran	John - Per	Jeff Pilot	06/22/07	2.500	115,325	90,825	1.0849	98,518	0.60	(58,991)	39,528	(15,823)		(1,587)	(17,510)	0.1781			(17,510)	21,818				21,818	0.2219	11,200
00 043	Hebran	John - Ben	Jeff Pilot	06/25/07	2.550	117,138	92,438	1.0849	100,288	0.60	(60,172)	40,114	(16,174)		(1,525)	(17,699)	0.1765			(17,699)	22,415				22,415	0.2235	11,200
00 044	Smith	Jack	Phoenix	05/26/07	10.000	464,327	453,827	1.1000	499,210	0.65	(324,486)	174,723	(45,062)			(45,062)	0.0903			(45,062)	129,661	0.05	(24,980)		104,701	0.2097	5,000
00 045	Grey	Alvin	IND	06/26/07	2.000	196,869	131,300	1.0850	137,885	0.65	(89,617)	48,253	(15,168)		(3,143)	(18,331)	0.1330			(18,331)	29,922	0.05			29,922	0.2170	11,200
00 046	Cave	Donald	Jeff Pilot	06/26/07	8.000	272,014	240,000	1.0998	263,952	0.65	(171,569)	92,383	(37,857)		(23,036)	(60,893)	0.2298			(60,893)	31,790			(72)	31,718	0.1202	11,200
00 047	Mella	David	Phoenix	06/26/07	10.000	724,000	650,000	1.1015	716,001	0.65	(465,401)	250,600	(70,263)			(70,263)	0.0981			(70,263)	180,337	0.05	(35,800)		144,537	0.2018	10,000
00 048	Castella	Richard	Jeff Pilot	06/29/07	3.000	299,566	239,566	1.0998	268,102		0	268,102	(36,553)		(7,316)	(43,871)	0.1693			(43,871)	215,231				215,231	0.8307	10,000
00 049	Heitmeyer	Daryl	Jeff Pilot	06/29/07	5.000	158,000	143,300	1.0849	155,488	0.60	(93,293)	62,195	(23,292)		(2,702)	(25,994)	0.1638			(25,994)	36,702				36,702	0.2361	11,200
00 050	Pinezi	Gloria	Phoenix	06/29/07	9.000	390,000	367,300	1.1000	404,030	0.65	(262,620)	141,411	(37,977)			(37,977)	0.0939			(37,977)	103,434	0.05	(20,207)		83,282	0.2061	10,000
00 051	Dabis	Kenneth	Jeff Pilot	07/03/07	10.000	945,407	895,800	1.0000	838,148	0.60	(321,839)	214,809	(74,463)		(46,643)	(121,106)	0.2259			(121,106)	93,403			(50)	93,353	0.1741	13,700
00 052	Dunteroff	Norman	Jeff Pilot	07/05/07	10.000	474,300	448,800	1.0849	484,516	0.60	(290,710)	193,807	(65,487)		(15,215)	(80,702)	0.1668			(80,702)	113,105	0.05	(15,315)		97,890	0.2020	13,700
00 053	Drucker	Ronald	Phoenix	07/09/07	5.000	334,490	309,290	1.1000	340,219	-	0	340,219	(32,462)		-	(32,462)	0.0954			(32,462)	307,757	0.70	(216,503)		91,255	0.2682	11,200
00 054	Hibbard	Helena	Phoenix	07/10/07	10.000	928,259	800,958	1.1000	880,611	0.65	(557,897)	322,714	(51,266)			(51,266)	0.0531			(51,266)	141,448				141,448	0.2969	13,700
00 055	Carne	Merle	Jeff Pilot	07/12/07	9.000	568,350	538,650	1.0849	584,381	0.60	(350,629)	233,753	(77,806)		(24,535)	(102,343)	0.1781			(102,343)	131,410				131,410	0.2249	13,700
00 056	Brewster	Patricia	Phoenix	07/12/07	4.500	178,780	155,280	1.1000	170,808	0.65	(111,026)	59,783	(17,350)			(17,350)	0.1016			(17,350)	42,433	0.05	(8,540)		33,892	0.1964	10,000
0.SC-1	Ozizi	Mesho-Hair	Phoenix	07/13/07	10.000	988,550	944,050	1.1000	598,455	0.65	(388,996)	209,458	(55,326)			(55,326)	0.0924			(55,326)	154,133	0.05	(27,203)		126,931	0.2121	10,000
00 057	Shaw	Linda	Phoenix	07/17/07	5.000	169,498	144,298	1.1000	158,728	0.50	(97,532)	101,196	(16,265)			(16,265)	0.0841			(16,265)	84,811		(13,330)	(16)	71,680	0.4515	11,200
00 058	Berman	Alan	Phoenix	07/19/07	10.000	450,800	439,100	1.1000	483,010	0.65	(313,957)	169,054	(43,730)			(43,730)	0.0905			(43,730)	125,324	0.05	(3,842)		121,481	0.2515	5,000
00 059	Berman	Alan	Jeff Pilot	07/19/07	10.000	452,700	425,000	1.1483	487,190	0.60	(292,314)	194,876	(62,583)		-13195	(75,778)	0.1555			(75,778)	119,098				119,098	0.2445	13,700
00 060	Malesky	John	Phoenix	07/19/07	7.000	451,370	424,570	1.1000	467,027	0.65	(303,568)	163,458	(43,843)			(43,843)	0.0939			(43,843)	119,616	0.05			119,617	0.2581	13,700
00 061	Ehlers	Norman	Jeff Pilot	07/19/07	5.000	208,458	181,250	1.0849	196,836	0.60	(117,863)	78,955	(28,505)		(3,047)	(31,552)	0.1606			(31,552)	47,103	0.05	(8,063)		39,041	0.1935	11,200
00 062	Spear	Marcia	Phoenix	07/19/07	9.000	358,259	310,559	1.1000	341,615	0.70	(217,281)	124,334	(32,827)			(32,827)	(0.0961)			(32,827)	91,397	0.05	(222,049)		(130,653)	(0.3825)	13,700
00 063	Hershowitz	Bernard	Jeff Pilot	07/23/07	10.000	431,500	404,300	1.0998	444,649			444,649	(59,800)		(9,042)	(68,842)	(0.1548)			(68,842)	375,807				375,807	0.8452	13,700
00 064	Hershowitz	Jerome	Jeff Pilot	07/23/07	10.000	522,600	495,400	1.0998	544,841			544,841	(72,426)		(20,260)	(92,686)	(0.1701)			(92,686)	452,155				452,155	0.8299	13,700
00 065	Sarosky	Jeri	Phoenix	07/24/07	4.000	213,082	187,582	1.1000	206,870	0.65	(134,336)	72,534	(20,679)			(20,679)	(0.1001)			(20,679)	51,855				51,856	0.2498	11,200
00 066	Shapiro	Irwin	Jeff Pilot	07/24/07	8.000	190,540	162,840	1.1300	184,009	0.60	(110,406)	73,604	(26,243)		(392)	(26,595)	(0.1445)			(26,595)	47,009	0.05	(9,147)		38,067	0.2112	13,700
00 067	Smith	Jack	Jeff Pilot	07/24/07	5.000	237,700	212,500	1.0998	233,708	0.60	(140,225)	93,483	(32,942)		(6,200)	(39,142)	(0.1675)			(39,142)	54,341	0.05	(11,475)		42,866	0.1834	11,200
00 068	Loggins	Jim	Jeff Pilot	07/26/07	4.000	325,700	300,000	1.0849	325,470	0.60	(195,282)	130,188	(44,957)		(16,656)	(60,613)	(0.1862)			(60,613)	86,978		(22,080)		47,495	0.1459	11,200
00 069	Slater	David	Phoenix	07/26/07	5.000	252,114	226,914	1.1000	249,605	0.60	(149,763)	99,842	(24,467)			(24,467)	(0.0980)			(24,467)	75,375				75,375	0.3020	11,200
00 070	Kagel	David	Jeff Pilot	07/27/07	10.000	380,200	362,500	1.1700	424,125	0.50	(212,063)	212,063	(53,541)		(5,900)	(59,441)	(0.1401)			(59,441)	152,622	0.15	(96,796)	(33,350)	22,484	0.0530	13,700
00 071	Prince	Jack	Phoenix	07/27/07	10.000	630,328	606,328	1.1000	667,161	0.65	(433,655)	233,513	(61,192)			(61,192)	(0.0917)			(61,192)	172,321	0.05	(30,328)		141,995	0.2128	10,000
00 072	Leya	Lupe	Trans	07/30/07	5.000	133,800	110,300	1.0700	118,021	0.65	(76,714)	41,307	(12,889)		(938)	(13,824)	(0.1171)			(13,824)	27,483				27,483	0.2329	10,000
00 073	Petefakes	John	Jeff Pilot	07/30/07	5.000	258,400	234,900	1.1000	259,280	0.60	(155,034)	103,358	(35,855)		(8,100)	(44,955)	(0.1740)			(44,955)	58,401				58,401	0.2260	10,000
00 074	Sackeber	Marilyn	Jeff Pilot	07/31/07	8.000	319,867	136,950	1.1700	160,232	0.60	(96,139)	64,093	(43,773)		(2,256)	(46,129)	(0.2879)			(46,129)	17,964			(1,856)	16,109	0.1005	10,000
00 075	Rosenthal	Harriet	Phoenix	08/08/07	5.000	278,068	250,868	1.1000	275,953	0.65	(179,369)	96,583	(29,792)			(29,792)	(0.0971)			(29,792)	69,791	0.05	(16,933)		52,858	0.1915	11,200
00 076	Kahn	Lenetta	Jeff Pilot	08/07/07	4.000	150,400	129,200	1.0849	138,828	0.60	(81,498)	54,332	(20,714)		(4,004)	(24,718)	(0.1820)			(24,718)	29,614	0.05	(5,290)	(9,215)	14,139	0.1041	11,200
00 077	Hunter	Evelyn	Jeff Pilot	08/07/07	5.000	201,700	173,500	1.0854	188,320	0.50	(94,160)	94,160	(27,918)		(4,400)	(32,318)	(0.1716)			(32,318)	61,842	0.15	(26,025)	(65)	35,772	0.1900	11,200
00 078	Miller	Gail	Jeff Pilot	08/07/07	5.000	190,050	164,850	1.0855	178,945	0.50	(107,367)	71,578	(26,738)		(13,743)	(40,081)	(0.2240)			(40,081)	31,497				31,497	0.1760	11,200
00 079	Snyderman	Perry	Phoenix	08/08/07	8.000	333,799	308,299	1.1000	340,318	0.65	(221,142)	119,077	(32,394)			(32,394)	(0.0952)			(32,394)	86,683				86,683	0.2548	10,000
00 080	Gaule	Maurice	Lincoln	08/09/07	8.400	364,460	340,960	1.1000	397,856	0.63	(250,145)	146,911	(52,952)		(14,400)	(67,352)	(0.1696)			(67,352)	79,559				79,559	0.2004	10,000
00 081	Sotton	Frederick	Phoenix	08/10/07	10.000	606,811	579,111	1.1000	637,922	0.65	(414,650)	223,272	(58,800)			(58,800)	(0.0924)			(58,800)	164,068	0.05	(28,956)		135,112	0.2121	13,700
00 082	Von Rutenb	Jane	Phoenix	08/13/07	12.000	978,700	668,000	1.1000	805,000	0.65	(393,250)	211,750	(58,161)			(58,161)	(0.0928)			(58,161)	153,589				186,688	0.2972	13,700
00 083	Pfeiffe	Gail	Phoenix	08/14/07	8.000	402,928	373,228	1.1000	412,751	0.65	(268,288)	144,463	(38,103)			(38,103)	(0.0947)			(38,103)	105,360	0.05	(16,781)		88,598	0.2068	13,700
00 085	Forward	Stanley	Phoenix	08/15/07	5.000	232,203	207,003	1.1000	227,703	0.65	(148,007)	79,696	(22,535)			(22,535)	(0.0990)			(22,535)	57,161	0.05	(10,350)		46,811	0.2058	11,200
00 084	Chmielech	Ann	Trans	08/16/07	9.800	229,690	201,850	1.0700	215,986	0.60	(129,592)	86,392	(22,277)		(15,048)	(37,325)	(0.1728)			(37,325)	49,067				49,067	0.2272	13,700
00 088	Shalom	Maurice	Jeff Pilot	08/17/07	10.000	489,800	462,100	1.2840	593,341	0.60	(356,005)	237,336	(97,544)		(16,629)	(78,189)	(0.1317)			(78,189)	159,167				159,167	0.2683	13,700
00 080	Sartizel	Barbara	Phoenix	08/23/07	8.000	337,480	310,950	1.1000	342,089	0.65	(222,358)	119,731	(32,753)			(32,753)	(0.0957)			(32,753)	86,978	0.05	(15,550)		71,429	0.2068	12,500
00 090	Farrell	Richard	Jeff Pilot	08/23/07	7.000	452,780	393,080	1.1200	442,490	0.60	(265,494)	176,996	(56,229)		(23,407)	(80,636)				(80,636)	96,360	0.05	(22,124)		74,236	0.1676	13,700
00 089	Wiley	Evelyn	Phoenix	08/24/07	5.000	275,478	250,278	1.1000	275,306	0.65	(178,949)	96,357	(26,735)			(26,735)	(0.0971)			(26,735)	69,622	0.05	(12,514)		57,108	0.2074	11,200
00 087	Woods	Jonathan	Jeff Pilot	08/24/07	4.550	181,447	158,247	1.0849	169,513	0.60	(101,707)	67,805	(25,022)		(1,950)	(26,972)	(0.1591)			(26,972)	40,833				40,833	0.2409	11,200
00 088	Qinda	Malcolm	Jeff Pilot	08/24/07	4.500	249,130	222,930	1.0849	241,857	0.50	(120,928)	120,928	(34,090)		(8,950)	(43,040)	(0.1780)			(43,040)	77,888				77,888	0.3220	11,200

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GSC-21	Clements	Melvin	Jet Pilot	10/26/07	5,000	351,350	326,150	1.1400	371,811	0.80	(223,087)	148,724	(56,521)		(11,168)	(67,709)	(0.1821)	(67,709)	81,015			81,015	0.2179	8,950
GSC-22	Feinberg	Thomas	Trans	10/26/07	3,000	133,849	108,849	1.0500	114,396	-	0	114,396	(14,196)	(2,429)	(6,924)	(22,549)	(0.1971)	(22,549)	91,848	0.80	(65,369)	26,479	0.2315	8,950
GSC-23	Oliver	Marlene	ING	10/26/07	5,000	282,000	226,800	1.0500	238,140	0.63	(154,791)	83,349	(28,758)	(2,572)	-	(29,286)	(0.1230)	(29,286)	54,063			54,063	0.2270	8,950
GSC-24	Jackson	Cary	Phoenix	10/26/07	4,000	353,680	280,000	1.1000	308,000	0.63	(185,800)	100,100	(41,264)		(870)	(42,134)	(0.1473)	(42,134)	57,966	0.65	(4,530)	(456)	52,958	0.1852	15,200
GSC-25	Fryd	Carol	Jet Pilot	10/29/07	10,000	402,200	384,100	1.0849	416,710	0.55	(229,191)	187,520	(61,732)		(6,439)	(68,169)	(0.1636)	(68,169)	119,351	0.65	(10,205)		100,126	0.2403	14,850
GSC-26	Fryd	Carol	Jet Pilot	10/29/07	10,000	402,200	384,100	1.0849	416,710	0.50	(208,355)	208,355	(61,732)		(6,439)	(68,169)	(0.1636)	(68,169)	140,186	0.65	(19,205)		120,981	0.2903	14,850
GSC-25	Fryd	Carol	Phoenix	10/29/07	6,000	276,818	268,819	1.1000	295,701	0.63	(192,206)	103,495	(29,402)	(2,769)	-	(32,171)	(0.1068)	(32,171)	71,324	0.65	(13,441)		57,883	0.1857	-
GSC-26	Schwartz	Patricia	Phoenix	10/30/07	7,500	288,500	258,800	1.1000	284,680	0.63	(185,042)	99,638	(33,298)		-	(33,298)	(0.1170)	(33,298)	66,342	0.65	(12,940)		53,402	0.1876	11,450
GSC-27	McCabe-Wh	Eileen	Phoenix	10/30/07	10,000	394,737	388,737	1.1000	427,611	0.65	(277,947)	149,664	(45,947)		-	(45,947)	(0.1079)	(45,947)	103,717	0.65	(21,361)		82,356	0.1935	2,000
GSC-28	Sarbo	Elaine	Phoenix	10/30/07	7,000	299,316	272,116	1.1000	299,328	0.65	(194,563)	104,765	(34,785)		-	(34,785)	(0.1162)	(34,785)	69,980	0.65	(14,866)		55,013	0.1838	11,450
GSC-29	Chockalam	Sylvia	Phoenix	10/30/07	5,000	261,595	253,395	1.1000	258,735	0.65	(168,077)	89,657	(30,422)		-	(30,422)	(0.1184)	(30,422)	59,455	.05/.05	(15,754)		43,701	0.1702	15,200
GSC-30	Weinberger	Margarete	Phoenix	10/30/07	4,000	256,840	228,440	1.1000	251,284	0.65	(163,335)	87,949	(30,201)		(2,045)	(32,246)	(0.1263)	(32,246)	55,703		(3,100)	52,603	0.2050	11,950
00 154	Santaluce	Teresa	Jet Pilot	10/31/07	20,000	1,985,700	1,828,000	1.0200	1,049,540	0.60	(629,748)	419,832	(150,426)		(88,226)	(216,654)	(0.2064)	(216,654)	203,178	0.65	(51,450)		151,728	0.1448	20,450
00 155	Silberg	Robert	Phoenix	11/01/07	6,000	321,605	280,805	1.1000	319,698	0.63	(207,997)	111,698	(34,668)		-	(34,668)	(0.1085)	(34,668)	77,018	0.65	(16,000)		61,019	0.1935	16,700
00 156	Pyne	Iris	Phoenix	11/01/07	5,000	181,080	152,880	1.1000	168,179	0.63	(105,318)	58,863	(19,196)		-	(19,196)	(0.1141)	(19,196)	39,667	0.65	(8,409)		31,258	0.1656	12,700
00 157	Gann	Donald	Phoenix	11/01/07	10,000	548,700	536,200	1.1000	589,820	0.63	(369,383)	208,437	(67,933)		-	(67,933)	(0.0982)	(67,933)	140,504	0.65	(9,384)		130,121	0.2259	2,250
GSC-31	Millard	Blanche	Phoenix	11/01/07	10,000	453,840	426,240	1.1000	467,764	-	0	467,764	(55,603)		-	(55,603)	(0.1170)	(55,603)	412,781	.0325/.585	(262,586)	(7,442)	142,733	0.3651	14,450
GSC-32	Scovins	Chris	Phoenix	11/02/07	4,000	264,200	264,000	1.1000	282,800	0.63	(180,192)	102,410	(35,491)		-	(35,491)	(0.1213)	(35,491)	66,919			(42)	66,877	0.2266	15,200
GSC-33	Schapiro	Barbara	Jet Pilot	11/07/07	5,000	208,000	179,800	1.0849	195,065	0.80	(117,039)	78,026	(32,515)		(1,131)	(33,646)	(0.1726)	(33,646)	44,380				44,380	0.2275	15,200
00 158	Brechner	Milton	Jet Pilot	11/08/07	10,000	574,800	564,400	1.1000	606,849	0.60	(372,504)	248,336	(83,209)		(21,654)	(105,463)	(0.1559)	(105,463)	142,873				142,873	0.2301	3,000
GSC-34	Carnage	Gerald	Pure	11/08/07	5,000	357,450	329,250	0.9900	325,958	0.65	(211,872)	114,085	(39,547)	(3,575)	-	(43,122)	(0.1323)	(43,122)	70,963				70,963	0.2177	15,200
GSC-35	Glassie	F. Gary	Phoenix	11/08/07	10,000	489,870	488,870	1.1000	515,897	0.65	(335,314)	180,583	(55,282)	(4,597)	-	(59,279)	(0.1199)	(59,279)	130,274	0.65	(23,449)		106,826	0.1977	14,450
GSC-36	Allman	Jerome	Jet Pilot	11/08/07	10,000	745,000	714,300	1.0849	739,494	0.80	(139,496)	99,998	(30,957)	(2,450)	-	(33,407)	(0.1895)	(33,407)	53,591				53,591	0.2905	10,700
GSC-37	McCarthy	Joseph	Jet Pilot	11/08/07	5,000	236,500	212,500	1.1000	233,750	0.80	(140,250)	93,500	(35,534)	(3045	(5,350)	(44,229)	(0.1892)	(44,229)	49,271				49,271	0.2108	7,750
GSC-38	Weinstein	Janet	Phoenix	11/08/07	5,000	186,400	180,200	1.1000	178,220	0.65	(114,843)	61,877	(20,844)	(1,894)	-	(22,738)	(0.1276)	(22,738)	38,949	0.65	(9,811)		30,138	0.1710	15,200
00 159	Whatley	James	Phoenix	11/09/07	5,000	252,445	224,245	1.1000	246,670	0.65	(160,335)	86,334	(27,869)		-	(27,869)	(0.1130)	(27,869)	58,465	.05/.05	(15,137)		43,329	0.1757	12,950
GSC-39	Villani	Louis	Jet Pilot	11/09/07	10,000	666,700	630,000	1.1400	726,480	0.60	(437,076)	291,384	(100,880)	-9687	(23,519)	(133,886)	(0.1838)	(133,886)	157,518				157,518	0.2162	11,450
GSC-40	Berkowitz	Frederika	Phoenix	11/09/07	5,000	326,050	275,000	1.1000	302,500	0.65	(196,625)	105,875	(36,572)	(3,381)	-	(39,954)	(0.1300)	(39,954)	65,541			(160)	65,381	0.2104	11,950
GSC-41	Raphaelson	Larry	Jet Pilot	11/13/07	10,000	495,000	464,300	1.0849	436,826	0.80	(263,173)	173,652	(53,287)	-5350	(15,807)	(87,264)	(0.1997)	(87,264)	88,098				88,098	0.2008	14,450
GSC-42	Katzen	Howard	Phoenix	11/13/07	10,000	474,849	393,849	1.1000	433,334	0.65	(291,667)	151,667	(49,981)	(4,248)	-	(51,227)	(0.1182)	(51,227)	100,440	0.65	(21,687)		78,773	0.1818	17,700
GSC-43	DiCarlo	Marianne	Jet Pilot	11/13/07	10,000	391,800	261,100	1.1300	295,043	0.80	(177,026)	118,017	(43,869)	-4666	(13,696)	(62,183)	(0.2108)	(62,183)	55,824				55,824	0.1892	14,450
GSC-44	Holden	E. Ray	ING	11/14/07	10,000	371,300	340,800	1.0800	367,840	0.65	(232,599)	135,244	(44,101)	(3,715)	-	(44,816)	(0.1252)	(44,816)	90,429			(6,974)	73,454	0.2053	13,700
00 160	Cawthorne	Charles	Jet Pilot	11/15/07	7,000	314,700	297,000	1.0849	322,215	0.60	(193,329)	128,886	(48,922)		(6,018)	(53,940)	(0.1674)	(53,940)	74,946			-	74,946	0.2226	12,450
GSC-45	Morfoot	Lloyd	Mail	11/15/07	10,000	429,900	369,200	0.9350	373,252	0.65	(242,614)	130,638	(47,882)	(8,149)	(10,497)	(64,528)	(0.1720)	(64,528)	90,429			-	68,429	0.1780	-
GSC-46	Morfoot	Lloyd	Phoenix	11/15/07	10,000	432,400	428,000	1.1000	471,780	0.65	(306,654)	165,127	(47,839)	(4,324)	-	(52,163)	(0.1106)	(52,163)	112,964	0.65			112,964	0.2394	16,200
GSC-48	Krevans	Gerald	Trans	11/16/07	5,000	371,900	348,700	1.1000	361,370	0.65	(247,891)	133,480	(41,401)	(7,199)	(16,821)	(67,409)	(0.1788)	(67,409)	83,407	0.65	17,335		83,407	0.2187	8,950
GSC-47	Nichols	Irene	ING	11/16/07	10,000	484,300	453,800	1.0500	476,290	0.63	(300,063)	186,888	(53,581)	(4,643)	-	(58,424)	(0.1227)	(58,424)	106,274			-	106,274	0.2273	17,700
GSC-48	Zoldan	Alex	Jet Pilot	11/19/07	10,000	395,500	324,800	1.0200	331,296	0.65	(215,342)	115,954	(53,565)	-4064	(4,135)	(61,787)	(0.1865)	(61,787)	54,167		(15,590)		38,577	0.1184	14,450
00 161	Lippert	Joyce	Jet Pilot	11/20/07	5,000	302,800	274,400	1.1300	310,072	0.60	(186,043)	124,029	(44,413)		(14,828)	(59,241)	(0.1911)	(59,241)	64,788				64,788	0.2069	12,950
GSC-49	McLeod	Anella	Phoenix	11/20/07	5,000	228,670	198,470	1.1000	218,317	-	0	218,317	(26,078)	(2,287)	-	(27,345)	(0.1253)	(27,345)	61,967				61,967	0.2838	15,200
GSC-50	Bertram	Jean	Phoenix	11/20/07	5,000	336,303	307,003	1.1000	337,703	0.65	(146,007)	79,696	(26,022)	(2,352)	-	(28,374)	(0.1246)	(28,374)	51,322	0.65	(3,823)		47,700	0.2095	15,200
GSC-51	Aronberg	Harold	Jet Pilot	11/20/07	4,000	238,800	211,400	1.0849	229,348	-	0	229,348	(35,048)	-3496	(5,342)	(48,886)	(0.2044)	(48,886)	133,462				133,462	0.7956	15,700
GSC-52	Mortier	Lloyd	Trans	11/21/07	10,000	384,488	373,988	1.1000	411,387	0.65	(267,401)	143,985	(47,839)	-8153	(12,252)	(68,244)	(0.1481)	(68,244)	83,472	0.65			83,472	0.1519	8,500
GSC-53	Bart	Jack	Jet Pilot	11/21/07	10,000	432,000	404,300	1.1700	473,031	0.50	(236,516)	236,516	(62,886)	-5465	(8,941)	(77,004)	(0.1626)	(77,004)	159,512	0.15	(60,645)		98,867	0.2090	12,950
GSC-54	Wallace	Phyllis	Phoenix	11/26/07	5,000	281,545	253,345	1.1000	278,680	0.65	(181,142)	97,538	(31,149)	(2,918)	-	(34,066)	(0.1219)	(34,066)	63,574				63,574	0.2281	11,950
GSC-55	Rappaport	Marion	Phoenix	11/26/07	5,000	242,650	214,450	1.1000	235,895	0.60	(141,537)	94,358	(29,846)	(2,427)	-	(29,273)	(0.1241)	(29,273)	85,085	.05/.05	(21,981)		43,104	0.1827	11,950
GSC-56	DiCarlo	Marianne	AIG	11/27/07	10,000	270,400	255,900	1.0300	267,697	0.65	(174,003)	93,694	(29,916)	(2,489)	(4,270)	(37,675)	(0.1407)	(37,675)	56,019				56,019	0.1963	8,500
GSC-57	Cogill	Anne	Jet Pilot	11/27/07	10,000	395,500	384,500	1.0700	390,336	0.80	(234,202)	156,134	(54,120)	-4665	(9,468)	(68,253)	(0.1749)	(68,253)	87,881			-140	87,741	0.2246	15,450
GSC-58	Rosenthal	James	Jet Pilot	11/27/07	7,000	288,220	268,520	1.1300	303,428	0.60	(182,057)	121,371	(43,832)	-3757	(6,101)	(53,690)	(0.1769)	(53,690)	67,681				67,681	0.2231	13,700
00 162	Hirsch	Marian	Phoenix	11/28/07	4,100	248,042	219,542	1.1000	241,496	0.60	(145,096)	96,730	(27,383)		-	(27,383)	(0.1132)	(27,383)	69,347	0.65/.05	(21,429)		47,913	0.1981	15,200
00 163	Goldstine	Robert	Jet Pilot	11/28/07	5,000	275,900	247,700	1.0849	268,730	0.60	(161,238)	107,492	(40,364)		(7,441)	(47,795)	(0.1779)	(47,795)	69,697		(18,727)		39,970	0.1497	15,200
GSC-59	Friedman	Harlene	Jet Pilot	11/28/07	5,000	270,240	192,540	1.1300	217,570	0.60	(130,542)	87,028	(32,701)	-7966	(5,685)	(41,952)	(0.1910)	(41,952)	45,476		(5,790)		40,086	0.1842	16,200
GSC-60	Frankel	Naftali	Trans	11/28/07	10,000	562,500	531,600	1.1000	584,560	0.63	(380,237)	204,743	(62,233)	-10943	(30,171)	(103,347)	(0.1767)	(103,347)	101,396				101,396	0.1733	14,450
GSC-61	St Moritz	Philip	Jet Pilot	11/29/07	20,000	723,500	686,600	1.1400	782,952	0.60	(469,771)	313,181	(108,340)	-8228	(7,462)	(121,648)	(0.1546)	(121,648)	192,133				192,133	0.2454	22,700
GSC-62	Bishoff	Francine	Phoenix	11/29/07	5,000	219,369	187,169	1.1000	205,882	0.63	(130,823)	72,058	(20,827)	(2,154)	-	(25,981)	(0.1262)	(25,981)	46,078	0.65	(9,358)		36,719	0.1784	15,200
GSC-63	Phillips	Lydia	Jet Pilot	11/29/07	5,000	201,700	173,500	1.0849	188,230	0.80	(112,938)	75,292	(29,777)	(2,207)	(2,221)	(34,205)	(0.1823)	(34,205)	40,987				40,987	0.2177	11,850
GSC-64	Peckerman	Ruth	Trans	11/29/07	5,000	180,730	122,550	1.1000	145,805	0.65	(94,773)	51,032	(17,785)	(2,833)	(7,520)	(28,238)	(0.1937)	(28,238)	22,794				22,794	0.1563	11,850
GSC-65	Goldstein	Helene	Phoenix	11/29/07	5,000	173,040	147,840	1.1000	162,624	0.65	(105,706)	56,918	(19,145)	(1,730)	-	(20,875)	(0.1284)	(20,875)	36,043	0.65	(8,131)		27,912	0.1716	8,950
GSC-66	Ross	Richard	ING	11/29/07	10,000	473,500	442,800	1.0500	464,940	0.65	(302,211)	162,729	(52,387)	(4,735)	-	(57,122)	(0.1229)	(57,122)	105,607	0.65	(22,140)		83,467	0.1795	17,700
GSC-67	Fadellah	Wahbi	Phoenix	11/30/07	5,000	353,200	325,000	1.1000	357,500	0.69	(214,500)	143,000	(39,077)	(3,822)	(1,946)	(44,545)	(0.1245)	(44,545)	98,455	0.65/.05	(49,563)		48,893	0.1368	15,200
GSC-68	Cohen-Rad	Sylvia	Phoenix	11/30/07	5,000	281,646	253,346	1.1000	278,680	0.65	(181,142)	97,538	(31,149)	(2,918)	-	(33,964)	(0.1218)	(33,964)	63,574	0.65	(13,934)		49,640	0.1781	15,200
GSC-69	Fernan	Paul	AIG	12/01/07	5,000	248,800	220,600	1.0000	227,218	0.65	(147,692)	79,526	(27,526)	-3714	(5,956)	(36,196)	(0.1601)	(36,196)	41,330	0.65	(3,858)		37,471	0.1649	15,200
GSC-70	Upman	Barbara	Phoenix	12/05/07	5,000	283,394	232,894	1.1000	256,183	0.53	(140,901)	115,283	(39,183)	(6,600)	-	(45,183)	(0.1773)	(45,183)	80,120	0.10			80,120	0.3127	14,450
GSC-71	Venkatamb	Jana	Trans	12/06/07	5,000	153,100	124,800	1.0500	131,145	0.65	(85,344)	45,801	(16,938)	-5000	(7,087)	(30,025)	(0.2289)	(30,025)	15,876				15,876	0.1211	15,700
GSC-72	Hipsen	JoAnn	Phoenix	12/06/07	5,000	249,215	224,015	1.1000	246,417	0.65	(160,171)	86,246	(27,572)	(6,000)	-	(33,572)	(0.1352)	(33,572)	52,674	0.65	(12,321)		40,353	0.1858	8,950
GSC-73	Cho	Lucy	Phoenix	12/11/07	5,000	281,545	253,345	1.1000	278,680	0.69	(187,298)	111,472	(31,149)	(6,000)	-	(37,149)	(0.1333)	(37,149)	74,323	0.65/.05	(38,635)		35,688	0.1281	15,200
GSC-74	Weinberger	Helen	Phoenix	12/11/07	5,000	281,545	253,345	1.1000	278,680	0.65	(181,142)	97,538	(31,149)	(6,000)	-	(37,149)	(0.1333)	(37,149)	60,389				60,389	0.2167	16,700
GSC-75	Hoper	Daniel	Jet Pilot	12/12/07	10,000	414,300	383,800	1.1400	437,304	0.60	(262,382)	174,922	(61,656)	-8000	(8,878)	(78,534)	(0.1795)	(78,534)	88,388	0.65	(21,865)		78,522	0.1750	16,700
GSC-76	Epstal	Stephen	Phoenix	12/12/07	5,000	273,295	245,195	1.1000	269,715	0.65	(175,314)	94,400	(31,450)	(6,000)	-	(37,450)	(0.1389)	(37,450)	56,950	0.65	(13,488)		43,464	0.1611	11,950
GSC-77	Diamond	Marilyn	Phoenix	12/12/07	5,000	259,700	228,500	1.1000	251,350	0.65	(163,378)	87,973	(49,582)	(6,000)	-	(55,582)	(0.2212)	(55,582)	32,385	0.65	(12,568)		19,817	0.0788	11,850
GSC-78	Ezzo	Daniel	Phoenix	12/12/07	4,000	268,200	260,000	1.1000	286,000	0.65	(185,900)	100,100	(33,153)	(6,000)	-	(39,153)	(0.1369)	(39,153)	60,947				60,947	0.2131	15,200
GSC-79	Brll	Edna	Jet Pilot	12/12/07	5,000	230,950	202,750	1.1400	231,195	0.80	(138,681)	92,454	(25,149)	0	(3,157)	(40,306)	(0.1744)	(40,306)	52,148	0.05	(11,557)		40,591	0.1756	-
GSC-79	BrB	Edna	Phoenix	12/13/07	5,000	189,530	181,330	1.1000	210,683	0.63	(136,844)	73,739	(22,953)	(6,000)	-	(28,953)	(0.1374)	(28,953)	44,786	0.05	(10,534)		34,252	0.1626	22,200
GSC-80	Kalchert	Harry	Phoenix	12/13/07	5,000	360,786	330,086	1.1000	363,106	0.65	(236,019)	127,087	(41,505)	(6,000)	-	(47,505)	(0.1308)	(47,505)	79,582	0.05	(16,505)		63,077	0.1737	17,700
GSC-81	Sirkin Wad	Sylvia	Phoenix	12/13/07	5,000	219,730	191,530	1.1000	210,683	0.65	(136,944)	73,739	(25,277)	(6,000)	-	(31,277)	(0.1485)	(31,277)	42,462	0.05	(9,577)		32,886	0.1561	15,200
GSC-82	Porter	Louis	ING	12/14/07	6,000	370,830	339,830	1.0500	356,927	0.50	(178,463)	178,463	(70,611)	-8000	(12,150)	(88,966)	(0.2493)	(88,966)	89,497				88,497	0.2507	17,700
GSC-83	Kahn	Barbara	ING	12/17/07	6,500	373,520	344,920	1.0500	257,166	0.65	(167,158)	90,008	(31,707)	(6,000)	-	(37,707)	(0.1466)	(37,707)	52,301	0.05	(12,858)		39,443	0.1534	14,450
GSC-84	Delaney	James	Phoenix	12/17/07	10,000	378,980	346,280	1.1000	383,118	0.63	(249,027)	134,092	(43,598)	(8,000)	-	(49,598)	(0.1295)	(49,598)	84,494				84,494	0.2205	16,200
GSC-85	Berkinger	Nesane	Jet Pilot	12/17/07	5,000	282,450	264,250	1.0849	286,665	0.60	(172,011)	114,674	(45,296)	-8000	(8,956)	(60,152)	(0.2098)	(60,152)	54,512				54,512	0.1902	14,200
GSC-86	Isenberg	Alice	Jet Pilot	12/19/07	6,000	171,920	141,120	1.1400	160,877	0.60	(96,526)	64,341	(18,757)	(8,000)	-	(32,757)	(0.2038)	(32,757)	31,584				31,584	0.1964	14,450
GSC-87	Richman	Herbert	Phoenix	12/19/07	10,000	511,200	480,300	0.9700	475,676	-	0	475,676	(59,945)	(8,000)	-	(67,945)	(0.1388)	(67,945)	405,733	0.65	(206,678)		122,655	0.2553	19,200
GSC-88	Weil	Sheldon	Jet Pilot	12/19/07	4,000	226,300	198,100	1.0849	214,984	0.70	(150,489)	64,495	(24,069)	-8000	(7,300)	(47,569)	(0.2213)	(47,569)	16,926				16,926	0.0787	16,700
GSC-89	Sabo	Stephanie	AIG	12/19/07	10,000	526,300	495,800	1.0300	510,458	0.63	(331,804)	178,654	(60,644)	-8000	(7,444)	(73,968)	(0.1449)	(73,968)	104,878				104,878	0.2051	17,700

GSC-90	Young	James	Jet Pilot	12/19/07	30,000	1,315,200	1,275,000	1.1349	1,448,998	0.90	(966,199)	378,799	(203,485)	-6000	(36,193)	(247,884)	(0.1712)		(247,884)	331,115				331,115	0.2268	21,956
GSC-91	Mensenga	Phyllis	Jet Pilot	12/20/07	10,000	258,800	226,100	1.1400	257,754	0.80	(154,652)	103,102	(39,084)	(6,000)	-	(45,084)	(0.1749)		(45,084)	58,018				58,018	0.2251	19,200
GSC-92	Hyman	Arlene	Jet Pilot	12/20/07	10,000	370,500	338,800	1.1400	387,372	0.90	(232,423)	154,949	(38,887)	-6000	(15,955)	(76,842)	(0.2035)		(76,842)	78,107				78,107	0.1963	19,700
GSC-93	Matherne	Earl	Phoenix	12/21/07	10,000	574,750	544,050	1.1000	598,455	0.95	(388,996)	209,459	(68,118)	(6,000)	-	(72,118)	(0.1205)		(72,118)	137,341	0.05	(6,521)		127,970	0.2136	19,700
GSC-94	Averbeg	Harold	Phoenix	12/21/07	7,500	426,430	417,930	1.1000	459,723	-	0	459,723	(49,288)	-	-	(49,288)	(0.1072)		(49,288)	410,436				410,436	0.8928	6,500
GSD-100	Evans	Richard	Jet Pilot	12/27/07	10,000	357,500	324,600	1.0849	352,378	0.80	(211,425)	140,950	(54,584)	(6,000)	(4,210)	(64,794)	(0.1839)		(64,794)	76,158	0.05	(3,684)		70,472	0.2000	21,200
GSC-101	Oulanti	Robert	Phoenix	12/27/07	5,000	247,075	219,375	1.0800	238,119	0.83	(155,427)	82,692	(28,423)	(6,000)	-	(34,423)	(0.1446)		(34,423)	48,269	0.05	(10,969)		38,300	0.1602	19,200
GSC-45	Castore	Rocco	Phoenix	12/27/07	5,000	350,200	325,000	1.1000	357,500	0.88	(232,375)	125,125	(40,631)	(6,000)	-	(46,631)	(0.1304)		(46,631)	78,494				78,494	0.2196	15,200
GSC-96	Peyre	Randal	Phoenix	12/27/07	5,000	223,794	193,088	1.1000	212,406	0.85	(138,064)	74,342	(25,745)	(6,000)	-	(31,745)	(0.1495)		(31,745)	42,597				42,597	0.2005	19,200
GSC-97	Wright	Peter	AIG	12/27/07	20,000	1,131,500	1,094,900	1.0300	1,127,844	0.85	(732,969)	394,875	(130,164)	-6000	(43,084)	(181,228)	(0.1607)		(181,228)	213,447				213,447	0.1893	22,700
GSC-98	Schmeyer	Frank	AIG	12/27/07	20,000	1,210,500	1,174,800	1.0300	1,210,044	0.85	(786,529)	423,516	(139,382)	-6000	(65,857)	(211,109)	(0.1745)		(211,109)	212,408				212,408	0.1755	24,200
GSC-99	Arenson	Hubert	Phoenix	12/27/07	4,000	264,824	239,824	1.0894	248,554	0.85	(160,475)	88,459	(29,314)	(6,000)	-	(35,314)	(0.1430)		(35,314)	51,095				51,095	0.2070	18,700
GSC-102	Shurtliff	Jeanne	IHG	12/29/07	5,000	239,800	201,800	1.0500	211,890	0.83	(137,592)	74,098	(26,435)	(6,000)	-	(32,435)	(0.1532)		(32,435)	41,653	0.05	(10,584)		31,069	0.1466	15,200
GSC-103	Sandbelle	Arend	Phoenix	12/29/07	7,000	369,853	359,953	1.1000	394,948	0.85	(256,631)	138,197	(44,825)	(6,000)	-	(50,825)	(0.1287)		(50,825)	87,372				87,372	0.2213	17,700
GSC-104	Hagemeyer	Edna	Phoenix	12/29/07	4,000	193,444	163,244	1.1000	179,568	0.85	(116,719)	62,849	(18,824)	(6,000)	-	(24,824)	(0.1382)		(24,824)	38,025				38,025	0.2118	18,700
GSC-105	Nachowitz	Sidney	AIG	12/31/07	10,000	387,000	365,800	1.0300	376,695	0.85	(250,762)	130,333	(45,869)	0	(12,046)	(57,715)	(0.1450)		(57,715)	81,818				81,818	0.2050	
GSC-106	Nachowitz	Sidney	Phoenix	12/31/07	10,000	686,800	600,600	1.1000	660,660	0.85	(267,900)	192,800	(65,215)	-6000	-	(71,215)	(0.1295)		(71,215)	121,285			324	121,609	0.2211	27,200
GSC-108	Smith	Nancy	Jet Pilot	12/31/07	7,000	261,490	230,790	1.1349	261,824	0.80	(157,154)	104,769	(39,179)	(6,000)	(2,447)	(47,621)	(0.1818)		(47,621)	57,148	0.05	(4,616)		52,533	0.2006	17,700
GSC-107	Mills	Ed	Phoenix	12/31/07	5,000	259,375	231,175	1.1000	254,293	0.85	(165,790)	89,502	(29,536)	(6,000)	-	(35,536)	(0.1405)		(35,536)	53,184	0.05	(4,049)		49,119	0.1932	18,700
	Totals				1,890,388	93,861,811	88,178,873	987	84,629,797	163	(55,668,527)	38,969,214	(11,464,969)	(139,368)	(1,991,928)	(13,436,361)	(14)	(120,466)	(13,556,797)	25,412,456	11	(3,649,281)	(277,693)	21,492,507	60	5,335,199

Loan No.	Last Name	First Name	Carrier	Fund Date	Face Amount (millions)	Loan Amount	Target Commission	Carrier Adjustment Factor		Application Percentage	Application Amount	Retained Commission	UT Fee Year 1	Application Fee	UT Fee Year 2	UT Fee Total	Percent of Total Commission	Cash Flow Swap	Total			Amount Paid to Other Advisors, Etc.	Amount	Percent of Total Commissions	Origination Fee, Etc
00 017	Cohen	James	Hartford	01/17/07	5.000	167,000	142,500	1.1000	156,750	-	0	156,750	(15,740)			(15,740)	0.1004		(15,740)	141,810			(1,425)	139,585	0.8905	10,000
00 017	Cohen	James	Phoenix	01/17/07	10.000	329,784	329,784	1.1000	362,762	-	0	362,762	(39,134)			(39,134)	0.1079		(39,134)	323,628				323,628	0.8921	
00 018	Fox	Richard	Phoenix	01/25/07	5.000	414,000	390,000	1.1000	429,000	-	0	429,000	(40,178)		(499)	(40,677)	0.0948		(40,677)	388,323				388,323	0.8052	10,000
00 019	Samuels	Rosalind	Phoenix	02/07/07	4.000	161,584	137,584	1.1000	151,342	0.85	(98,373)	52,970	(15,682)			(15,682)	0.1036		(15,682)	37,288	0.05	(6,878)		30,409	0.2006	10,000
00 019	Samuels	Rosalind	Phoenix	02/07/07	4.000	141,148	141,148	1.1000	155,263	0.85	(100,921)	54,342	(13,698)			(13,698)	0.0882		(13,698)	40,644	0.05	(7,057)		33,587	0.2163	
00 020	Bell	Martin	Hartford	02/08/07	5.000	307,650	264,360	1.1000	313,786	0.60	(197,671)	126,114	(39,374)			(39,374)	0.1256		(39,374)	85,740			(1,137)	84,603	0.2705	10,000
00 021	Blackburn	Sadie	Mass Mut	02/23/07	5.000	297,650	292,650	0.9350	273,628	0.60	(164,177)	109,451	(36,517)		0	(36,517)	0.1335		(36,517)	72,934				72,934	0.2665	
00 022	Cohen	James	Penn Mut	02/27/07	10.000	321,500	315,000	0.9900	312,767	-	0	312,767	(19,676)		-	(19,676)	0.0629	(120,406)	(140,084)	172,683				172,683	0.8621	
00 023	Fidel	Bernard	Phoenix	04/05/07	5.000	291,742	267,742	1.1000	283,516	0.65	(184,286)	99,231	(27,342)			(27,342)	0.0964		(27,342)	71,889				71,889	0.2536	10000
00 024	Mulkey	David	Mass Mut	04/12/07	10.000	282,800	239,300	0.9350	223,746	0.65	(145,435)	78,311	(25,504)			(25,504)	0.1140		(25,504)	52,807				52,807	0.2360	10,000
00 025	Morello	Lucille	Phoenix	04/13/07	10.000	542,062	516,562	1.1000	579,418	0.65	(370,772)	199,646	(52,808)			(52,808)	0.0922		(52,808)	147,040			-199646.4	(52,808)	(0.0922)	10000
00 026	Bader	Sidney	Penn Mut	04/24/07	10.000	712,500	686,500	0.8800	681,818	0.60	(377,986)	303,829	(69,147)		(15,109)	(84,256)	0.1236		(84,256)	219,573				219,573	0.3218	10,000
00 027	Freedman	Kate	Phoenix	05/04/07	5.000	414,000	390,000	1.1000	429,000	0.65	(278,850)	150,150	(40,178)		(600)	(40,978)	0.0955		(40,978)	109,172				109,172	0.2545	10,000
00 028	Shapiro	Dorothy	Phoenix	05/08/07	4.500	287,535	244,035	1.1000	268,439	0.70	(187,907)	80,532	(25,864)			(25,864)	0.0967		(25,864)	54,568	0.05	(5,053)		49,513	0.1844	10,000
00 029	Reymes	Frederick	Phoenix	05/08/07	5.000	327,284	303,284	1.1000	333,590	0.70	(233,513)	100,077	(31,760)			(31,760)	0.0952		(31,760)	68,317	0.05	(5,004)		63,313	0.1898	10,000
00 030	Kraus	Dorothy	Trans	05/15/07	20.000	1,423,500	955,200	1.0850	1,036,435	0.65	(673,683)	362,698	(138,147)		(78,100)	(216,247)	0.2086		(216,247)	146,449				146,449	0.1413	10,000
00 031	Gordon	Esther	Phoenix	05/17/07	10.000	412,737	388,737	1.1000	427,611	0.65	(277,947)	149,664	(40,056)			(40,056)	0.0937		(40,056)	109,608	0.05	(21,381)		88,227	0.2063	10,000
00 032	Sobel	Walter	Phoenix	05/30/07	5.000	282,172	258,672	1.1000	282,539	0.70	(183,777)	78,762	(25,443)			(25,443)	0.0969		(25,443)	53,319	0.05	(3,580)		49,739	0.1895	10,000
00 033	Goetsch	Jan	Jeff Pilot	05/04/07	5.750	161,838	129,893	1.0849	140,926	0.80	(84,552)	56,366	(22,812)		(230)	(22,742)	0.1614		(22,742)	33,625			(87)	33,539	0.2389	11,200
00 034	Stern	William	Jeff Pilot	05/05/07	10.000	555,500	531,500	1.0999	584,544	0.80	(390,726)	233,817	(78,508)		(45,891)	(122,399)	0.2094		(122,399)	111,418	0.05	(29,227)		82,191	0.1406	10,000
00 035	Mulkey	David	Mass Mut	05/14/07	10.000	246,800	239,300	0.9350	223,746	0.65	(145,435)	78,311	(23,874)			(23,874)	0.1067		(23,874)	54,437				54,437	0.2433	1,200
00 036	Bovenkirk	David	Jeff Pilot	05/15/07	10.000	493,800	489,800	1.0999	516,886	0.65	(335,946)	180,940	(68,434)		(26,879)	(95,313)	0.1845		(95,313)	85,527	0.05	(26,879)		58,648	0.1135	10,000
00 037	Puzio	Emily	Hartford	05/15/07	5.000	269,433	229,500	1.1000	252,450	0.65	(164,093)	88,358	(26,148)		(20,915)	(47,063)	0.1864		(47,063)	41,295			(683)	40,612	0.1809	10,000
00 038	Zydel	Stephanie	Jeff Pilot	05/18/07	8.000	272,180	244,980	1.0849	265,779	0.60	(159,467)	106,312	(37,720)		(900)	(38,620)	0.1449		(38,620)	67,792				67,792	0.2551	13,700
00 039	Donahugh	Richard	Jeff Pilot	05/18/07	4.500	247,630	222,630	1.0849	241,557	0.60	(145,114)	96,743	(34,468)		(9,196)	(43,664)	0.1806		(43,664)	53,059				53,059	0.2194	11,200
00 040	Martin	Wencke	Jeff Pilot	05/18/07	5.000	136,350	111,850	1.0849	121,329	0.60	(72,877)	48,452	(18,826)			(18,826)	0.1554		(18,826)	29,626				29,626	0.2446	11,200
00 041	Ginsberg	Daniel	Phoenix	05/22/07	5.000	291,496	272,296	1.1000	299,526			299,526	(28,289)			(28,289)	0.0944		(28,289)	271,237	0.50	(109,800)		161,437	0.5390	13,700
00 042	Holmes	John - Per	Jeff Pilot	05/22/07	2.500	115,325	90,825	1.0849	98,519	0.80	(58,991)	39,528	(15,923)		(1,587)	(17,510)	0.1781		(17,510)	21,818				21,818	0.2219	11,200
00 043	Holmes	John - Bus	Jeff Pilot	05/25/07	2.550	117,138	92,438	1.0849	100,286	0.80	(68,172)	40,114	(16,174)		(1,525)	(17,699)	0.1785		(17,699)	22,415				22,415	0.2235	11,200
00 044	Smith	Joel	Phoenix	05/28/07	10.000	494,327	453,827	1.1000	499,210	0.65	(324,486)	174,723	(45,062)			(45,062)	0.0903		(45,062)	129,661	0.05	(24,960)		104,701	0.2097	5,000
00 045	Grey	Alvin	IND	05/29/07	2.000	156,500	131,300	1.0500	137,865	0.85	(89,612)	48,253	(15,188)		(3,143)	(18,331)	0.1330		(18,331)	29,922	0.05			29,922	0.2173	11,200
00 046	Gann	Donald	Jeff Pilot	05/29/07	5.000	272,014	249,000	1.0999	263,952	0.65	(171,569)	92,383	(37,557)		(23,036)	(60,593)	0.2296		(60,593)	31,790			(72)	31,718	0.1202	11,200
00 047	Malin	David	Phoenix	06/05/07	10.000	724,000	650,000	1.1015	716,001	0.65	(465,401)	250,600	(70,263)			(70,263)	0.0981		(70,263)	180,337	0.05	(35,800)		144,537	0.2013	10,000
00 048	Costello	Richard	Jeff Pilot	06/29/07	3.000	259,500	235,500	1.0998	259,102		0	259,102	(36,553)		(7,318)	(43,871)	0.1693		(43,871)	215,231				215,231	0.8307	10,000
00 049	Holmeyer	Daryl	Jeff Pilot	06/29/07	5.000	168,000	143,300	1.0849	155,468	0.60	(93,280)	62,186	(23,282)		(2,202)	(25,484)	0.1639		(25,484)	36,702				36,702	0.2381	11,200
00 050	Pirazzi	Gloria	Phoenix	06/29/07	9.000	360,800	307,300	1.1000	404,030	0.65	(262,620)	141,411	(37,927)			(37,927)	0.0939		(37,927)	103,484	0.05	(20,202)		83,282	0.2061	10,000
00 051	Debro	Kenneth	Jeff Pilot	07/03/07	10.000	545,407	505,900	1.0500	536,144	0.60	(321,839)	214,509	(74,463)		(46,643)	(121,106)	0.2259		(121,106)	91,403			(50)	91,353	0.1741	13,700
00 052	Dockerell	Norman	Jeff Pilot	07/05/07	10.000	474,300	448,800	1.0849	484,516	0.60	(290,710)	193,807	(65,487)		(15,215)	(80,702)	0.1668		(80,702)	113,105	0.05	(15,215)		97,890	0.2020	13,700
00 053	Brucker	Ronald	Phoenix	07/05/07	5.000	334,490	309,290	1.1000	340,219	-	0	340,219	(32,482)		-	(32,482)	0.0954		(32,482)	307,757	0.70	(216,503)		91,255	0.2682	11,200
00 054	Hibbard	Helene	Phoenix	07/10/07	10.000	529,255	500,555	1.1000	550,611	0.65	(357,897)	192,714	(51,268)			(51,268)	0.0931		(51,268)	141,448				141,448	0.2569	13,700
00 055	Camm	Marvin	Jeff Pilot	07/12/07	9.000	968,350	538,650	1.0849	584,381	0.60	(350,629)	233,753	(77,808)		(24,535)	(102,343)	0.1751		(102,343)	131,410				131,410	0.2249	13,700
00 056	Brewster	Patricia	Phoenix	07/12/07	4.500	178,780	155,280	1.1000	170,808	0.65	(111,025)	59,783	(17,350)			(17,350)	0.1016		(17,350)	42,433	0.05	(8,540)		33,892	0.1984	10,000
GSC-1	Oetzel	Masha-Helen	Phoenix	07/13/07	10.000	568,550	544,050	1.1000	598,455	0.65	(389,996)	209,459	(55,326)			(55,326)	0.0924		(55,326)	154,133	0.05	(27,203)		126,931	0.2121	10,000
00 057	Shaw	Linda	Phoenix	07/17/07	5.000	169,498	144,298	1.1000	158,729	0.50	(97,532)	101,196	(16,265)			(16,265)	0.1026		(16,265)	84,911		(13,233)	(18)	71,660	0.4518	11,200
00 058	Berman	Alan	Phoenix	07/19/07	10.000	450,800	438,100	1.1000	483,010	0.65	(313,957)	169,054	(41,730)			(43,730)	0.0905		(43,730)	125,324	0.05	(3,642)		121,481	0.2515	5,000
00 059	Berman	Alan	Jeff Pilot	07/19/07	10.000	452,700	425,000	1.1483	487,180	0.60	(292,314)	194,878	(62,583)		-13195	(75,778)	0.1555		(75,778)	119,098				119,098	0.2445	13,700
00 060	Malesky	John	Phoenix	07/19/07	7.000	451,770	424,570	1.1000	467,027	0.65	(303,568)	163,459	(43,843)			(43,843)	0.0939		(43,843)	119,616	0.05			119,617	0.2561	13,700
00 061	Einhorn	Norman	Jeff Pilot	07/19/07	5.000	208,450	181,250	1.0849	196,638	0.60	(117,983)	78,655	(26,605)		(5,047)	(31,652)	0.1605		(31,652)	47,193	0.05	(9,053)		38,041	0.1925	11,200
00 062	Sparo	Marcia	Phoenix	07/19/07	9.000	338,259	310,559	1.1000	341,615	0.70	(217,391)	124,224	(32,827)			(32,827)	(0.0981)		(32,827)	91,397	0.05	(222,949)		(130,553)	(0.3825)	13,700
00 063	Herskowitz	Bernard	Jeff Pilot	07/23/07	10.000	431,500	404,300	1.0998	444,649			444,649	(59,600)		(9,942)	(69,542)	(0.1548)		(69,542)	379,807				379,807	0.8452	13,700
00 064	Herskowitz	Janine	Jeff Pilot	07/23/07	10.000	622,500	495,400	1.0998	544,841			544,841	(72,426)		(20,250)	(92,686)	(0.1701)		(92,686)	452,155				452,155	0.8299	13,700
00 065	Sorosky	Jeri	Phoenix	07/24/07	4.000	213,062	187,862	1.1000	206,670	0.65	(134,336)	72,334	(20,679)			(20,679)	(0.1001)		(20,679)	51,655				51,655	0.2499	11,200
00 066	Shapiro	Irwin	Jeff Pilot	07/24/07	6.000	190,540	162,840	1.1300	184,009	0.60	(110,406)	73,604	(26,243)		(352)	(26,595)	(0.1445)		(26,595)	47,009	0.05	(8,142)		38,867	0.2112	13,700
00 067	Smith	Jack	Jeff Pilot	07/24/07	6.000	237,700	212,500	1.0998	233,708	0.60	(140,225)	93,483	(32,942)		(6,200)	(39,142)	(0.1675)		(39,142)	54,341	0.05	(11,475)		42,866	0.1834	11,200
00 068	Leggins	Jim	Jeff Pilot	07/26/07	4.000	325,200	300,000	1.0849	325,470	0.60	(195,282)	130,188	(44,957)		(16,856)	(60,813)	(0.1862)		(60,813)	86,576		(22,960)		47,495	0.1459	11,200
00 069	Slater	David	Phoenix	07/26/07	5.000	252,114	226,914	1.1000	249,605	0.50	(149,763)	99,842	(24,487)			(24,487)	(0.0980)		(24,487)	75,378				75,375	0.3020	11,200
00 070	Kagel	David	Jeff Pilot	07/27/07	10.000	360,200	362,500	1.1700	424,125	0.50	(212,063)	212,063	(53,541)		(5,900)	(59,441)	(0.1401)		(59,441)	152,622	0.15	(96,788)	(33,350)	22,484	0.0530	13,700
00 071	Prince	Jack	Phoenix	07/27/07	10.000	630,528	606,528	1.1000	667,181	0.65	(433,668)	233,513	(61,192)			(61,192)	(0.0917)		(61,192)	173,321	0.05	(30,326)		141,995	0.2128	10,000
00 072	Leye	Lupe	Trans	07/30/07	5.000	133,800	110,300	1.0700	118,021	0.65	(76,714)	41,307	(13,685)		(539)	(13,824)	(0.1171)		(13,824)	27,483				27,483	0.2329	10,000

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00 136	Fried	Pauline	Lincoln	09/26/07	6.000	300,820	270,120	1.1000	297,132	0.60	(179,279)	118,853	(43,990)		(10,454)	(54,344)	(0.1829)	(54,344)	64,509	0.05	(4,727)		59,782	0.2012	16,700
00 137	Penty	Frank	Phoenix	09/26/07	9.800	599,326	967,526	1.1000	624,281	0.65	(405,783)	218,498	(83,412)			(83,412)	(0.1015)	(83,412)	185,086	0.05	(31,214)		123,672	0.1964	16,700
00 138	Dockerolf	Norman	Phoenix	09/26/07	10.000	495,343	494,843	1.1000	533,327	0.65	(346,663)	186,665	(52,500)		-	(52,500)	(0.0984)	(52,500)	134,159	0.05	(24,242)		109,916	0.2061	5,000
00 139	Putman	Max	Penn	09/26/07	6.000	417,400	382,200	0.9900	399,276	0.50	(194,139)	194,139	(71,417)		(18,479)	(89,896)	(0.2315)	(89,896)	104,243				104,243	0.2685	11,200
00 140	Rosenfeld	David	Phoenix	10/03/07	10.000	413,680	381,980	1.1000	420,048	0.65	(273,030)	147,018	(43,825)		-	(43,825)	(0.1043)	(43,825)	103,191	0.05	(11,863)		84,088	0.2002	16,700
00 141	O'Connor	Thomas	Trans	10/05/07	5.000	261,000	234,100	1.0700	250,487	0.58	(145,282)	105,205	(36,837)		(23,378)	(60,215)	(0.2332)	(60,215)	41,790				41,790	0.1966	13,500
00 142	Bragg	Kenneth	Phoenix	10/05/07	10.000	498,800	428,800	1.1000	471,780	0.65	(306,664)	165,127	(48,400)		-	(48,400)	(0.1026)	(48,400)	116,727	0.05	(23,590)		93,137	0.1974	13,700
00 143	Werksman	Gerald	Jeff Pilot	10/05/07	6.000	240,700	212,500	1.1400	242,250	0.60	(145,350)	96,900	(35,124)		(8,273)	(41,397)	(0.1709)	(41,397)	55,503				55,503	0.2291	14,200
00 144	Shear	Helene	Lincoln	10/10/07	10.000	278,000	248,300	1.1400	283,062	0.50	(169,837)	113,225	(40,275)		-	(40,275)	(0.1423)	(40,275)	72,950				72,950	0.2577	13,700
00 145	Green	Marianne	Phoenix	10/11/07	3.000	182,878	134,678	1.1000	147,550	0.65	(96,102)	51,747	(17,231)		-	(17,231)	(0.1165)	(17,231)	34,516	0.05	(7,392)		27,124	0.1935	14,200
00 146	Gerff	K. Gary	Phoenix	10/15/07	10.000	464,764	434,964	1.1000	478,020	0.85	(310,713)	167,307	(49,251)		-	(49,251)	(0.1030)	(49,251)	118,056				118,056	0.2470	16,700
00 147	Williams	Stephen	Penn	10/15/07	6.000	243,800	216,100	0.9900	213,939	0.85	(139,060)	74,879	(25,843)		-	(25,843)	(0.1208)	(25,843)	49,036				49,036	0.2292	-
00 147	Williams	Stephen	Trans	10/15/07	10.000	213,700	207,700	1.0900	218,085	0.85	(141,755)	76,330	(22,652)		(12,791)	(35,443)	(0.1625)	(35,443)	40,887				40,887	0.1875	19,200
GSC-3	Seary	John	Lincoln	10/15/07	25.800	899,200	959,000	1.0200	978,180	0.50	(586,908)	391,272	(153,662)		(16,877)	(170,739)	(0.1745)	(170,739)	220,533				220,533	0.2255	21,450
GSC-4	Birdman	Harvey	Lincoln	10/15/07	20.000	761,700	725,000	1.1400	826,535	0.50	(495,921)	330,614	(116,948)		(10,696)	(126,644)	(0.1532)	(126,644)	203,970				203,970	0.2458	25,950
GSC-4	Birdman	Harvey	Phoenix	10/15/07	10.000	423,081	387,481	1.3428	456,535	0.65	(296,806)	159,819	(64,458)			(64,458)	(0.1412)	(64,458)	95,361				95,361	0.2068	-
00 148	Nussbaum	Joanne	Phoenix	10/16/07	5.000	264,074	179,874	1.1000	193,461	0.55	(125,750)	67,711	(21,825)		-	(21,825)	(0.1116)	(21,825)	46,086	0.05	(9,673)		36,413	0.1882	14,200
00 149	O'Brien	Paul Michael	Phoenix	10/16/07	5.500	286,908	255,908	1.1000	291,499	0.65	(182,874)	98,625	(30,372)		-	(30,372)	(0.1079)	(30,372)	68,153	0.05	(14,075)		54,078	0.1921	16,700
GSC-5	Druten	Rachel	Jeff Pilot	10/16/07	6.000	261,700	173,800	1.0800	183,816	0.80	(116,348)	73,564	(37,548)		(4,539)	(42,065)	(0.2298)	(42,065)	31,479				31,479	0.1712	11,450
GSC-6	Rappoport	Beulah	Trans	10/16/07	3.500	164,500	138,300	1.0700	133,658	-	0	133,658	(26,308)		(6,186)	(32,694)	(0.2446)	(32,694)	100,964	0.65	-61490.5		19,474	0.1457	11,450
00 150	Greenman	Beverly	Trans	10/17/07	30,000	1,088,185	1,060,185	1.0500	1,113,194	0.85	(723,576)	389,618	(115,152)		(50,190)	(165,552)	(0.1487)	(165,552)	224,066				224,066	0.2013	10,000
GSC-7	Faden	Barbara	Phoenix	10/17/07	6.800	258,444	227,744	1.1000	250,518	0.64	(160,332)	90,187	(30,035)		-	(30,035)	(0.1190)	(30,035)	60,152	0.05	(12,526)		47,626	0.1901	17,700
GSC-8	Belby	Joseph	Phoenix	10/17/07	6.000	337,830	312,730	1.1000	344,003	0.65	(223,602)	120,401	(39,273)		-	(39,273)	(0.1142)	(39,273)	81,128				81,128	0.2358	7,700
00 151	Golden	Jerome	Jeff Pilot	10/18/07	10.000	595,106	564,400	1.0849	612,318	0.60	(367,391)	244,927	(95,738)		(29,695)	(116,433)	(0.1904)	(116,593)	128,334	0.05	(28,220)		100,114	0.1635	16,700
GSC-10	Howe	Jean	Jeff Pilot	10/18/07	8.000	414,280	363,980	1.0800	408,696	0.60	(243,957)	162,638	(61,278)		(13,375)	(78,653)	(0.1934)	(78,653)	83,985				83,985	0.2066	16,700
GSC-11	Semsels	Jerome	Phoenix	10/18/07	4.000	183,572	155,472	1.1000	171,019	-	0	171,019	(21,346)		-	(21,346)	(0.1248)	(21,346)	149,673	0.70	(111,163)		38,511	0.2252	11,950
GSC-12	Moser	Florence	Phoenix	10/18/07	10.000	580,700	550,000	1.1000	605,000	0.50	(363,000)	242,000	(84,700)			(84,700)	(0.1400)	(84,708)	157,294	0.10	(60,500)		96,794	0.1600	14,450
GSC-9	Ousis	Mattie	Phoenix	10/18/07	5.000	252,219	224,819	1.1000	248,417	0.65	(160,171)	88,246	(36,053)		-	(36,053)	(0.1463)	(36,053)	50,193				50,193	0.2037	11,199
00 152	Spector	Ida	Jeff Pilot	10/19/07	3.000	297,750	179,550	1.0200	183,141	0.60	(109,885)	73,256	(30,290)		(8,016)	(38,296)	(0.1862)	(38,296)	36,860				36,860	0.2018	14,200
GSC-13	Patterson	Marlene	Jeff Pilot	10/19/07	5.000	220,250	182,950	1.1232	215,711	0.60	(129,426)	86,284	(39,100)		(6,157)	(45,257)	(0.1888)	(40,257)	46,027				46,027	0.2134	11,550
GSC-14	Vigodsky	Frederick	Phoenix	10/19/07	5.000	235,023	209,623	1.1000	230,585	0.65	(150,023)	80,782	(27,313)		-	(27,313)	(0.1183)	(27,313)	53,469	0.05	(10,491)		42,978	0.1962	8,850
GSC-15	Gallucci	William	Jeff Pilot	10/19/07	6.000	347,800	317,100	1.1300	358,323	0.60	(214,994)	143,329	(56,357)		(12,803)	(69,160)	(0.1925)	(69,160)	74,369				74,369	0.2075	14,450
00 153	Scull	Joanne	Phoenix	10/22/07	5.000	219,730	191,530	1.1000	210,683	0.65	(136,944)	73,739	(23,479)		-	(23,479)	(0.1114)	(23,479)	50,260	0.05	(10,534)		39,726	0.1886	14,200
GSC-16	Sarnoff	Jordan	Phoenix	10/22/07	5.000	350,200	325,000	1.1000	357,500	0.65	(232,375)	125,125	(41,625)		(5,059)	(46,888)	(0.1306)	(46,888)	78,437	0.05	(17,875)		60,562	0.1694	8,550
GSC-17	Levine	Ronald	Jeff Pilot	10/23/07	10.000	435,000	404,300	1.1400	460,962	0.60	(276,641)	184,361	(69,340)		(10,576)	(79,916)	(0.1734)	(79,916)	104,445				104,445	0.2256	14,450
GSC-18	Bart	Jack	Phoenix	10/23/07	10.000	449,800	439,100	1.1000	483,010	0.60	(289,806)	193,204	(52,251)		-	(52,251)	(0.1062)	(52,251)	140,953	.05/.05	(45,008)		95,945	0.1956	5,000
GSC-19	Frega	Lupe	Phoenix	10/24/07	10.000	447,050	416,350	1.1000	457,985	0.55	(297,690)	160,295	(51,954)		-	(51,954)	(0.1134)	(51,954)	108,341	0.05	(20,618)		87,523	0.1911	14,450
GSC-20	Schmeel	Sadar	Phoenix	10/25/07	5.000	197,733	172,533	1.1000	189,786	0.60	(113,872)	75,915	(21,002)	(1,977)	-	(22,979)	(0.1211)	(22,979)	62,936	.05/.05	(15,822)		39,114	0.1903	8,950
GSC-21	Clements	Mahlon	Jeff Pilot	10/26/07	5.000	351,350	326,150	1.1400	371,811	0.60	(223,087)	148,724	(56,531)		(11,188)	(67,709)	(0.1821)	(67,709)	81,015				81,015	0.2179	8,950
GSC-22	Fehrberg	Thomas	Trans	10/26/07	3.000	133,849	108,949	1.0500	114,396	-	0	114,396	(14,196)	(2,426)	(5,926)	(22,548)	(0.1971)	(22,548)	91,848	0.60	(55,367)		29,479	0.2315	8,050
GSC-23	Oliver	Marlene	ING	10/26/07	5.000	252,000	226,800	1.0500	238,140	0.65	(154,791)	83,349	(28,786)	(2,520)	-	(29,296)	(0.1230)	(29,296)	54,053				54,053	0.2270	8,950
GSC-24	Jackson	Cary	Phoenix	10/26/07	4.000	353,680	250,000	1.1000	286,000	0.65	(185,900)	100,100	(41,964)		(870)	(42,134)	(0.1473)	(42,134)	57,966	0.05	(4,650)	(458)	52,958	0.1852	15,200
GSC-25	Fryd	Carol	Jeff Pilot	10/29/07	10.000	402,200	364,100	1.0849	418,710	0.55	(229,191)	187,520	(61,750)		(8,439)	(88,189)	(0.1636)	(88,189)	119,331	0.05	(19,205)		100,126	0.2403	14,950
GSC-25	Fryd	Carol	Jeff Pilot	10/29/07	13.000	402,200	364,100	1.0849	418,710	0.50	(209,355)	209,355	(61,750)		(8,439)	(88,189)	(0.1636)	(88,189)	140,166	0.05	(19,205)		120,961	0.2903	14,850
GSC-25	Fryd	Carol	Phoenix	10/29/07	8.000	279,818	258,818	1.1000	295,701	0.55	(182,206)	103,495	(29,103)	(2,788)	-	(32,171)	(0.1068)	(32,171)	71,324	0.05	(13,441)		57,883	0.1957	-
GSC-26	Schwartz	Patricia	Phoenix	10/30/07	7.500	286,500	256,800	1.1000	284,688	0.65	(185,042)	99,636	(33,295)		-	(33,295)	(0.1170)	(33,295)	66,342	0.05	(12,940)		53,402	0.1878	11,450
GSC-27	McCoby-Wa	Elleen	Phoenix	10/30/07	10.000	384,737	368,737	1.1000	427,511	0.65	(277,947)	149,564	(45,947)		-	(45,947)	(0.1075)	(45,947)	103,717	0.05	(21,381)		82,336	0.1925	2,000
GSC-28	Sarko	Elaine	Phoenix	10/30/07	7.000	299,316	272,116	1.1000	299,328	0.65	(194,563)	104,765	(34,788)		-	(34,788)	(0.1162)	(34,785)	69,980	0.05	(14,968)		55,013	0.1836	11,450
GSC-29	Glucksten	Sylvia	Phoenix	10/30/07	5.000	281,999	233,199	1.1000	256,735	0.65	(166,877)	89,857	(30,402)		-	(30,402)	(0.1184)	(30,402)	59,455	.05/.05	(15,754)		43,701	0.1702	15,200
GSC-30	Weinberger	Margerite	Phoenix	10/30/07	4.000	295,640	229,440	1.1000	251,284	0.65	(163,335)	87,949	(30,201)		(2,045)	(32,246)	(0.1293)	(32,246)	55,703				52,813	0.2090	11,950
00 154	Santelado	Teresa	Jeff Pilot	10/31/07	20.000	1,065,700	1,029,000	1.0200	1,049,580	0.60	(629,748)	419,832	(180,436)		(68,228)	(216,664)	(0.2064)	(216,664)	203,178	0.05	(51,450)		151,728	0.1448	20,450
00 155	Sriberg	Robert	Phoenix	11/01/07	6.000	321,698	280,805	1.1000	319,996	0.65	(207,997)	111,998	(34,060)		-	(34,060)	(0.1065)	(34,060)	77,918	0.05	(15,000)		61,919	0.1938	16,700
00 156	Pyne	Iris	Phoenix	11/01/07	5.000	181,090	152,690	1.1000	168,179	0.65	(109,316)	58,863	(19,196)		-	(19,196)	(0.1141)	(19,196)	39,667	0.05	(8,409)		31,258	0.1859	12,700
00 157	Gann	Donald	Phoenix	11/01/07	10.000	546,700	536,200	1.1000	589,820	0.65	(383,383)	206,437	(67,933)		-	(67,933)	(0.0992)	(67,933)	148,504	0.05	(9,364)		139,121	0.2359	2,250
GSC-31	Hillard	Blanche	Phoenix	11/01/07	10.000	455,940	429,240	1.1000	467,764	-	0	467,764	(55,003)		-	(55,003)	(0.1176)	(55,003)	412,761	.0325/.585	(262,586)	(7,442)	142,733	0.3091	14,450
GSC-32	Scordos	Chris	Phoenix	11/02/07	4.000	294,200	265,000	1.1000	292,500	0.65	(190,180)	102,410	(35,491)		-	(35,491)	(0.1213)	(35,491)	66,919			(42)	66,877	0.2298	15,200
GSC-33	Schapiro	Barbara	Jeff Pilot	11/07/07	5.000	208,000	179,800	1.0849	195,065	0.60	(117,039)	78,026	(32,818)		(1,131)	(33,648)	(0.1725)	(33,648)	44,380				44,380	0.2275	15,200
00 158	Brechner	Milton	Jeff Pilot	11/09/07	10.000	574,900	564,400	1.1000	620,840	0.80	(372,504)	248,336	(83,809)		(21,854)	(105,463)	(0.1699)	(105,463)	142,873				142,873	0.2301	3,000
GSC-34	Carnage	Gerald	Penn	11/09/07	5.000	357,450	329,250	0.9900	325,958	0.65	(211,872)	114,085	(39,547)	(3,575)	-	(43,122)	(0.1323)	(43,122)	70,963				70,963	0.2177	15,200
GSC-35	Gleeke	F. Gary	Phoenix	11/09/07	10.000	499,879	468,979	1.1000	515,867	0.65	(335,314)	180,553	(56,262)	(4,977)	-	(60,279)	(0.1168)	(60,279)	120,274	0.05	(23,449)		96,826	0.1877	14,450
GSC-36	Altman	Jerome	Jeff Pilot	11/09/07	10.000	245,000	214,300	1.0849	232,494	0.80	(139,496)	92,998	(36,957)	(2,450)	-	(39,407)	(0.1695)	(39,407)	53,591				53,591	0.2305	16,700
GSC-37	McCarthy	Joseph	Jeff Pilot	11/09/07	5.000	236,500	212,500	1.1000	233,750	0.80	(140,250)	93,500	(35,834)	-3045	(5,350)	(44,229)	(0.1892)	(44,229)	49,271				49,271	0.2108	7,750
GSC-38	Weinstein	Janet	Phoenix	11/09/07	5.000	188,400	160,200	1.1000	176,220	0.65	(114,543)	61,677	(20,844)	(1,564)	-	(22,726)	(0.1290)	(22,726)	38,949	0.05	(8,811)		30,138	0.1710	15,200
00 159	Whatley	James	Phoenix	11/09/07	5.000	252,445	224,245	1.1000	246,670	0.65	(160,335)	86,334	(27,869)		-	(27,869)	(0.1130)	(27,869)	58,465	.05/.05	(15,137)		43,328	0.1757	12,950

GSC-39	Villard	Louis	Jeff Pilot	11/09/07	10.000	686,700	639,000	1.1400	728,460	0.60	(437,676)	291,384	(100,680)	-9857	(23,519)	(133,856)	(0.1838)	(133,856)	157,518				157,518	0.2182	11,450
GSC-40	Berkowitz	Frederica	Phoenix	11/09/07	5.000	328,050	278,000	1.1000	302,500	0.85	(188,625)	105,875	(38,073)	(3,261)	-	(38,334)	(0.1309)	(39,334)	68,541	-	-	(180)	68,361	0.2194	11,950
GSC-41	Rauhenstine	Larry	Jeff Pilot	11/13/07	10.000	435,000	404,300	1.0849	438,625	0.60	(263,175)	175,450	(63,287)	-6350	(18,667)	(87,354)	(0.1992)	(87,354)	88,096				88,096	0.2009	14,450
GSC-42	Ketzan	Howard	Phoenix	11/13/07	10.000	424,840	393,940	1.1000	433,334	0.65	(281,667)	151,667	(46,981)	(4,248)	-	(51,227)	(0.1182)	(51,227)	100,440	0.05	(21,687)		78,773	0.1819	17,700
GSC-43	DiCarlo	Marianna	Jeff Pilot	11/13/07	10.000	291,800	261,100	1.1300	295,043	0.60	(177,026)	118,017	(43,869)	-4668	(13,856)	(62,193)	(0.2106)	(62,193)	95,824				55,824	0.1892	14,450
GSC-44	Holden	S. Ray	ING	11/14/07	10.000	371,800	340,800	1.0500	357,840	0.65	(232,596)	125,244	(41,101)	(3,715)	-	(44,816)	(0.1252)	(44,816)	80,428			(8,974)	73,454	0.2053	13,700
00 160	Cawthorne	Charles	Jeff Pilot	11/15/07	7.000	324,700	297,600	1.0849	322,918	0.60	(193,329)	129,585	(46,922)		(5,018)	(53,940)	(0.1674)	(53,940)	74,946	-	-		74,946	0.2328	12,450
GSC-45	Merber	Lloyd	MML	11/15/07	10.000	429,900	399,200	0.9360	373,252	0.65	(242,514)	130,738	(47,563)	(6,148)	(10,497)	(64,209)	(0.1720)	(64,209)	66,429	-	-		66,429	0.1780	-
GSC-45	Merber	Lloyd	Phoenix	11/15/07	10.000	432,400	428,900	1.1000	471,790	0.65	(306,664)	165,127	(47,838)	(4,324)	-	(52,163)	(0.1195)	(52,163)	112,964	0.05	-		112,964	0.2394	16,200
GSC-46	Kravara	Gerald	Trans	11/16/07	5.000	371,800	340,700	1.1000	381,370	0.65	(247,891)	133,480	(41,401)	(7,186)	(18,821)	(67,408)	(0.1768)	(67,408)	66,072	0.05	17,335		83,407	0.2187	8,950
GSC-47	Nichols	Irene	ING	11/16/07	10.000	484,300	453,800	1.0500	476,290	0.65	(309,582)	166,698	(53,541)	(4,843)	-	(58,424)	(0.1227)	(58,424)	106,274		-		106,274	0.2273	17,700
GSC-48	Zaidan	Alex	Jeff Pilot	11/19/07	10.000	355,500	324,800	1.0200	331,296	0.65	(215,342)	115,954	(53,569)	-4084	(4,134)	(61,787)	(0.1865)	(61,787)	54,167		(15,590)		38,577	0.1164	14,450
00 161	Lippert	Joyce	Jeff Pilot	11/20/07	5.000	382,800	374,400	1.1300	315,072	0.60	(188,543)	124,029	(44,413)		(14,826)	(59,241)	(0.1911)	(59,241)	84,788				84,788	0.2009	12,950
GSC-49	McLeod	Andri	Phoenix	11/20/07	5.000	226,870	198,470	1.1000	218,317	-	0	218,317	(25,078)	(2,267)	-	(27,345)	(0.1253)	(27,345)	190,972	0.85	(129,006)		61,967	0.2838	15,200
GSC-50	Bonham	John	Phoenix	11/20/07	5.000	235,203	207,003	1.1000	227,703	0.65	(148,007)	79,696	(26,022)	(2,332)	-	(28,374)	(0.1245)	(28,374)	51,322	0.05	(3,623)		47,700	0.2095	15,200
GSC-51	Arenberg	Harold	Jeff Pilot	11/20/07	4.000	239,600	211,400	1.0849	229,348	-	0	229,348	(35,048)	-3496	(9,342)	(46,886)	(0.2044)	(46,886)	182,462				182,462	0.7956	15,700
GSC-52	Merber	Lloyd	Trans	11/21/07	10.000	384,488	373,988	1.1000	411,387	0.65	(267,401)	143,985	(42,539)	-6153	(12,252)	(60,944)	(0.1481)	(60,944)	83,041	0.05	(20,569)		62,472	0.1519	8,500
GSC-53	Bart	Jack	Jeff Pilot	11/21/07	10.000	432,000	404,300	1.1700	473,031	0.50	(236,516)	236,516	(92,898)	-5465	(9,641)	(77,004)	(0.1628)	(77,004)	159,512	0.15	(60,845)		98,667	0.2090	12,950
GSC-54	Wallace	Phyllis	Phoenix	11/26/07	5.000	291,545	253,348	1.1000	278,680	0.65	(181,142)	97,538	(31,149)	(2,815)	-	(33,964)	(0.1219)	(33,964)	63,574				63,574	0.2291	11,950
GSC-55	Kappagan	Marlen	Phoenix	11/26/07	5.000	242,830	214,450	1.1000	235,895	0.60	(141,537)	94,358	(29,848)	(2,427)	-	(29,273)	(0.1241)	(29,273)	88,085	.05/.05	(21,981)		43,104	0.1827	11,950
GSC-56	DiCarlo	Marianna	AIG	11/27/07	10.000	370,400	259,900	1.0300	267,697	0.65	(174,003)	93,694	(29,918)	(3,189)	(4,370)	(37,476)	(0.1407)	(37,476)	56,019				56,019	0.2093	6,500
GSC-57	Coghill	Anne	Jeff Pilot	11/27/07	10.000	395,500	364,800	1.0700	390,336	0.60	(234,202)	156,134	(58,120)	-4685	(5,468)	(68,253)	(0.1749)	(68,253)	87,881			-140	87,741	0.2248	15,150
GSC-58	Rosenthal	James	Jeff Pilot	11/27/07	7.000	295,220	268,520	1.1300	303,428	0.60	(182,057)	121,371	(43,432)	-3757	(5,101)	(53,690)	(0.1769)	(53,690)	67,681				67,681	0.2231	13,700
00 162	Hirsch	Morton	Phoenix	11/28/07	4.100	248,042	219,542	1.1000	241,525	0.60	(145,096)	96,730	(27,383)		-	(27,383)	(0.1132)	(27,383)	69,347	0.05/.05	(21,435)		47,913	0.1981	15,200
00 163	Goldstine	Robert	Jeff Pilot	11/28/07	5.000	275,000	247,700	1.0849	268,740	0.60	(161,238)	107,502	(40,354)		(7,441)	(47,795)	(0.1778)	(47,795)	69,697		(19,727)		39,970	0.1487	15,200
GSC-59	Friedman	Harlene	Jeff Pilot	11/28/07	6.000	220,240	182,540	1.1300	217,570	0.60	(130,542)	87,028	(32,701)	-2986	(5,885)	(41,552)	(0.1910)	(41,552)	48,478		(5,390)		40,088	0.1842	16,200
GSC-60	Frankel	Naftali	Trans	11/28/07	10.000	967,500	531,800	1.1000	584,980	0.65	(380,237)	204,743	(62,233)	-10643	(30,171)	(103,047)	(0.1767)	(103,047)	101,396				101,396	0.1733	14,450
GSC-61	St Moritz	Philip	Jeff Pilot	11/28/07	20.000	723,900	666,800	1.1400	760,152	0.60	(469,771)	313,181	(105,340)	-8226	(7,482)	(121,048)	(0.1546)	(121,048)	192,133				192,133	0.2454	22,700
GSC-62	Bilkoff	Pramila	Phoenix	11/29/07	5.000	215,365	187,165	1.1000	205,882	0.65	(133,823)	72,059	(25,827)	(2,154)	-	(25,981)	(0.1262)	(25,981)	48,078	0.65	(9,358)		36,719	0.1784	15,200
GSC-63	Phillips	Lydia	Jeff Pilot	11/29/07	5.000	201,700	173,500	1.0849	188,230	0.60	(112,938)	75,292	(29,777)	(2,367)	(3,231)	(34,305)	(0.1823)	(34,305)	43,987				40,987	0.2177	11,950
GSC-64	Peckman	Ruth	Trans	11/29/07	5.000	169,790	132,856	1.1000	146,606	0.65	(94,773)	51,832	(17,785)	(2,833)	(7,520)	(28,238)	(0.1937)	(29,238)	22,794				22,794	0.1688	11,950
GSC-65	Goldstein	Helene	Phoenix	11/29/07	5.000	173,040	147,840	1.1000	162,624	0.65	(105,706)	56,918	(19,145)	(1,730)	-	(20,875)	(0.1294)	(20,875)	38,043	0.05	(8,131)		27,912	0.1716	8,950
GSC-66	Ross	Richard	ING	11/29/07	10.000	473,500	442,800	1.0500	464,940	0.65	(302,211)	162,729	(52,997)	(4,736)	-	(57,122)	(0.1229)	(57,122)	105,807	0.05	(22,140)		83,467	0.1795	17,700
GSC-67	Fedullah	Waldo	Phoenix	11/30/07	5.000	333,200	326,000	1.1000	357,500	0.60	(214,500)	143,000	(39,077)	(3,822)	(1,646)	(44,545)	(0.1246)	(44,545)	99,455	0.05/.05	(49,563)		49,893	0.1366	15,200
GSC-68	Orden-Rose	Sylvia	Phoenix	11/30/07	5.000	281,545	253,345	1.1000	278,680	0.65	(181,142)	97,538	(31,149)	(2,815)	-	(33,964)	(0.1219)	(33,964)	63,574	0.05	(13,934)		49,640	0.1781	15,200
GSC-69	Fernan	Paul	AIG	12/01/07	5.000	248,800	220,600	1.0300	227,218	0.65	(147,692)	79,526	(27,836)	-3714	(5,956)	(35,196)	(0.1581)	(35,196)	41,330	0.05	(3,859)		37,471	0.1549	15,200
GSC-70	Lipman	Barbara	Phoenix	12/05/07	6.000	283,894	232,894	1.1000	256,183	0.55	(140,901)	115,283	(29,183)	(6,000)	-	(35,183)	(0.1373)	(35,183)	80,120	0.10			80,120	0.3127	14,450
GSC-71	VonRutenhe	Jane	Trans	12/05/07	5.000	153,100	124,800	1.0500	131,145	0.65	(85,244)	45,901	(18,938)	-6000	(7,087)	(30,025)	(0.2299)	(30,025)	15,876				15,876	0.1211	15,200
GSC-72	Hippen	JoAnn	Phoenix	12/06/07	5.000	249,215	224,015	1.1000	249,417	0.65	(160,171)	89,246	(27,672)	(6,000)	-	(33,672)	(0.1362)	(33,672)	56,874	0.05	(12,321)		40,353	0.1638	8,950
GSC-73	Cho	Lucy	Phoenix	12/11/07	5.000	281,345	253,345	1.1000	278,680	0.60	(167,208)	111,472	(31,149)	(6,000)	-	(37,149)	(0.1333)	(37,149)	74,323	0.05/.05	(38,838)		35,686	0.1281	15,200
GSC-74	Weinberger	Helen	Phoenix	12/11/07	5.000	281,545	253,345	1.1000	278,680	0.65	(181,142)	97,538	(31,149)	(6,000)	-	(37,149)	(0.1333)	(37,149)	60,389				60,389	0.2167	15,700
GSC-75	Harper	Daniel	Jeff Pilot	12/12/07	10.000	414,300	383,600	1.1400	437,304	0.60	(262,382)	174,922	(91,668)	-6000	(9,878)	(78,534)	(0.1750)	(78,534)	98,388	0.05	(21,865)		76,522	0.1750	16,700
GSC-76	Epstal	Stephen	Phoenix	12/12/07	5.000	273,295	249,195	1.1000	269,715	0.65	(175,314)	94,400	(31,450)	(6,000)	-	(37,450)	(0.1389)	(37,450)	58,950	0.05	(13,496)		43,454	0.1611	11,950
GSC-77	Diamond	Marilyn	Phoenix	12/12/07	5.000	256,700	229,500	1.1000	251,350	0.65	(163,378)	87,973	(49,588)	(6,000)	-	(55,588)	(0.2212)	(55,588)	32,385	0.05	(12,568)		19,817	0.0788	11,950
GSC-78	Esau	Daniel	Phoenix	12/12/07	4.000	288,200	260,000	1.1000	286,000	0.53	(163,900)	100,100	(33,183)	(6,000)	-	(39,183)	(0.1369)	(39,183)	60,947				60,947	0.2131	13,200
GSC-79	Brit	Edna	Jeff Pilot	12/12/07	5.000	290,950	262,750	1.1400	231,135	0.80	(138,681)	92,454	(35,149)	0	(5,157)	(40,306)	(0.1744)	(40,306)	52,148	0.05	(11,557)		40,591	0.1756	
GSC-79	Brit	Edna	Phoenix	12/12/07	5.000	199,530	181,530	1.1000	210,883	0.63	(136,944)	73,739	(22,853)	(6,000)	-	(28,853)	(0.1374)	(29,053)	44,786	0.05	(10,534)		34,252	0.1626	22,200
GSC-80	Kellhorst	Harry	Phoenix	12/13/07	8.000	350,798	330,098	1.1000	363,108	0.65	(236,019)	127,087	(41,805)	(6,000)	-	(47,505)	(0.1306)	(47,505)	79,582	0.05	(16,505)		63,077	0.1737	17,700
GSC-81	Simko Wate	Sylvia	Phoenix	12/13/07	5.000	219,730	181,830	1.1000	210,883	0.65	(136,944)	73,739	(25,277)	(6,000)	-	(31,277)	(0.1485)	(31,277)	42,482	0.05	(9,577)		33,886	0.1581	15,200
GSC-82	Porter	Lexie	ING	12/14/07	6.000	379,830	339,830	1.0500	356,827	0.50	(178,463)	178,463	(70,818)	-6000	(12,150)	(88,968)	(0.2493)	(88,968)	89,487				89,497	0.2507	17,700
GSC-83	Kahn	Barbara	ING	12/17/07	8.500	275,820	244,920	1.0500	257,166	0.65	(167,158)	90,008	(31,707)	(6,000)	-	(37,707)	(0.1466)	(37,707)	52,301	0.05	(12,858)		39,443	0.1534	14,450
GSC-84	Delaney	James	Phoenix	12/17/07	10.000	376,990	348,290	1.1000	383,119	0.65	(249,027)	134,092	(43,598)	(6,000)	-	(49,598)	(0.1295)	(49,598)	84,494				84,494	0.2305	19,200
GSC-85	Schlenger	Monroe	Jeff Pilot	12/17/07	8.000	282,450	264,250	1.0849	286,865	0.60	(172,011)	114,674	(45,296)	-6000	(8,856)	(60,152)	(0.2098)	(60,152)	54,522				54,522	0.1902	14,200
GSC-86	Isenberg	Alice	Jeff Pilot	12/19/07	6.000	171,820	141,120	1.1400	160,877	0.60	(96,526)	64,351	(28,767)	(6,000)	-	(32,767)	(0.2036)	(32,767)	31,594				31,594	0.1964	14,450
GSC-87	Richman	Herbert	Phoenix	12/19/07	10.000	521,090	490,390	0.9700	475,678	-	0	475,678	(89,945)	(6,000)	-	(95,945)	(0.1386)	(65,945)	409,733	0.85	(286,678)		122,956	0.2583	19,200
GSC-88	Well	Sheldon	Jeff Pilot	12/19/07	4.000	226,360	198,160	1.0849	214,984	0.70	(150,489)	64,495	(24,069)	-6000	(7,000)	(47,569)	(0.2213)	(47,569)	18,926				18,926	0.0787	15,700
GSC-89	Sabe	Stephanie	AIG	12/19/07	10.000	526,300	495,600	1.0300	510,468	0.65	(331,804)	178,664	(60,644)	-6000	(7,444)	(73,988)	(0.1405)	(73,988)	104,676				104,676	0.2051	17,700
GSC-90	Young	James	Jeff Pilot	12/19/07	30.000	1,316,290	1,278,900	1.1348	1,449,998	0.80	(868,199)	578,799	(203,485)	-6000	(38,199)	(247,684)	(0.1712)	(247,684)	331,116				331,116	0.2288	21,950
GSC-91	Mennenga	Phyllis	Jeff Pilot	12/20/07	10.000	256,800	226,100	1.1400	257,734	0.60	(154,652)	103,102	(39,084)	(6,000)	-	(45,084)	(0.1749)	(45,084)	58,018				58,018	0.2251	19,200
GSC-92	Hyman	Arlene	Jeff Pilot	12/20/07	10.000	370,500	339,800	1.1400	387,372	0.60	(232,423)	154,949	(58,887)	-6000	(15,955)	(78,842)	(0.2035)	(78,842)	76,107				76,107	0.1965	16,700
GSC-93	Malherbe	Earl	Phoenix	12/21/07	10.000	574,790	544,090	1.1000	598,499	0.85	(388,996)	209,459	(66,116)	(6,000)	-	(72,116)	(0.1205)	(72,116)	137,341	0.05	(9,521)		127,820	0.2136	16,700
GSC-94	Arenberg	Harold	Phoenix	12/21/07	7.500	428,430	417,930	1.1000	459,723	-	0	459,723	(49,285)	-	-	(49,285)	(0.1072)	(49,285)	410,438				410,438	0.8928	6,500
GSC-100	Evans	Richard	Jeff Pilot	12/27/07	10.000	357,500	324,800	1.0849	352,376	0.60	(211,425)	140,950	(54,584)	(6,000)	(4,210)	(64,794)	(0.1839)	(64,794)	76,156	0.05	(3,884)		70,472	0.2000	21,200
GSC-101	Gelardi	Robert	Phoenix	12/27/07	5.000	247,075	218,975	1.0900	238,119	0.65	(155,427)	82,692	(28,423)	(6,000)	-	(34,423)	(0.1440)	(34,423)	49,269	0.05	(10,969)		38,300	0.1602	15,200

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GSC-95	Cedare	Rocco	Phoenix	12/27/07	5.000	383,200	325,600	1.1000	357,800	0.65	(232,370)	125,128	(40,631)	(5,000)	-	(45,631)	(0.1304)		(45,631)	79,494				79,494	0.2196	15,200
GSC-96	Payne	Bendel	Phoenix	12/27/07	6.000	223,795	193,096	1.1000	212,406	0.65	(138,064)	74,342	(25,745)	(6,000)	-	(31,745)	(0.1495)		(31,745)	42,597				42,597	0.2005	19,200
GSC-97	Wright	Peter	AIG	12/27/07	20.000	1,151,500	1,094,600	1.0330	1,127,844	0.65	(732,999)	394,875	(130,164)	-8000	(15,064)	(181,229)	(0.1607)		(181,229)	213,447				213,447	0.1893	22,700
GSC-98	Schawyer	Frank	AIG	12/27/07	20.000	1,210,500	1,174,600	1.0330	1,210,044	0.65	(786,529)	423,515	(139,252)	-8000	(65,857)	(211,109)	(0.1745)		(211,109)	212,406				212,406	0.1755	24,200
GSC-99	Arensen	Hubert	Phoenix	12/27/07	4.000	254,824	229,624	1.0894	246,884	0.65	(160,475)	86,409	(29,314)	(6,000)	-	(35,314)	(0.1430)		(35,314)	51,095				51,095	0.2070	18,700
GSC-102	Shurtliff	Joanne	ING	12/28/07	5.000	229,900	201,600	1.0300	211,680	0.65	(137,592)	74,088	(29,436)	(6,000)	-	(35,436)	(0.1532)		(33,436)	41,653	0.05	(10,584)		31,069	0.1468	19,200
GSC-103	Sandbulte	Arend	Phoenix	12/28/07	7.000	389,653	358,953	1.1000	394,848	0.65	(256,651)	138,197	(44,825)	(6,000)	-	(50,825)	(0.1287)		(50,825)	87,372				87,372	0.2213	17,700
GSC-104	Nepemucen	Edna	Phoenix	12/28/07	4.000	193,444	163,244	1.1000	179,568	0.65	(116,719)	62,849	(18,824)	(6,000)	-	(24,824)	(0.1382)		(24,824)	38,025				38,025	0.2118	18,100
GSC-105	Nachowitz	Sidney	AIG	12/31/07	10.000	387,000	365,500	1.0300	396,095	0.65	(258,762)	139,333	(45,669)	0	(12,046)	(57,715)	(0.1450)		(57,715)	81,618				81,618	0.2050	
GSC-106	Nachowitz	Sidney	Phoenix	12/31/07	10.000	660,000	660,000	1.1000	550,000	0.65	(357,500)	192,500	(68,215)	-8000	-	(71,215)	(0.1295)		(71,215)	121,285			324	121,609	0.2211	27,200
GSC-108	Smith	Nancy	Jeff Pilot	12/31/07	7.000	261,490	230,790	1.1349	261,924	0.60	(157,154)	104,769	(39,178)	(6,000)	(2,442)	(47,621)	(0.1816)		(47,621)	57,148	0.05	(4,618)		52,533	0.2006	17,700
GSC-107	Mills	Ed	Phoenix	12/31/07	8.000	256,375	231,175	1.1000	254,293	0.65	(165,290)	89,002	(29,838)	(6,000)	-	(35,838)	(0.1409)		(35,838)	53,164	0.05	(4,046)		49,119	0.1932	18,700
	Totals				1,999,230	93,661,818	86,175,623	287	94,423,797	153	(55,668,687)	38,966,314	(11,464,693)	(869,356)	(1,691,928)	(13,415,551)	(24)	(126,498)	(13,555,759)	25,410,456	11	(3,840,291)	(277,649)	21,493,587	60	3,336,199

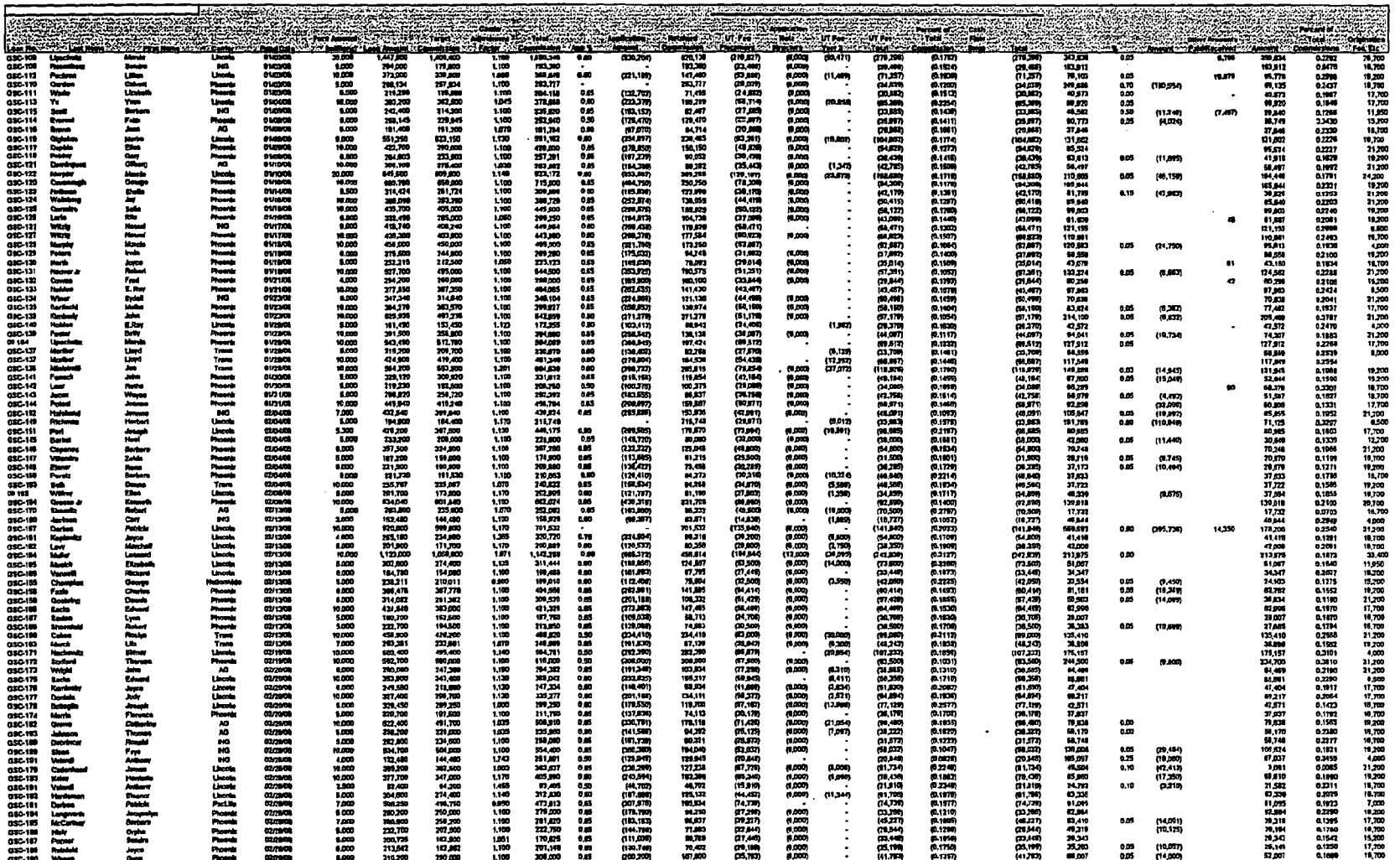
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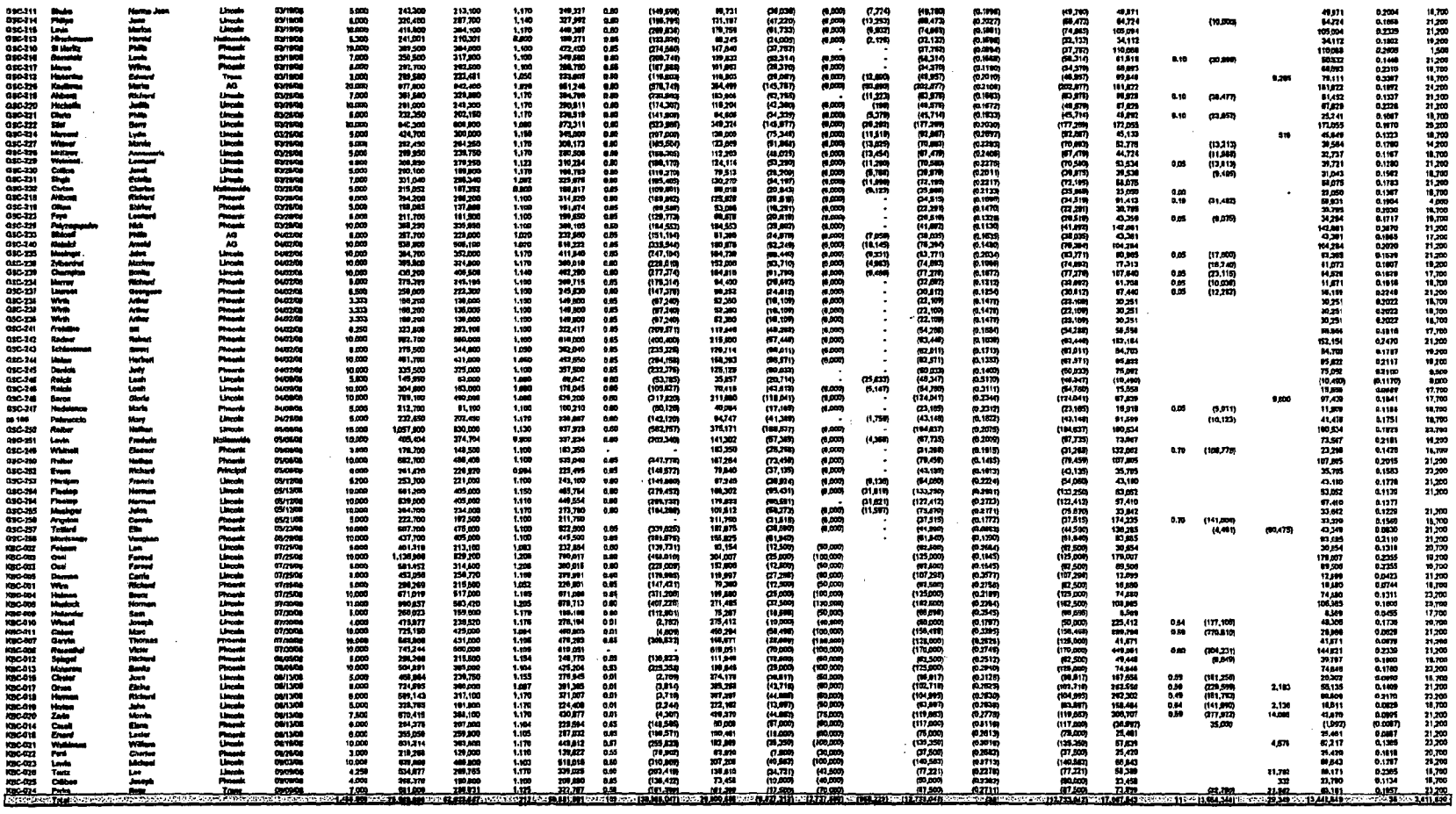
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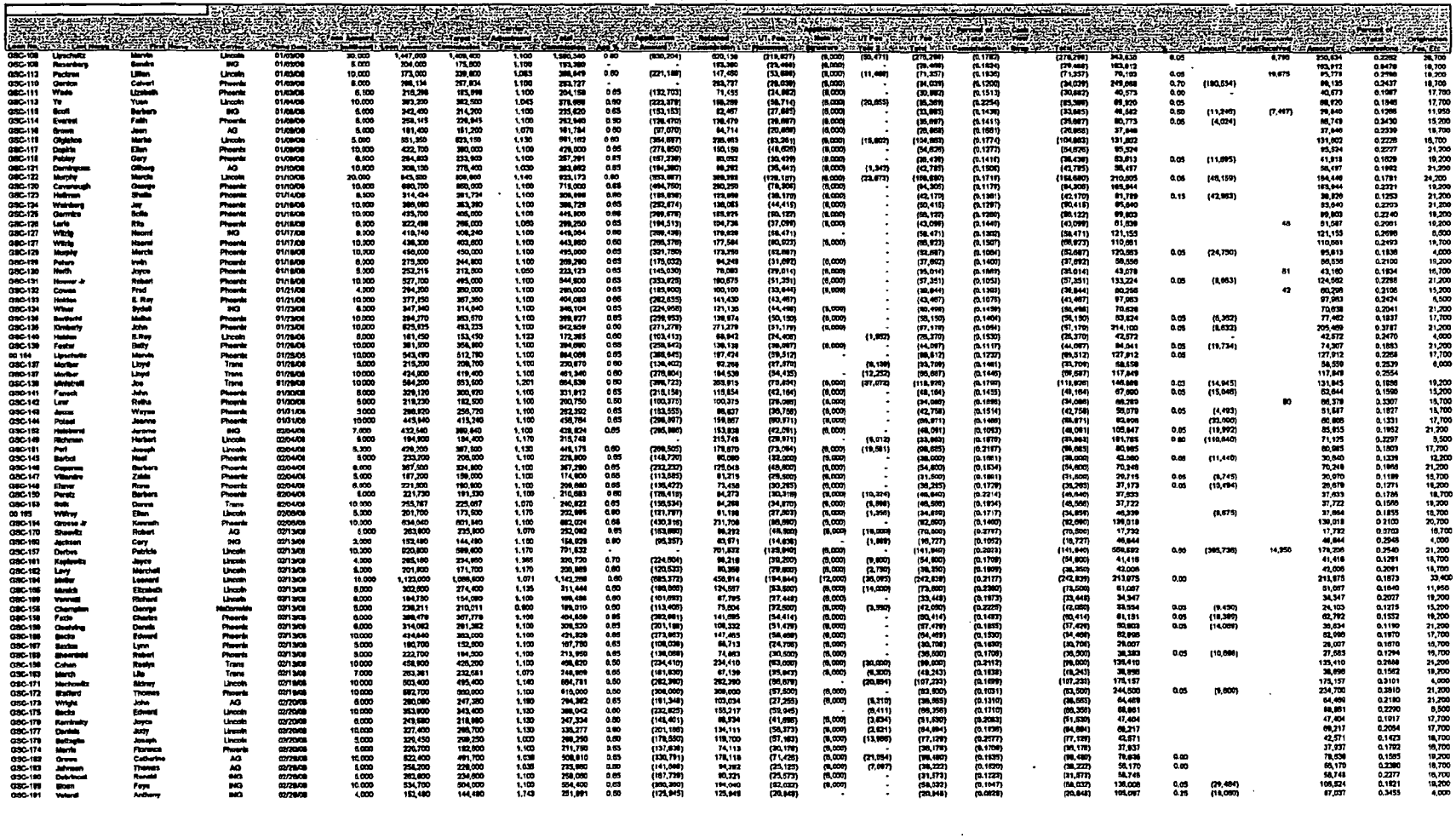
DOCUMENTS RESPONSIVE TO REQUEST NUMBER(S) 5-6 and 16

Part of 5-6 & 16

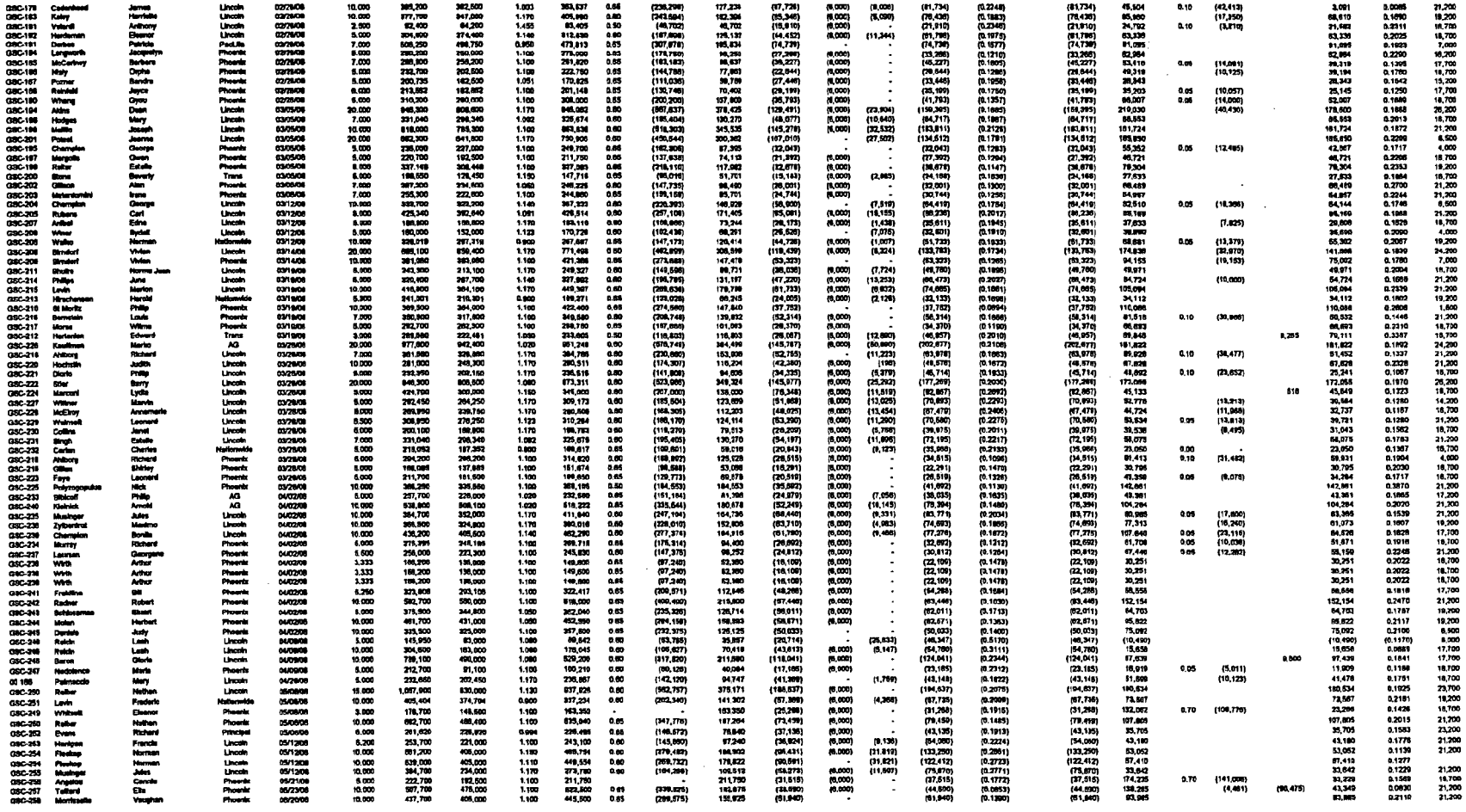
2008 Net Retained Commissions (also provided in Excel format)

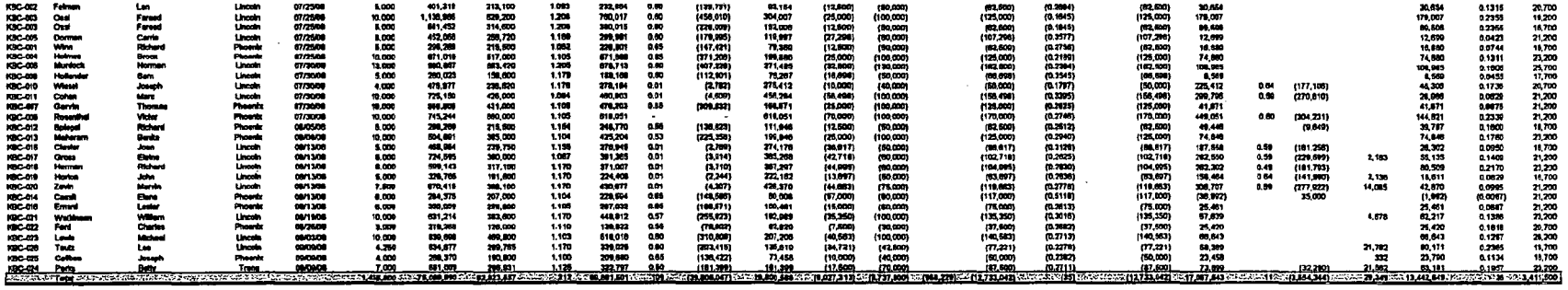






TS002949





DOCUMENTS RESPONSIVE TO REQUEST NUMBER(S) 8-9

LIC HOLDINGS, INC.
ANALYSIS OF SHAREHOLDERS AND SHAREHOLDINGS
INCEPTION - PRESENT

	Percentage Ownership		
	Inception 9/1/2006 To 12/31/10	1/1/2011 To 9/13/2012	9/14/2012 To Present
Simon Bernstein	33.00	36.70	
Estate of Simon Bernstein			36.70
Ted Bernstein	45.00	50.00	50.00
William Stansbury	10.00		
Alexandra Bernstein Irrevocable Trust	1.20	1.33	1.33
Daniel Bernstein Irrevocable Trust	1.20	1.33	1.33
Eric Bernstein Irrevocable Trust	1.20	1.33	1.33
Jacob Bernstein Irrevocable Trust	1.20	1.33	1.33
Josh Bernstein Irrevocable Trust	1.20	1.33	1.33
Michael Bernstein Irrevocable Trust	1.20	1.33	1.33
Carly Friedstein Irrevocable Trust	1.20	1.33	1.33
Max Friedstein Irrevocable Trust	1.20	1.33	1.33
Julia Iantoni Irrevocable Trust	1.20	1.33	1.33
Molly Simon Irrevocable Trust	1.20	1.33	1.33
	100.00	100.00	100.00

LIC HOLDINGS, INC.
ARBITRAGE INTERNATIONAL MANAGEMENT, LLC
OFFICERS

LIC Holdings, Inc.

Annual Report Date	Title	Name
7/31/2006	PD	Simon Bernstein
	VSTD	Ted Bernstein
2/26/2007		No Change
1/18/2008		No Change
1/16/2009		No Change
4/16/2010		No Change
3/16/2011		No Change
4/11/2012	PD	Ted Bernstein
	VSTD	Simon Bernstein
4/14/2013	PD	Ted Bernstein
	VSTD	None

Arbitrage International Management, LLC

6/27/2006	MGRM	Simon Bernstein
8/1/2006		No Change
2/6/2007		No Change
1/18/2008		No Change
1/15/2009		No Change
4/16/2010	MGR	Simon Bernstein
3/15/2011		No Change
8/28/2012		No Change
4/16/2013	MGR	Ted Bernstein

LIC-AIM-TB-000026

DOCUMENTS RESPONSIVE TO REQUEST NUMBER(S) 14

☐ CORRECTED (if checked)

PAYER'S name, street address, city, state, ZIP code, and telephone no.	1 Rents	OMB No. 1545-0115	
WILLIAM E STANSBURY 950 PENINSULA CORPORATE CIRCLE SUITE 3010 BOCA RATON FL 33487	$ 2 Royalties $	2007 Form 1099-MISC	Miscellaneous Income
	3 Other income $	4 Federal income tax withheld $	Copy B For Recipient
PAYER'S federal identification number [redacted] / RECIPIENT'S identification number	5 Fishing boat proceeds $	6 Medical and health care payments $	
RECIPIENT'S name ARBITRAGE INTERNATIONAL MANAGEMENT Street address (including apt. no.) 950 PENINSULA CORPORATE CIRCLE SUITE 3010 City, state, and ZIP code Boca Raton FL 33487	7 Nonemployee compensation $ 14575766.26 9 Payer made direct sales of $5,000 or more of consumer products to a buyer (recipient) for resale ▶ ☐ 11	8 Substitute payments in lieu of dividends or interest $ 10 Crop insurance proceeds $ 12	This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.
Account number (see instructions)	13 Excess golden parachute payments $	14 Gross proceeds paid to an attorney $	
15a Section 409A deferrals $	15b Section 409A income $	16 State tax withheld $ $	17 State/Payer's state no.	18 State income $ $

Form 1099-MISC (keep for your records) Department of the Treasury - Internal Revenue Service

DAA

WOMSPERF RTP 0487

LIC-AIM-TB-000028

☐ CORRECTED (if checked)

PAYER'S name, street address, city, state, ZIP code, and telephone no.	1 Rents $	OMB No. 1545-0115	Miscellaneous Income
WILLIAM E STANSBURY 950 PENINSULA CORPORATE CIRCLE SUITE 3010 BOCA RATON FL 33487	2 Royalties $	2008 Form 1099-MISC	
	3 Other income $	4 Federal income tax withheld $	Copy B For Recipient
PAYER'S federal identification number [redacted]	RECIPIENT'S identification number	5 Fishing boat proceeds $	6 Medical and health care payments $
RECIPIENT'S name ARBITRAGE INTERNATIONAL MARKETING		7 Nonemployee compensation $ 2979139.90	8 Substitute payments in lieu of dividends or interest $
Street address (including apt. no.) 950 PENINSULA CORPORATE CIRCLE SUITE 3010		9 Payer made direct sales of $5,000 or more of consumer products to a buyer (recipient) for resale ▶ ☐	10 Crop insurance proceeds $
City, state, and ZIP code Boca Raton FL 33487		11 [redacted]	12 [redacted]
Account number (see instructions)		13 Excess golden parachute payments $	14 Gross proceeds paid to an attorney $
15a Section 409A deferrals $	15b Section 409A income $	16 State tax withheld $	17 State/Payer's state no.	18 State income $

This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.

Form 1099-MISC (keep for your records) Department of the Treasury - Internal Revenue Service

DAA

NTF 0407

WONEPERF

LIC-AIM-TB-000029

☐ CORRECTED (if checked)

PAYER'S name, street address, city, state, ZIP code, and telephone no	1 Rents	OMB No. 1545-0115	
WILLIAM E STANSBURY 950 PENINSULA CORPORATE CIRCLE SUITE 3010 BOCA RATON FL 33487	$	2009	Miscellaneous Income
	2 Royalties $	Form 1099-MISC	
	3 Other income $	4 Federal income tax withheld $	Copy B For Recipient
PAYER'S federal identification number	RECIPIENT'S identification number [redacted]	5 Fishing boat proceeds $	6 Medical and health care payments $
RECIPIENT'S name ARBITRAGE INTERNATIONAL MARKETING	7 Nonemployee compensation $ 100371.33	8 Substitute payments in lieu of dividends or interest $	This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.
Street address (including apt. no.) 950 PENINSULA CORPORATE CIRCLE SUITE 3010	9 Payer made direct sales of $5,000 or more of consumer products to a buyer (recipient) for resale ▶ ☐	10 Crop insurance proceeds $	
City, state, and ZIP code Boca Raton FL 33487	11	12	
Account number (see instructions)	13 Excess golden parachute payments $	14 Gross proceeds paid to an attorney $	
15a Section 409A deferrals $	15b Section 409A income $	16 State tax withheld $	17 State/Payer's state no.	18 State income $

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DAA

WONEPERF

MF 9407

LIC-AIM-TB-000030

☐ CORRECTED (if checked)

PAYER'S name, street address, city, state, ZIP code, and telephone no.	1 Rents	OMB No. 1545-0115	Miscellaneous Income
WILLIAM E STANSBURY 950 PENINSULA CORPORATE CIRCLE SUITE 3010 BOCA RATON FL 33487	$ 2 Royalties $	2010 Form 1099-MISC	
	3 Other income $	4 Federal income tax withheld $	Copy B For Recipient
PAYER'S federal identification number [redacted] / RECIPIENT'S identification number	5 Fishing boat proceeds $	6 Medical and health care payments $	
RECIPIENT'S name ARBITRAGE INTERNATIONAL MARKETING Street address (including apt. no.) 950 PENINSULA CORPORATE CIRCLE SUITE 3010 City, state, and ZIP code Boca Raton FL 33487	7 Nonemployee compensation $ 124399.63	8 Substitute payments in lieu of dividends or interest $	This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.
	9 Payer made direct sales of $5,000 or more of consumer products to a buyer (recipient) for resale ▶ ☐	10 Crop insurance proceeds $	
Account number (see instructions)	11 [redacted]	12 [redacted]	
	13 Excess golden parachute payments $	14 Gross proceeds paid to an attorney $	
15a Section 409A deferrals $	15b Section 409A income $	16 State tax withheld $ $	17 State/Payer's state no.	18 State income $ $

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DAA

NTF. 0487

WONEPERF

LIC-AIM-TB-000031

☐ CORRECTED (if checked)

PAYER'S name, street address, city, state, ZIP code, and telephone no.	1 Rents	OMB No. 1545-0115	Miscellaneous Income
WILLIAM E. STANSBURY 6920 CAVIRO LANE BOYNTON BEACH, FL 33437 561-375-9703	$	2011	
	2 Royalties $	Form 1099-MISC	
	3 Other income $ 149,112.51	4 Federal income tax withheld $	Copy B For Recipient
PAYER'S federal identification number / RECIPIENT'S identification number [redacted]	5 Fishing boat proceeds $	6 Medical and health care payments $	
RECIPIENT'S name, address, and ZIP code ARA TRADE INTERNATIONAL MKT. 950 PENINSULA CORP. CIR. #3110 BOCA RATON, FL 33487	7 Nonemployee compensation $	8 Substitute payments in lieu of dividends or interest $	This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.
	9 Payer made direct sales of $5,000 or more of consumer products to a buyer (recipient) for resale ▶ ☐	10 Crop insurance proceeds $	
	11	12	
Account number (see instructions)	13 Excess golden parachute payments $	14 Gross proceeds paid to an attorney $	
15a Section 409A deferrals $	15b Section 409A income $	16 State tax withheld $ $	17 State/Payer's state no. / 18 State income $ $

Form 1099-MISC (keep for your records) 38-2099803 Department of the Treasury - Internal Revenue Service

☐ CORRECTED (if checked)

PAYER'S name, street address, city, state, ZIP code, and telephone no.	1 Rents	OMB No. 1545-0115	Miscellaneous Income
	$	2011	
	2 Royalties $	Form 1099-MISC	
	3 Other income $	4 Federal income tax withheld $	Copy B For Recipient
PAYER'S federal identification number / RECIPIENT'S identification number	5 Fishing boat proceeds $	6 Medical and health care payments $	
RECIPIENT'S name, address, and ZIP code	7 Nonemployee compensation $	8 Substitute payments in lieu of dividends or interest $	This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.
	9 Payer made direct sales of $5,000 or more of consumer products to a buyer (recipient) for resale ▶ ☐	10 Crop insurance proceeds $	
	11	12	
Account number (see instructions)	13 Excess golden parachute payments $	14 Gross proceeds paid to an attorney $	
15a Section 409A deferrals $	15b Section 409A income $	16 State tax withheld $ $	17 State/Payer's state no. / 18 State income $ $

Form 1099-MISC (keep for your records) 38-2099803 Department of the Treasury - Internal Revenue Service

BMISREC NTF 2575721

LIC-AIM-TB-000032

9595 ☐ VOID ☐ CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone no.	1 Rents	OMB No. 1545-0115	Miscellaneous Income
SIMON BERNSTEIN 950 PENINSULA CORPORATE CIRCLE STE 3010 BOCA RATON FL 33487	$	2007 Form 1099-MISC	
	2 Royalties $		
	3 Other income $	4 Federal income tax withheld $	Copy A For Internal Revenue Service Center
PAYER'S federal identification number / RECIPIENT'S identification number [redacted]	5 Fishing boat proceeds $	6 Medical and health care payments $	File with Form 1096.
RECIPIENT'S name ARBITRAGE INTERNATIONAL MANAGEMENT	7 Nonemployee compensation $ 8795654.45	8 Substitute payments in lieu of dividends or interest $	For Privacy Act and Paperwork Reduction Act Notice, see the 2007 General Instructions for Forms 1099, 1098, 5498, and W-2G.
Street address (including apt. no.) 950 PENINSULA CORPORATE CIRCLE SUITE 3010	9 Payer made direct sales of $5,000 or more of consumer products to a buyer (recipient) for resale ▶ ☐	10 Crop insurance proceeds $	
City, state, and ZIP code Boca Raton FL 33487	11	12	
Account number (see instructions) / 2nd TIN not. ☐	13 Excess golden parachute payments $	14 Gross proceeds paid to an attorney $	
15a Section 409A deferrals $	15b Section 409A income $	16 State tax withheld $	17 State/Payer's state no.	18 State income $

Form 1099-MISC — Department of the Treasury - Internal Revenue Service — 38-2099803

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9595 ☒ VOID ☐ CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone no.	1 Rents	OMB No. 1545-0115	Miscellaneous Income
	$	2007 Form 1099-MISC	
	2 Royalties $		
	3 Other income $	4 Federal income tax withheld $	Copy A For Internal Revenue Service Center
PAYER'S federal identification number / RECIPIENT'S identification number	5 Fishing boat proceeds $	6 Medical and health care payments $	File with Form 1096.
RECIPIENT'S name	7 Nonemployee compensation $	8 Substitute payments in lieu of dividends or interest $	For Privacy Act and Paperwork Reduction Act Notice, see the 2007 General Instructions for Forms 1099, 1098, 5498, and W-2G.
Street address (including apt. no.)	9 Payer made direct sales of $5,000 or more of consumer products to a buyer (recipient) for resale ▶ ☐	10 Crop insurance proceeds $	
City, state, and ZIP code	11	12	
Account number (see instructions) / 2nd TIN not. ☐	13 Excess golden parachute payments $	14 Gross proceeds paid to an attorney $	
15a Section 409A deferrals $	15b Section 409A income $	16 State tax withheld $	17 State/Payer's state no.	18 State income $

Form 1099-MISC — Department of the Treasury - Internal Revenue Service — 38-2099803

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BMISFED NTF2371113

LIC-AIM-TB-000033

9595 ☐VOID ☐CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone no.	1 Rents	OMB No. 1545-0115	Miscellaneous Income
SIMON BERNSTEIN 950 PENINSULA CORPORATE CIRCLE STE 3010 BOCA RATON FL 33487	$ 2 Royalties $	2008 Form 1099-MISC	
	3 Other income $	4 Federal income tax withheld $	Copy A For Internal Revenue Service Center
PAYER'S federal identification number [redacted] / RECIPIENT'S identification	5 Fishing boat proceeds $	6 Medical and health care payments $	File with Form 1096.
RECIPIENT'S name Arbitrage International Marketing	7 Nonemployee compensation $ 15766018.47	8 Substitute payments in lieu of dividends or interest $	For Privacy Act and Paperwork Reduction Act Notice, see the 2008 General Instructions for Forms 1099, 1098, 5498, and W-2G.
Street address (including apt. no.) 950 Peninsula Corporate Circle Suite 3010	9 Payer made direct sales of $5,000 or more of consumer products to a buyer (recipient) for resale ▶ ☐	10 Crop insurance proceeds $	
City, state, and ZIP code Boca Raton FL 33487	11	12	
Account number (see instructions) / 2nd TIN not. ☐	13 Excess golden parachute payments $	14 Gross proceeds paid to an attorney $	
15a Section 409A deferrals $	15b Section 409A income $	16 State tax withheld $	17 State/Payer's state no.	18 State income $

Form 1099-MISC — Department of the Treasury - Internal Revenue Service — 38-2099803

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9595 ☒VOID ☐CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone no.	1 Rents	OMB No. 1545-0115	Miscellaneous Income
	$ 2 Royalties $	2008 Form 1099-MISC	
	3 Other income $	4 Federal income tax withheld $	Copy A For Internal Revenue Service Center
PAYER'S federal identification number / RECIPIENT'S identification number	5 Fishing boat proceeds $	6 Medical and health care payments $	File with Form 1096.
RECIPIENT'S name	7 Nonemployee compensation $	8 Substitute payments in lieu of dividends or interest $	For Privacy Act and Paperwork Reduction Act Notice, see the 2008 General Instructions for Forms 1099, 1098, 5498, and W-2G.
Street address (including apt. no.)	9 Payer made direct sales of $5,000 or more of consumer products to a buyer (recipient) for resale ▶ ☐	10 Crop insurance proceeds $	
City, state, and ZIP code	11	12	
Account number (see instructions) / 2nd TIN not. ☐	13 Excess golden parachute payments $	14 Gross proceeds paid to an attorney $	
15a Section 409A deferrals $	15b Section 409A income $	16 State tax withheld $	17 State/Payer's state no.	18 State income $

Form 1099-MISC — Department of the Treasury - Internal Revenue Service — 38-2099803

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BMISFED MTF257/1678

LIC-AIM-TB-000034

9595 ☐VOID ☐CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone no.	1 Rents	OMB No. 1545-0115	Miscellaneous Income
SIMON BERNSTEIN 950 PENINSULA CORPORATE CIRCLE STE 3010 BOCA RATON FL 33487	$	2009	
	2 Royalties $	Form 1099-MISC	
	3 Other income $	4 Federal income tax withheld $	Copy A For Internal Revenue Service Center
PAYER'S federal identification number 11	RECIPIENT'S identification number	5 Fishing boat proceeds $	6 Medical and health care payments $	File with Form 1096.
RECIPIENT'S name Arbitrage International Marketing		7 Nonemployee compensation $ 16580.00	8 Substitute payments in lieu of dividends or interest $	For Privacy Act and Paperwork Reduction Act Notice, see the 2009 General Instructions for Forms 1099, 1098, 3921, 3922, 5498, and W-2G.
Street address (including apt. no.) 950 Peninsula Corporate Circle Suite 3010		9 Payer made direct sales of $5,000 or more of consumer products to a buyer (recipient) for resale ▶ ☐	10 Crop insurance proceeds $	
City, state, and ZIP code Boca Raton FL 33487		11	12	
Account number (see instructions)	2nd TIN not. ☐	13 Excess golden parachute payments $	14 Gross proceeds paid to an attorney $	
15a Section 409A deferrals $	15b Section 409A income $	16 State tax withheld $ $	17 State/Payer's state no.	18 State income $ $

Form 1099-MISC 38-2099803 Department of the Treasury - Internal Revenue Service

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PAYER'S name, street address, city, state, ZIP code, and telephone no.	1 Rents	OMB No. 1545-0115	Miscellaneous Income
	$	2009	
	2 Royalties $	Form 1099-MISC	
	3 Other income $	4 Federal income tax withheld $	Copy A For Internal Revenue Service Center
PAYER'S federal identification number	RECIPIENT'S identification number	5 Fishing boat proceeds $	6 Medical and health care payments $	File with Form 1096.
RECIPIENT'S name		7 Nonemployee compensation $	8 Substitute payments in lieu of dividends or interest $	For Privacy Act and Paperwork Reduction Act Notice, see the 2009 General Instructions for Forms 1099, 1098, 3921, 3922, 5498, and W-2G.
Street address (including apt. no.)		9 Payer made direct sales of $5,000 or more of consumer products to a buyer (recipient) for resale ▶ ☐	10 Crop insurance proceeds $	
City, state, and ZIP code		11	12	
Account number (see instructions)	2nd TIN not. ☐	13 Excess golden parachute payments $	14 Gross proceeds paid to an attorney $	
15a Section 409A deferrals $	15b Section 409A income $	16 State tax withheld $ $	17 State/Payer's state no.	18 State income $ $

Form 1099-MISC 38-2099803 Department of the Treasury - Internal Revenue Service

BMISFBD

LIC-AIM-TB-000035

9595 ☐ VOID ☐ CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone no.	1 Rents	OMB No. 1545-0115	Miscellaneous Income
SIMON BERNSTEIN 950 PENINSULA CORPORATE CIRCLE STE 3010 BOCA RATON FL 33487	$ 2 Royalties $	2010 Form 1099-MISC	
	3 Other income $	4 Federal income tax withheld $	Copy A For Internal Revenue Service Center
PAYER'S federal identification number [redacted]	RECIPIENT'S identification number [redacted]	5 Fishing boat proceeds $	6 Medical and health care payments $	File with Form 1096.
RECIPIENT'S name Arbitrage International Marketing		7 Nonemployee compensation $ 87667.45	8 Substitute payments in lieu of dividends or interest $	For Privacy Act and Paperwork Reduction Act Notice, see the 2010 General Instructions for Certain Information Returns.
Street address (including apt. no.) 950 Peninsula Corporate Circle Suite 3010		9 Payer made direct sales of $5,000 or more of consumer products to a buyer (recipient) for resale ▶ ☐	10 Crop insurance proceeds $	
City, state, and ZIP code Boca Raton FL 33487		11	12	
Account number (see instructions)	2nd TIN not. ☐	13 Excess golden parachute payments $	14 Gross proceeds paid to an attorney $	
15a Section 409A deferrals $	15b Section 409A income $	16 State tax withheld $	17 State/Payer's state no.	18 State income $

Form 1099-MISC — 38-2099803 — Department of the Treasury - Internal Revenue Service

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9595 ☒ VOID ☐ CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone no.	1 Rents	OMB No. 1545-0115	Miscellaneous Income
	$ 2 Royalties $	2010 Form 1099-MISC	
	3 Other income $	4 Federal income tax withheld $	Copy A For Internal Revenue Service Center
PAYER'S federal identification number	RECIPIENT'S identification number	5 Fishing boat proceeds $	6 Medical and health care payments $	File with Form 1096.
RECIPIENT'S name		7 Nonemployee compensation $	8 Substitute payments in lieu of dividends or interest $	For Privacy Act and Paperwork Reduction Act Notice, see the 2010 General Instructions for Certain Information Returns.
Street address (including apt. no.)		9 Payer made direct sales of $5,000 or more of consumer products to a buyer (recipient) for resale ▶ ☐	10 Crop insurance proceeds $	
City, state, and ZIP code		11	12	
Account number (see instructions)	2nd TIN not. ☐	13 Excess golden parachute payments $	14 Gross proceeds paid to an attorney $	
15a Section 409A deferrals $	15b Section 409A income $	16 State tax withheld $	17 State/Payer's state no.	18 State income $

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BMISFED NTF 257403

LIC-AIM-TB-000036

☐ CORRECTED (if checked)

PAYER'S name, street address, city, state, ZIP code, and telephone no.	1 Rents	OMB No. 1545-0115	
SIMON BERNSTEIN 950 PENINSULA CORPORATE CIRCLE STE 3010 BOCA RATON FL 33487	$ 2 Royalties $	2011 Form 1099-MISC	Miscellaneous Income
	3 Other income $	4 Federal income tax withheld $	Copy B For Recipient
PAYER'S federal identification number [redacted] / RECIPIENT'S identification number	5 Fishing boat proceeds	6 Medical and health care payments $	
RECIPIENT'S name Arbitrage International Marketing Street address (including apt. no.) 950 Peninsula Corporate Circle Suite 3010 City, state, and ZIP code Boca Raton FL 33487	7 Nonemployee compensation $ 101770.62 9 Payer made direct sales of $5,000 or more of consumer products to a buyer (recipient) for resale ▶ ☐ 11	8 Substitute payments in lieu of dividends or interest $ 10 Crop insurance proceeds $ 12	This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.
Account number (see instructions)	13 Excess golden parachute payments $	14 Gross proceeds paid to an attorney $	
15a Section 409A deferrals $ / 15b Section 409A income $	16 State tax withheld $ $	17 State/Payer's state no.	18 State income $ $

Form 1099-MISC (keep for your records) Department of the Treasury - Internal Revenue Service

DAA

LIC-AIM-TB-000037

9595 ☐VOID ☐CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone no.	1 Rents	OMB No. 1545-0115	Miscellaneous Income
TED S BERNSTEIN 950 PENINSULA CORPORATE CIRCLE SUITE 310 BOCA RATON FL 33487	$ 2 Royalties $	2008 Form 1099-MISC	
	3 Other income $	4 Federal income tax withheld $	Copy A For Internal Revenue Service Center
PAYER'S federal identification number / RECIPIENT'S identification number [redacted]	5 Fishing boat proceeds $	6 Medical and health care payments $	File with Form 1096.
RECIPIENT'S name ARBITRAGE INTERNATIONAL MARKETING	7 Nonemployee compensation $ 11741517.78	8 Substitute payments in lieu of dividends or interest $	For Privacy Act and Paperwork Reduction Act Notice, see the 2008 General Instructions for Forms 1099, 1098, 5498, and W-2G.
Street address (including apt. no.) 950 Peninsula Corporate Circle Suite 3010	9 Payer made direct sales of $5,000 or more of consumer products to a buyer (recipient) for resale ▶ ☐	10 Crop insurance proceeds $	
City, state, and ZIP code Boca Raton FL 33487	11	12	
Account number (see instructions) / 2nd TIN not. ☐	13 Excess golden parachute payments $	14 Gross proceeds paid to an attorney $	
15a Section 409A deferrals $	15b Section 409A income $	16 State tax withheld $	17 State/Payer's state no.	18 State income $

Form 1099-MISC — 38-2099803 — Department of the Treasury - Internal Revenue Service

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9595 ☒VOID ☐CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone no.	1 Rents	OMB No. 1545-0115	Miscellaneous Income
	$ 2 Royalties $	2008 Form 1099-MISC	
	3 Other income $	4 Federal income tax withheld $	Copy A For Internal Revenue Service Center
PAYER'S federal identification number / RECIPIENT'S identification number	5 Fishing boat proceeds $	6 Medical and health care payments $	File with Form 1096.
RECIPIENT'S name	7 Nonemployee compensation $	8 Substitute payments in lieu of dividends or interest $	For Privacy Act and Paperwork Reduction Act Notice, see the 2008 General Instructions for Forms 1099, 1098, 5498, and W-2G.
Street address (including apt. no.)	9 Payer made direct sales of $5,000 or more of consumer products to a buyer (recipient) for resale ▶ ☐	10 Crop insurance proceeds $	
City, state, and ZIP code	11	12	
Account number (see instructions) / 2nd TIN not. ☐	13 Excess golden parachute payments $	14 Gross proceeds paid to an attorney $	
15a Section 409A deferrals $	15b Section 409A income $	16 State tax withheld $	17 State/Payer's state no.	18 State income $

Form 1099-MISC — 38-2099803 — Department of the Treasury - Internal Revenue Service

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LIC-AIM-TB-000038

9595 ☐ VOID ☐ CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone no.	1 Rents	OMB No. 1545-0115	Miscellaneous Income
TED S BERNSTEIN 950 PENINSULA CORPORATE CIRCLE SUITE 3010 BOCA RATON FL 33487	$ 2 Royalties $	2009 Form 1099-MISC	
	3 Other income $	4 Federal income tax withheld $	Copy A For Internal Revenue Service Center
PAYER'S federal identification number [redacted] / RECIPIENT'S identification number	5 Fishing boat proceeds $	6 Medical and health care payments $	File with Form 1096.
RECIPIENT'S name ARBITRAGE INTERNATIONAL MARKETING	7 Nonemployee compensation $ 110279.16	8 Substitute payments in lieu of dividends or interest $	For Privacy Act and Paperwork Reduction Act Notice, see the 2009 General Instructions for Forms 1099, 1098, 3921, 3922, 5498, and W-2G.
Street address (including apt. no.) 950 Peninsula Corporate Circle Suite 3010	9 Payer made direct sales of $5,000 or more of consumer products to a buyer (recipient) for resale ▶ ☐	10 Crop insurance proceeds $	
City, state, and ZIP code Boca Raton FL 33487	11	12	
Account number (see instructions) 5 / 2nd TIN not. ☐	13 Excess golden parachute payments $	14 Gross proceeds paid to an attorney $	
15a Section 409A deferrals $	15b Section 409A income $	16 State tax withheld $	17 State/Payer's state no.	18 State income $

Form 1099-MISC — Department of the Treasury - Internal Revenue Service — 38-2099803

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9595 ☒ VOID ☐ CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone no.	1 Rents	OMB No. 1545-0115	Miscellaneous Income
	$ 2 Royalties $	2009 Form 1099-MISC	
	3 Other income $	4 Federal income tax withheld $	Copy A For Internal Revenue Service Center
PAYER'S federal identification number / RECIPIENT'S identification number	5 Fishing boat proceeds $	6 Medical and health care payments $	File with Form 1096.
RECIPIENT'S name	7 Nonemployee compensation $	8 Substitute payments in lieu of dividends or interest $	For Privacy Act and Paperwork Reduction Act Notice, see the 2009 General Instructions for Forms 1099, 1098, 3921, 3922, 5498, and W-2G.
Street address (including apt. no.)	9 Payer made direct sales of $5,000 or more of consumer products to a buyer (recipient) for resale ▶ ☐	10 Crop insurance proceeds $	
City, state, and ZIP code	11	12	
Account number (see instructions) / 2nd TIN not. ☐	13 Excess golden parachute payments $	14 Gross proceeds paid to an attorney $	
15a Section 409A deferrals $	15b Section 409A income $	16 State tax withheld $	17 State/Payer's state no.	18 State income $

Form 1099-MISC — Department of the Treasury - Internal Revenue Service — 38-2099803

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BMISFED

LIC-AIM-TB-000039

9595 ☐VOID ☐CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone no.	1 Rents	OMB No. 1545-0115	Miscellaneous Income
TED S BERNSTEIN 950 PENINSULA CORPORATE CIRCLE SUITE 3010 BOCA RATON FL 33487	$ 2 Royalties $	2010 Form 1099-MISC	
	3 Other income $	4 Federal income tax withheld $	Copy A For Internal Revenue Service Center
PAYER'S federal identification number [redacted] / RECIPIENT'S identification number	5 Fishing boat proceeds $	6 Medical and health care payments $	File with Form 1096.
RECIPIENT'S name ARBITRAGE INTERNATIONAL MARKETING	7 Nonemployee compensation 1994.24	8 Substitute payments in lieu of dividends or interest $	For Privacy Act and Paperwork Reduction Act Notice, see the 2010 General Instructions for Certain Information Returns.
Street address (including apt. no.) 950 Peninsula Corporate Circle Suite 3010	9 Payer made direct sales of $5,000 or more of consumer products to a buyer (recipient) for resale ▶ ☐	10 Crop insurance proceeds $	
City, state, and ZIP code Boca Raton FL 33487	11	12	
Account number (see instructions) / 2nd TIN not. ☐	13 Excess golden parachute payments $	14 Gross proceeds paid to an attorney $	
15a Section 409A deferrals $	15b Section 409A income $	16 State tax withheld $	17 State/Payer's state no.	18 State income $

Form 1099-MISC — Department of the Treasury - Internal Revenue Service — 39-2099803

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9595 ☒VOID ☐CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone no.	1 Rents	OMB No. 1545-0115	Miscellaneous Income
	$ 2 Royalties $	2010 Form 1099-MISC	
	3 Other income $	4 Federal income tax withheld $	Copy A For Internal Revenue Service Center
PAYER'S federal identification number / RECIPIENT'S identification number	5 Fishing boat proceeds $	6 Medical and health care payments $	File with Form 1096.
RECIPIENT'S name	7 Nonemployee compensation $	8 Substitute payments in lieu of dividends or interest $	For Privacy Act and Paperwork Reduction Act Notice, see the 2010 General Instructions for Certain Information Returns.
Street address (including apt. no.)	9 Payer made direct sales of $5,000 or more of consumer products to a buyer (recipient) for resale ▶ ☐	10 Crop insurance proceeds $	
City, state, and ZIP code	11	12	
Account number (see instructions) / 2nd TIN not. ☐	13 Excess golden parachute payments $	14 Gross proceeds paid to an attorney $	
15a Section 409A deferrals $	15b Section 409A income $	16 State tax withheld $	17 State/Payer's state no.	18 State income $

Form 1099-MISC — Department of the Treasury - Internal Revenue Service — 39-2099803

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LIC-AIM-TB-000040

Loan No.	Last Name	First Name	Carrier	Fund Date	Face Amount [millions]	Loan Amount	Target Commission	Carrier Adjustment Factor
00 017	Cohen	James	Hartford	01/17/07	5.000	167,000	142,500	1.1000
00 017	Cohen	James	Phoenix	01/17/07	10.000	329,784	329,784	1.1000
00 018	Fox	Richard	Phoenix	01/25/07	6.000	414,000	390,000	1.1000
00 019	Samuels	Rosalind	Phoenix	02/07/07	4.000	161,584	137,584	1.1000
00 019	Samuels	Rosalind	Phoenix	02/07/07	4.000	141,148	141,148	1.1000
00 020	Bell	Martin	Hartford	02/08/07	5.000	307,850	284,350	1.1000
00 021	Blackburn	Sadie	Mass Mut	02/23/07	5.000	297,650	292,650	0.9350
00 022	Cohen	James	Penn Mut	02/27/07	10.000	321,300	315,800	0.9900
00 023	Fidel	Bernard	Phoenix	04/06/07	5.000	281,742	257,742	1.1000
00 024	Mulkey	David	Mass Mut	04/12/07	10.000	262,800	239,300	0.9350
00 025	Morello	Lucille	Phoenix	04/13/07	10.000	542,062	518,562	1.1000
00 026	Bader	Sidney	Penn Mut	04/24/07	10.000	712,500	688,500	0.9900
00 027	Freedman	Kole	Phoenix	05/04/07	6.000	414,000	390,000	1.1000
00 028	Shapiro	Dorothy	Phoenix	05/09/07	4.500	267,535	244,035	1.1000
00 029	Raymes	Frederick	Phoenix	05/09/07	5.000	327,264	303,264	1.1000
00 030	Kraus	Dorothy	Trans	05/15/07	20.000	1,423,500	955,200	1.0850
00 031	Gordon	Esther	Phoenix	05/17/07	10.000	412,737	388,737	1.1000
00 032	Sobel	Walter	Phoenix	05/30/07	5.000	262,172	238,672	1.1000
00 033	Goettsch	Jon	Jeff Pilot	06/04/07	5.750	161,838	129,893	1.0849
00 034	Stern	William	Jeff Pilot	06/06/07	10.000	555,500	531,500	1.0998
00 035	Mulkey	David	Mass Mut	06/14/07	10.000	246,000	239,300	0.9350
00 036	Bovarnick	David	Jeff Pilot	06/15/07	10.000	493,800	469,800	1.0998
00 037	Puzio	Emily	Hartford	06/15/07	5.000	269,433	229,500	1.1000
00 038	Zydel	Stephanie	Jeff Pilot	06/18/07	6.000	272,180	244,980	1.0849
00 039	Donahugh	Richard	Jeff Pilot	06/19/07	4.500	247,630	222,930	1.0849
00 040	Martin	Wencke	Jeff Pilot	06/19/07	5.000	136,350	111,650	1.0849
00 041	Ginsberg	Daniel	Phoenix	06/22/07	6.000	291,496	272,296	1.1000
00 042	Holmes	John - Per	Jeff Pilot	06/22/07	2.500	115,325	90,625	1.0849
00 043	Holmes	John - Bus	Jeff Pilot	06/25/07	2.550	117,138	92,438	1.0849
00 044	Smith	Jack	Phoenix	06/26/07	10.000	464,327	453,827	1.1000
00 045	Gray	Alvin	ING	06/28/07	2.000	156,500	131,300	1.0500
00 046	Gann	Donald	Jeff Pilot	06/28/07	5.000	272,014	240,000	1.0998
00 047	Melin	David	Phoenix	06/28/07	10.000	724,000	650,000	1.1015
00 048	Costello	Richard	Jeff Pilot	06/29/07	3.000	259,590	235,590	1.0998
00 049	Hofmeyer	Daryl	Jeff Pilot	06/29/07	5.000	168,000	143,300	1.0849
00 050	Pirozzi	Gloria	Phoenix	06/29/07	9.000	390,800	367,300	1.1000
00 051	Dabro	Kenneth	Jeff Pilot	07/03/07	10.000	545,407	505,800	1.0600
00 052	Docteroff	Norman	Jeff Pilot	07/05/07	10.000	474,300	446,600	1.0849
00 053	Drucker	Ronald	Phoenix	07/06/07	5.000	334,490	309,290	1.1000
00 054	Hibbard	Helene	Phoenix	07/10/07	10.000	528,255	500,555	1.1000
00 055	Camm	Marvin	Jeff Pilot	07/12/07	9.000	566,350	538,650	1.0849
00 056	Brewster	Patricia	Phoenix	07/12/07	4.500	178,780	155,280	1.1000

GSC-1	Ostad	Moshe-Haim	Phoenix	07/13/07	10.000	568,550	544,050	1.1000
00 057	Shaw	Linda	Phoenix	07/17/07	5.000	169,498	144,298	1.1000
00 058	Berman	Alan	Phoenix	07/19/07	10.000	450,600	439,100	1.1000
00 059	Berman	Alan	Jeff Pilot	07/19/07	10.000	452,700	425,000	1.1463
00 060	Malasky	John	Phoenix	07/19/07	7.000	451,770	424,570	1.1000
00 061	Einhorn	Norman	Jeff Pilot	07/19/07	5.000	206,450	181,250	1.0849
00 062	Spear	Marcia	Phoenix	07/19/07	9.000	338,259	310,559	1.1000
00 063	Herskowitz	Bernard	Jeff Pilot	07/23/07	10.000	431,500	404,300	1.0998
00 064	Herskowitz	Jerome	Jeff Pilot	07/23/07	10.000	522,600	495,400	1.0998
00 065	Sorosky	Jeri	Phoenix	07/24/07	4.000	213,082	187,882	1.1000
00 066	Shapiro	Irwin	Jeff Pilot	07/24/07	6.000	190,540	162,840	1.1300
00 067	Smith	Jack	Jeff Pilot	07/24/07	5.000	237,700	212,500	1.0998
00 068	Loggins	Jim	Jeff Pilot	07/26/07	4.000	325,200	300,000	1.0849
00 069	Slater	David	Phoenix	07/26/07	5.000	252,114	226,914	1.1000
00 070	Kagel	David	Jeff Pilot	07/27/07	10.000	390,200	362,500	1.1700
00 071	Prince	Jack	Phoenix	07/27/07	10.000	630,528	606,528	1.1000
00 072	Loya	Lupe	Trans	07/30/07	5.000	133,800	110,300	1.0700
00 073	Palafoutas	John	Jeff Pilot	07/30/07	5.000	258,400	234,900	1.1000
00 074	Sockolow	Marilyn	Jeff Pilot	07/31/07	5.000	315,867	136,950	1.1700
00 075	Rosenthal	Harriet	Phoenix	08/06/07	5.000	276,066	250,866	1.1000
00 076	Kohn	Loretta	Jeff Pilot	08/07/07	4.000	150,400	125,200	1.0849
00 077	Handler	Evelyn	Jeff Pilot	08/07/07	5.000	201,700	173,500	1.0854
00 078	Maier	Gail	Jeff Pilot	08/07/07	5.000	190,050	164,850	1.0855
00 079	Snyderman	Perry	Phoenix	08/08/07	6.000	333,790	309,290	1.1000
00 080	Grazie	Maurice	Lincoln	08/09/07	6.400	384,460	360,960	1.1000
00 081	Sultan	Frederick	Phoenix	08/10/07	10.000	606,811	579,111	1.1000
00 082	Von Rutenb	Jane	Phoenix	08/13/07	10.000	578,700	550,000	1.1000
00 083	Piscitello	Bart	Phoenix	08/14/07	8.000	402,928	375,228	1.1000
00 085	Forwand	Stanley	Phoenix	08/15/07	5.000	232,203	207,003	1.1000
00 084	Ohmstede	Ann	Trans	08/16/07	5.500	229,550	201,850	1.0700
00 089	Shalam	Maurice	Jeff Pilot	08/17/07	10.000	489,800	462,100	1.2840
00 090	Bartizal	Barbara	Phoenix	08/23/07	8.000	337,490	310,990	1.1000
00 096	Furrell	Richard	Jeff Pilot	08/23/07	7.000	422,780	395,080	1.1200
00 086	Willer	Evelyn	Phoenix	08/24/07	5.000	275,478	250,278	1.1000
00 087	Woods	Jonathan	Jeff Pilot	08/24/07	4.550	181,447	156,247	1.0849
00 088	Ginnis	Malcolm	Jeff Pilot	08/24/07	4.500	248,130	222,930	1.0849
00 091	Weinsaft	Leonard	Jeff Pilot	08/24/07	10.000	432,000	404,300	1.1700
00 092	Lazar	Sydelle	Phoenix	08/24/07	7.000	381,912	351,212	1.1000
00 097	Gallo	Anthony	Phoenix	08/29/07	5.000	314,756	289,556	1.1000
00 098	Wald	Sheldon	Phoenix	08/29/07	10.000	541,141	513,441	1.1000
00 093	Cabak	Michael	Jeff Pilot	08/30/07	10.000	497,500	469,800	1.0200
00 094	Fallon	Angie	Jeff Pilot	08/30/07	10.000	357,400	329,700	1.0200
00 095	Leech	Patty	Jeff Pilot	08/30/07	5.000	404,400	379,200	1.1700
00 099	Cushing	Frederick	Phoenix	08/31/07	8.000	416,575	387,875	1.1000
00 100	Ehrlich	Gail	Jeff Pilot	08/31/07	7.000	326,040	298,340	1.0998
00 101	Taub	Joy	Phoenix	08/31/07	5.000	229,256	204,056	1.1000
00 102	Ward	Jean	Jeff Pilot	08/31/07	5.000	227,650	202,450	1.0849

00 103	Meurer	Vernon	Trans	08/31/07	4.000	131,086	105,886	1.0500
00 104	Nichols	Irene	Phoenix	08/31/07	10.000	361,744	334,044	1.1000
GSC-2	Melilli	David	Trans	08/31/07	14.000	546,180	511,980	1.0700
00 105	Havlik	Max	Jeff Pilot	09/11/07	8.000	349,440	325,440	1.1400
00 106	Damato	Carmello	Phoenix	09/12/07	10.000	392,054	364,354	1.1000
00 107	Bross	Joel	Phoenix	09/12/07	5.000	260,844	232,644	1.1000
00 108	King, James	James	Jeff Pilot	09/13/07	20.000	926,900	893,200	1.1400
00 109	Ross	Richard	Jeff Pilot	09/13/07	10.000	414,300	383,600	1.1400
00 110	Ross	Richard	Phoenix	09/13/07	10.000	439,400	428,900	1.1000
00 111	Boehm	Charlotte	Phoenix	09/17/07	10.000	497,404	469,704	1.1000
00 112	Baron	Stanley	Phoenix	09/17/07	5.500	362,137	334,437	1.1000
00 113	Shaber	Joseph	Phoenix	09/17/07	5.000	244,750	219,550	1.1000
00 114	Schrier	Robert	Jeff Pilot	09/17/07	5.000	217,000	202,150	1.1400
00 115	Hinds	Thomas	Phoenix	09/17/07	5.000	257,844	232,644	1.1000
00 116	Cherenza	Leonard	Jeff Pilot	09/18/07	4.500	277,245	252,045	1.0600
00 117	Farmer	Loren	Lincoln	09/18/07	5.000	240,700	212,500	1.1000
00 118	Raguse	Richard	Jeff Pilot	09/20/07	5.000	260,100	234,900	1.0849
00 119	Gorge	Sal	Penn	09/21/07	5.000	285,850	257,650	1.3800
00 120	Burgher	Peter	Jeff Pilot	09/21/07	10.000	521,900	495,400	1.0849
00 121	Wiesel	Vera	Phoenix	09/21/07	5.000	229,255	204,055	1.1000
00 122	Medvedeff	Elaine	Jeff Pilot	09/21/07	5.000	215,900	190,700	1.1400
00 123	Brechner	Milton	Penn	09/24/07	5.000	357,450	329,500	0.9900
00 124	O'Brien	John	Lincoln	09/24/07	7.000	310,710	283,010	1.1400
00 125	Porter	Louis	Penn	09/25/07	5.000	400,150	371,950	0.9900
00 126	Williams	Anna	Phoenix	09/25/07	8.000	326,479	302,479	1.1000
00 127	Pinsky	Paul	Phoenix	09/25/07	5.000	244,750	219,550	1.1000
00 128	Visosky	Leonard	Phoenix	09/27/07	5.000	350,200	325,000	1.1000
00 129	Chackman	Leonard	Jeff Pilot	09/27/07	5.000	272,900	247,700	1.1400
00 130	Garfinkel	Barbara	Phoenix	09/28/07	5.000	180,594	155,394	1.1000
00 131	Johnston	Rex	Phoenix	09/28/07	5.000	238,023	209,823	1.1000
00 132	Johnston	Rex	Phoenix	09/28/07	5.000	238,023	209,823	1.1000
00 133	Sultan	Albert	Lincoln	09/28/07	7.000	310,710	283,010	1.1700
00 134	Laing	Robert	Phoenix	09/28/07	10.000	543,490	512,790	1.1000
00 135	Close	William	Phoenix	09/28/07	5.000	300,225	272,025	1.1000
00 136	Fried	Pauline	Lincoln	09/28/07	6.000	300,820	270,120	1.1000
00 137	Peaty	Frank	Phoenix	09/28/07	9.800	598,228	567,528	1.1000
00 138	Docteroff	Norman	Phoenix	09/28/07	10.000	495,343	484,843	1.1000
00 139	Rutman	Max	Penn	09/28/07	5.000	417,400	392,200	0.9900
00 140	Baxendale	David	Phoenix	10/03/07	10.000	413,560	381,860	1.1000
00 141	O'Connor	Thomas	Trans	10/05/07	5.000	261,600	234,100	1.0700
00 142	Bragg	Kenneth	Phoenix	10/05/07	10.000	456,600	428,900	1.1000
00 143	Werksman	Gerald	Jeff Pilot	10/05/07	5.000	240,700	212,500	1.1400
00 144	Shear	Helene	Lincoln	10/10/07	10.000	276,000	248,300	1.1400
00 145	Green	Marianne	Phoenix	10/11/07	3.000	162,609	134,409	1.1000
00 146	Garff	K. Gary	Phoenix	10/15/07	10.000	464,764	434,564	1.1000
00 147	Williams	Stephen	Penn	10/15/07	5.000	243,800	216,100	0.9900
00 147	Williams	Stephen	Trans	10/15/07	10.000	213,700	207,700	1.0500

GSC-3	Beery	John	Lincoln	10/15/07	25.000	999,200	959,000	1.0200
GSC-4	Birdman	Harvey	Lincoln	10/15/07	20.000	761,700	725,000	1.1400
GSC-4	Birdman	Harvey	Phoenix	10/15/07	10.000	423,081	367,431	1.2428
00 148	Nussbaum	Joanne	Phoenix	10/16/07	5.000	204,074	175,874	1.1000
00 149	O'Brien	Paul Michae	Phoenix	10/16/07	5.500	286,608	255,908	1.1000
GSC-5	Druten	Rachel	Jeff Pilot	10/16/07	5.000	201,700	173,500	1.0600
GSC-6	Rappoport	Beulah	Trans	10/16/07	3.500	164,500	139,300	1.0700
00 150	Grossman	Beverly	Trans	10/17/07	30.000	1,086,185	1,060,185	1.0500
GSC-7	Faden	Barbara	Phoenix	10/17/07	6.600	258,444	227,744	1.1000
GSC-8	Bailey	Joseph	Phoenix	10/17/07	5.000	337,930	312,730	1.1000
00 151	Golden	Jerome	Jeff Pilot	10/18/07	10.000	595,100	564,400	1.0849
GSC-10	Howe	Jean	Jeff Pilot	10/18/07	9.000	414,280	383,580	1.0600
GSC-11	Samuels	Jerome	Phoenix	10/18/07	4.000	183,672	155,472	1.1000
GSC-12	Moser	Florence	Phoenix	10/18/07	10.000	580,700	550,000	1.1000
GSC-9	Qualls	Mattie	Phoenix	10/18/07	5.000	252,215	224,015	1.1000
00 152	Speckert	Otto	Jeff Pilot	10/19/07	3.000	207,750	179,550	1.0200
GSC-13	Patterson	Marlene	Jeff Pilot	10/19/07	5.000	220,250	192,050	1.1232
GSC-14	Vigodsky	Frederick	Phoenix	10/19/07	5.000	235,023	209,823	1.1000
GSC-15	Gallucci	William	Jeff Pilot	10/19/07	6.000	347,800	317,100	1.1300
00 153	Scutti	Joanne	Phoenix	10/22/07	5.000	219,730	191,530	1.1000
GSC-16	Sarnoff	Jordan	Phoenix	10/22/07	5.000	350,200	325,000	1.1000
GSC-17	Levine	Ronald	Jeff Pilot	10/23/07	10.000	435,000	404,300	1.1400
GSC-18	Bart	Jack	Phoenix	10/23/07	10.000	449,600	439,100	1.1000
GSC-19	Fraga	Lupe	Phoenix	10/24/07	10.000	447,050	416,350	1.1000
GSC-20	Schmool	Saniar	Phoenix	10/25/07	5.000	197,733	172,533	1.1000
GSC-21	Clements	Mahlon	Jeff Pilot	10/26/07	5.000	351,350	326,150	1.1400
GSC-22	Feinberg	Thomas	Trans	10/26/07	3.000	133,649	108,949	1.0500
GSC-23	Oliver	Marlene	ING	10/26/07	5.000	252,000	226,800	1.0500
GSC-24	Jackson	Cary	Phoenix	10/26/07	4.000	353,680	260,000	1.1000
GSC-25	Fryd	Carol	Jeff Pilot	10/29/07	10.000	402,200	384,100	1.0849
GSC-25	Fryd	Carol	Jeff Pilot	10/29/07	10.000	402,200	384,100	1.0849
GSC-25	Fryd	Carol	Phoenix	10/29/07	6.000	276,818	268,819	1.1000
GSC-26	Schwartz	Patricia	Phoenix	10/30/07	7.500	286,500	258,800	1.1000
GSC-27	McCabe-Wa	Eileen	Phoenix	10/30/07	10.000	394,737	388,737	1.1000
GSC-28	Sarko	Elaine	Phoenix	10/30/07	7.000	299,316	272,116	1.1000
GSC-29	Gluckstern	Sylvia	Phoenix	10/30/07	5.000	261,595	233,395	1.1000
GSC-30	Weinberger	Margarete	Phoenix	10/30/07	4.000	256,640	228,440	1.1000
00 154	Santalucia	Teresa	Jeff Pilot	10/31/07	20.000	1,065,700	1,029,000	1.0200
00 155	Sriberg	Robert	Phoenix	11/01/07	6.000	321,605	290,905	1.1000
00 156	Pyne	Iris	Phoenix	11/01/07	5.000	181,090	152,890	1.1000
00 157	Gann	Donald	Phoenix	11/01/07	10.000	546,700	536,200	1.1000
GSC-31	Hilliard	Blanche	Phoenix	11/01/07	10.000	455,940	425,240	1.1000
GSC-32	Scordas	Chris	Phoenix	11/02/07	4.000	294,200	266,000	1.1000
GSC-33	Schapiro	Barbara	Jeff Pilot	11/07/07	5.000	208,000	179,800	1.0849
00 158	Brechner	Milton	Jeff Pilot	11/08/07	10.000	574,900	564,400	1.1000
GSC-34	Carnago	Gerald	Penn	11/08/07	5.000	357,450	329,250	0.9900
GSC-35	Gieseke	F. Gary	Phoenix	11/08/07	10.000	499,670	468,970	1.1000

GSC-36	Altman	Jerome	Jeff Pilot	11/08/07	10.000	245,000	214,300	1.0849
GSC-37	McCarthy	Joseph	Jeff Pilot	11/08/07	5.000	236,500	212,500	1.1000
GSC-38	Weinstein	Janet	Phoenix	11/08/07	5.000	188,400	160,200	1.1000
00 159	Whatley	James	Phoenix	11/09/07	5.000	252,445	224,245	1.1000
GSC-39	Villard	Louis	Jeff Pilot	11/09/07	10.000	666,700	639,000	1.1400
GSC-40	Berkowitz	Frederika	Phoenix	11/09/07	5.000	326,050	275,000	1.1000
GSC-41	Raubenstine	Larry	Jeff Pilot	11/13/07	10.000	435,000	404,300	1.0849
GSC-42	Katzen	Howard	Phoenix	11/13/07	10.000	424,640	393,940	1.1000
GSC-43	DiCanio	Marianne	Jeff Pilot	11/13/07	10.000	291,800	261,100	1.1300
GSC-44	Holden	E. Ray	ING	11/14/07	10.000	371,500	340,800	1.0500
00 160	Cawthorne	Charles	Jeff Pilot	11/15/07	7.000	324,700	297,000	1.0849
GSC-45	Moriber	Lloyd	MML	11/15/07	10.000	429,900	399,200	0.9350
GSC-45	Moriber	Lloyd	Phoenix	11/15/07	10.000	432,400	428,900	1.1000
GSC-46	Krevans	Gerald	Trans	11/16/07	5.000	371,900	346,700	1.1000
GSC-47	Nichols	Irene	ING	11/16/07	10.000	484,300	453,600	1.0500
GSC-48	Zoldan	Alex	Jeff Pilot	11/19/07	10.000	355,500	324,800	1.0200
00 161	Lippert	Joyce	Jeff Pilot	11/20/07	5.000	302,600	274,400	1.1300
GSC-49	McLeod	Andin	Phoenix	11/20/07	5.000	226,670	198,470	1.1000
GSC-50	Bonham	John	Phoenix	11/20/07	5.000	235,203	207,003	1.1000
GSC-51	Aronberg	Harold	Jeff Pilot	11/20/07	4.000	239,600	211,400	1.0849
GSC-52	Moriber	Lloyd	Trans	11/21/07	10.000	384,488	373,988	1.1000
GSC-53	Bart	Jack	Jeff Pilot	11/21/07	10.000	432,000	404,300	1.1700
GSC-54	Wallace	Phyllis	Phoenix	11/26/07	5.000	281,545	253,345	1.1000
GSC-55	Rappaport	Morton	Phoenix	11/26/07	5.000	242,650	214,450	1.1000
GSC-56	DiCanio	Marianne	AIG	11/27/07	10.000	270,400	259,900	1.0300
GSC-57	Coghill	Anne	Jeff Pilot	11/27/07	10.000	395,500	364,800	1.0700
GSC-58	Rosenthal	James	Jeff Pilot	11/27/07	7.000	296,220	268,520	1.1300
00 162	Hirsch	Morton	Phoenix	11/28/07	4.100	248,042	219,842	1.1000
00 163	Goldstine	Robert	Jeff Pilot	11/28/07	5.000	275,900	247,700	1.0849
GSC-59	Friedman	Harlene	Jeff Pilot	11/28/07	6.000	220,240	192,540	1.1300
GSC-60	Frankel	Naftali	Trans	11/28/07	10.000	562,500	531,800	1.1000
GSC-61	St Moritz	Philip	Jeff Pilot	11/28/07	20.000	723,500	686,800	1.1400
GSC-62	Bibicoff	Francine	Phoenix	11/29/07	5.000	215,365	187,165	1.1000
GSC-63	Phillips	Lydia	Jeff Pilot	11/29/07	5.000	201,700	173,500	1.0849
GSC-64	Peckman	Ruth	Trans	11/29/07	5.000	160,750	132,550	1.1000
GSC-65	Goldstein	Helene	Phoenix	11/29/07	5.000	173,040	147,840	1.1000
GSC-66	Ross	Richard	ING	11/29/07	10.000	473,500	442,800	1.0500
GSC-67	Fadlallah	Wakim	Phoenix	11/30/07	5.000	353,200	325,000	1.1000
GSC-68	Criden-Roet	Sylvia	Phoenix	11/30/07	5.000	281,545	253,345	1.1000
GSC-69	Forman	Paul	AIG	12/01/07	5.000	248,800	220,600	1.0300
GSC-70	Lipman	Barbara	Phoenix	12/05/07	6.000	263,594	232,894	1.1000
GSC-71	VonRutenbe	Jane	Trans	12/06/07	5.000	153,100	124,900	1.0500
GSC-72	Hippen	JoAnn	Phoenix	12/06/07	5.000	249,215	224,015	1.1000
GSC-73	Chu	Lucy	Phoenix	12/11/07	5.000	281,545	253,345	1.1000
GSC-74	Weinberger	Helen	Phoenix	12/11/07	5.000	281,545	253,345	1.1000
GSC-75	Harper	Daniel	Jeff Pilot	12/12/07	10.000	414,300	383,600	1.1400
GSC-76	Epstei	Stephen	Phoenix	12/12/07	5.000	273,395	245,195	1.1000

GSC-77	Diamond	Marilyn	Phoenix	12/12/07	5.000	256,700	228,500	1.1000
GSC-78	Esau	Daniel	Phoenix	12/12/07	4.000	288,200	260,000	1.1000
GSC-79	Brill	Edna	Jeff Pilot	12/12/07	5.000	230,950	202,750	1.1400
GSC-79	Brill	Edna	Phoenix	12/12/07	5.000	199,530	191,530	1.1000
GSC-80	Kolkhorst	Harry	Phoenix	12/13/07	8.000	360,796	330,096	1.1000
GSC-81	Simko Werb	Sylvia	Phoenix	12/13/07	5.000	219,730	191,530	1.1000
GSC-82	Porter	Louis	ING	12/14/07	6.000	370,630	339,930	1.0500
GSC-83	Kahn	Barbara	ING	12/17/07	6.500	275,620	244,920	1.0500
GSC-84	Delaney	James	Phoenix	12/17/07	10.000	378,990	348,290	1.1000
GSC-85	Schlanger	Monroe	Jeff Pilot	12/17/07	5.000	292,450	264,250	1.0849
GSC-86	Isenberg	Alice	Jeff Pilot	12/19/07	6.000	171,820	141,120	1.1400
GSC-87	Richman	Herbert	Phoenix	12/19/07	10.000	521,090	490,390	0.9700
GSC-88	Weil	Sheldon	Jeff Pilot	12/19/07	4.000	226,360	198,160	1.0849
GSC-89	Sabo	Stephanie	AIG	12/19/07	10.000	526,300	495,600	1.0300
GSC-90	Young	James	Jeff Pilot	12/19/07	30.000	1,315,200	1,275,000	1.1349
GSC-91	Mennenga	Phyllis	Jeff Pilot	12/20/07	10.000	256,800	226,100	1.1400
GSC-92	Hyman	Arlene	Jeff Pilot	12/20/07	10.000	370,500	339,800	1.1400
GSC-93	Malherbe	Earl	Phoenix	12/21/07	10.000	574,750	544,050	1.1000
GSC-94	Aronberg	Harold	Phoenix	12/21/07	7.500	428,430	417,930	1.1000
GSC-100	Evans	Richard	Jeff Pilot	12/27/07	10.000	357,500	324,800	1.0849
GSC-101	Galardi	Robert	Phoenix	12/27/07	5.000	247,075	219,375	1.0900
GSC-95	Castoro	Rocco	Phoenix	12/27/07	5.000	353,200	325,000	1.1000
GSC-96	Payne	Bendel	Phoenix	12/27/07	6.000	223,796	193,096	1.1000
GSC-97	Wright	Peter	AIG	12/27/07	20.000	1,131,500	1,094,800	1.0300
GSC-98	Schmeyer	Frank	AIG	12/27/07	20.000	1,210,500	1,174,800	1.0300
GSC-99	Aronson	Hubert	Phoenix	12/27/07	4.000	254,824	226,624	1.0894
GSC-102	Shurtliff	Joanne	ING	12/28/07	5.000	229,800	201,600	1.0500
GSC-103	Sandbutle	Arend	Phoenix	12/28/07	7.000	389,653	358,953	1.1000
GSC-104	Nepomucen	Edna	Phoenix	12/28/07	4.000	193,444	163,244	1.1000
GSC-105	Nachowitz	Sidney	AIG	12/31/07	10.000	397,000	386,500	1.0300
GSC-105	Nachowitz	Sidney	Phoenix	12/31/07	10.000	566,900	500,000	1.1000
GSC-106	Smith	Nancy	Jeff Pilot	12/31/07	7.000	261,490	230,790	1.1349
GSC-107	Mills	Ed	Phoenix	12/31/07	5.000	259,375	231,175	1.1000
	Totals				**1,950.250**	**93,851,518**	**86,176,623**	**287**

	Application Percentage	Application Amount	Retained Commission	UT Fee Year 1	Application Fee	UT Fee Year 2	UT Fee Total
156,750	-	0	156,750	(15,740)			(15,740)
362,762	-	0	362,762	(39,134)			(39,134)
429,000	-	0	429,000	(40,178)		(499)	(40,677)
151,342	0.65	(98,373)	52,970	(15,682)			(15,682)
155,263	0.65	(100,921)	54,342	(13,698)			(13,698)
312,785	0.60	(187,671)	125,114	(39,374)			(39,374)
273,628	0.60	(164,177)	109,451	(36,517)		0	(36,517)
312,767	-	0	312,767	(19,676)		-	(19,676)
283,516	0.65	(184,286)	99,231	(27,342)			(27,342)
223,746	0.65	(145,435)	78,311	(25,504)			(25,504)
570,418	0.65	(370,772)	199,646	(52,606)			(52,606)
681,615	0.60	(377,986)	303,629	(69,147)		(15,109)	(84,256)
429,000	0.65	(278,850)	150,150	(40,178)		(800)	(40,978)
268,439	0.70	(187,907)	80,532	(25,964)			(25,964)
333,590	0.70	(233,513)	100,077	(31,760)			(31,760)
1,036,435	0.65	(673,683)	362,696	(138,147)		(78,100)	(216,247)
427,611	0.65	(277,947)	149,664	(40,056)			(40,056)
262,539	0.70	(183,777)	78,762	(25,443)			(25,443)
140,920	0.60	(84,552)	56,368	(22,512)		(230)	(22,742)
584,544	0.60	(350,726)	233,817	(76,508)		(45,891)	(122,399)
223,746	0.65	(145,435)	78,311	(23,874)			(23,874)
516,686	0.65	(335,846)	180,840	(68,434)		(26,879)	(95,313)
252,450	0.65	(164,093)	88,358	(26,148)		(20,915)	(47,063)
265,779	0.60	(159,467)	106,312	(37,720)		(800)	(38,520)
241,857	0.60	(145,114)	96,743	(34,488)		(9,196)	(43,684)
121,129	0.60	(72,677)	48,452	(18,826)			(18,826)
299,526			299,526	(28,289)			(28,289)
98,319	0.60	(58,991)	39,328	(15,923)		(1,587)	(17,510)
100,286	0.60	(60,172)	40,114	(16,174)		(1,525)	(17,699)
499,210	0.65	(324,486)	174,723	(45,062)			(45,062)
137,865	0.65	(89,612)	48,253	(15,188)		(3,143)	(18,331)
263,952	0.65	(171,569)	92,383	(37,557)		(23,036)	(60,593)
716,001	0.65	(465,401)	250,600	(70,263)			(70,263)
259,102		0	259,102	(36,553)		(7,318)	(43,871)
155,466	0.60	(93,280)	62,186	(23,282)		(2,202)	(25,484)
404,030	0.65	(262,620)	141,411	(37,927)			(37,927)
536,148	0.60	(321,639)	214,509	(74,463)		(46,643)	(121,106)
484,516	0.60	(290,710)	193,807	(65,487)		(15,215)	(80,702)
340,219	-	0	340,219	(32,462)		-	(32,462)
550,611	0.65	(357,897)	192,714	(51,266)			(51,266)
584,381	0.60	(350,629)	233,753	(77,808)		(24,535)	(102,343)
170,808	0.65	(111,025)	59,783	(17,350)			(17,350)

598,455	0.65	(388,996)	209,459	(55,326)		(55,326)
158,728	0.50	(57,532)	101,196	(16,285)		(16,285)
483,010	0.65	(313,957)	169,054	(43,730)		(43,730)
487,190	0.60	(292,314)	194,876	(62,583)	-13195	(75,778)
467,027	0.65	(303,568)	163,459	(43,843)		(43,843)
196,638	0.60	(117,983)	78,655	(28,505)	(3,047)	(31,552)
341,615	0.70	(217,391)	124,224	(32,827)		(32,827)
444,649			444,649	(59,800)	(9,042)	(68,842)
544,841			544,841	(72,426)	(20,260)	(92,686)
206,670	0.65	(134,336)	72,334	(20,679)		(20,679)
184,009	0.60	(110,406)	73,604	(26,243)	(352)	(26,595)
233,708	0.60	(140,225)	93,483	(32,942)	(6,200)	(39,142)
325,470	0.60	(195,282)	130,188	(44,957)	(15,656)	(60,613)
249,605	0.60	(149,763)	99,842	(24,467)		(24,467)
424,125	0.50	(212,063)	212,063	(53,541)	(5,900)	(59,441)
667,181	0.65	(433,668)	233,513	(61,192)		(61,192)
118,021	0.65	(76,714)	41,307	(12,985)	(839)	(13,824)
258,390	0.60	(155,034)	103,356	(35,855)	(9,100)	(44,955)
160,232	0.60	(96,139)	64,093	(43,775)	(2,350)	(46,125)
275,953	0.65	(179,369)	96,583	(26,792)		(26,792)
135,829	0.60	(81,498)	54,332	(20,714)	(4,004)	(24,718)
188,320	0.50	(94,160)	94,160	(27,918)	(4,400)	(32,318)
178,945	0.60	(107,367)	71,578	(26,338)	(13,743)	(40,081)
340,219	0.65	(221,142)	119,077	(32,394)		(32,394)
397,056	0.63	(250,145)	146,911	(52,952)	(14,400)	(67,352)
637,022	0.65	(414,064)	222,958	(58,890)		(58,890)
605,000	0.65	(393,250)	211,750	(56,161)		(56,161)
412,751	0.65	(268,288)	144,463	(39,103)		(39,103)
227,703	0.65	(148,007)	79,696	(22,535)		(22,535)
215,980	0.60	(129,588)	86,392	(22,277)	(15,048)	(37,325)
593,341	0.60	(356,005)	237,336	(67,544)	(10,625)	(78,169)
342,089	0.65	(222,358)	119,731	(32,753)		(32,753)
442,490	0.60	(265,494)	176,996	(58,229)	(22,407)	(80,636)
275,306	0.65	(178,949)	96,357	(26,735)		(26,735)
169,512	0.60	(101,707)	67,805	(25,022)	(1,950)	(26,972)
241,857	0.50	(120,928)	120,928	(34,090)	(8,950)	(43,040)
473,031	0.50	(236,516)	236,516	(59,647)	(10,321)	(69,968)
386,333			386,333	(37,064)		(37,064)
318,512	0.65	(207,033)	111,479	(30,546)		(30,546)
564,785	0.65	(367,110)	197,675	(52,516)		(52,516)
479,196	0.60	(287,518)	191,678	(68,691)	(18,500)	(87,191)
336,294	0.60	(201,776)	134,518	(49,224)	(8,674)	(57,898)
443,664	0.60	(266,198)	177,466	(55,836)	(16,795)	(72,631)
426,663	0.65	(277,331)	149,332	(40,428)		(40,428)
328,114	0.65	(213,274)	114,840	(45,017)	(16,550)	(61,567)
224,462	0.65	(145,901)	78,561	(22,249)		(22,249)
219,638	0.60	(131,783)	87,855	(31,276)	(8,050)	(39,326)

111,180	0.50	(55,590)	55,590	(23,178)	(5,948)	(29,126)
367,448	0.65	(238,841)	128,607	(35,106)		(35,106)
547,819	0.65	(356,082)	191,737	(58,108)	(25,444)	(83,552)
371,002	0.60	(222,601)	148,401	(48,308)	-8650	(56,958)
400,789	0.65	(260,513)	140,276	(38,048)		(38,048)
255,908	0.65	(166,340)	89,568	(25,302)		(25,302)
1,018,248	0.60	(610,949)	407,299	(127,661)	(50,110)	(177,771)
437,304	0.60	(262,382)	174,922	(56,925)	(9,328)	(66,253)
471,790	0.65	(306,664)	165,127	(42,622)		(42,622)
516,674	0.65	(335,838)	180,836	(48,272)		(48,272)
367,881	0.65	(239,122)	128,758	(35,127)		(35,127)
241,505	0.50	(120,753)	120,753	(23,741)		(23,741)
230,451	0.60	(138,271)	92,180	(29,816)	(6,290)	(36,106)
255,908	0.65	(166,340)	89,568	(32,531)		(32,531)
267,168	0.60	(160,301)	106,867	(38,137)	(5,630)	(43,767)
233,750	0.60	(140,250)	93,500	(33,144)	(8,470)	(41,614)
254,843	0.50	(127,422)	127,422	(38,079)	(8,545)	(46,624)
355,557	0.70	(248,890)	106,667	(30,300)		(30,300)
537,459	0.60	(322,476)	214,984	(76,778)	(19,772)	(96,550)
224,461	0.65	(145,899)	78,561	(24,301)		(24,301)
217,398	0.60	(130,439)	86,959	(31,505)		(31,505)
326,205	0.65	(212,033)	114,172	(37,890)		(37,890)
322,631	0.60	(193,579)	129,053	(45,333)	(8,307)	(53,640)
368,231	0.65	(239,350)	128,881	(42,403)		(42,403)
332,727	0.65	(216,272)	116,454	(34,607)		(34,607)
241,505	0.65	(156,978)	84,527	(25,944)		(25,944)
357,500	0.65	(232,375)	125,125	(37,121)	(1,467)	(38,588)
282,378	0.60	(169,427)	112,951	(40,007)	(9,676)	(49,683)
170,933	0.65	(111,107)	59,827	(19,143)		(19,143)
230,805	0.60	(138,483)	92,322	(25,230)		(25,230)
230,805	0.60	(138,483)	92,322	(25,230)		(25,230)
331,122	0.60	(198,673)	132,449	(45,333)	-7346	(52,679)
564,069	0.65	(366,645)	197,424	(57,610)		(57,610)
299,228	0.65	(194,498)	104,730	(31,815)		(31,815)
297,132	0.60	(178,279)	118,853	(43,890)	(10,454)	(54,344)
624,281	0.65	(405,783)	218,498	(63,412)		(63,412)
533,327	0.65	(346,663)	186,665	(52,506)	-	(52,506)
388,278	0.50	(194,139)	194,139	(71,417)	(18,479)	(89,896)
420,046	0.65	(273,030)	147,016	(43,825)	-	(43,825)
250,487	0.58	(145,282)	105,205	(38,037)	(25,378)	(63,415)
471,790	0.65	(306,664)	165,127	(48,400)	-	(48,400)
242,250	0.60	(145,350)	96,900	(35,124)	(6,273)	(41,397)
283,062	0.60	(169,837)	113,225	(40,275)	-	(40,275)
147,850	0.65	(96,102)	51,747	(17,231)	-	(17,231)
478,020	0.65	(310,713)	167,307	(49,251)	-	(49,251)
213,939	0.65	(139,060)	74,879	(25,843)	-	(25,843)
218,085	0.65	(141,755)	76,330	(22,652)	(12,791)	(35,443)

978,180	0.60	(586,908)	391,272	(153,862)		(16,877)	(170,739)
826,535	0.60	(495,921)	330,614	(116,548)		(10,096)	(126,644)
456,625	0.65	(296,806)	159,819	(64,458)			(64,458)
193,461	0.65	(125,750)	67,711	(21,625)		-	(21,625)
281,499	0.65	(182,974)	98,525	(30,372)		-	(30,372)
183,910	0.60	(110,346)	73,564	(37,546)		(4,539)	(42,085)
133,658	-	0	133,658	(26,308)		(6,386)	(32,694)
1,113,194	0.65	(723,576)	389,618	(115,102)		(50,450)	(165,552)
250,518	0.64	(160,332)	90,187	(30,035)		-	(30,035)
344,003	0.65	(223,602)	120,401	(39,273)		-	(39,273)
612,318	0.60	(367,391)	244,927	(86,738)		(29,855)	(116,593)
406,595	0.60	(243,957)	162,638	(65,278)		(13,375)	(78,653)
171,019	-	0	171,019	(21,346)		-	(21,346)
605,000	0.60	(363,000)	242,000	(84,706)			(84,706)
246,417	0.65	(160,171)	86,246	(36,053)		-	(36,053)
183,141	0.60	(109,885)	73,256	(30,280)		(6,016)	(36,296)
215,711	0.60	(129,426)	86,284	(35,100)		(5,157)	(40,257)
230,805	0.65	(150,023)	80,782	(27,313)		-	(27,313)
358,323	0.60	(214,994)	143,329	(56,357)		(12,603)	(68,960)
210,683	0.65	(136,944)	73,739	(23,479)		-	(23,479)
357,500	0.65	(232,375)	125,125	(41,629)		(5,059)	(46,688)
460,902	0.60	(276,541)	184,361	(69,340)		(10,578)	(79,918)
483,010	0.60	(289,806)	193,204	(52,251)		-	(52,251)
457,985	0.65	(297,690)	160,295	(51,954)		-	(51,954)
189,786	0.60	(113,872)	75,915	(21,002)	(1,977)	-	(22,979)
371,811	0.60	(223,087)	148,724	(56,521)		(11,188)	(67,709)
114,396	-	0	114,396	(14,196)	(2,426)	(5,926)	(22,548)
238,140	0.65	(154,791)	83,349	(26,766)	(2,520)	-	(29,286)
286,000	0.65	(185,900)	100,100	(41,264)		(870)	(42,134)
416,710	0.55	(229,191)	187,520	(61,750)		(6,439)	(68,189)
416,710	0.50	(208,355)	208,355	(61,750)		(6,439)	(68,189)
295,701	0.65	(192,206)	103,495	(29,403)	(2,768)	-	(32,171)
284,680	0.65	(185,042)	99,638	(33,296)		-	(33,296)
427,611	0.65	(277,947)	149,664	(45,947)		-	(45,947)
299,328	0.65	(194,563)	104,765	(34,785)		-	(34,785)
256,735	0.65	(166,877)	89,857	(30,402)		-	(30,402)
251,284	0.65	(163,335)	87,949	(30,201)		(2,045)	(32,246)
1,049,580	0.60	(629,748)	419,832	(150,426)		(66,228)	(216,654)
319,996	0.65	(207,997)	111,998	(34,080)		-	(34,080)
168,179	0.65	(109,316)	58,863	(19,196)		-	(19,196)
589,820	0.65	(383,383)	206,437	(57,933)		-	(57,933)
467,764	-	0	467,764	(55,003)		-	(55,003)
292,600	0.65	(190,190)	102,410	(35,491)		-	(35,491)
195,065	0.60	(117,039)	78,026	(32,515)		(1,131)	(33,646)
620,840	0.60	(372,504)	248,336	(83,809)		(21,654)	(105,463)
325,958	0.65	(211,872)	114,085	(39,547)	(3,575)	-	(43,122)
515,867	0.65	(335,314)	180,553	(55,282)	(4,997)	-	(60,279)

232,494	0.60	(139,496)	92,998	(36,957)	(2,450)	-	(39,407)
233,750	0.60	(140,250)	93,500	(35,834)	-3045	(5,350)	(44,229)
176,220	0.65	(114,543)	61,677	(20,844)	(1,884)	-	(22,728)
246,670	0.65	(160,335)	86,334	(27,869)		-	(27,869)
728,460	0.60	(437,076)	291,384	(100,680)	-9667	(23,519)	(133,866)
302,500	0.65	(196,625)	105,875	(36,073)	(3,261)	-	(39,334)
438,625	0.60	(263,175)	175,450	(65,397)	-6350	(15,607)	(87,354)
433,334	0.65	(281,667)	151,667	(46,981)	(4,246)	-	(51,227)
295,043	0.60	(177,026)	118,017	(43,869)	-4668	(13,656)	(62,193)
357,840	0.65	(232,596)	125,244	(41,101)	(3,715)	-	(44,816)
322,215	0.60	(193,329)	128,886	(48,922)		(5,018)	(53,940)
373,252	0.65	(242,614)	130,638	(47,563)	(6,149)	(10,497)	(64,209)
471,790	0.65	(306,664)	165,127	(47,839)	(4,324)	-	(52,163)
381,370	0.65	(247,891)	133,480	(41,401)	(7,186)	(18,821)	(67,408)
476,280	0.65	(309,582)	166,698	(53,581)	(4,843)	-	(58,424)
331,296	0.65	(215,342)	115,954	(53,565)	-4084	(4,138)	(61,787)
310,072	0.60	(186,043)	124,029	(44,413)		(14,828)	(59,241)
218,317	-	0	218,317	(25,078)	(2,267)	-	(27,345)
227,703	0.65	(148,007)	79,696	(26,022)	(2,352)	-	(28,374)
229,348	-	0	229,348	(35,048)	-3496	(8,342)	(46,886)
411,387	0.65	(267,401)	143,985	(42,539)	-6153	(12,252)	(60,944)
473,031	0.50	(236,516)	236,516	(62,898)	-5465	(8,641)	(77,004)
278,680	0.65	(181,142)	97,538	(31,149)	(2,815)	-	(33,964)
235,895	0.60	(141,537)	94,358	(26,846)	(2,427)	-	(29,273)
267,697	0.65	(174,003)	93,694	(29,916)	(3,489)	(4,270)	(37,675)
390,336	0.60	(234,202)	156,134	(58,120)	-4665	(5,468)	(68,253)
303,428	0.60	(182,057)	121,371	(43,832)	-3757	(6,101)	(53,690)
241,826	0.60	(145,096)	96,730	(27,383)		-	(27,383)
268,730	0.60	(161,238)	107,492	(40,354)		(7,441)	(47,795)
217,570	0.60	(130,542)	87,028	(32,701)	-2966	(5,885)	(41,552)
584,980	0.65	(380,237)	204,743	(62,233)	-10943	(30,171)	(103,347)
782,952	0.60	(469,771)	313,181	(105,340)	-8226	(7,482)	(121,048)
205,882	0.65	(133,823)	72,059	(23,827)	(2,154)	-	(25,981)
188,230	0.60	(112,938)	75,292	(29,777)	(2,307)	(2,221)	(34,305)
145,805	0.65	(94,773)	51,032	(17,785)	(2,933)	(7,520)	(28,238)
162,624	0.65	(105,706)	56,918	(19,145)	(1,730)	-	(20,875)
464,940	0.65	(302,211)	162,729	(52,387)	(4,735)	-	(57,122)
357,500	0.60	(214,500)	143,000	(39,077)	(3,822)	(1,646)	(44,545)
278,680	0.65	(181,142)	97,538	(31,149)	(2,815)	-	(33,964)
227,218	0.65	(147,692)	79,526	(27,526)	-3714	(6,956)	(38,196)
256,183	0.55	(140,901)	115,283	(29,163)	(6,000)	-	(35,163)
131,145	0.65	(85,244)	45,901	(16,938)	-6000	(7,087)	(30,025)
246,417	0.65	(160,171)	86,246	(27,572)	(6,000)	-	(33,572)
278,680	0.60	(167,208)	111,472	(31,149)	(6,000)	-	(37,149)
278,680	0.65	(181,142)	97,538	(31,149)	(6,000)	-	(37,149)
437,304	0.60	(262,382)	174,922	(61,655)	-6000	(8,879)	(76,534)
269,715	0.65	(175,314)	94,400	(31,450)	(6,000)	-	(37,450)

251,350	0.65	(163,378)	87,973	(49,588)	(6,000)	-	(55,588)
286,000	0.65	(185,900)	100,100	(33,153)	(6,000)	-	(39,153)
231,135	0.60	(138,681)	92,454	(35,149)	0	(5,157)	(40,306)
210,683	0.65	(136,944)	73,739	(22,953)	(6,000)	-	(28,953)
363,106	0.65	(236,019)	127,087	(41,505)	(6,000)	-	(47,505)
210,683	0.65	(136,944)	73,739	(25,277)	(6,000)	-	(31,277)
356,927	0.50	(178,463)	178,463	(70,816)	-6000	(12,150)	(88,966)
257,166	0.65	(167,158)	90,008	(31,707)	(6,000)	-	(37,707)
383,119	0.65	(249,027)	134,092	(43,598)	(6,000)	-	(49,598)
286,685	0.60	(172,011)	114,674	(45,296)	-6000	(8,856)	(60,152)
160,877	0.60	(96,526)	64,351	(26,757)	(6,000)	-	(32,757)
475,678	-	0	475,678	(59,945)	(6,000)	-	(65,945)
214,984	0.70	(150,489)	64,495	(34,069)	-6000	(7,500)	(47,569)
510,468	0.65	(331,804)	178,664	(60,544)	-6000	(7,444)	(73,988)
1,446,998	0.60	(868,199)	578,799	(203,485)	-6000	(38,199)	(247,684)
257,754	0.60	(154,652)	103,102	(39,084)	(6,000)	-	(45,084)
387,372	0.60	(232,423)	154,949	(56,887)	-6000	(15,955)	(78,842)
598,455	0.65	(388,996)	209,459	(66,118)	(6,000)	-	(72,118)
459,723	-	0	459,723	(49,285)	-	-	(49,285)
352,376	0.60	(211,425)	140,950	(54,584)	(6,000)	(4,210)	(64,794)
239,119	0.65	(155,427)	83,692	(28,423)	(6,000)	-	(34,423)
357,500	0.65	(232,375)	125,125	(40,631)	(6,000)	-	(46,631)
212,406	0.65	(138,064)	74,342	(25,745)	(6,000)	-	(31,745)
1,127,644	0.65	(732,969)	394,675	(130,164)	-6000	(45,064)	(181,228)
1,210,044	0.65	(786,529)	423,515	(139,252)	-6000	(65,857)	(211,109)
246,884	0.65	(160,475)	86,409	(29,314)	(6,000)	-	(35,314)
211,680	0.65	(137,592)	74,088	(26,435)	(6,000)	-	(32,435)
394,848	0.65	(256,651)	138,197	(44,825)	(6,000)	-	(50,825)
179,568	0.65	(116,719)	62,849	(18,824)	(6,000)	-	(24,824)
398,095	0.65	(258,762)	139,333	(45,669)	0	(12,046)	(57,715)
550,000	0.65	(357,500)	192,500	(65,215)	-6000	-	(71,215)
261,924	0.60	(157,154)	104,769	(39,179)	(6,000)	(2,442)	(47,621)
254,293	0.65	(165,290)	89,002	(29,838)	(6,000)	-	(35,838)
94,032,797	**153**	**(55,066,527)**	**38,966,214**	**(11,454,059)**	**(389,366)**	**(1,591,926)**	**(13,435,351)**

Percent of Total Commission	Cash Flow Swap	Total			Percentage	Amount	Amount Paid to Other Advisors, Etc.
0.1004		(15,740)	141,010				(1,425)
0.1079		(39,134)	323,628				
0.0948		(40,677)	388,323				
0.1036		(15,682)	37,288		0.05	(6,879)	
0.0882		(13,698)	40,644		0.05	(7,057)	
0.1259		(39,374)	85,740				(1,137)
0.1335		(36,517)	72,934				
0.0629	(120,408)	(140,084)	172,683				
0.0964		(27,342)	71,889				
0.1140		(25,504)	52,807				
0.0922		(52,606)	147,040				-199646.4
0.1236		(84,256)	219,373				
0.0955		(40,978)	109,172				
0.0967		(25,964)	54,568		0.05	(5,055)	
0.0952		(31,760)	68,317		0.05	(5,004)	
0.2086		(216,247)	146,449				
0.0937		(40,056)	109,608		0.05	(21,381)	
0.0969		(25,443)	53,319		0.05	(3,580)	
0.1614		(22,742)	33,626				(87)
0.2094		(122,399)	111,418		0.05	(29,227)	
0.1067		(23,874)	54,437				
0.1845		(95,313)	85,527		0.05	(26,879)	
0.1864		(47,063)	41,295				(683)
0.1449		(38,520)	67,792				
0.1806		(43,684)	53,059				
0.1554		(18,826)	29,626				
0.0944		(28,289)	271,237		0.50	(109,800)	
0.1781		(17,510)	21,818				
0.1765		(17,699)	22,415				
0.0903		(45,062)	129,661		0.05	(24,960)	
0.1330		(18,331)	29,922		0.05		
0.2296		(60,593)	31,790				(72)
0.0981		(70,263)	180,337		0.05	(35,800)	
0.1693		(43,871)	215,231				
0.1639		(25,484)	36,702				
0.0939		(37,927)	103,484		0.05	(20,202)	
0.2259		(121,106)	93,403				(50)
0.1666		(80,702)	113,105		0.05	(15,215)	
0.0954		(32,462)	307,757		0.70	(216,503)	
0.0931		(51,266)	141,448				
0.1751		(102,343)	131,410				
0.1016		(17,350)	42,433		0.05	(8,540)	

0.0924	(55,326)	154,133	0.05	(27,203)	
0.1026	(16,285)	84,911		(13,233)	(18)
0.0905	(43,730)	125,324	0.05	(3,842)	
0.1555	(75,778)	119,098			
0.0939	(43,843)	119,616	0.05		
0.1605	(31,552)	47,103	0.05	(9,063)	
(0.0961)	(32,827)	91,397	0.05	(222,049)	
(0.1548)	(68,842)	375,807			
(0.1701)	(92,686)	452,155			
(0.1001)	(20,679)	51,655			
(0.1445)	(26,595)	47,009	0.05	(8,142)	
(0.1675)	(39,142)	54,341	0.05	(11,475)	
(0.1862)	(60,613)	69,575		(22,080)	
(0.0980)	(24,467)	75,375			
(0.1401)	(59,441)	152,622	0.15	(96,788)	(33,350)
(0.0917)	(61,192)	172,321	0.05	(30,326)	
(0.1171)	(13,824)	27,483			
(0.1740)	(44,955)	58,401			
(0.2879)	(46,125)	17,968			(1,859)
(0.0971)	(26,792)	69,791	0.05	(16,933)	
(0.1820)	(24,718)	29,614	0.05	(6,260)	(9,215)
(0.1716)	(32,318)	61,842	0.15	(26,025)	(45)
(0.2240)	(40,081)	31,497			
(0.0952)	(32,394)	86,683			
(0.1696)	(67,352)	79,559			
(0.0924)	(58,890)	164,068	0.05	(28,956)	
(0.0928)	(56,161)	155,589			
(0.0947)	(39,103)	105,360	0.05	(18,761)	
(0.0990)	(22,535)	57,161	0.05	(10,350)	
(0.1728)	(37,325)	49,067			
(0.1317)	(78,169)	159,167			
(0.0957)	(32,753)	86,978	0.05	(15,550)	
	(80,636)	96,360	0.05	(22,124)	
(0.0971)	(26,735)	69,622	0.05	(12,514)	
(0.1591)	(26,972)	40,833			
(0.1780)	(43,040)	77,888			
(0.1479)	(69,968)	166,548	0.15	(60,645)	
(0.0959)	(37,064)	349,269			
(0.0959)	(30,546)	80,933	0.05	(15,926)	
(0.0930)	(52,516)	145,159			
(0.1820)	(87,191)	104,487	0.15		
(0.1722)	(57,898)	76,620			
(0.1637)	(72,631)	104,835	0.10	(44,366)	
(0.0948)	(40,428)	108,904			
(0.1876)	(61,567)	53,273			
	(22,249)	56,312	0.06	(11,223)	
	(39,326)	48,529		(14,900)	

	(29,126)	26,464			
(0.0955)	(35,106)	93,501			
(0.1525)	(83,552)	108,185			
(0.1535)	(56,958)	91,443			
(0.0949)	(38,048)	102,228			
(0.0989)	(25,302)	64,266	0.05	(11,632)	
(0.1746)	(177,771)	229,528			
(0.1515)	(66,253)	108,669	0.05	(19,180)	
(0.0903)	(42,622)	122,505	0.05	(21,445)	
(0.0934)	(48,272)	132,564	0.05	(8,220)	(14,796)
(0.0955)	(35,127)	93,631			
(0.0983)	(23,741)	97,012	0.15	(54,339)	
(0.1567)	(36,106)	56,074			
(0.1271)	(32,531)	57,037			
(0.1638)	(43,767)	63,100			
(0.1780)	(41,614)	51,886			
(0.1830)	(46,624)	80,798	0.15	(35,235)	
(0.0852)	(30,300)	76,367			
(0.1796)	(96,550)	118,434		(29,638)	
(0.1083)	(24,301)	54,260	0.05	(11,223)	
	(31,505)	55,454			
(0.1162)	(37,890)	76,282			
(0.1663)	(53,640)	75,413			
(0.1152)	(42,403)	86,478			
(0.1040)	(34,607)	81,847	0.05	(5,293)	(394)
(0.1074)	(25,944)	58,583	0.05	(10,978)	
(0.1079)	(38,588)	86,537			
(0.1759)	(49,683)	63,268			
(0.1120)	(19,143)	40,684	0.05	(8,547)	
(0.1093)	(25,230)	67,092	0.10	(23,081)	
(0.1093)	(25,230)	67,092	0.10	(23,081)	
(0.1591)	(52,679)	79,770	0.15	(42,452)	
(0.1021)	(57,610)	139,814			
(0.1063)	(31,815)	72,915	0.05	(14,961)	
(0.1829)	(54,344)	64,509	0.05	(4,727)	
(0.1016)	(63,412)	155,086	0.05	(31,214)	
(0.0984)	(52,506)	134,159	0.05	(24,242)	
(0.2315)	(89,896)	104,243			
(0.1043)	(43,825)	103,191	0.05	(19,093)	
(0.2532)	(63,415)	41,790			
(0.1026)	(48,400)	116,727	0.05	(23,590)	
(0.1709)	(41,397)	55,503			
(0.1423)	(40,275)	72,950			
(0.1165)	(17,231)	34,516	0.05	(7,392)	
(0.1030)	(49,251)	118,056			
(0.1208)	(25,843)	49,036			
(0.1625)	(35,443)	40,887			

(0.1745)	(170,739)	220,533			
(0.1532)	(126,644)	203,970			
(0.1412)	(64,458)	95,361			
(0.1118)	(21,625)	46,086	0.05	(9,673)	
(0.1079)	(30,372)	68,153	0.05	(14,075)	
(0.2288)	(42,085)	31,479			
(0.2446)	(32,694)	100,964	0.65	-81490.5	
(0.1487)	(165,552)	224,066			
(0.1199)	(30,035)	60,152	0.05	(12,526)	
(0.1142)	(39,273)	81,128			
(0.1904)	(116,593)	128,334	0.05	(28,220)	
(0.1934)	(78,653)	83,985			
(0.1248)	(21,346)	149,673	0.70	(111,162)	
(0.1400)	(84,706)	157,294	0.10	(60,500)	
(0.1463)	(36,053)	50,193			
(0.1982)	(36,296)	36,960			
(0.1866)	(40,257)	46,027			
(0.1183)	(27,313)	53,469	0.05	(10,491)	
(0.1925)	(68,960)	74,369			
(0.1114)	(23,479)	50,260	0.05	(10,534)	
(0.1306)	(46,688)	78,437	0.05	(17,875)	
(0.1734)	(79,918)	104,443			
(0.1082)	(52,251)	140,953	.05/.05	(45,008)	
(0.1134)	(51,954)	108,341	0.05	(20,818)	
(0.1211)	(22,979)	52,936	.05/.05	(16,822)	
(0.1821)	(67,709)	81,015			
(0.1971)	(22,548)	91,848	0.60	(65,369)	
(0.1230)	(29,286)	54,063			
(0.1473)	(42,134)	57,966	0.05	(4,550)	(458)
(0.1636)	(68,189)	119,331	0.05	(19,205)	
(0.1636)	(68,189)	140,166	0.05	(19,205)	
(0.1088)	(32,171)	71,324	0.05	(13,441)	
(0.1170)	(33,296)	66,342	0.05	(12,940)	
(0.1075)	(45,947)	103,717	0.05	(21,381)	
(0.1162)	(34,785)	69,980	0.05	(14,966)	
(0.1184)	(30,402)	59,455	.05/.05	(15,754)	
(0.1283)	(32,246)	55,703		(3,190)	
(0.2064)	(216,654)	203,178	0.05	(51,450)	
(0.1065)	(34,080)	77,918	0.05	(16,000)	
(0.1141)	(19,196)	39,667	0.05	(8,409)	
(0.0982)	(57,933)	148,504	0.05	(9,384)	
(0.1176)	(55,003)	412,761	.0325/.585	(262,586)	(7,442)
(0.1213)	(35,491)	66,919			(42)
(0.1725)	(33,646)	44,380			
(0.1699)	(105,463)	142,873			
(0.1323)	(43,122)	70,963			
(0.1168)	(60,279)	120,274	0.05	(23,449)	

(0.1695)	(39,407)	53,591			
(0.1892)	(44,229)	49,271			
(0.1290)	(22,728)	38,949	0.05	(8,811)	
(0.1130)	(27,869)	58,465	.05/.05	(15,137)	
(0.1838)	(133,866)	157,518			
(0.1300)	(39,334)	66,541			(160)
(0.1992)	(87,354)	88,096			
(0.1182)	(51,227)	100,440	0.05	(21,667)	
(0.2108)	(62,193)	55,824			
(0.1252)	(44,816)	80,428			(6,974)
(0.1674)	(53,940)	74,946		-	
(0.1720)	(64,209)	66,429		-	
(0.1106)	(52,163)	112,964	0.05		
(0.1768)	(67,408)	66,072	0.05	17,335	
(0.1227)	(58,424)	108,274		-	
(0.1865)	(61,787)	54,167		(15,590)	
(0.1911)	(59,241)	64,788			
(0.1253)	(27,345)	190,972	0.65	(129,006)	
(0.1246)	(28,374)	51,322	0.05	(3,623)	
(0.2044)	(46,886)	182,462			
(0.1481)	(60,944)	83,041	0.05	(20,569)	
(0.1628)	(77,004)	159,512	0.15	(60,645)	
(0.1219)	(33,964)	63,574			
(0.1241)	(29,273)	65,085	.05/.05	(21,981)	
(0.1407)	(37,675)	56,019			
(0.1749)	(68,253)	87,881			-140
(0.1769)	(53,690)	67,681			
(0.1132)	(27,383)	69,347	0.05/.05	(21,435)	
(0.1779)	(47,795)	59,697		(19,727)	
(0.1910)	(41,552)	45,476		(5,390)	
(0.1767)	(103,347)	101,396			
(0.1546)	(121,048)	192,133			
(0.1262)	(25,981)	46,078	0.05	(9,358)	
(0.1823)	(34,305)	40,987			
(0.1937)	(28,238)	22,794			
(0.1284)	(20,875)	36,043	0.05	(8,131)	
(0.1229)	(57,122)	105,607	0.05	(22,140)	
(0.1246)	(44,545)	98,455	0.05/.05	(49,563)	
(0.1219)	(33,964)	63,574	0.05	(13,934)	
(0.1681)	(38,196)	41,330	0.05	(3,859)	
(0.1373)	(35,163)	80,120	0.10		
(0.2289)	(30,025)	15,876			
(0.1362)	(33,572)	52,674	0.05	(12,321)	
(0.1333)	(37,149)	74,323	0.05/.05	(38,635)	
(0.1333)	(37,149)	60,389			
(0.1750)	(76,534)	98,388	0.05	(21,865)	
(0.1389)	(37,450)	56,950	0.05	(13,486)	

(0.2212)		(55,588)	32,385	0.05	(12,568)	
(0.1369)		(39,153)	60,947			
(0.1744)		(40,306)	52,148	0.05	(11,557)	
(0.1374)		(28,953)	44,786	0.05	(10,534)	
(0.1308)		(47,505)	79,582	0.05	(16,505)	
(0.1485)		(31,277)	42,462	0.05	(9,577)	
(0.2493)		(88,966)	89,497			
(0.1466)		(37,707)	52,301	0.05	(12,858)	
(0.1295)		(49,598)	84,494			
(0.2098)		(60,152)	54,522			
(0.2036)		(32,757)	31,594			
(0.1386)		(65,945)	409,733	0.65	(286,878)	
(0.2213)		(47,569)	16,926			
(0.1449)		(73,988)	104,676			
(0.1712)		(247,684)	331,115			
(0.1749)		(45,084)	58,018			
(0.2035)		(78,842)	76,107			
(0.1205)		(72,118)	137,341	0.05	(9,521)	
(0.1072)		(49,285)	410,438			
(0.1839)		(64,794)	76,156	0.05	(5,684)	
(0.1440)		(34,423)	49,269	0.05	(10,969)	
(0.1304)		(46,631)	78,494			
(0.1495)		(31,745)	42,597			
(0.1607)		(181,228)	213,447			
(0.1745)		(211,109)	212,406			
(0.1430)		(35,314)	51,095			
(0.1532)		(32,435)	41,653	0.05	(10,584)	
(0.1287)		(50,825)	87,372			
(0.1382)		(24,824)	38,025			
(0.1450)		(57,715)	81,618			
(0.1295)		(71,215)	121,285			324
(0.1818)		(47,621)	57,148	0.05	(4,616)	
(0.1409)		(35,838)	53,164	0.05	(4,046)	
(24)	**(120,408)**	**(13,555,759)**	**25,410,456**	**11**	**(3,640,281)**	**(277,669)**

Amount	Percent of Total Commissions	Origination Fee, Etc
139,585	0.8905	10,000
323,628	0.8921	
388,323	0.9052	10,000
30,409	0.2009	10,000
33,587	0.2163	
84,603	0.2705	10,000
72,934	0.2665	
172,683	0.5521	
71,889	0.2536	10000
52,807	0.2360	10,000
(52,606)	(0.0922)	10000
219,373	0.3218	10,000
109,172	0.2545	10,000
49,513	0.1844	10,000
63,313	0.1898	10,000
146,449	0.1413	10,000
88,227	0.2063	10,000
49,739	0.1895	10,000
33,539	0.2380	11,200
82,191	0.1406	10,000
54,437	0.2433	1,200
58,648	0.1135	10,000
40,612	0.1609	10,000
67,792	0.2551	13,700
53,059	0.2194	11,200
29,626	0.2446	11,200
161,437	0.5390	13,700
21,818	0.2219	11,200
22,415	0.2235	11,200
104,701	0.2097	5,000
29,922	0.2170	11,200
31,718	0.1202	11,200
144,537	0.2019	10,000
215,231	0.8307	10,000
36,702	0.2361	11,200
83,282	0.2061	10,000
93,353	0.1741	13,700
97,890	0.2020	13,700
91,255	0.2682	11,200
141,448	0.2569	13,700
131,410	0.2249	13,700
33,892	0.1984	10,000

126,931	0.2121	10,000
71,660	0.4515	11,200
121,481	0.2515	5,000
119,098	0.2445	13,700
119,617	0.2561	13,700
38,041	0.1935	11,200
(130,653)	(0.3825)	13,700
375,807	0.8452	13,700
452,155	0.8299	13,700
51,655	0.2499	11,200
38,867	0.2112	13,700
42,866	0.1834	11,200
47,495	0.1459	11,200
75,375	0.3020	11,200
22,484	0.0530	13,700
141,995	0.2128	10,000
27,483	0.2329	10,000
58,401	0.2260	10,000
16,109	0.1005	10,000
52,858	0.1915	11,200
14,139	0.1041	11,200
35,772	0.1900	11,200
31,497	0.1760	11,200
86,683	0.2548	10,000
79,559	0.2004	10,000
135,112	0.2121	13,700
155,589	0.2572	13,700
86,598	0.2098	13,700
46,811	0.2056	11,200
49,067	0.2272	13,700
159,167	0.2683	13,700
71,429	0.2088	12,500
74,235	0.1678	13,700
57,108	0.2074	11,200
40,833	0.2409	11,200
77,888	0.3220	11,200
105,903	0.2239	13,700
349,269	0.9041	16,700
65,007	0.2041	11,200
145,159	0.2570	13,700
104,487	0.2180	13,700
76,620	0.2278	13,700
60,468	0.1363	11,200
108,904	0.2552	13,700
53,273	0.1624	13,700
45,089	0.2009	11,200
33,629	0.1531	11,200

26,464	0.2380	11,200
93,501	0.2545	13,700
108,185	0.1975	19,200
91,443	0.2465	10,000
102,228	0.2551	13,700
52,634	0.2057	14,200
229,528	0.2254	18,700
89,489	0.2046	16,700
101,060	0.2142	5,000
109,549	0.2120	13,700
93,631	0.2545	13,700
42,673	0.1767	11,200
56,074	0.2433	11,200
57,037	0.2229	11,200
63,100	0.2362	11,200
51,886	0.2220	14,200
45,563	0.1788	11,200
76,367	0.2148	14,200
88,796	0.1652	12,500
43,037	0.1917	11,200
55,454	0.2551	11,200
76,282	0.2338	14,200
75,413	0.2337	13,700
86,478	0.2348	14,200
76,160	0.2289	10,000
47,605	0.1971	11,200
86,537	0.2421	11,200
63,268	0.2241	11,200
32,137	0.1880	11,200
44,012	0.1907	14,200
44,012	0.1907	14,200
37,318	0.1127	13,700
139,814	0.2479	16,700
57,953	0.1937	14,200
59,782	0.2012	16,700
123,872	0.1984	16,700
109,916	0.2061	5,000
104,243	0.2685	11,200
84,098	0.2002	16,700
41,790	0.1668	13,500
93,137	0.1974	13,700
55,503	0.2291	14,200
72,950	0.2577	13,700
27,124	0.1835	14,200
118,056	0.2470	16,700
49,036	0.2292	-
40,887	0.1875	19,200

220,533	0.2255	21,450
203,970	0.2468	25,950
95,361	0.2088	-
36,413	0.1882	14,200
54,078	0.1921	16,700
31,479	0.1712	11,450
19,474	0.1457	11,450
224,066	0.2013	10,000
47,626	0.1901	17,700
81,128	0.2358	7,700
100,114	0.1635	16,700
83,985	0.2066	16,700
38,511	0.2252	11,950
96,794	0.1600	14,450
50,193	0.2037	11,199
36,960	0.2018	14,200
46,027	0.2134	11,950
42,978	0.1862	8,950
74,369	0.2075	14,450
39,726	0.1886	14,200
60,562	0.1694	8,950
104,443	0.2266	14,450
95,945	0.1986	5,000
87,523	0.1911	14,450
36,114	0.1903	8,950
81,015	0.2179	8,950
26,479	0.2315	8,950
54,063	0.2270	8,950
52,958	0.1852	15,200
100,126	0.2403	14,850
120,961	0.2903	14,850
57,883	0.1957	-
53,402	0.1876	11,450
82,336	0.1925	2,000
55,013	0.1838	11,450
43,701	0.1702	15,200
52,513	0.2090	11,950
151,728	0.1446	20,450
61,919	0.1935	16,700
31,258	0.1859	12,700
139,121	0.2359	2,250
142,733	0.3051	14,450
66,877	0.2286	15,200
44,380	0.2275	15,200
142,873	0.2301	3,000
70,963	0.2177	15,200
96,826	0.1877	14,450

53,591	0.2305	16,700
49,271	0.2108	7,750
30,138	0.1710	15,200
43,329	0.1757	12,950
157,518	0.2162	11,450
66,381	0.2194	11,950
88,096	0.2008	14,450
78,773	0.1818	17,700
55,824	0.1892	14,450
73,454	0.2053	13,700
74,946	0.2326	12,450
66,429	0.1780	-
112,964	0.2394	16,200
83,407	0.2187	8,950
108,274	0.2273	17,700
38,577	0.1164	14,450
64,788	0.2089	12,950
61,967	0.2838	15,200
47,700	0.2095	15,200
182,462	0.7956	15,700
62,472	0.1519	6,500
98,867	0.2090	12,950
63,574	0.2281	11,950
43,104	0.1827	11,950
56,019	0.2093	6,500
87,741	0.2248	15,450
67,681	0.2231	13,700
47,913	0.1981	15,200
39,970	0.1487	15,200
40,086	0.1842	16,200
101,396	0.1733	14,450
192,133	0.2454	22,700
36,719	0.1784	15,200
40,987	0.2177	11,950
22,794	0.1563	11,950
27,912	0.1716	8,950
83,467	0.1795	17,700
48,893	0.1368	15,200
49,640	0.1781	15,200
37,471	0.1649	15,200
80,120	0.3127	14,450
15,876	0.1211	15,200
40,353	0.1638	8,950
35,688	0.1281	15,200
60,389	0.2167	16,700
76,522	0.1750	16,700
43,464	0.1611	11,950

19,817	0.0788	11,950
60,947	0.2131	15,200
40,591	0.1756	
34,252	0.1626	22,200
63,077	0.1737	17,700
32,886	0.1561	15,200
89,497	0.2507	17,700
39,443	0.1534	14,450
84,494	0.2205	19,200
54,522	0.1902	14,200
31,594	0.1964	14,450
122,855	0.2583	19,200
16,926	0.0787	16,700
104,676	0.2051	17,700
331,115	0.2288	21,950
58,018	0.2251	19,200
76,107	0.1965	16,700
127,820	0.2136	16,700
410,438	0.8928	6,500
70,472	0.2000	21,200
38,300	0.1602	15,200
78,494	0.2196	15,200
42,597	0.2005	19,200
213,447	0.1893	22,700
212,406	0.1755	24,200
51,095	0.2070	16,700
31,069	0.1468	15,200
87,372	0.2213	17,700
38,025	0.2118	18,700
81,618	0.2050	
121,609	0.2211	27,200
52,533	0.2006	17,700
49,119	0.1932	16,700
21,492,507	**60**	**3,335,199**

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

AMENDED NOTICE OF PRODUCTION FROM NON-PARTY
(F.R.Civ.P. 1.351)

YOU ARE NOTIFIED that ten (10) days from the date of service of this Amended Notice, if service is by delivery, or fifteen (15) days from the date of service if service is by mail, and if no objection is received from any party, the undersigned will issue, or will apply to the Clerk of this Court for issuance of, the attached Subpoenas directed to Records Custodian of each of the following:

1. Phoenix Life Insurance Company: Legal Department, One American Row, Hartford, CT 06102

2. Penn Mutual Life Insurance Companies: Legal Department, 600 Dresher Road, Horsham, PA 19044

3. Lincoln National Life Insurance Company: Legal Department, 1300 S. Clinton Street, #1H53,Fort Wayne, IN 46802

4. Massachusetts Mutual Life: Legal Department, 1295 State Street, Springfield, MA 01111

5. Freund & Associates Insurance Services: Legal Department, 27412 Aliso Creek Road, Aliso Viejo, CA 92656

6. Sun Life Assurance Company of Canada: Legal Department, One Sun Life Executive Park, Wellesley Hills, MA 02481

7. Bisys Insurance Services Inc.: Legal Department, 4250 Crums Mill Road, Harrisburg, PA 17112

8. American General Life Companies: Legal Department, 2727-a Allen Parkway, Houston, TX 77019

9. Transamerica Life Insurance Company, Legal Department, 4333 Edgewood Rd. NE, Cedar Rapids, IA 52499

10. Hartford Life Insurance Company, The Hartford Financial Services Group, Inc., Legal Department, One Hartford Plaza, Hartford, CT 06155

11. Pacific Life Insurance Company, Legal Department, 700 Newport Center Drive, Newport Beach, Ca 92660-6397

12. Alliance Financial Group, 14021 Metropolis Avenue, Ft. Myers, Fl., 33912

13. Summit Alliance Financial, 14785 Preston Rd., Suite 1000, Dallas, Texas 75254

14. Principal Financial Group, Legal Department, 711 High Street, Des Moines, IA 50392

15. Minnesota Life Insurance Company, Legal Department, 400 Robert Street North St. Paul, MN, 55101

16. AXA Equitable, National Operations Center, Legal Department, 8501 IBM Drive, Suite 150, Charlotte, NC 28262

None of entities listed above is a party to this action, and the address for each entity is listed above. Each listed entity will be requested to produce the items listed at the time and place specified in the Subpoenas, which are attached hereto.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives,* 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; at arose@pm-law.com and mchandler@pm-law.com to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc. and Arbitrage International Management, LLC,* 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this 23rd day of May, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554
pfeaman@feamanlaw.com

By: _____
Peter M. Feaman
Florida Bar No. 0260347

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

SUBPOENA DUCES TECUM WITHOUT DEPOSITION
(RECORDS MAY BE MAILED IN LIEU OF APPEARANCE)

TO: **PHOENIX LIFE INSURANCE COMPANY**
Attn: Legal Department
One American Row
Hartford, CT 06102

DEFINITIONS

A. As used herein, the singular shall include the plural and the plural shall include the singular.

B. When the terms "you" "your" and "yours" are used herein, they shall mean PHOENIX LIFE INSURANCE COMPANY, or any agent, representative, attorney, or person acting, or purporting to act on its behalf.

C. When the term "document," as used herein, means any document, letter, log, record, report, memorandum, note, telegram, message, agreement, communication, e-mail,

telecopy, facsimile reproduction or "fax" (including cover sheets and proof of sending), State or Federal governmental hearing or report, summary or record of telephone conversations, e-mail (including attachments), summary or record of personal conversations or interviews, diary, graph, notebook, note chart, plan, drawing, sketch, map, summary or record of meeting or conferences, summary or report of investigations or negotiations, opinion or report of consultants, photograph, motion picture, film, brochure, pamphlet, advertisement, circular, press release, draft, letter, any marginal comments appearing on any document or any other form of written or recorded matter of every kind or description, however produced or reproduced, whether draft or final, original or reproduction, in the custody or control of you and/or your attorneys or anyone acting on your behalf.

DOCUMENTS TO PRODUCE

YOU ARE COMMANDED to appear at the offices of Peter Feaman, at 3615 West Boynton Beach Boulevard Boynton Beach, Florida 33436-4501, telephone number (561) 734-5552, within fifteen (15) days from the date of service of this Subpoena and to produce the following documents:

1. **Copies of all checks made payable to William E. Stansbury, William Elwood Stansbury, or William Stansbury (collectively "Stansbury") in payment of commissions paid to Stansbury from you for the years 2007, 2008, 2009, 2010, 2011 and 2012. Each check is to be copied both front, showing the date, payee, amount and signature, and back, showing all endorsements and other related information.**

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If you fail to:

(1) appear as specified; or

(2) furnish the materials requested instead of appearing as provided above; or

(3) object to this subpoena;

you may be in contempt of court. You are subpoenaed to appear by the following attorney, and unless excused from this subpoena by this attorney or the court, you shall respond to this subpoena as directed.

DATED this ____ day of _____, 2013.

Issued by: _____
PETER M. FEAMAN, ESQ.
FOR THE COURT

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554

By: _____
Peter M. Feaman
Florida Bar No. 0260347

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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Defendants.
_____/

SUBPOENA DUCES TECUM WITHOUT DEPOSITION
(RECORDS MAY BE MAILED IN LIEU OF APPEARANCE)

TO: **PENN MUTUAL LIFE INSURANCE COMPANIES**
Attn: Legal Department
600 Dresher Road
Horsham, PA 19044

DEFINITIONS

A. As used herein, the singular shall include the plural and the plural shall include the singular.

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DATED this ____ day of _____, 2013.

Issued by: _____
PETER M. FEAMAN, ESQ.
FOR THE COURT

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554

By: _____
Peter M. Feaman
Florida Bar No. 0260347

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

SUBPOENA DUCES TECUM WITHOUT DEPOSITION
(RECORDS MAY BE MAILED IN LIEU OF APPEARANCE)

TO: **LINCOLN NATIONAL LIFE INSURANCE COMPANY**
Attn: Legal Department

Fort Wayne, IN 46801

DEFINITIONS

A. As used herein, the singular shall include the plural and the plural shall include the singular.

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DATED this ____ day of _____, 2013.

Issued by: _____
PETER M. FEAMAN, ESQ.
FOR THE COURT

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554

By: _____
Peter M. Feaman
Florida Bar No. 0260347

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

SUBPOENA DUCES TECUM WITHOUT DEPOSITION
(RECORDS MAY BE MAILED IN LIEU OF APPEARANCE)

TO: **MASSACHUSETTS MUTUAL LIFE**
Attn: Legal Department
1295 State Street
Springfield, MA 01111

DEFINITIONS

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DATED this ____ day of _____, 2013.

Issued by: _____
PETER M. FEAMAN, ESQ.
FOR THE COURT

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554

By: _____
Peter M. Feaman
Florida Bar No. 0260347

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

SUBPOENA DUCES TECUM WITHOUT DEPOSITION
(RECORDS MAY BE MAILED IN LIEU OF APPEARANCE)

TO: **FREUND & ASSOCIATES INSURANCE SERVICES**
Attn: Legal Department
27412 Aliso Creek Road
Aliso Viejo, CA 92656

DEFINITIONS

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DATED this ____ day of _____, 2013.

Issued by: _____
PETER M. FEAMAN, ESQ.
FOR THE COURT

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554

By: _____
Peter M. Feaman
Florida Bar No. 0260347

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

SUBPOENA DUCES TECUM WITHOUT DEPOSITION
(RECORDS MAY BE MAILED IN LIEU OF APPEARANCE)

TO: **SUN LIFE ASSURANCE COMPANY OF CANADA**
Attn: Legal Department
One Sun Life Executive Park
Wellesley Hills, MA 02481

DEFINITIONS

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DATED this ____ day of _____, 2013.

Issued by: _____
PETER M. FEAMAN, ESQ.
FOR THE COURT

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554

By: _____
Peter M. Feaman
Florida Bar No. 0260347

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

SUBPOENA DUCES TECUM WITHOUT DEPOSITION
(RECORDS MAY BE MAILED IN LIEU OF APPEARANCE)

TO: **BISYS INSURANCE SERVICES INC.**
Attn: Legal Department
4250 Crums Mill Road
Harrisburg, PA 17112

DEFINITIONS

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If you fail to:

(1) appear as specified; or

(2) furnish the materials requested instead of appearing as provided above; or

(3) object to this subpoena;

you may be in contempt of court. You are subpoenaed to appear by the following attorney, and unless excused from this subpoena by this attorney or the court, you shall respond to this subpoena as directed.

DATED this ____ day of _____, 2013.

Issued by: _____
PETER M. FEAMAN, ESQ.
FOR THE COURT

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554

By: _____
Peter M. Feaman
Florida Bar No. 0260347

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

SUBPOENA DUCES TECUM WITHOUT DEPOSITION
(RECORDS MAY BE MAILED IN LIEU OF APPEARANCE)

TO: **AMERICAN GENERAL LIFE COMPANIES**
Attn: Legal Department
2727-a Allen Parkway
Houston, TX 77019

DEFINITIONS

A. As used herein, the singular shall include the plural and the plural shall include the singular.

B. When the terms "you" "your" and "yours" are used herein, they shall mean PHOENIX LIFE INSURANCE COMPANY, or any agent, representative, attorney, or person acting, or purporting to act on its behalf.

C. When the term "document," as used herein, means any document, letter, log, record, report, memorandum, note, telegram, message, agreement, communication, e-mail,

telecopy, facsimile reproduction or "fax" (including cover sheets and proof of sending), State or Federal governmental hearing or report, summary or record of telephone conversations, e-mail (including attachments), summary or record of personal conversations or interviews, diary, graph, notebook, note chart, plan, drawing, sketch, map, summary or record of meeting or conferences, summary or report of investigations or negotiations, opinion or report of consultants, photograph, motion picture, film, brochure, pamphlet, advertisement, circular, press release, draft, letter, any marginal comments appearing on any document or any other form of written or recorded matter of every kind or description, however produced or reproduced, whether draft or final, original or reproduction, in the custody or control of you and/or your attorneys or anyone acting on your behalf.

DOCUMENTS TO PRODUCE

YOU ARE COMMANDED to appear at the offices of Peter Feaman, at 3615 West Boynton Beach Boulevard Boynton Beach, Florida 33436-4501, telephone number (561) 734-5552, within fifteen (15) days from the date of service of this Subpoena and to produce the following documents:

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Boynton Beach, FL 33436
Telephone: (561) 734-5552
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By: _____
Peter M. Feaman
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IN THE CIRCUIT COURT OF THE
15TH JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA

WILLIAM E. STANSBURY,
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Defendants.
_____/

SUBPOENA DUCES TECUM WITHOUT DEPOSITION
(RECORDS MAY BE MAILED IN LIEU OF APPEARANCE)

TO: **TRANSAMERICA LIFE INSURANCE COMPANY**
Attn: Legal Department
4333 Edgewood Rd. NE
Cedar Rapids, IA 52499

DEFINITIONS

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FOR THE COURT

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Boynton Beach, FL 33436
Telephone: (561) 734-5552
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Peter M. Feaman
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IN THE CIRCUIT COURT OF THE
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PALM BEACH COUNTY, FLORIDA

WILLIAM E. STANSBURY,
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Defendants.
_____/

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(RECORDS MAY BE MAILED IN LIEU OF APPEARANCE)

TO: **HARTFORD LIFE INSURANCE COMPANY**
THE HARTFORD FINANCIAL SERVICES GROUP, INC.
Attn: Legal Department
One Hartford Plaza
Hartford, CT 06155

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FOR THE COURT

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Boynton Beach, FL 33436
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Facsimile: (561) 734-5554

By: _____
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IN THE CIRCUIT COURT OF THE
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PALM BEACH COUNTY, FLORIDA

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Defendants.
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(RECORDS MAY BE MAILED IN LIEU OF APPEARANCE)

TO: **PACIFIC LIFE INSURANCE COMPANY**
Attn: Legal Department
700 Newport Center Drive
Newport Beach, CA 92660-6397

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PETER M. FEAMAN, ESQ.
FOR THE COURT

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554

By: _____
Peter M. Feaman
Florida Bar No. 0260347

IN THE CIRCUIT COURT OF THE
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PALM BEACH COUNTY, FLORIDA

WILLIAM E. STANSBURY,
Plaintiff,

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Defendants.
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SUBPOENA DUCES TECUM WITHOUT DEPOSITION
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TO: **ALLIANCE FINANCIAL GROUP**
Attn: Legal Department
14021 Metropolis Avenue
Ft. Myers, FL 33912

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FOR THE COURT

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Telephone: (561) 734-5552
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By: _____
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Florida Bar No. 0260347

IN THE CIRCUIT COURT OF THE
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TO: **SUMMIT ALLIANCE FINANCIAL**
Attn: Legal Department
14785 Preston Road, Suite 1000
Dallas, TX 75254

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FOR THE COURT

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Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554

By: _____
Peter M. Feaman
Florida Bar No. 0260347

IN THE CIRCUIT COURT OF THE
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PALM BEACH COUNTY, FLORIDA

WILLIAM E. STANSBURY,
Plaintiff,

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Defendants.
_____/

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TO: **PRINCIPAL FINANCIAL GROUP**
Attn: Legal Department
711 High Street
Des Moines, IA 50392

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DOCUMENTS TO PRODUCE

YOU ARE COMMANDED to appear at the offices of Peter Feaman, at 3615 West Boynton Beach Boulevard Boynton Beach, Florida 33436-4501, telephone number (561) 734-5552, within fifteen (15) days from the date of service of this Subpoena and to produce the following documents:

1. **Copies of all checks made payable to William E. Stansbury, William Elwood Stansbury, or William Stansbury (collectively "Stansbury") in payment of commissions paid to Stansbury from you for the years 2007, 2008, 2009, 2010, 2011 and 2012. Each check is to be copied both front, showing the date, payee, amount and signature, and back, showing all endorsements and other related information.**

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If you fail to:

(1) appear as specified; or

(2) furnish the materials requested instead of appearing as provided above; or

(3) object to this subpoena;

you may be in contempt of court. You are subpoenaed to appear by the following attorney, and unless excused from this subpoena by this attorney or the court, you shall respond to this subpoena as directed.

DATED this ____ day of _____, 2013.

Issued by: _____
PETER M. FEAMAN, ESQ.
FOR THE COURT

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554

By: _____
Peter M. Feaman
Florida Bar No. 0260347

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

SUBPOENA DUCES TECUM WITHOUT DEPOSITION
(RECORDS MAY BE MAILED IN LIEU OF APPEARANCE)

TO: **MINNESOTA LIFE INSURANCE COMPANY**
Attn: Legal Department
400 Robert Street North
St. Paul, MN 55101

DEFINITIONS

A. As used herein, the singular shall include the plural and the plural shall include the singular.

B. When the terms "you" "your" and "yours" are used herein, they shall mean PHOENIX LIFE INSURANCE COMPANY, or any agent, representative, attorney, or person acting, or purporting to act on its behalf.

C. When the term "document," as used herein, means any document, letter, log, record, report, memorandum, note, telegram, message, agreement, communication, e-mail,

telecopy, facsimile reproduction or "fax" (including cover sheets and proof of sending), State or Federal governmental hearing or report, summary or record of telephone conversations, e-mail (including attachments), summary or record of personal conversations or interviews, diary, graph, notebook, note chart, plan, drawing, sketch, map, summary or record of meeting or conferences, summary or report of investigations or negotiations, opinion or report of consultants, photograph, motion picture, film, brochure, pamphlet, advertisement, circular, press release, draft, letter, any marginal comments appearing on any document or any other form of written or recorded matter of every kind or description, however produced or reproduced, whether draft or final, original or reproduction, in the custody or control of you and/or your attorneys or anyone acting on your behalf.

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you may be in contempt of court. You are subpoenaed to appear by the following attorney, and unless excused from this subpoena by this attorney or the court, you shall respond to this subpoena as directed.

DATED this ____ day of _____, 2013.

Issued by: _____
PETER M. FEAMAN, ESQ.
FOR THE COURT

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554

By: _____
Peter M. Feaman
Florida Bar No. 0260347

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

SUBPOENA DUCES TECUM WITHOUT DEPOSITION
(RECORDS MAY BE MAILED IN LIEU OF APPEARANCE)

TO: **AXA EQUITABLE, NATIONAL OPERATIONS CENTER**
Attn: Legal Department
8501 IBM Drive, Suite 150
Charlotte, NC 28262

DEFINITIONS

A. As used herein, the singular shall include the plural and the plural shall include the singular.

B. When the terms "you" "your" and "yours" are used herein, they shall mean PHOENIX LIFE INSURANCE COMPANY, or any agent, representative, attorney, or person acting, or purporting to act on its behalf.

C. When the term "document," as used herein, means any document, letter, log, record, report, memorandum, note, telegram, message, agreement, communication, e-mail,

telecopy, facsimile reproduction or "fax" (including cover sheets and proof of sending), State or Federal governmental hearing or report, summary or record of telephone conversations, e-mail (including attachments), summary or record of personal conversations or interviews, diary, graph, notebook, note chart, plan, drawing, sketch, map, summary or record of meeting or conferences, summary or report of investigations or negotiations, opinion or report of consultants, photograph, motion picture, film, brochure, pamphlet, advertisement, circular, press release, draft, letter, any marginal comments appearing on any document or any other form of written or recorded matter of every kind or description, however produced or reproduced, whether draft or final, original or reproduction, in the custody or control of you and/or your attorneys or anyone acting on your behalf.

DOCUMENTS TO PRODUCE

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you may be in contempt of court. You are subpoenaed to appear by the following attorney, and unless excused from this subpoena by this attorney or the court, you shall respond to this subpoena as directed.

DATED this ____ day of _____, 2013.

Issued by: _____
PETER M. FEAMAN, ESQ.
FOR THE COURT

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554

By: _____
Peter M. Feaman
Florida Bar No. 0260347

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

In Re:
ESTATE OF SIMON BERNSTEIN,
Deceased.

Case No.: 50 2012 CP 004391 SB

Division IZ

/

REQUEST FOR NOTICES AND COPIES OF PLEADINGS

COMES NOW the law firm of Peter M. Feaman, P.A., counsel for William E. Stansbury, Creditor of the Estate, and pursuant to Probate Rule 5.060, hereby requests that all notices and copies of pleadings in the above matter be forwarded to:

Peter M. Feaman, Esq.
Peter M. Feaman, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
e-mail service: pfeaman@feamanlaw.com;
mkoskey@feamanlaw.com; and service@feamanlaw.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the above Request was forwarded to Mark R. Manceri, Esq., *Counsel for co-Personal Representatives,* Mark R. Manceri, P.A., 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308 at mrmlaw@comcast.net and mrmlaw1@gmail.com on this 22nd day of May, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel.: 561-734-5552
Fax: 561-734-5554
pfeaman@feamanlaw.com

By: _____
Peter M. Feaman
Florida Bar No.: 0260347

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

NOTICE OF PRODUCTION FROM NON-PARTY
(F.R.Civ.P. 1.351)

YOU ARE NOTIFIED that ten (10) days from the date of service of this Notice, if service is by delivery, or fifteen (15) days from the date of service if service is by mail, and if no objection is received from any party, the undersigned will issue, or will apply to the Clerk of this Court for issuance of, the attached Subpoenas directed to Records Custodian of each of the following:

1. Phoenix Life Insurance Company: Legal Department, One American Row, Hartford, CT 06102

2. Penn Mutual Life Insurance Companies: Legal Department, 600 Dresher Road, Horsham, PA 19044

3. Lincoln National Life Insurance Company: Legal Department, 1300 S. Clinton Street, #1H53,Fort Wayne, IN 46802

4. Massachusetts Mutual Life: Legal Department, 1295 State Street, Springfield, MA 01111

5. Freund & Associates Insurance Services: Legal Department, 27412 Aliso Creek Road, Aliso Viejo, CA 92656

6. Sun Life Assurance Company of Canada: Legal Department, One Sun Life Executive Park, Wellesley Hills, MA 02481

7. Bisys Insurance Services Inc.: Legal Department, 4250 Crums Mill Road, Harrisburg, PA 17112

8. American General Life Companies: Legal Department, 2727-a Allen Parkway, Houston, TX 77019

9. Transamerica Life Insurance Company, Legal Department, 4333 Edgewood Rd. NE, Cedar Rapids, IA 52499

10. Hartford Life Insurance Company, The Hartford Financial Services Group, Inc., Legal Department, One Hartford Plaza, Hartford, CT 06155

11. Pacific Life Insurance Company, Legal Department, 700 Newport Center Drive, Newport Beach, Ca 92660-6397

12. Alliance Financial Group, 14021 Metropolis Avenue, Ft. Myers, Fl., 33912

13. Summit Alliance Financial, 14785 Preston Rd., Suite 1000, Dallas, Texas 75254

14. Principal Financial Group, Legal Department, 711 High Street, Des Moines, IA 50392

15. Minnesota Life Insurance Company, Legal Department, 400 Robert Street North St. Paul, MN, 55101

16. AXA Equitable, National Operations Center, Legal Department, 8501 IBM Drive, Suite 150, Charlotte, NC 28262

None of entities listed above is a party to this action, and the address for each entity is listed above. Each listed entity will be requested to produce the items listed at the time and place specified in the Subpoenas, which are attached hereto.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives,* 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; at arose@pm-law.com and mchandler@pm-law.com to Alan Rose, Esq., PAGE, MRACHEK, *Attorneys for Defendants, Ted Bernstein, LIC Holdings, Inc. and Arbitrage International Management, LLC,* 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, on this 16 day of May, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554
pfeaman@feamanlaw.com

By: _____
Peter M. Feaman
Florida Bar No. 0260347

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

WILLIAM E. STANSBURY,

Plaintiff,

vs.

CASE NO: 50 2012 CA 013933 MB AA

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.
_____/

DEFENDANT'S, SHIRLEY BERNSTEIN TRUST, MOTION TO DISMISS

Defendant, Shirley Bernstein Trust Agreement dated May 20, 2008 ("Bernstein Trust"), by and through its Successor Trustee, Ted S. Bernstein ("Bernstein Trustee"), moves to dismiss the Amended Complaint served on April 22, 2013, upon Donald L. Tescher, as alleged Successor Trustee, and states:

1. The Amended Complaint should be dismissed for insufficient service of process. The Complaint was never served upon the Bernstein Trustee, and therefore, service is improper and should be quashed.

2. The Bernstein Trust adopts and incorporates herein the grounds for dismissal asserted by Bernstein Family Realty, LLC, in its motion served on May 10, 2013, as if fully set forth herein.

3. The Amended Complaint also does not assert any legally cognizable claim against the Bernstein Trust. First, the Amended Complaint fails to set forth sufficient allegations to support a claim for equitable lien or constructive trust over the Bernstein Trust or any property held or owned by such trust.

4. Second, the claims by Plaintiff belong, in whole or in part, to one or both of the legal entities known as LIC Holdings, Inc., a Florida corporation ("LIC") and/or Arbitrage International Management, LLC, a Florida limited liability company ("Arbitrage") (collectively the "Companies"). Plaintiff asserts that co-defendants, Ted S. Bernstein and Simon Bernstein , breached a fiduciary duty owed to the Companies and seeks an award of monies which necessarily would flow back to the Companies, not directly to Plaintiff. Thus, in Counts III and VIII, Plaintiff asserts derivative claims on behalf of the Companies. In this regard, Bernstein Trust adopts and incorporates herein the grounds for dismissal asserted by Ted S. Bernstein in his April 23, 2013, as if fully set forth herein.

5. Specifically, Plaintiff in this case has direct and derivative claims filed in the same lawsuit, there is a misjoinder issue which mandates the dismissal of the Complaint. Plaintiff cannot sue in different capacities in the same lawsuit. *Department of Ins. v. Coopers & Lybrand*, 570 So. 2d 369, 370 (Fla. 3d DCA 1990); *Karnegis v. Lazzo*, 243 So. 2d 642 (Fla. 3d DCA 1971); Fla. R. Civ. P. 1.110(g) ("A pleader may set up in the same action as many claims or causes of action ... *in the same right* as he has ...") (emphasis added).

6. Plaintiff lacks standing to bring any derivative claims on behalf of Arbitrage because he was never a shareholder of Arbitrage, and makes no such allegation in his Complaint.

7. Plaintiff lacks standing to bring any derivative claims on behalf of LIC or Arbitrage because, as alleged in paragraph 31, Plaintiff ceded his 10% interest in LIC. *See*§ 607.07401, Fla.

Stat.; *Timko v. Triarsi*, 898 So. 2d 89, 91 (Fla. 5th DCA 2005) (holding that once the complaining shareholders' shares were repurchased, the complaining former shareholder could not continue to prosecute a derivative claim).

8. Plaintiff failed to allege that Plaintiff made a demand on the Corporation to bring these claims before filing their Counterclaim. Allegations of a demand is a statutory pre-requisite for maintaining a derivative action. § 607.07401(2). The Complaint also is not verified as required by that statute.

WHEREFORE, Defendant, Bernstein Trust by and through Bernstein Trustee, respectfully requests that this Court dismiss the Amended Complaint; award Defendant its costs and attorneys' fees pursuant to any applicable contract or statute; and grant such other relief as is just.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to the Service List set forth below by: ■ E-mail Electronic Transmission; ☐ Facsimile; ☐ U.S. Mail; ☐ Overnight Delivery; ☐ Hand-delivery, this 13th day of May, 2013.

PAGE, MRACHEK, FITZGERALD, ROSE,
KONOPKA & DOW, P.A.
505 South Flagler Drive, Suite 600
West Palm Beach, Florida 33401
Telephone: (561) 655-2250
Facsimile: (561) 655-5537
Email: arose@pm-law.com; mchandler@pm-law.com
Email: sshelley@pm-law.com; tclarke@pm-law.com
Email: phely@pm-law.com; mchandler@pm-law.com
Counsel for Shirley Bernstein Trust

By: /s/ Alan B. Rose
Alan B. Rose (Florida Bar No. 961825)
Stefanie R. Shelley (Florida Bar No. 514446)
N. Patrick Hely (Florida Bar No. 0091466

SERVICE LIST

Peter M. Feaman, Esquire
Peter M. Feaman, P.A.
3615 West Boynton Beach Blvd.
Boynton Beach, FL 33436
(561) 734-5552 - Telephone
(561) 734-5554 - Facsimile
Email: (pfeaman@feamanlaw.com); (service@feamanlaw.com); (mkoskey@feamanlaw.com)
Counsel for Plaintiff

Mark R. Manceri, Esq.
Mark R. Manceri, P.A.
2929 East Commercial Blvd., Suite 702
Ft. Lauderdale, FL 33309
(954) 491-7099
Email: (mrmlaw@comcast.net); (mrmlaw1@gmail.com)
Counsel for Donald R. Tescher and Robert L.
Spallina, as Co-Personal Representatives

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

WILLIAM E. STANSBURY,

Plaintiff,

vs.

CASE NO: 50 2012 CA 013933 MB AA

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.
_____/

DEFENDANT'S, TED S. BERNSTEIN, MOTION TO DISMISS COUNTS III, VII, AND VIII

Defendant, Ted S. Bernstein ("Bernstein"), moves to dismiss Counts III, VII, and VIII of the Amended Complaint (the "Complaint"), and states:

1. The claims asserted in Counts III and VIII by Plaintiff against Bernstein belong to one or both of the legal entities known as LIC Holdings, Inc., a Florida corporation ("LIC") and/or Arbitrage International Management, LLC, a Florida limited liability company ("Arbitrage") (collectively the "Companies"). Plaintiff asserts that Bernstein breached a fiduciary duty owed to the Companies and seeks an award of monies which necessarily would flow back to the Companies, not directly to Plaintiff. Thus, in Counts III and VIII, Plaintiff asserts derivative claims on behalf of the Companies.

2. For example, in paragraph 47, Plaintiff alleges that Bernstein had a fiduciary duty "to act in good faith towards Stansbury and to act in the best interests of LIC Holdings and Arbitrage." The breaches alleged in paragraph 55, if proven, would result only in direct harm to the Companies by virtue, of among other things, (a) directing payments of Company money to third parties; (b) directing Companies to pay improper expenses; (c) transferring monies from Companies to third parties; (d) paying exorbitant compensation; and (e) committing corporate waste.

3. Any damages for these claims, if proven, would flow to and be property of the Companies, and nothing would flow directly to any shareholder. Thus, these are classic derivative claims. Plaintiff senses that, so he alleges that any damages were suffered by him individually and not to the corporation (Complaint, ¶58), but such allegation cannot change the character of these derivative claims. If, hypothetically, the Company paid $100 in extra compensation to someone, that would mean, at best, that the Company will receive $100, which the Company is under no obligation to distribute to anyone. In Counts III and VIII, Plaintiff does not assert any injury to himself which is separate from the injury allegedly suffered by the Companies, as the only injury claimed by Plaintiff would be a pro-rata percentage of the alleged damages which would have been suffered solely by the Companies. Thus, these claims are wholly (or at least partly) derivative.

4. The derivative action claims must be dismissed for several reasons. First, because Plaintiff in this case has direct and derivative claims filed in the same lawsuit, there is a misjoinder issue which mandates the dismissal of the Complaint. Plaintiff cannot sue in different capacities in the same lawsuit. *Department of Ins. v. Coopers & Lybrand*, 570 So. 2d 369, 370 (Fla. 3d DCA 1990); *Karnegis v. Lazzo*, 243 So. 2d 642 (Fla. 3d DCA 1971) (plaintiff may not by shareholders' derivative action seek in same lawsuit accounting from corporation when he personally sought

accounting and damages from majority stockholders, officers, and directors); 1 Am.Jur.2d *Actions* § 94 (1994) ("One cannot in the same action sue in more than one distinct right or capacity" citing *Coopers & Lybrand*); Fla. R. Civ. P. 1.110(g) ("A pleader may set up in the same action as many claims or causes of action ... *in the same right* as he has ...") (emphasis added).

5. Second, Plaintiff lacks standing to bring derivative claims on behalf of Arbitrage because he was never a shareholder of Arbitrage, and makes no such allegation in his Complaint.

6. Third, Plaintiff lacks standing to bring any derivative claims on behalf of LIC or Arbitrage because, as alleged in paragraph 31, Plaintiff ceded his 10% interest in LIC. Even if Plaintiff is no longer a shareholder as a result of alleged fraud, the fact remains that Plaintiff is not currently a shareholder of LIC. Therefore, Counts III and VIII of the Complaint should be dismissed. As a disgruntled former shareholder of the Corporation, Plaintiff has no legal standing to assert derivative claims at this juncture because he was not a shareholder at the time the suit was filed and he is no longer a shareholder of the Corporation, as required by Florida law. *See* § 607.07401, Fla. Stat.; *Timko v. Triarsi*, 898 So. 2d 89, 91 (Fla. 5th DCA 2005) (holding that once the complaining shareholders' shares were repurchased, the complaining former shareholder could not continue to prosecute a derivative claim).

7. Fourth, Plaintiff also fails to state a derivative claim because the Complaint fails to allege that Plaintiff made a demand on the Corporation to bring these claims before filing their Counterclaim. Allegations of a demand is a statutory pre-requisite for maintaining a derivative action. § 607.07401(2). The Complaint also is not verified as required by that statute.

8. Fifth, as to the merits, Plaintiff's individual claim against Bernstein for the alleged breaches of fiduciary duty relating to Plaintiff's rights as shareholder of LIC are improper. As an

officer and director of LIC, Bernstein owed a fiduciary duty to the Company and the shareholders as a whole, not as to any particular shareholder or group of shareholders. Shareholders must bring a derivative action to pursue a claim against an officer or director unless the alleged injury is separate and distinct from any injury the complaining party suffered as a shareholder, in common with all other shareholders. Because Plaintiff fails to allege any injury separate and apart from the alleged injury Plaintiff suffered as a shareholder, in common with all other shareholders, Plaintiff lacks standing to bring any individual claim against Bernstein.

9. There is a clear and necessary distinction between an individual action and one brought in a derivative capacity. *Alario v. Miller*, 354 So. 2d 925, 926 (Fla. 2d DCA 1978). The body of the complaint determines whether the injury is direct to the stockholder making the cause of action individual to him or whether the injury is indirect as to the stockholder and the cause of action is derivative from the corporation. *Id.* The nature of the injuries alleged and the wrongs sought to be remedied are the key to determining whether an action is derivative or individual. *Id.*

10. The law "is well-established that if a plaintiff sues in a stockholder capacity for corporate mismanagement, she must sue derivatively in the corporation's name." *Kloha v. Duda*, 246 F. Supp. 2d 1237, 1242 (M.D. Fla. 2003)(citing *Empire Life Ins. Co. of Am. v. Valdak Corp.*, 468 F.2d 330, 335 (5th Cir. 1972)). This rule is a necessity because "[i]f each shareholder could sue individually for his losses, the wrongdoer would be subject to as many suits as there were stockholders in the corporation." *Empire Life*, 468 F.2d at 335 (citations and quotations omitted). If the injury to the individual shareholder is not direct, but rather indirect, the injury is insufficient to allow the shareholder to bring a direct claim. *Id.* In other words, the member can bring a direct claim:

> in a case where the stockholder shows a violation of duty owed directly to him. ***That exception to the general rule does not arise, however, merely because the acts complained of resulted in damage both to the corporation and to the stockholder, but is confined to cases where the wrong itself amounts to a breach of duty owed to the stockholder personally.***

Empire Life, 468 F.2d at 335 (citation omitted) (emphasis added).

WHEREFORE, Defendant, Ted S. Bernstein, respectfully requests that this Court dismiss Counts III, VII, and VIII; award Defendant his costs and attorneys' fees pursuant to any applicable contract or statute; and grant such other relief as is just.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to the Service List set forth below by: ■ E-mail Electronic Transmission; ☐ Facsimile; ☐ U.S. Mail; ☐ Overnight Delivery; ☐ Hand-delivery, this 23rd day of April, 2013.

PAGE, MRACHEK, FITZGERALD, ROSE,
KONOPKA & DOW, P.A.
505 South Flagler Drive, Suite 600
West Palm Beach, Florida 33401
Telephone: (561) 655-2250
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Counsel for Ted S. Bernstein; LIC Holdings, Inc.; and Arbitrage International Management, LLC

By: /s/ Alan B. Rose
Alan B. Rose (Florida Bar No. 961825)
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N. Patrick Hely (Florida Bar No. 0091466

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Counsel for Donald R. Tescher and Robert L.
Spallina, as Co-Personal Representatives

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

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 MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC; BERNSTEIN FAMILY REALTY, LLC,

Defendants.
_____/

CASE NO: 50 2012 CA 013933 MB AA

DEFENDANTS', TED S. BERNSTEIN, LIC HOLDINGS, INC., AND ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, ANSWER, AFFIRMATIVE DEFENSES, AND COUNTERCLAIM

Defendants, Ted S. Bernstein ("Bernstein"), LIC Holdings, Inc. ("LIC"), and Arbitrage International Management, LLC ("Arbitrage") (collectively "Defendants"), file their answer, affirmative defenses, and counterclaim.

ANSWER

1. Admitted for jurisdictional purposes only and otherwise denied.

2. Without knowledge.

3. Admitted.

4. Admit the first and second sentence, and otherwise without knowledge.

5. Admitted.

6. Admitted.

7. Admitted.

8. Denied.

9. Admitted for jurisdictional purposes only and otherwise denied.

10. Without knowledge.

11. Admitted.

12. Admitted.

13. Admitted that Stansbury's role in the company involved the sale and marketing of certain insurance products, and otherwise denied.

14. Denied.

15. Admitted.

16. Admitted that Stansbury, for some time, worked as an employee of LIC or Arbitrage, and that, for some time period, Stansbury's compensation was based upon receiving 15% of the net retained commissions as that terms was understood by the parties, and otherwise denied.

17. Admitted that Stansbury, for some time, worked as an employee of LIC or Arbitrage, and that, for some time period, Stansbury's compensation was based upon receiving 15% of the net retained commissions as that terms was understood by the parties, and otherwise denied.

18. Admitted that Stansbury was given 10% of the stock of LIC, and otherwise denied.

19. Denied.

20. Denied.

21. Denied.

22. Admitted that Stansbury agreed to be paid no commission for sales or revenues after January 1, 2008; without knowledge of the specific amounts received by Stansbury in 2008; and otherwise denied.

23. Denied.

24. Denied.

25. Denied.

26. Denied.

27. Denied.

28. Denied.

29. Denied.

30. Denied.

31. Admitted that Stansbury returned, surrendered or ceded his 10% stock interest back to LIC, and otherwise denied.

32. Denied.

33. Denied.

34. Without knowledge.

COUNT I

35. Defendants restate responses 1 to 34 above.

36. Denied.

37. Denied.

COUNT II

38. Defendants restate responses 1 to 34 above.

39. Denied.

40. Admitted that Stansbury was paid in accordance with the parties' agreement, and otherwise denied.

41. Admitted that Stansbury was paid in accordance with the parties' agreement, and otherwise denied.

42. Denied.

43. Denied.

44. Denied.

COUNT III

45-59. There is a pending Motion to Dismiss directed to this Count.

COUNT IV

60. Defendants restate responses 1 to 34 above.

61. Denied.

62. Denied.

63. Denied.

64. Denied.

65. Denied.

COUNT V

66. Defendants restate responses 1 to 34 above.

67. Denied.

COUNT VI

68. Defendants restate responses 1 to 34 above.

69. Admitted that Stansbury returned, surrendered or ceded his 10% stock interest back to LIC, and otherwise denied.

70. Denied.

71. Denied.

72. Denied.

COUNT VII

73-77. There is a pending Motion to Dismiss directed to this Count.

COUNT VIII

78. There is a pending Motion to Dismiss directed to this Count.

COUNT IX

79. Defendants restate responses 1 to 34 above.

80. Denied.

81. Denied.

82. Denied.

83. Denied.

84. Denied.

85. Admitted that there is a good faith basis to refuse any request by Stansbury, including because he no longer is a shareholder in LIC and his request is not made in good faith and for a proper purpose, and otherwise denied.

AFFIRMATIVE DEFENSES

86. Plaintiff's claims are barred in whole or in part by the applicable statute of limitations and/or laches.

87. Plaintiff's claims are barred in whole or in part by the statute of frauds.

88. Plaintiff's claims are barred in whole or in part because Plaintiff lacks standing to pursue derivative claims because he is no longer a shareholder in LIC and lacks standing to pursue other claims because is no longer an employee of LIC or Arbitrage.

89. Plaintiff's claims are barred in whole or in part by because Plaintiff has misjoined causes of action held in different capacities, and therefore, the Complaint is improper and, at a minimum, certain claims must be dismissed such that Plaintiff pursues only those claims he has in one capacity.

90. Plaintiff's claims are barred in whole or in part by the doctrine of waiver. Plaintiff was aware of the facts and circumstances of the companies' operations, and the financial transactions and dealings within the companies and was aware of the alleged actions which form the basis of his claim, and waived any claims against Defendants.

91. Plaintiff's claims are barred in whole or in part by the doctrine of ratification. Plaintiff was aware of the facts and circumstances of the companies' operations, and the financial transactions and dealings within the companies, and the alleged actions which form the basis of his claim, and ratified such alleged actions.

92. Plaintiff's claims are barred in whole or in part by the doctrine of estoppel. Plaintiff was aware of the facts and circumstances of the companies' operations, and the financial transactions

and dealings within the companies, and was aware of the alleged actions which form the basis of his claim, and therefore is estopped to assert any claims against Defendants.

93. Plaintiff's claims are barred in whole or in part by the doctrine of acquiescence. Plaintiff was aware of the facts and circumstances of the companies' operations, and the financial transactions and dealings within the companies, and was aware of the alleged actions which form the basis of his claim, and therefore acquiesced in the conduct about which he now complains.

94. Plaintiff's claims against Ted Bernstein are barred in whole or in part by the corporate shield doctrine. All of the actions allegedly taken by Bernstein were actions taken on behalf of a legal entity (corporation or limited liability company), and not on behalf of himself individually, and therefore, any claims against Bernstein individually are barred.

94. Plaintiff has failed to comply with the requirements of section 607.07401 of the Florida Statutes.

WHEREFORE, having answered the Complaint, Defendants demand judgment in their favor, together with an award of costs and, pursuant to any applicable contract or statute, attorneys' fees, and such other relief as it just.

COUNTERCLAIM

Counter-Plaintiff, Arbitrage International Management, LLC ("Arbitrage"), sues Defendant, William E. Stansbury ("Stansbury"), and states:

1. Arbitrage is a Florida limited liability company with its principal place of business in Palm Beach County, Florida.

2. Stansbury is a resident of Palm Beach County, Florida.

3. As part of his work for Arbitrage and its affiliated company, LIC Holdings, Inc., Stansbury was listed as the licensed insurance agent of record on various contracts and policies of insurance with various insurance companies, under which those insurance companies would make payments of commissions and renewals due to Arbitrage only by way of a check payable to one of the individuals, including in many cases Stansbury individually.

4. Pursuant to the agreement of the parties, Stansbury was to deliver all such checks to Arbitrage, because all receipts for commissions, renewals or other revenue received by Stansbury for contracts or policies generated during the time of his employment were property of his employer.

5. Upon information and belief, before the time that Stansbury voluntarily terminated his employment with Arbitrage, Stansbury received and collected checks made payable to him, but which properly belonged to Arbitrage, and retained those funds for his sole and exclusive use and benefit.

6. Further, after Stansbury voluntarily terminated his employment with Arbitrage, Stansbury continued to receive checks made payable to him, but which properly belonged to Arbitrage, and Stansbury retained the benefit of such checks for his sole and exclusive use and benefit. In addition, for some period of time after he voluntarily terminated his employment, Stansbury has been depositing certain checks into the trust account of his attorney, Peter Feaman.

7. All conditions precedent to the bringing of his action have occurred, been satisfied, or waived.

COUNT I - BREACH OF CONTRACT

8. Arbitrage realleges paragraphs 1 though 7 above.

9. This is an action for breach of contract and seeks damages in excess of $15,000, exclusive of interest, costs and attorneys' fees.

10. Pursuant to the agreement between Arbitrage and Stansbury, Stansbury was required to deliver to Arbitrage all checks made payable to him for contracts or policies of insurance which relate to work done during the time of Stansbury's employment.

11. For the vast majority of the duration of Stansbury's employment, Stansbury complied with the parties' oral agreement and, as far as Arbitrage is presently aware, Stansbury did in fact deliver to Arbitrage all checks he received. However, upon information and belief, Stansbury may have withheld checks from Arbitrage at various times.

12. At some point before the voluntary termination of his employment, and for all times after the voluntary termination of his employment, Stansbury has retained for himself and refused to turn over to Arbitrage checks received by him, payable to him individually, but which otherwise should have been turned over to Arbitrage.

13. By his actions in retaining checks payable to him but which should have been turned over to Arbitrage, Stansbury has breached his agreement with Arbitrage.

14. As a direct and proximate result of Stansbury breach of the parties' agreement, Arbitrage has been damaged in an amount to be determined through discovery and at trial, including the amount held in the trust account of Peter Feaman.

WHEREFORE, Arbitrage demands judgment in its favor against Stansbury for compensatory damages, together with an award of costs and, pursuant to any applicable statute or contract, an award of attorneys' fees, and such other relief as is just.

COUNT II - DECLARATORY JUDGMENT

15. Arbitrage realleges paragraphs 1 though 7 and 10 through 13 above.

16. This is an action for a declaratory judgment and for supplemental relief.

17. There is a genuine and immediate dispute between the parties as to the entitlement to certain checks which are made payable to Stansbury individually, but which properly belong to Arbitrage as the commissions and renewals received for contracts and policies of insurance, and other revenues of Arbitrage which are payable directly to Stansbury individually.

18. There is a bona fide, actual, present and practical need for the declaration.

19. The declaration deals with a present, ascertained or ascertainable state of facts or present controversy as to a state of facts regarding who is entitled to the checks held by Stansbury or his counsel.

20. An immunity, power, privilege or right of Arbitrage is dependent upon the facts or the law applicable to the facts.

21. Stansbury has, or reasonably may have, an actual, present, adverse and antagonistic interest in the subject matter, either in fact or law.

22. The antagonistic and adverse interests are all properly before the Court.

23. The relief sought is not merely the giving of legal advice or the answer to questions propounded from curiosity.

24. Based upon the foregoing, Arbitrage seeks a declaration that Stansbury is required to turn over to Arbitrage all checks received by him, which are payable to Stansbury individually, but which relate to contracts or policies of insurance, or other revenues generated by Arbitrage or by Stansbury while he was employed by Arbitrage.

25. Moreover, Arbitrage requests a declaratory judgment that it is entitled to all funds currently being held in the trust account of Peter Feaman, which represent checks received by Stansbury which are made payable to Stansbury individually, but which otherwise properly belong to Arbitrage.

26. Arbitrage also seeks a declaration that its rights to all such funds are superior to the rights and claims of Stansbury.

WHEREFORE, Arbitrage seeks a declaratory judgment as to its rights to the personal property described above, together with supplemental relief to the extent necessary, an award of costs and, pursuant to any applicable statute or contract, an award of attorneys' fees, and such other relief as is just.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to the Service List set forth below by: ■ E-mail Electronic Transmission; ☐ Facsimile; ☐ U.S. Mail; ☐ Overnight Delivery; ☐ Hand-delivery, this 23rd day of April, 2013.

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505 South Flagler Drive, Suite 600
West Palm Beach, Florida 33401
Telephone: (561) 655-2250
Facsimile: (561) 655-5537
Email: arose@pm-law.com; mchandler@pm-law.com
Email: sshelley@pm-law.com; tclarke@pm-law.com
Email: phely@pm-law.com; mchandler@pm-law.com
Counsel for Ted S. Bernstein; LIC Holdings, Inc.; and Arbitrage International Management, LLC

By: /s/ Alan B. Rose
Alan B. Rose (Florida Bar No. 961825)
Stefanie R. Shelley (Florida Bar No. 514446)
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(954) 491-7099
Email: (mrmlaw@comcast.net); (mrmlaw1@gmail.com)
Counsel for Donald R. Tescher and Robert L.
Spallina, as Co-Personal Representatives

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: **50 2012 CA 013933 MB AA**

v.

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.
_____/

4.22-13 2:00pm TL #1344

SUMMONS

THE STATE OF FLORIDA
To All and Singular the Sheriffs of said State:

TO: DONALD R. TESCHER
Co-Trustees of the Shirley Bernstein Trust Agreement of May 20, 2008
Tescher and Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431

IMPORTANT

An Amended Complaint has been filed by the Plaintiff, WILLIAM E. STANSBURY, in the above-styled case. You have twenty (20) calendar days after this Summons is served on you to file a written response to the attached Amended Complaint with the Clerk of this Court. A phone call will not protect you. Your written response, including the case number given above and the names of the parties, must be filed if you want the Court to hear your side of the case. If you do not file your response on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning from the Court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

If you choose to file a written response yourself, at the same time you file your written response to the Court you must also mail or take a copy of your written response to the Plaintiff's attorney named below.

PETER M. FEAMAN, ESQUIRE
PETER M. FEAMAN, P.A.
Attorney for Plaintiff, WILLIAM E. STANSBURY
3615 West Boynton Beach Boulevard
Boynton Beach, FL 33436
(561) 734-5552
Florida Bar No. 0260347

THE STATE OF FLORIDA: TO EACH SHERIFF OR AUTHORIZED PROCESS SERVER OF THE STATE OF FLORIDA:

You are commanded to serve this Summons and a copy of the Amended Complaint in this lawsuit on the above-named Defendant by serving it at the above-stated address.

DATED ON April _____, 2013.

APR 19 2013

SHARON R. BOCK
CLERK, PALM BEACH COUNTY

SHARON R. BOCK
Clerk & Comptroller
P.O. Box 4667
West Palm Beach, Florida
33402-4667

By: **BELVA HAMILTON**
Deputy Clerk

IMPORTANTE

Usted ha sido demandado legalmente. Tiene 20 Dias, contados a partir del recibo de esta notificacion, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada telefonica no lo protegera. Si usted desea que el tribunal considere su defensa, debe prasentar su respuesta por escrito, incluyendo el numero del caso y los nombres de las partes interesadas. Si usted no contesta la demanda a tiempo, pudiese perder el caso y podria ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitos legales. Si lo desea, puede usted consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen e+n la guia telefonica.

Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, debera usted enviar por correo o entregar una copia de su respuesta a la persona denominada abajo como "Defendant's Attorney" (Demandante o Abogado del Demandante).

IMPORTANT

Des poursuites judiciares ont ete entreprises contre vous. Vous avez 20 jours consecutifs a partir de la date de l'assignation de cette citation pour deposer une reponse ecrite a la plainte ci-jointe aupres de ce tribunal. Un simple coup de telephone est insuffisant pour vous proteger. Vous

etes oblige de deposer votre reponse ecrite, avec mention du numero de dossier ci-dessus et du nom des parties nommees ici, si vous souhaitez que le tribunal entende votre cause. Si vous ne deposez pas votre reponse ecrite dans le relai requis, voua risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent etre saisis par la suite, sans aucun preavis ulterieur du tribunal. Il y a d'autres obligations juridiques et vous pouvez requerir les services immediats d'un avocat. Si vous ne connaisaez pas d'avocat, vous pourriez telephoner a un service de reference d'avocats ou a un bureau d'assistance juridique (figurant a l'annuaire de telephones).

Si vous choisissez de deposer vous-meme une reponse ecrit, il vous faudra egalement, en meme temps que cette formalite, faire parvenir ou expedier une copie de votre reponse ecrite au "Defendant's Attorney" (Plaignant ou a son avocat) nomme ci-dessous.

pre ako ki fet avek Americans With Disabilites Act, tout moun ki ginyin yun bezwen espesiyal pou akomodasiyon pou yo patisipe nan pwogram sa-a dwe, nan yun tan rezonab avan ninpot aranjman kapab fet, you dwe kontakte Administrative Office of the Court, telefon nan se oubyen 1-800-995-8771 (V) an pasan pa Florida Relay Service.

En accordance avec la Loi des "Americans With Disabilities." Les personnes en besoin d'une accommodation speciale pour participer a ces procedures doivent, dans un temps raisonable, avant d'entreprendre aucune autre demarche, contacter l'office administrative de la Court, le telephone (V) Via Florida Relay Service 1-800-995-8771 (TDD) or 1-800-995-8770 (V), via Florida Relay Service.

De acuerdo con el Acto o Decreto de los Americanos con Impedimentos Inhabilitados, personas en necesidad del servicio especial para participar en este procedimiento deberan, dentro de un tiempo razonable, antes de cualquier procedimiento, ponerse en contacto con la oficina Administrativa de la Corte, 1-800-955-8771 (TDD), 1-800-955-8770 (V) Via Florida Relay Service.

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Plaintiff,

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ANSWER

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4. Admit the first and second sentence, and otherwise without knowledge.

5. Admitted.

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8. Denied.

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