

Re: CASE # 13097087 - RESPONSE TO SHERIFF'S ARREST REPORT FOR KIMBERLY MORAN

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14 transaction?

15 MR. SPALLINA: I was involved as the  
16 lawyer for the estate, yes. It did not come to  
17 my attention until Kimberly Moran came to me  
18 after she received a letter from the Governor's  
19 Office stating that they were investigating  
20 some fraudulent signatures on some waivers that  
21 were signed in connection with the closing of  
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In Re\_ The Estate of Shirley Bernstein.txt  
22 the estate.

- i. The series of exchanges here presumes that Simon's signed the document on April 09, 2012 and it was later submitted in November. Yet, according to Moran's statement that is NOT Simon's signature on the document, it is her FORGED signature, it was not merely notarized in his absentia, it is not his signature at all on the document.
  
- e. Judge Colin has not at this point arrested Ted, Spallina, Tescher and Manceri for the crimes that he is fully aware of that took place in his court with these forged documents, and I am unclear if he has reported these felony crimes to the proper authorities as required by Judicial Cannons and Law at this time. These felony crimes are not those of Moran or related to her document forgeries and fraud and are wholly new crimes I did not report in my initial complaint, as I had not learned of them at that time. I do believe I sent to your offices updates regarding these matters however. That the Sheriff's department should note that the Judge stated twice in the September 13, 2013 hearing, the transcript exhibited herein, that he should read Robert Spallina, Esq., Donald Tescher, Esq., Mark Manceri, Esq. and my brother Ted, their Miranda warnings. Not for the crimes committed and admitted to by Moran that you have most successfully prosecuted but for NEW CRIMES he found they had committed, including Fraud on the Court and filing of false instruments in official proceedings through identity theft of a deceased person.
- f. Further, at the hearing Spallina LIES to the Court by stating that the signatures on the Waiver's resubmitted by Moran were the same signatures as on the alleged originals, yet Moran's statement to the Sheriff contradicts this statement entirely.

23 THE COURT: So what's the resolution of

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24 the notary problem? Has that been resolved?

25 MR. SPALLINA: I can speak to it.

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1 MR. MANCERI: Please, Robert, go ahead.

2 The Judge is addressing you, be my guest.

3 MR. SPALLINA: In April of last year we

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4 met with Mr. Bernstein in April of 2012 to

5 close his wife's estate.

6 THE COURT: No, I know that part.

7 MR. SPALLINA: Okay.

8 THE COURT: I mean everyone can see he

9 signed these not notarized. When they were

10 sent back to be notarized, the notary notarized

11 them without him re-signing it, is that what

12 happened?

13 MR. SPALLINA: Yes, sir.

14 THE COURT: So whatever issues arose with

15 that, where are they today?

16 MR. SPALLINA: Today we have a signed

17 affidavit from each of the children other than

18 Mr. Bernstein that the original documents that

19 were filed with The Court were in fact their

20 original signatures which you have in the file

21 attached as Exhibit A was the original document

22 that was signed by them.

23 THE COURT: It was wrong for Moran to

24 notarize -- so whatever Moran did, the

25 documents that she notarized, everyone but

00051

1 Eliot's side of the case have admitted that

2 those are still the original signatures of

3 either themselves or their father?

4 MR. SPALLINA: Yes, sir.

- g. From the statement above Mr. Spallina, an Attorney at Law, has falsified information in a court proceeding by stating the signatures were not forged and

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were the original signatures and this poses new crimes that were not originally filed in the Moran investigation. I would like to have Spallina charged with this most serious crime of false statements in official proceedings by an attorney at law.

2. From the Sheriff's report you state,

ELMOUEIN, STATING THE DOCUMENTS WERE NOT NOTARIZED AND THEY NEED TO BE. MORAN STATED THAT AT THIS TIME, SHE TOOK IT UPON HERSELF TO TRACE EACH SIGNATURE OF THE SIX MEMBERS OF THE BERNSTEIN FAMILY ONTO ANOTHER COPY OF THE ORIGINAL WAIVER DOCUMENT. SHE THEN NOTARIZED THEM AND RESUBMITTED THEM TO THE COURTS.

a. That the "tracing" aka FORGERY is critical in these matters, as stated by Judge Colin in the Sept 13, 2013 hearing, when he states,

17 THE COURT: Mr. Bernstein, I want you to  
18 understand something. Let's say you prove what  
19 seems perhaps to be easy, that Moran notarized  
20 your signature, your father's signature, other  
21 people's signatures after you signed it, and  
22 you signed it without the notary there and they  
23 signed it afterwards. That may be a wrongdoing  
24 on her part as far as her notary republic  
25 ability, but the question is, unless someone  
00060  
1 claims and proves forgery, okay, forgery,  
2 proves forgery, the document will purport to be  
3 the document of the person who signs it...

Your investigation and arrest for fraudulent notarization of documents fails to prosecute properly for the admitted crime of forgery, as the document you are arresting her for is not a document I or my father signed that a notary stamp was then affixed to as your charges indicate. Instead, the document contains a forged signature on a document she wholly recreated and affixed a notary stamp on, which is not the document I or my father signed at all but rather a document she signed and this changes everything in the estate.

b. Further, there are conflicting statements made by Moran to two separate investigatory agencies regarding the documents, which implicate her in Perjury. Where at first Moran claims to the Governor's office that the documents were

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"identical" other than the fraudulent notary stamp she affixed and then telling a wholly different story to the Sheriff department, whereby she claims to have wholly recreated the documents and then "traced" aka forged six signatures making them wholly dissimilar and not "identical" at all. This appears to be felony Perjury and obstructing official investigations through false statements.

- c. Moran's statement above to the Sheriff's office therefore contradict her statement to the Governor, as she now admits to "tracing" aka forging the signatures, which is yet another distinct and separate felony crime times six signatures, including one for my deceased father. Therefore, Moran should be charged for felony forgery that she has now admitted to in your investigation, in addition to the fraudulent notarization of documents, which she was arrested for already.
- d. Based on these facts, I would like to press additional charges for the crime of perjury by Moran as well as forgery, as the perjury was not learned until after reviewing your arrest report with the conflicting statement. Now it becomes imperative to find out which of these statements is true, if either, and why she is lying to authorities. Again, we allege that Simon never signed a Waiver in April or November and that both documents were forged for him, along with a host of others.

ACTIONS. WE ALSO SPOKE WITH SPALLINA ALONE. SPALLINA STATED HE WAS NOT AWARE OF MORAN'S ACTIONS UNTIL SHE TOLD HIM. MORAN STATED SHE WAS MADE AWARE THAT OTHERS HAD CAUGHT ONTO WHAT SHE DID ONCE SHE RECEIVED NOTICE FROM THE GOVERNOR'S OFFICE, NOTARY EDUCATION DIVISION. ELIOT FILED A COMPLAINT ON HER WITH THE STATE. I WAS SUPPLIED WITH A COPY OF THE COMPLAINT AND CORRESPONDENCE BY ELIOT. I ALSO SPOKE WITH ERIN TUPER MAKING HER AWARE OF MY INVESTIGATION. ELIOT SUPPLIED A SWORN WRITTEN STATEMENT TO THE ORIGINAL

- e. The statements by Spallina and Moran regarding when Spallina knew of the criminal acts is another highly relevant point in the investigation and evidence of perjury exists in the statements made by both Moran and Spallina. Moran claims to first learn people were on to her, when she is notified by the Governor's Office in a letter dated July 23<sup>rd</sup> 2013. Spallina states he was not aware of Moran's actions until she told him, which according to her statements to authorities was sometime after July 23<sup>rd</sup> 2013 when she was contacted by the Governor's office. This statement that they did not know until that time is materially false as they learned of the crimes of Moran and the forged and fraudulent documents on or about May 06, 2013, when Spallina was served two separate Petitions filed by me with the probate courts. The Petitions were already submitted to you in the Moran investigation and contained

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the forged and fraudulent documents and the allegations against Moran and others. The Petitions served to them on May 6, 2013 filed with both Judge Colin and Judge French were titled "EMERGENCY PETITION TO: FREEZE ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SHIRLEY BERNSTEIN AND MORE" ("Petition 1".) The Petitions containing the forged and fraudulent documents can be found @

[www.iviewit.tv/20130506PetitionFreezeEstates.pdf](http://www.iviewit.tv/20130506PetitionFreezeEstates.pdf) 15th Judicial Florida Probate Court and  
[www.iviewit.tv/20130512MotionRehearReopenObstruction.pdf](http://www.iviewit.tv/20130512MotionRehearReopenObstruction.pdf) US District Court Pages 156-582

In the September 13, 2013 hearing Spallina also claims to the Judge falsely that,

15 MR. SPALLINA: I was involved as the  
16 lawyer for the estate, yes. It did not come to  
17 my attention until Kimberly Moran came to me  
18 after she received a letter from the Governor's  
19 Office stating that they were investigating  
20 some fraudulent signatures on some waivers that  
21 were signed in connection with the closing of  
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22 the estate.

Therefore, Spallina's claims in your investigation that he did not know about the crimes until Moran confessed to him which is factually false as he must hide that they knew of the crimes in May and did nothing but try to liquidate assets as fast as they could before anyone caught on. Spallina was well aware of the crimes of forgery and fraud alleged against Moran in May 2013 when he was served the Petitions months before he tries to claim in court and to investigators. What is important to note is that Spallina failed to take any actions to notify authorities or correct the matters with the court when he learned of them in May. Until the long arm of the law came knocking months later at Moran's door does he finally take action in September to rectify these matters, claiming that he just learned of them in July when Moran was noticed by the Governor. This again is making false statements in official investigations and in a court and I would like to file a complaint against Robert Spallina for this false statement of fact.

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3. From the Sheriff's report you claim,

**IN THIS CASE. IN SPEAKING WITH SPALLINA, WE FOUND THAT THE DOCUMENT IN QUESTIONS CHANGES THE INHERITANCE OF PERSONAL PROPERTY IN THE ESTATE OF SHIRLEY BERNSTEIN FROM SIMON AND SHIRLEY'S CHILDREN TO THEIR GRANDCHILDREN.**

- a. This statement from Spallina that the "document in questions changes the inheritance of personal property in the estate of Shirley Bernstein from Simon and Shirley's children to their grandchildren," contradicts the statements made to the Sheriff's office by Jill and Lisa and Ted in the report whereby they claimed "That as far as they know, the fraudulent notarization changed nothing with the estate" and Ted's claim "that the mistake did not affect the estate." The question now is who is telling the truth, Spallina or my siblings.
- b. If the documents change the beneficiaries fraudulently, this would constitute CONVERSION and THEFT that was enabled through a fraud on the court with forged and fraudulent documents and a fraud on the true and proper beneficiaries.
- c. In the October 28, 2013 Evidentiary Hearing it was learned that not only did the Waivers affect the estate of Shirley but other documents filed, including the alleged fraudulently notarized Will and Amended Trust filed by Spallina and Tescher in my father's estate, all now combine to throw into question who the ultimate beneficiaries will be in my mother's estate. The question of who the beneficiaries are will now have to be determined by the courts, due to the crimes of Moran and others. Therefore, I would say that contrary to my siblings statements that the crimes had no effect on the estate, contradicted by Spallina's statement that it changes beneficial interests, the crimes have had a devastating effect on the estate of my mother and the ultimate beneficiaries who have been damaged immensely and at great cost thus far.

4. From the Sheriff's report you stated,

**AND SIMON BERNSTEIN. THE ONLY CRIMINAL WRONGDOINGS FOUND ARE THE AFOREMENTIONED FRAUDULENTLY NOTARIZED DOCUMENTS.**

- a. That this statement is materially false and should be corrected in the report, as you also found criminal wrongdoings, including Forgery aka "tracing" of signatures and failed to identify this crime properly in the report or prosecute for ADMITTED FORGERY. That this statement is therefore materially false and should be corrected and the correct crimes prosecuted.

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- b. You were also given evidence of the criminal wrongdoing of Spallina, Tescher, Manceri and Ted exposed in the September 13, 2013 hearings. These crimes involved new crimes in closing the estate with a dead person as if alive and while related to the crimes of Moran, were committed with a variety of different documents and by different parties, who committed fraud on the court and more by Tescher, Spallina, Moran, Manceri, Baxley and Ted. Judge Colin identified these crimes and criminals as already exhibited herein and earlier submissions to your office in the Moran case.
- c. That you were also aware that the documents changed who received personal properties and this is a crime of conversion and theft as well, as the fraudulent and forged documents of Moran, according to Spallina, caused a conversion of personal properties to the wrong beneficiaries.
- d. Did you review the alleged Will and Amended and Restated Trust filed in my father's estate given to you? Whereby these documents also appear fraudulently notarized by now a one Lindsay Baxley, whom complaints were filed against with the Governor's office for improper notarization. On these documents, both Moran and Spallina aided Baxley, as they signed as witnesses to the documents she improperly notarized. Further, the fraudulent Will and Amended and Restated Trust give Tescher & Spallina alleged powers as executors/personal representatives of the estate of Simon and where Spallina drafted these documents as Attorney at Law only days before Simon passed away, while undergoing a battery of physical and psychological tests for problems with his brain and more. Spallina further witnesses the documents on these fraudulently notarized documents, again evidencing alleged fraud and fraudulent official documents in an official proceeding filed with the courts. This fraudulent witnessing of key estate documents that Spallina drafted, witnessed and gained financial benefits from and control of the estates with, represents new crimes which Spallina should be investigated for and prosecuted for. Again, it is alleged that the Will and Amended Trust were done post mortem and are further forgeries and that these documents were used to ILLEGALLY seize Dominion and Control over the estates and begin conversion of the properties to the knowingly wrong parties through a variety of felony frauds and thefts.
- e. Did you review the real estate documents signed by Ted that appear fraudulent and were submitted as part of the additional evidence provided to you in the Moran case? It should be noted that it was learned that prior to the October 28, 2013 Evidentiary Hearing that Ted was acting in fiduciary roles that he had not had prior to that day to liquidate assets. During the time Ted acted in the false fiduciary capacities he sold and converted real estate property and distributed the funds

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knowing that he did not have the fiduciary power to act in any capacity at the time. Ted took no legally necessary steps to properly notify the court or the alleged beneficiaries of his presumed fiduciary capacities in Shirley's estate because they were not legal. It was learned in the September 13, 2013 hearing that no successors to Simon were ever elected in the estate or trusts, as Simon closed the estate of Shirley and administered her trust while dead, as part of the fraud on the court and the beneficiaries.

- f. Ted also claimed in the September 13, 2013 hearing that he was Trustee of the estate of Shirley, which was learned later in the hearing to be a false statement, as Simon died as Personal Representative and Trustee of Shirley's estate and then while dead closed Shirley's estate as if he was alive. Simon was used to fraudulently close the estate while dead, as it was learned that Attorneys at Law Spallina and Tescher did not notify the court of his death and elect a successor Personal Representative or Trustee. Therefore, no successors were ever elected or granted Letters of Administration after Simon died, as would be the normal action when the Personal Representative dies, other than when identity theft and fraud on the court is being committed with a dead person.

5. From your report you claim,

**BASED ON THE FACTS AND FINDINGS OF THIS INVESTIGATION, I FIND PROBABLE CAUSE FOR THE ARREST OF MORAN FOR CRIMINAL ACTIONS UNDER THE COLOR OF LAW OR THROUGH USE OF SIMULATED LEGAL PROCESS, P.S.S. 843.0855 (3), DUE TO THE FACT THAT SHE DID WILLINGLY AND KNOWINGLY SIMULATE A LEGAL PROCESS OF A LEGAL DOCUMENT REGARDING PERSONAL PROPERTY, KNOWING THAT THE DOCUMENT CONTAINED FRAUDULENT SIGNATURES. THIS CASE REMAINS OPEN.**  
DETECTIVE RYAN W. MILLER 47704

- a. Moran's acts were also forgery, why was she not charged with it?
  - b. Moran's acts also became part of a fraud on a court when they were filed in an official proceeding, why was she not charged with that as well?
  - c. Identity Theft was committed regarding Simon's forged documents post mortem being filed in the courts why was she not charged with that?
6. Insurance Fraud and Fraud on a Federal Court involving Robert Spallina, Kimberly Moran and Theodore Bernstein.
    - a. Robert Spallina filed a claim with Heritage Union Life Insurance Company for a policy on my father Simon Bernstein, acting as "trustee" of a what Spallina has stated is a lost trust, allegedly named the "Simon Bernstein Irrevocable Insurance Trust Dtd.

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6/21/95." EXHIBIT 5 – SPALLINA CLAIM FORM. That MORAN is also involved in drafting and sending via mail and wire letters on behalf of Spallina to the insurance carrier to effectuate this fraud.

- b. Robert Spallina knew he was not the "trustee" of this lost trust, as he has consistently maintained that he has never seen the trust or had possession of the trust and that due to the trust being lost, it was a "best guess" as to who the beneficiaries and trustees were, see EXHIBIT 6 – SPALLINA CORRESPONDENCES REGARDING THE "LOST" TRUST
- c. After the claim was rejected by the carrier for failing to provide a clear path to the beneficiaries or trustees and failing to provide a trust document validating Spallina's and Ted's claims to be trustees. Ted and his brother-in-law's brother, attorney at law Adam Simon, Esq. then filed a breach of contract lawsuit in Federal Court with Ted claiming to the federal court now to be the "trustee" of the lost trust. The same lost trust that Spallina claimed to be "trustee" for when filing his fraudulent insurance claim. The breach of contract suit was brought because the carrier would not pay Spallina acting as Trustee of the lost trust and asked for a probate court order approving the lost trust beneficiaries Spallina claimed. The lawsuit was filed without my knowledge despite claims the benefits were in part for me and I was notified when the life insurance company filed a counter complaint against Ted and A. Simon and sued me as a third party defendant. This suit alerted me that they were trying to abscond with the benefits through this frivolous breach of contract lawsuit, constituting Abuse of Process, Fraud on a US District Court and insurance fraud. That Ted, Pam, Jill and Lisa do not want the benefits to flow to the estate as is the law in a lost beneficiary situation typically, as their children will get the funds. In Ted and Pam's case, their children are adults and would directly receive the proceeds if paid to the estate, which provides a motive for the fraud. That the lost trust and the lost insurance policy (not even the carrier appears to have a copy) and the documents and records of certain of the trusts involved were maintained by Pam and her husband David B. Simon, Esq. Despite Rule 26 disclosures from the carrier and Ted, at this time no trust or insurance contract has been produced by any party making claim, including the insurance companies and banks involved and this may indicate suppression or destruction of documents in efforts to perpetrate a fraud.
- d. That Tescher and Spallina have also been counter sued in this federal case but have failed as of this date to respond.

7. Questions for Det Miller

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- a. Did you just take statements from people at face value when determining the voracity of their statements? Did you investigate any of the perjuries that occurred in the various criminal and civil investigations and court transcripts of Moran or Spallina that were sent to you that wholly contradict statements made to the Sheriff's office?
- b. Did you review the hearing transcript statements whereby Judge Colin identified OTHER documents that were presented to the court by Spallina, Tescher, Manceri and Ted filed POST MORTEM by my father, not the documents done by Moran but other documents used to perpetrate a fraud on the court to close the estate, using documents and claims of Simon after he was dead, using him as if he were alive?
- c. For all of these NEW crimes presented herein I would like to file NEW criminal complaints for identity theft, fraud on the court, conversion, insurance fraud, fraud, etc. against each and every party involved and for each and every crime committed where there is prima facie evidence for each and admissions. Millions of dollars of cash and assets are missing from the estates, inventories are specious, and documents are suppressed from the beneficiaries including two trusts, an insurance contract and more.
- d. Did you review the reasons for Judge Colin claiming that he should read Miranda's to Ted, Spallina, Tescher and Manceri for fraud on a court and more in the closing of Shirley's estate with a series of other apparently fraudulent documents that are all improperly notarized or otherwise signed.

That based on the information contained herein and in my prior complaint regarding Moran and others, I would like to file the following criminal charges in separate claims or as one conspiracy claim, including but not limited to;

1. Perjury, several counts against Moran for conflicting statements regarding forgery and fraud in investigations.
2. Forgery, against Moran
3. Fraudulent Notarizations and alleged Forgery, against Lindsay Baxley
4. Perjury and false statements in official proceedings by Robert Spallina
5. Fraud on a Court and False official documents filed in the Probate Court, against Robert Spallina, Donald Tescher and Mark Manceri.
6. Personal and Real Property Theft and Conversion against Spallina, Tescher, Manceri, Ted, Moran, Baxley, Pam, Jill and Lisa.
  - a. New evidence in approximately \$1,000,000.00 of jewelry stolen from the estates now exists that was not reported in inventories of Simon or Shirley and

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were removed from the estate by Ted, Pam, Jill and Lisa. Certain items that were listed on inventories prepared by Ted do not match up to appraisals that were done in 2010 for insurance purposes and the numbers are hundreds of thousands different for what appear identical pieces, yet the discrepancies in color and clarities may indicate that fencing of jewels took place and replacement with inferior jewels were used for Ted's appraisal. See EXHIBIT \_\_\_ - TED 2013 ESTATE JEWELRY APPRAISAL AND 2010 CHARTIS INSURANCE APPRAISAL

7. Conspiracy, against Spallina, Tescher, Manceri, Ted, Moran, Baxley, Pam, Jill and Lisa
8. Identity Theft, Robert Spallina, Donald Tescher and Moran.
9. Mail and Wire Fraud against Spallina, Tescher, Moran and Baxley.
10. Insurance Fraud

Where allegations of MURDER of my father abounded from day one of his death, with claims of overdosing and poisoning and an autopsy and police investigation ordered and controlled by Ted, blaming or framing my father's girlfriend, Maritza Puccio.

While there were talks in May 2012 that my father was considering making changes to his estate plan, these plans were never completed and without the fraudulent and forged documents done post mortem for him, the changes would never have taken place.

These fraudulent and forged documents materially change the beneficiaries, the trustees and the distribution of the estates assets, converting the assets to improper parties and therefore all these other documents than the Waivers Moran admitted criminal acts in creating must be individually investigated and the crimes they permit must then also be prosecuted. Where Moran and Spallina are found perjuring statements to officials there is indisputably more to investigate and properly prosecute.

My father was an expert estate planner, he invented complex insurance plans involving complex estates for 40 years or more, he was one of the most successful in the industry and if he had wanted his estate beneficiaries changed they would have been perfect documents and not materially flawed, improperly notarized and forged and illegally notarized for him. My father stood for integrity in my life and he would have never filed perjured statements in official documents like on the Petition to Discharge or filed fraudulent inventories and other documents. My father would be ashamed of what his children have done to change the beneficiaries to their likings, POST MORTEM, through these frauds and not allow his and Shirley's last wishes to be executed properly and monies transferred to the beneficiaries they elected prior to the attempted frauds.

Thank you for your prompt consideration of these requests.

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Detective Ryan Miller  
Palm Beach County Sheriff's Office  
Financial Crimes Unit

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MORAN

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Respectfully Yours,



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Eliot I. Bernstein  
Founder & Inventor

Iviewit Holdings, Inc. – DL  
Iviewit Holdings, Inc. – DL  
Iviewit Holdings, Inc. – FL  
Iviewit Technologies, 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

cc/ec: Honorable Shira A. Scheindlin

Honorable Martin Colin

Honorable David French

Enclosure(s)/Attachment(s)/URL's

All Uniform Resource Locators ( URL's ) and the contents of those URL's are incorporated in entirety by reference herein and therefore must be included in your hard copy file WITH ALL EXHIBITS, as part of this correspondence and as further evidentiary material to be Investigated. Due to allegations alleged by New York State Supreme Court Whistleblower Christine C. Anderson and similar claims in the Iviewit RICO &

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(561) 245.8588 (o) / (561) 886.7628 (c) / (561) 245-8644 (f)  
[iviewit@iviewit.tv](mailto:iviewit@iviewit.tv) - [www.iviewit.tv](http://www.iviewit.tv)

Detective Ryan Miller  
Palm Beach County Sheriff's Office  
Financial Crimes Unit

Page 20 of 20  
Tuesday, December 3, 2013

Re: CASE # 13097087 - RESPONSE TO SHERIFF'S ARREST REPORT FOR KIMBERLY  
MORAN

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ANTITRUST Lawsuit regarding Document Destruction and Tampering with Official Complaints and Records, PRINT all referenced URL's and their corresponding exhibits and attach them to your hard copy file, as this is now necessary to ensure fair and impartial review.

In order to confirm that NO DOCUMENT DESTRUCTION OR ALTERCATIONS have occurred, once complete forward a copy of this correspondence with all exhibits and materials included to, Eliot I. Bernstein at the address listed herein. This will insure that all parties are reviewing the same documentation and no additional illegal activity is taking place. If you, for any reason, are incapable of providing this confirmation copy, please put your reasons for failure to comply in writing and send that to Eliot I. Bernstein at the address listed herein. Note, that this is a request only for a copy of this Correspondence and the referenced materials and NOT a request for any Case Investigation information, which may be protected by law.

cmb/eib

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BATES NO. EIB 001154  
02/27/2017

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

CRIMINAL DIVISION V

STATE OF FLORIDA

CASE NO. SD2013CFD10745AXXXMB  
ISSUE CAPIAS

vs.

KIMBERLY FRANCES MORAN, W/F,  
10/24/1978, 595-86-7590

FILED  
13 OCT -9 PM 3:43  
CLERK  
PALM BEACH COUNTY, FL  
CIRCUIT CRIMINAL

**INFORMATION FOR:**

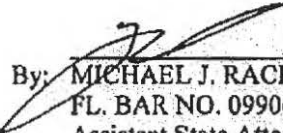
1) FALSE OR FRAUDULENT ACKNOWLEDGMENT OF SIGNATURE BY NOTARY PUBLIC

In the Name and by Authority of the State of Florida:

DAVID ARONBERG, State Attorney for the Fifteenth Judicial Circuit, Palm Beach County, Florida, by and through his undersigned Assistant State Attorney, charges that:

COUNT 1: KIMBERLY FRANCES MORAN on or about November 19, 2012, in the County of Palm Beach and State of Florida, did, while a notary public, falsely or fraudulently take an acknowledgment of an instrument as a notary public, or falsely or fraudulently make a certificate as a notary public or falsely or fraudulently receive an acknowledgment of the signature of ELIOT BERNSTEIN on a written instrument, contrary to Florida Statute 117.105. (3 DEG FEL)

DAVID ARONBERG  
STATE ATTORNEY

By:   
MICHAEL J. RACHEL  
FL. BAR NO. 0990604  
Assistant State Attorney  
Fifteenth Judicial Circuit

SA 2013EC000348AMB

STATE OF FLORIDA  
COUNTY OF PALM BEACH

Appeared before me, MICHAEL J. RACHEL, Assistant State Attorney for Palm Beach County, Florida, personally known to me, who, being first duly sworn, says that the allegations as set forth in the foregoing information are based upon facts that have been sworn to as true, and which, if true, would constitute the offense therein charged, that this prosecution is instituted in good faith, and certifies that testimony under oath has been received from the material witness or witnesses for the offense.

  
Assistant State Attorney

Sworn to and subscribed to before me this 9 day of October, 2013.

  
NOTARY PUBLIC, State of Florida

MJR/ds  
Citation Nos. (if applicable):



FCIC REFERENCE NUMBER:

1) FALSE OR FRAUDULENT ACKNOWLEDGMENT OF SIGNATURE BY NOTARY PUBLIC  
2699

**NOTICE OF CONFIDENTIAL INFORMATION WITHIN COURT FILING**

Pursuant to Florida Rule of Judicial Administration 2.420(d)(2), the filer of this court record (Information) indicates that confidential information is included within the document being filed; to wit: Social Security Number, § 119.0714.

SA 2013EC000348AMB

OBTS Number				PROBABLE CAUSE AFFIDAVIT				3		Juvenile	
Agency ORI Number FLO 6 0 0 0 0 0				Agency Name PALM BEACH COUNTY SHERIFF'S OFFICE				Agency Report Number 06 - 13-097087			
Charge Type: <input checked="" type="checkbox"/> 1. Felony <input type="checkbox"/> 3. Misdemeanor <input type="checkbox"/> 5. Ordinance				Check as many <input type="checkbox"/> 2. Traffic Felony <input type="checkbox"/> 4. Traffic Misdemeanor <input type="checkbox"/> 6. Other as apply.				Special Notes:			
Defendant's Name (Last, First, Middle) Moran, Kimberly Frances						Race w		Sex f		Date of Birth 10/24/78	
Charge Description Criminal actions through use of simulated legal process						Charge Description					
Victim's Name (Last, First, Middle) Bernstein, Elliot I.						Race w		Sex m		Date of Birth 9/30/63	
Victim's Local Address (Street, Apt. Number) 2753 NW 34 <sup>th</sup> St.			(City) Boca Raton		(State) FL		(Zip) 33434		Phone 888-7628		Address Source verbal
Victim's Business Address (Name, Street)			(City)		(State)		(Zip)		Phone 245-8588		Occupation unemployed
The undersigned certifies and swears that he/she has just and reasonable grounds to believe, and does believe that the above named Defendant committed the following violation of law. The Person taken into custody...											
<input type="checkbox"/> committed the below acts in my presence.				<input type="checkbox"/> was observed by _____ who told _____ that he/she saw the arrested person commit the below acts.							
<input checked="" type="checkbox"/> confessed to <u>Det. Miller #7794</u> admitting to the below facts.				<input type="checkbox"/> was found to have committed the below acts, resulting from my (described) investigation.							
On the 15 day of July, 2013 at 12:40 <input type="checkbox"/> A.M. <input checked="" type="checkbox"/> P.M. (Specifically include facts constituting cause for arrest).											

## NARRATIVE:

Eliot Bernstein filed a report with the Palm Beach County Sheriff's Office through D/S B. Longworth. Eliot reported that he felt some fraudulent/forged documents had been filed in the Palm Beach County Court System.

On August 23, 2013 I met with Eliot Bernstein reference his complaint. He stated that due to some documents being fraudulently notarized a larger fraud has occurred. He supplied me with copies of a document titled: Waiver of Accounting and Portions of Petition for Discharge: Waiver of Service of Petition for Discharge: And Receipt of Beneficiary and Consent to Discharge, for the Estate of Shirley Bernstein, who is Eliot's deceased mother.

Eliot stated that in the first part (believed to be April) of 2012, his father had a meeting with him and his four siblings (Ted, Pamela, Jill, & Lisa). I have since found out that this was a conference call which took place at the office of Attorney Robert Spallina, who is/was the Attorney for Simon and Shirley Bernstein. It should be noted that Simon has since passed, which occurred on or about September 13, 2012. At this conference call, which was in the first part of 2012, Simon Bernstein revealed to his children that he would like them to sign the aforementioned waiver. It is believed that there was also some discussion of inheritance and who was to get what upon Simon's passing.

Investigation revealed that all five children and Simon signed the aforementioned waiver that was sent to them by Spallina's legal assistant, Kimberly Moran. I spoke with Moran on 9/24/13 and she admitted to sending out the waiver as told to by her



## NARRATIVE CONTINUATION

boss. The waivers were then signed and returned. Simon's was signed on 4/9/12 and Eliot's on May 15, 2012. It was found that the other siblings did not return their document for several months. Moran stated she had to conduct follow-up e-mails and phone calls to get the documents returned. They were finally returned in August and October of 2012.

Moran stated she filed the documents with the court in October of 2012. She received a memorandum for Judge Martin Colin's case manager, Astride Limouzin, stating the documents were not notarized and they need to be. Moran stated that at this time, she took it upon herself to trace each signature of the six members of the Bernstein family onto another copy of the original waiver document. She stated she did this at the law office located at 4855 Technology Way, Boca Raton, Florida. She admitted she did this without authorization from anyone. She then notarized them and resubmitted them to the courts. When I interviewed her on 9/24/13, she stated she did not really have a reason why she forged the signatures, other than to maybe save time.

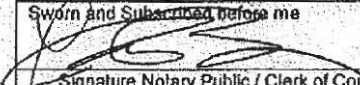
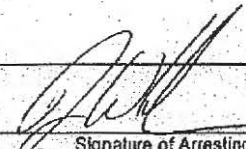
I spoke with Lisa and Jill via phone on September 10, 2013. They stated that as far as they know, the fraudulent notarization changed nothing with the estate since they willingly and knowingly signed the original documents. They stated that they do not wish to pursue anything criminally. I spoke with Ted on 9/24/13. He also stated that the mistake did not affect the estate and does not wish to pursue anything criminally. To date Pamela has not responded to my phone messages or e-mails.

D/S Mark Berey was present during my interviews with Moran, Ted, and Spallina. We spoke to Moran alone. The interview was recorded. She admitted to make a poor decision, but stated she did not benefit financially from her actions. We also spoke with Spallina alone. Spallina stated he was not aware of Moran's actions until she told him. Moran stated she was made aware that others had caught onto what she did once she received notice from the Governor's Office, Notary Education Division. Eliot filed a complaint on her with the state. I was supplied with a copy of the complaint and correspondence by Eliot. I also spoke with Erin Tuper making her aware of my investigation. Eliot supplied a sworn written statement to the original reporting deputy, stating that he wishes to pursue criminal charges. Eliot also told me himself that he wishes to pursue charges any criminal wrongdoings in this case. In speaking with Spallina, we found that the document in questions changes the inheritance of personal property in the Estate of Shirley Bernstein from Simon and Shirley's children to their grandchildren.

Based on the facts and findings of this investigation, I find probable cause for the arrest of Moran for Criminal Actions under the color of law or through use of simulated legal process, F.S.S. 843.0855 (3), due to the fact that she did willingly and knowingly

**NARRATIVE CONTINUATION**

simulate a legal process of a legal document regarding personal property, knowing that the document contained fraudulent signatures

Sworn and Subscribed before me  8828	
Signature Notary Public / Clerk of Court / Officer (F.S.S 117.10) Det Justin Markella	Signature of Arresting / Investigating Officer Ryan Miller 7704
Name of Notary Public / Clerk of Court / Officer (F.S.S 117.10) 9-25-13	Name of Officer (Please Print) 9-25-13
Date	Date



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

- |  |   |
|--|---|
| <input type="checkbox"/> 119.071(2)(c) Active criminal intelligence/active criminal investigative Information  | <input type="checkbox"/> 119.071(5)(g)1 Biometric Identification Information (Fingerprints, palm prints, and footprints)  |
| <input checked="" type="checkbox"/> 119.071(2)(e) Confession   | <input type="checkbox"/> 119.071(2)(f) Confidential Informants  |
| <input type="checkbox"/> 365.171(12) Identity of 911 caller or person requesting emergency service   | <input type="checkbox"/> 316.066(5)(a) Crash reports are confidential for period of 60 days after the report is filed   |
| <input type="checkbox"/> 119.071(2)(d) Surveillance techniques, procedures, and personnel; inventory of law enforcement resources, policies or plans pertaining to mobilization, deployment or tactical operations | <input type="checkbox"/> 119.071(2)(h)(1) Identity of victim of sexual battery, lewd and lascivious offense upon a person less than 16 years old, child abuse, sexual offense |
| <input type="checkbox"/> 119.071(2)(l) Assets of crime victim  | <input type="checkbox"/> 985.04(1) Juvenile offender records  |
| <input type="checkbox"/> 119.071(5)(a)(5) Social security numbers held by agency   | <input type="checkbox"/> 119.0712(2) Personal information contained in a motor vehicle record   |
| <input type="checkbox"/> 119.071(5)(b) Bank account #, debit, charge and credit card numbers held by an agency   | <input type="checkbox"/> 119.071(2)(b) Criminal intelligence/investigative information from a non-Florida criminal justice agency   |
| <input type="checkbox"/> 395.3025(7)(a) and/or 456.057(7)(a) Medical information   | <input type="checkbox"/> 394.4615(7) Mental health information  |
| <input type="checkbox"/> 943.053/943.0525 NCIC/FCIC/FBI and in-state FDLE/DOC  | <input type="checkbox"/> 119.071(4)(c) Undercover personnel   |
| <input type="checkbox"/> 119.07(4)(d) Extra fee if request is voluminous or requires extensive personnel, technology   | <input checked="" type="checkbox"/> 119.071(4)(d)(1) Home address, telephone, soc. security #, date of birth, photos of active/former LE personnel, spouses and children      |

Other:

Case No:13-097087

Tracking No.: 15-07-1853

Clerk Name/ID:S Petit 8339

Date: 10/1/2015

BATES NO. EIB 001160

02/27/2017 02/08/2013

9/11/2015

<u>Case #</u>	<u>Submission #</u>	<u>Description</u>	<u>Size</u>	<u>Location</u>
13-097087	001	Cd Moran statement.	SSB	RM259

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9/11/2015

<u>Case #</u>	<u>Submission #</u>	<u>Description</u>	<u>Size</u>	<u>Location</u>
14-029489	001	Original amended trust/ copy altered amended trust/ Spallina interview 1/21/14	SSB	RM270
14-029489	002	Ted and Alan interviews cd.	SSB	RM272
14-029489	003	Lisa and Jill's interviews cd.	SSB	RM272
14-029489	004	6 partial dist forms.	SSB	RM273
14-029489	005	Cd w/ Walkers statement and attachment.	SSB	RM274
14-029489	006	Cd w/ Eliot and Candace interview/ copy of full waiver.	SSB	RM274
14-029489	007	Cd Bernstein emails/ 3 copies of original trust documents.	SLB	B1448

CONFIDENTIAL

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL  
IN RE: ESTATE OF File No. 502011000653XXXX SB  
SHIRLEY BERNSTEIN, Probate Division  
Deceased.

2012 OCT 24 PM 1:31  
SHARON M. BROWN, CLERK  
PALM BEACH COUNTY, FL  
SOUTH CITY 3ND FLOOR-FILED

**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



Pamela B. Simon	950 North Michigan Avenue Suite 2603 Chicago, IL 60606	daughter	adult
Eliot Bernstein	2753 NW 34 <sup>th</sup> 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.



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 April 9, 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

XXXXXX

CONFIDENTIAL





## Miller, Ryan W.

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**From:** Rachel Walker <rachel3584@gmail.com>  
**Sent:** Friday, February 14, 2014 2:31 PM  
**To:** Miller, Ryan W.  
**Subject:** Notes pertaining to Eliot Bernstein's Petition to Freeze Estates

Hi Detective Miller!

I couldn't locate my notes initially made when first reading Eliot's petition so I took a few hours to read and make them again. I tried to only comment on notions that included me but also noted my knowledge on other circumstances. I hope it helps everyone in finalizing this issue and let it come to an end sooner rather than later. I also just realized you were the detective Shirley and I worked with regarding the scam elevator guy, Claude a few years back!

p.12 pp.14

The change of beneficiaries was not done as intent for protection. It was done that way to be fair according to Shirley and Simon.

p.15pp.28

Though Simon signed the paperwork to change beneficiaries in July, he had made the decision to do so well before the May 10, 2012 family conference call.

p.17pp.42

The sisters didn't just "take" Shirley's belongings and jewelry. Simon administered each piece to each girl as he knew were Shirley's wishes and fair. I was there and witnessed it.

p.17pp.45

Simon may have told Eliot that, after he learned of the division of Shirley's belongings, to calm Eliot after learning this upset him.

p.17pp.46

Not true. There is a ring that was left to Ally that everyone knows about.

p.18pp.47

A "boycott" was never planned nor intended for the situation. Those kids had a past with Maritza that Eliot and his family were unaware of. They had ill feelings and experiences with her which led them to detest her return into their family's life and rightfully so.

p.18pp.48

TRUE. They were correct, however, it wasn't a "boycott". They informed Eliot of their experiences with Maritza, which Eliot had no clue about since his family were not in the picture during that time.

p.18.pp.49

The did not "boycott" seeing Simon, they refused to see Simon when he was with Maritza. They had many dates with Simon without Maritza. Simon tried to push Maritza on everyone in a very uncomfortable way especially not taking their personal feelings into account. He was very mentally mixed up after Shirley passed.

p.18pp.51



It's not a crazy notion. They all told Simon that he was welcomed but Maritza is not. So, ultimately, it was Simon's decision to chose Maritza over his family.

p.19pp.53

This is simply untrue. Simon was perplexed by more than that. He was ultimately depressed by the loss of Shirley and didn't know how to cope and therefore covered his pain with this made up fantasy of his relationship with Maritza.

p.19pp.56

Not true. Jill, Julia and I all stayed at the condo. Jill made a valiant effort to see her father and not let his personal relationship with Maritza taint theirs. We all went to lunch together and Puccio showed up late and then left before sitting at the table due to her own insecurities. That same evening we all went to dinner together, including Maritza, and everything was fine. Simon actually chose to have Father's Day brunch the next morning with Maritza and her friends instead of his own daughter and granddaughter.

p.19pp.57

This is only speculation of Eliot

p.20pp.58

The changes weren't made because he hadn't seen his family members. He hadn't seen his family members because he chose Puccio over seeing them. He made the changes because even though he and Shirley already agreed their plan was fair, he decided to skip the children due to arguments and felt it was fair for the grandchildren without any further arguments.

p.21pp.71ii

Fainting and dizzy spells didn't happen until late August/early September.

p.21pp.71iv

This was the Sunday prior to Simon's passing that I was called to come over and Simon was totally out of it. This is the day I took all of his medications and hid them from him because he couldn't remember what or when he did anything. I left a list for Maritza to administer his meds when and how much and not to leave him alone at the house or in a room as he could harm himself. I also found vicodin in his little heart pill console he keeps on him at all times. I actually still have a 30 minute recording on my phone which i left in the kitchen secretly with Maritza and Simon as I went upstairs to gather his medicines. I can't really hear much of what is said on it but maybe a professional can if you think this would be prudent to the case.

p.22pp.76

Dr. Baum was weirdly unavailable for several hours before learning that he couldn't treat Simon at that hospital. We called many times stating an emergency and requesting documents and he ignored. Completely out of character for him.

p.24pp.86

Upon arrival to the hospital that morning, Eliot had taken it upon himself to designate himself as Simon's Health Care Proxy. It is known to all the family that Simon's living will states to not resuscitate if quality of life deteriorates.

p.24pp.87

The amount of resuscitations done by staff and doctors was beyond their expert advice but without Simon's living will in hand Eliot kept making the decision to resuscitate until the doctor finally came out and said that its nearly abuse to his body at this point. Though in Eliot's defense he was in complete despair and unable to take in the horrible reality clouded his decision making.

p.24pp.89

TRUE. Simon was in a vegetative state as advised by the ER doctor.

p.25pp.92

It wasn't weird to go and keep an eye on Maritza. Earlier in the day I had overheard Maritza try to make a couple of stupid excuses to leave the hospital bedside of her supposed love/bf and I called her out on it and so then made sure I went to the house before she had a chance to and gathered all checks, checkbooks, and Simon's wallet for safekeeping.

p.25pp.95

Absolutely untrue.

p.26pp.102

Yes, true and Candice had also informed me that Maritza sneakily gave Simon a big white pill that looked like the vicodin, thinking no one was watching.

p.27pp.104

To my knowledge, before the passing of Shirley or Simon, Ted has always been the fiduciary of Shirley's estate and the properties that were in her name.

p.28pp.114

Correct. The code to the safe had been changed without my notice. However, I still had keys, combinations and garage door openers until changed by the family, which very well could've been the next day I don't remember.

p.28pp.115

I did not move out because of problems with Maritza. Nor did my relationship phase Simon at all or cause him any stress. I moved out because Simon thought it was time for me to live my own life and not worry about him any longer and was having Maritza move in. I didn't join any said "boycott". I saw Simon's relationship with Maritza more than anyone else and had good reason to disapprove of him investing so much into her. Simon never felt betrayed by me. He knew I wanted what was best for him, which excluded Maritza, but being the stubborn person he was he did what he ultimately wanted to do and no one could influence him otherwise, right or wrong.

p.30pp.127

It wasn't days later. The night Simon was in the hospital and we were sent home until the next set of visiting hours Candice, Eliot and I went to dinner and I showed them the document and asked what to do with it. They advised me to hang onto it and that it's not signed and was created while Simon was completely psychotic so it held no worth. The check was not made out to her, it was completely black and taken from the back of the checkbook.

p.30pp.128

Didn't discuss with Ted at the hospital

p.30pp.130

This paragraph is either a blatant lie or completely misconstrued memory of Eliot's. Simon never said such a thing to Eliot nor did Eliot or Candice have any idea of such document until I showed them at dinner. They were in disagreement of the document that night also so I don't know how this memory was changed in their heads. All Simon said to all of us constantly while he was in the hospital bed was to make sure "they" didn't hurt her. They being his family members.



p.31pp.135

Not true. Only big red pills I have ever taken were diet pills and if I did give some to Candice that wasn't out of the ordinary. I never said to forget it and that those pills were meant for someone else though. Another misconstrued memory of Eliot's.

p.31pp.136

Not true. Only the computer in the office on the second floor seemed that way as it was new because the old computer had crashed. However, our IT guy, Keith Resig, was able to retrieve most of the information from the old computer and was on a dropbox which just needed to be downloaded to the new computer.

p.31pp.139

Don't know how any documents from Heritage Union Life Insurance Company were missing. We had just had Diana send in a check to them in August before the policy ran out for non payment.

p.55pp.266

Fitzmaurice is mistaken or Eliot heard her incorrectly as Simon saying he was once worth that much. Since the crash of 2008 the Bernstein's had to take out a line of credit a couple of times to make ends meet and since then he was never worth more than \$10million. I CAN TELL YOU that Simon at all times had about \$3million invested through JP Morgan in addition to other accounts with thousands of dollars. The day he passed he had \$70,000.00 something in his main checking account (which I paid bills with). Then apparently after handing all the info over to the estate we were told there is nothing.

p.55pp.267

Simon was probably embellishing for his ego. He did not possess that much in assets at once for years. However, Shirley and Simon had always told me that there is a separate, account/trust/something set up to take care of their grandchildren's school and home should they pass on.

p.57pp.279

I don't want to comment too much on the financials managed outside of my everyday duties but to my knowledge through conversations with both Shirley and Simon, that Stanford no longer holds any money of the Bernsteins because of the losses due to Stanford's ponzi scheme around 2008/2009.

p.89pp.406

Maritza had no estate interests, however the estate was depleting weekly as, in laymans terms, she was being paid by the estate to "be with" Simon. Money was transferred to Sabadell bank where Simon kept an account for her in his name. This account was used to fund her family in Venezuela and herself. She already made many "agreements" for large sums of money for "dating" Simon Bernstein. But months leading up to Simon's death she was repulsed by him to where she couldn't be in the same room as him, didn't sleep in the same room as him anymore and constantly made up excuses to leave the house without him. She confided in me that she couldn't stand to be around him anymore and wanted to leave but financially couldn't do that to herself or her family so she "put up with him".

p.89pp.407

This said document was not created in sound mind by Simon. Check was never filled out, it was blank, and the terms of the contract were never met so it's null and void.

p.89pp.408

It was never mentioned probably because it didn't possess any real quality and by that morning after no sleep for days I was solely concerned about the misuse of drugs that was administered to Simon by Maritza.

p.90pp.413

It was said by Simon Many times to myself and others- Maritza does not receive anything financially or by his estate after he passes, that she gets what is given to her while he is alive and she is his "girlfriend".

CONFIDENTIAL

**FIRST AMENDMENT TO  
SHIRLEY BERNSTEIN TRUST AGREEMENT**

This First Amendment is dated this 18 day of Nov, 2008, and is between SHIRLEY BERNSTEIN of Palm Beach County, Florida referred to in the first person, as settlor, and SHIRLEY BERNSTEIN of Palm Beach County, Florida as trustee (referred to as the "Trustee," which term more particularly refers to all individuals and entities serving as trustee of a trust created hereunder during the time of such service, whether alone or as co-trustees, and whether originally serving or as a successor trustee).

WHEREAS, on May 20, 2008, I created and funded the SHIRLEY BERNSTEIN TRUST AGREEMENT (the "Trust Agreement," which reference includes any subsequent amendments of said trust agreement);

WHEREAS, Paragraph A. of Article I. of said Trust Agreement provides, inter alia, that during my lifetime I shall have the right at any time and from time to time by an instrument, in writing, delivered to the Trustee to amend or revoke the said Trust Agreement, in whole or in part.

NOW THEREFORE, by executing this instrument, I hereby amend the Trust Agreement as follows:

1. I hereby delete Paragraph B. of Article II. in its entirety.
2. I hereby amend the last sentence of Paragraph E. of Article III. to read as follows:

"Notwithstanding the foregoing, as my spouse and I have adequately provided for them during our lifetimes, for purposes of the dispositions made under this Trust, my children, TED S. BERNSTEIN ("TED") and PAMELA B. SIMON ("PAM"), shall be deemed to have predeceased the survivor of my spouse and me, provided, however, if my children, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN, and their respective lineal descendants all predecease the survivor of my spouse and me, then TED and PAM shall not be deemed to have predeceased the survivor of my spouse and me and shall become eligible beneficiaries for purposes of the dispositions made hereunder."

3. I hereby ratify and reaffirm the Trust Agreement as amended by this First Amendment.


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*[remainder of page intentionally left blank]*




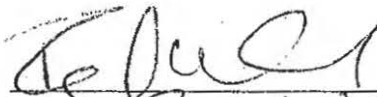
IN WITNESS WHEREOF, the parties hereto have executed this First Amendment on the date first above written.

SETTLOR and TRUSTEE:

  
\_\_\_\_\_  
SHIRLEY BERNSTEIN

This instrument was signed by SHIRLEY BERNSTEIN in our presence, and at the request of and in the presence of SHIRLEY BERNSTEIN and each other, we subscribe our names as witnesses on this 18 day of Nov, 2008:

  
\_\_\_\_\_  
Print Name: ROBERT L. SPALLINA  
Address: 7387 WISTERIA AVENUE  
PARKLAND, FL 33076

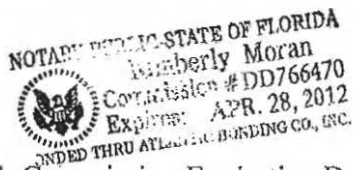
  
\_\_\_\_\_  
Print Name: Rachel Walker  
Address: 100 Plaza Real South  
Apt. 308  
Boca Raton, FL 33432

STATE OF FLORIDA


SS.

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 18 day of November, 2008, by SHIRLEY BERNSTEIN.



[Seal with Commission Expiration Date]

  
\_\_\_\_\_  
Signature - Notary Public - State of Florida

Print, type or stamp name of Notary Public


Personally Known  or Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

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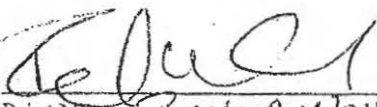
IN WITNESS WHEREOF, the parties hereto have executed this First Amendment on the date first above written.

SETTLOR and TRUSTEE:

  
\_\_\_\_\_  
SHIRLEY BERNSTEIN

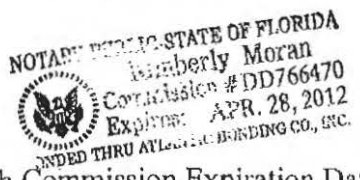
This instrument was signed by SHIRLEY BERNSTEIN in our presence, and at the request of and in the presence of SHIRLEY BERNSTEIN and each other, we subscribe our names as witnesses on this 18 day of Nov, 2008:

  
\_\_\_\_\_  
Print Name: ROBERT L. SPALLINA  
Address: 7387 WISTERIA AVENUE  
PARKLAND, FL 33076


  
\_\_\_\_\_  
Print Name: Rachel Walker  
Address: 100 Plaza Real South  
Apt. 308  
Boca Raton, FL 33432

STATE OF FLORIDA  
SS.  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 18 day of November, 2008, by SHIRLEY BERNSTEIN.



[Seal with Commission Expiration Date]

  
\_\_\_\_\_  
Signature - Notary Public-State of Florida

\_\_\_\_\_  
Print, type or stamp name of Notary Public

Personally Known  or Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

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**FIRST AMENDMENT TO  
SHIRLEY BERNSTEIN TRUST AGREEMENT**

---

This First Amendment is dated this 18 day of NOV, 2008, and is between SHIRLEY BERNSTEIN of Palm Beach County, Florida referred to in the first person, as settlor, and SHIRLEY BERNSTEIN of Palm Beach County, Florida as trustee (referred to as the "*Trustee*," which term more particularly refers to all individuals and entities serving as trustee of a trust created hereunder during the time of such service, whether alone or as co-trustees, and whether originally serving or as a successor trustee).

WHEREAS, on May 20, 2008, I created and funded the SHIRLEY BERNSTEIN TRUST AGREEMENT (the "*Trust Agreement*," which reference includes any subsequent amendments of said trust agreement);

WHEREAS, Paragraph A. of Article I. of said Trust Agreement provides, inter alia, that during my lifetime I shall have the right at any time and from time to time by an instrument, in writing, delivered to the Trustee to amend or revoke the said Trust Agreement, in whole or in part.

NOW THEREFORE, by executing this instrument, I hereby amend the Trust Agreement as follows:

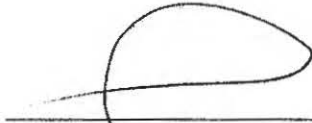
1. I hereby delete Paragraph B. of Article II. in its entirety.
  
3. I hereby ratify and reaffirm the Trust Agreement as amended by this First Amendment.

=====


*[remainder of page intentionally left blank]*

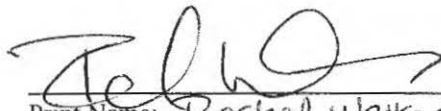
IN WITNESS WHEREOF, the parties hereto have executed this First Amendment on the date first above written.

SETTLOR and TRUSTEE:

  
\_\_\_\_\_  
SHIRLEY BERNSTEIN

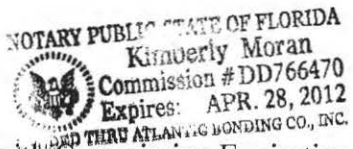
This instrument was signed by SHIRLEY BERNSTEIN in our presence, and at the request of and in the presence of SHIRLEY BERNSTEIN and each other, we subscribe our names as witnesses on this 18 day of Nov, 2008:

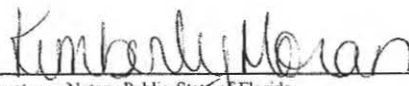
  
\_\_\_\_\_  
Print Name: ROBERT L. SPALLINA  
Address: 7387 WISTERIA AVENUE  
PARKLAND, FL 33076

  
\_\_\_\_\_  
Print Name: Rachel Walker  
Address: 100 Plaza Real South  
apt. 308  
Boca Raton, FL 33432

STATE OF FLORIDA  
SS.  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of November, 2008, by SHIRLEY BERNSTEIN.

  
[Seal with Commission Expiration Date]

  
\_\_\_\_\_  
Signature - Notary Public-State of Florida

Print, type or stamp name of Notary Public

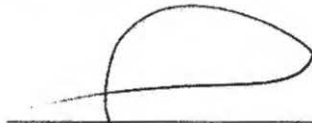
Personally Known  or Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

CONFIDENTIAL


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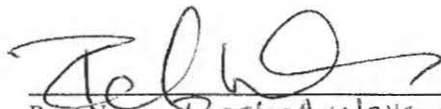
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SHIRLEY BERNSTEIN

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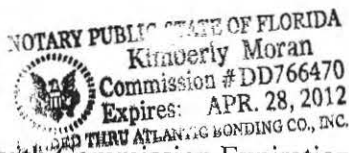
  
\_\_\_\_\_  
Print Name: Rachel Walker  
Address: 100 Plaza Real South  
apt. 308  
Boca Raton, FL 33432

STATE OF FLORIDA

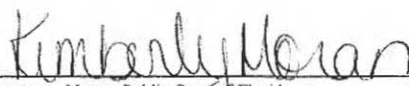
SS.

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of November, 2008, by SHIRLEY BERNSTEIN.



[Seal with Commission Expiration Date]

  
\_\_\_\_\_  
Signature - Notary Public-State of Florida

Print, type or stamp name of Notary Public

Personally Known  or Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

CONFIDENTIAL

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**IRS** DEPARTMENT OF THE TREASURY  
 INTERNAL REVENUE SERVICE  
 P.O. BOX 9003  
 HOLTSVILLE NY 11742-9003

002920.378262.0009.001 1 MB 0.326 530



DANIEL BERNSTEIN IRREV TRUST  
 TRACI KRATISH PA TTEE  
 950 PENNINSULA CORP CIR STE 3010  
 BOCA RATON FL 33487

002920

Date of this notice: 04-19-200

Employer Identification Number:  
 20-7354918

Form: SS-4

Number of this notice: CP 575

For assistance you may call us  
 1-800-829-4933

IF YOU WRITE, ATTACH THE  
 STUB OF THIS NOTICE.

**WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER**

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 20-7354918. This EIN will identify your estate or trust. If you are not the applicant, please contact the individual who is handling the estate or trust for you. Please keep this notice in your permanent records.

When filing tax documents, please use the label we provided. If this isn't possible, it is very important that you use your EIN and complete name and address exactly as shown above on all federal tax forms, payments and related correspondence. Any variation may cause a delay in processing, result in incorrect information in your account or even cause you to be assigned more than one EIN. If the information isn't correct as shown above, please correct it using tear off stub from this notice and return it to us so we can correct your account.

Based on the information from you or your representative, you must file the following form(s) by the date(s) shown.

Form 1041

04/15/2008

If you have questions about the form(s) or the due date(s) shown, you can call or write to us at the phone number or address at the top of the first page of this letter. If you need help in determining what your tax year is, see Publication 536, Accounting Periods and Methods, available at your local IRS office or you can download this Publication from our Web site at [www.irs.gov](http://www.irs.gov).

We assigned you a tax classification based on information obtained from you or your representative. It is not a legal determination of your tax classification, and is not binding on the IRS. If you want a legal determination on your tax classification, you may request a private letter ruling from the IRS under the guidelines in Revenue Procedure 2004-1, 2004-1 I.R.B. 1 (or superseding Revenue Procedure for the year at issue.)

001177



***TRUST AGREEMENT***  
***FOR THE***  
***DANIEL BERNSTEIN IRREVOCABLE TRUST***

*September 7, 2006*

**TRUST AGREEMENT**  
**FOR THE**  
**DANIEL BERNSTEIN IRREVOCABLE TRUST**

SIMON BERNSTEIN, as Settlor, hereby creates the Daniel Bernstein Irrevocable Trust ("the Trust") on September 7, 2006. Traci Kratish, P.A. is the trustee of this Trust and, in that capacity, he and his successors are collectively referred to in this Trust Agreement as the "Trustee."

**ARTICLE 1**  
**BENEFICIARY**

This Trust is for the benefit of the Settlor's Grandchild, DANIEL BERNSTEIN ("Beneficiary").

**ARTICLE 2**  
**TRANSFERS TO TRUST**

The Settlor hereby conveys to the Trustee all his interest in the assets listed on Schedule A, which together with any assets later added to this Trust are referred to as the "Trust Estate." Any person may transfer assets to the Trust Estate, if the Trustee agrees to accept them. Assets do not have to be listed on Schedule A to be part of the Trust Estate. Unless otherwise specified in writing at the time of the transfer, those assets will be held as provided in this Trust Agreement. The Trustee acknowledges receipt of the current Trust assets and agrees to hold the Trust Estate as set forth in this Trust Agreement.

**ARTICLE 3**  
**IRREVOCABLE PROVISION**

The Settlor declares that he has no right to alter, amend, modify, or revoke this Trust Agreement; to withdraw assets from the Trust; or to require changes in the investments of the Trust. No part of the Trust may ever revert to the Settlor, be used for his benefit, or be distributed in discharge of his legal obligations.

**ARTICLE 4**  
**ADMINISTRATION OF TRUST**

The Trustee shall hold, administer, and distribute the Trust Estate in accordance with the powers granted under this Trust Agreement as follows:

**4.1 Discretionary Distributions.** The Trustee shall pay or apply such sums of principal from this Trust as in the Trustee's discretion are necessary or advisable for Beneficiary's health, education, support, and maintenance,

**4.2 Distribution of Principal.** When Beneficiary has reached age 21, the trustee shall distribute one-half (½) of the corpus of trust to Beneficiary plus accrued income. When Beneficiary has reached age 25 the Trustee shall distribute the entire remaining principal balance of the corpus of the trust to Beneficiary plus accrued income.

**4.3 Distribution Upon Death Before Age 25.** Upon the death of Beneficiary prior to age 25, the Trustee shall distribute the remaining assets in the trust to the estate of Beneficiary.

## ARTICLE 5 PROVISIONS GOVERNING TRUSTEES

The following provisions apply to all Trustees appointed under this Trust Agreement:

**5.1 Incapacity of Trustee.** If any Trustee becomes disabled, he or she will immediately cease to act as Trustee. If a Trustee who ceases to serve because of a disability, or who is suspended, thereafter recovers from that disability or consents to the release of relevant medical information, he or she may elect to become a Trustee again by giving written notice to the then serving Trustee, and the last Trustee who undertook to serve will then cease to be a Trustee until another successor Trustee is required.

**5.2 Resignation.** Any Trustee may resign by giving 30 days' written notice delivered personally or by mail to any then serving Co-Trustee and to the Settlor if he is then living and not disabled; otherwise to the next named successor Trustee, or if none, to the persons having power to appoint successor Trustees.

**5.3 Power to Name Other Trustees.** Whenever a successor Trustee is required and that position is not filled under the terms specified in this Trust Agreement, an individual Trustee ceasing to serve (other than a Trustee being removed) may appoint his or her successor, but if none is appointed, the remaining Trustees, if any, or the beneficiary shall appoint a successor Corporate Trustee. The appointment will be by a written document (including a testamentary instrument) delivered to the appointed Trustee. In no event may the Settlor ever be appointed as the Trustee under this Trust Agreement nor shall a Successor trustee be appointed that will cause this trust to be a grantor trust.

**5.4 Powers of Successor Trustees.** Successor Trustees will have all powers granted to the original Trustee, except that only an Independent Trustee will succeed to the powers vested exclusively in the Independent Trustee.



**5.5 Accountings.** Accountings must be given to the beneficiary of each trust at least annually (quarterly if a Corporate Trustee is serving). The accountings must show the assets held in trust and all receipts and disbursements. A beneficiary's written approval of an accounting will be final and binding upon that beneficiary and all persons represented by him or her as to all matters disclosed in that accounting. In any event, if a beneficiary fails to object to an accounting within six months of receiving it, his or her approval is conclusively presumed. A successor Trustee may require the prior Trustee to render a full and final accounting.

**5.6 Acts by Other Fiduciaries.** The Trustee is not required to question any acts or failures to act of the fiduciary of any other trust or estate, and will not be liable for any prior fiduciary's acts or failures to act. The Trustee can require a beneficiary who requests an examination of another fiduciary's actions or omissions to advance all costs and fees incurred in the examination, and if the beneficiary does not, the Trustee may elect not to proceed or may proceed and offset those costs and fees directly against any payment that would otherwise be made to that beneficiary.

**5.7 Court Supervision.** The Settlor waives compliance by the Trustee with any law requiring bond, registration, qualification, or accounting to any court.

**5.8 Compensation.** Each Trustee is entitled to be paid reasonable compensation for services rendered in the administration of the Trust. Reasonable compensation for a Corporate Trustee will be its published fee schedule in effect when its services are rendered unless otherwise agreed in writing, and except as follows. Any fees paid to a Corporate Trustee for making principal distributions, for termination of the trust, and upon termination of its services must be based solely on the value of its services rendered, not on the value of the trust principal. During the Settlor's lifetime the Trustee's fees are to be charged wholly against income (to the extent sufficient), unless directed otherwise by the Settlor in writing.

**5.9 Indemnity.** Any Trustee who ceases to serve for any reason will be entitled to receive (and the continuing Trustee shall make suitable arrangements to provide) reasonable indemnification and security to protect and hold that Trustee harmless from any damage or liability of any nature that may be imposed upon it because of its actions or omissions while serving as Trustee. This protection, however, does not extend to a Trustee's negligent actions or omissions that clearly and demonstrably result in damage or liability. A prior Trustee may enforce these provisions against the current Trustee or against any assets held in the Trust, or if the prior Trustee is an individual, against any beneficiary to the extent of distributions received by that beneficiary. This indemnification right will extend to the estate, personal representatives, legal successors, and assigns of a Trustee.

**5.10 Successor Trustee.** In the event the initial Trustee, Steven I. Greenwald , resigns or ceases to serve as Trustee, then and in that event, I hereby appoint Larry V. Bishins to serve as Trustee.

**ARTICLE 6  
PROTECTION OF INTERESTS**

The interest of any beneficiary under this Trust Agreement, in either income or principal, may not be anticipated, alienated, or in any other manner assigned by the beneficiary, whether voluntarily or involuntarily, and will not be subject to any legal process, bankruptcy proceedings, or the interference or control of the beneficiary's creditors or others.

**ARTICLE 7  
FIDUCIARY POWERS**

The Settlor grants to the Trustee full power to deal freely with any property in the Trust. The Trustee may exercise these powers independently and without the approval of any court. No person dealing with the Trustee need inquire into the propriety of any of its actions or into the application of any funds or assets. The Trustee shall, however, exercise all powers in a fiduciary capacity for the best interest of the beneficiary of this Trust or any trust created under it. Without limiting the generality of the foregoing, the Trustee is given the following discretionary powers in addition to any other powers conferred by law:

**7.1 Type of Assets.** Except as otherwise provided to the contrary, to hold funds uninvested for such periods as the Trustee deems prudent, and to invest in any assets the Trustee deems advisable even though they are not technically recognized or specifically listed in so-called "legal lists," without responsibility for depreciation or loss on account of those investments, or because those investments are non-productive, as long as the Trustee acts in good faith.

**7.2 Original Assets.** Except as otherwise provided to the contrary, to retain the original assets it receives for as long as it deems best, and to dispose of those assets when it deems advisable, even though such assets, because of their character or lack of diversification, would otherwise be considered improper investments for the Trustee.

**7.3 Tangible Personal Property.** To receive and hold tangible personal property; to pay or refrain from paying storage and insurance charges for such property; and to permit any beneficiaries to use such property without either the Trustee or beneficiaries incurring any liability for wear, tear, and obsolescence of the property.

**7.4 Specific Securities.** To invest in assets, securities, or interests in securities of any nature, including (without limit) commodities, options, futures, precious metals, currencies, and in domestic and foreign markets and in mutual or investment



funds, including funds for which the Trustee or any affiliate performs services for additional fees, whether as custodian, transfer agent, investment advisor or otherwise, or in securities distributed, underwritten, or issued by the Trustee or by syndicates of which it is a member; to trade on credit or margin accounts (whether secured or unsecured); and to pledge assets of the Trust Estate for that purpose.

**7.5 Property Transactions.** To buy, sell, pledge, exchange, or lease any real or personal property, publicly or privately, for cash or credit, without court approval and upon the terms and conditions that the Trustee deems advisable; to execute deeds, leases, contracts, bills of sale, notes, mortgages, security instruments, and other written instruments; to abandon or dispose of any real or personal property in the Trust which has little or no monetary or useful value; to improve, repair, insure, subdivide and vacate any property; to erect, alter or demolish buildings; to adjust boundaries; and to impose easements, restrictions, and covenants as the Trustee sees fit. A lease will be valid and binding for its full term even if it extends beyond the full duration of the Trust.

**7.6 Borrow Money.** To borrow money from any source (including the Trustee in its nonfiduciary capacity), to guarantee indebtedness, and to secure the loan or guaranty by mortgage or other security interest.

**7.7 Maintain Assets.** To expend whatever funds it deems proper for the preservation, maintenance, or improvement of assets. The Trustee in its discretion may elect any options or settlements or exercise any rights under all insurance policies that it holds. However, no fiduciary who is the insured of any insurance policy held in the Trust may exercise any rights or have any incidents of ownership with respect to the policy, including the power to change the beneficiary, to surrender or cancel the policy, to assign the policy, to revoke any assignment, to pledge the policy for a loan, or to obtain from the insurer a loan against the surrender value of the policy. All such power is to be exercised solely by the remaining Trustee, if any, or if none, by a special fiduciary appointed for that purpose by a court having jurisdiction.

**7.8 Advisors.** To employ and compensate attorneys, accountants, advisors, financial consultants, managers, agents, and assistants (including any individual or entity who provides investment advisory or management services, or who furnishes professional assistance in making investments for the Trust) without liability for any act of those persons, if they are selected and retained with reasonable care. Fees may be paid from the Trust Estate even if the services were rendered in connection with ancillary proceedings.

**7.9 Indirect Distributions.** To make distributions, whether of principal or income, to any person under age 21 or to any incapacitated person according to the terms of this Trust Agreement by making distributions directly to that person whether or not that person has a guardian; to the parent, guardian, or spouse of that person; to a custodial account established by the Trustee or others for that person under an applicable Uniform

Gift to Minors Act or Uniform Transfers to Minors Act; to any adult who resides in the same household with that person or who is otherwise responsible for the care and well-being of that person; or by applying any distribution for the benefit of that person in any manner the Trustee deems proper. The receipt of the person to whom payment is made will constitute full discharge of the Trustee with respect to that payment. No distributions may be made to the Settlor under this Section.

**7.10 Non-Pro Rata Distribution.** To make any division or distribution in money or in kind, or both, without allocating the same kind of property to all shares or distributees, and without regard to the income tax basis of the property. Any division will be binding and conclusive on all parties.

**7.11 Nominee.** Except as prohibited by law, to hold any assets in the name of a nominee without disclosing the fiduciary relationship; to hold the property unregistered, without affecting its liability; and to hold securities endorsed in blank, in street certificates, at a depository trust company, or in a book entry system.

**7.12 Custodian.** To employ a custodian or agent ("the Custodian") located anywhere within the United States, at the discretion of the Trustee but at the expense of the Trust, whether or not such Custodian is an affiliate of the Trustee or any person rendering services to the Trust; to register securities in the name of the Custodian or a nominee thereof without designation of fiduciary capacity; and to appoint the Custodian to perform such other ministerial functions as the Trustee may direct. While such securities are in the custody of the Custodian, the Trustee will be under no obligation to inspect or verify such securities nor will the Trustee be responsible for any loss by the Custodian.

**7.13 Settle Claims.** To contest, compromise, arbitrate, or otherwise adjust claims in favor of or against the Trust, to agree to any rescission or modification of any contract or agreement, and to refrain from instituting any suit or action unless indemnified for reasonable costs and expenses.

**7.14 Corporate Rights.** To vote and exercise any option, right, or privilege to purchase or to convert bonds, notes, stock (including shares or fractional shares of stock of any Corporate Trustee), securities, or other property; to borrow money for the purpose of exercising any such option, right, or privilege; to delegate those rights to an agent; to enter into voting trusts and other agreements or subscriptions; to participate in any type of liquidation or reorganization of any enterprise; and to write and sell covered call options, puts, calls, straddles, or other methods of buying or selling securities, as well as all related transactions.

**7.15 Partnership Interests.** To hold interests in sole proprietorships, general or limited partnerships, joint ventures, business trusts, land trusts, limited liability companies, and other domestic and foreign forms of organizations; and to exercise all



rights in connection with such interests as the Trustee deems appropriate, including any powers applicable to a non-admitted transferee of any such interest.

**7.16 Self-Dealing.** To exercise all its powers even though it may also be acting individually or on behalf of any other person or entity interested in the same matters. The Trustee, however, shall exercise these powers at all times in a fiduciary capacity, primarily in the interest of the beneficiaries of the Trust. Despite any other provision of this Trust Agreement, no Trustee may participate in the decision to make a discretionary distribution that would discharge a legal support obligation of that Trustee. No Trustee who has made a disclaimer, either individually or as a Trustee, may exercise any discretion in determining the recipient of the disclaimed property. All power to make such distributions, or to determine recipients of disclaimed property, will be exercised solely by the remaining Trustees, if any, or if there are no other Trustees then serving, by the person or persons named to serve as the next successor Trustee, or if there are none, by a special Trustee appointed for that purpose by a court having jurisdiction.

**7.17 Expenses.** An Independent Trustee may determine how expenses of administration and receipts are to be apportioned between principal and income.

**7.18 Terminate Small Trusts.** To exercise its discretion to refrain from funding or to terminate any trust whenever the value of the principal of that trust would be or is too small to administer economically, and to distribute the remaining principal and all accumulated income of the trust as provided in Section 7.9 to the income beneficiary of that trust. The Trustee shall exercise this power to terminate in its discretion as it deems prudent for the best interest of the beneficiaries at that time. This power cannot be exercised by the Settlor or any beneficiary, either alone or in conjunction with any other Trustee, but must be exercised solely by the other Trustee, or if none, by a special Trustee appointed for that purpose by a court having jurisdiction.

**7.19 Allocations to Income and Principal.** To treat premiums and discounts on bonds and other obligations for the payment of money in accordance with either generally accepted accounting principles or tax accounting principles and, except as otherwise provided to the contrary, to hold nonproductive assets without allocating any principal to income, despite any laws or rules to the contrary. The Trustee in its discretion may exercise the power described in Section 738.104 of the Florida Statutes to adjust between principal and income, as appropriate, and, in addition, may convert any income interest into a unitrust interest, or a unitrust interest to an income interest, as it sees fit, all as provided in Section 738.1041 of the Florida Statutes, despite any provision of those sections to the contrary.

**7.20 Use of Income.** Except as otherwise provided in this Trust Agreement, and in addition to all other available sources, to exercise its discretion in the use of income from the assets of the Trust to satisfy the liabilities described in this Trust Agreement, without accountability to any beneficiary.

7

INITIALS \_\_\_\_\_  
DANIEL BERNSTEIN IRREVOCABLE TRUST

**7.21 Valuations.** In making distributions or allocations under the terms of this Trust Agreement to be valued as of a particular date, the Trustee may use asset valuations obtained for a date reasonably close to that particular date (such as a quarterly closing date before or after that date) if, in the Trustee's judgment, obtaining appraisals or other determinations of value on that date would result in unnecessary expense, and if in the Trustee's judgment, the fair market value as determined is substantially the same as on that actual date. This paragraph will not apply if valuation on a specific date is required to preserve a qualification for a tax benefit, including any deduction, credit, or most favorable allocation of an exemption.

**7.22 Incorporation.** To incorporate any business or venture, and to continue any unincorporated business that the Trustee determines to be not advisable to incorporate.

**7.23 Delegation.** To delegate periodically among themselves the authority to perform any act of administration of any trust.

**7.24 Advances.** To make cash advances or loans to beneficiaries, with or without security.

**7.25 Investment Manager.** To employ any investment management service, financial institution, or similar organization to advise the Trustee and to handle all investments of the Trust and to render all accountings of funds held on its behalf under custodial, agency, or other agreements. If the Trustee is an individual, these costs may be paid as an expense of administration in addition to fees and commissions.

**7.26 Depreciation.** To deduct from all receipts attributable to depreciable property a reasonable allowance for depreciation, computed in accordance with generally accepted accounting principles consistently applied.

**7.27 Disclaim Assets or Powers.** To disclaim any assets otherwise passing or any fiduciary powers pertaining to any trust created hereunder, by execution of an instrument of disclaimer meeting the requirements of applicable law generally imposed upon individuals executing disclaimers. No notice to or consent of any beneficiary, other interested person, or any court is required for any such disclaimer, and the Trustee is to be held harmless for any decision to make or not make such a disclaimer.

**7.28 Transfer Situs.** To transfer the situs of any trust or any trust property to any other jurisdiction as often as the Trustee deems advisable, and if necessary to appoint a substitute or ancillary Trustee to act with respect to that property. The Trustee may delegate to the substitute Trustee any or all of the powers given to the Trustee; may elect to act as advisor to the substitute Trustee and receive reasonable compensation for that service; and may remove any acting or substitute Trustee and appoint another, or reappoint itself, at will.



**7.29 Related Parties.** To enter into any transaction on behalf of the Trust despite the fact that another party to that transaction may be: (i) a business or trust controlled by the Trustee, or of which the Trustee, or any director, officer, or employee of the Corporate Trustee, is also a director, officer, or employee; (ii) an affiliate or business associate of any beneficiary or the Trustee; or (iii) a beneficiary or Trustee under this Trust Agreement acting individually, or any relative of such a party.

**7.30 Additional Powers for Income-Producing Real Estate.** In addition to the other powers set forth above or otherwise conferred by law, the Trustee has the following powers with respect to any income-producing real property which is or may become a part of the Trust Estate:

- To retain and operate the property for as long as it deems advisable;
- To control, direct, and manage the property, determining the manner and extent of its active participation in these operations, and to delegate all or any part of its supervisory power to other persons that it selects;
- To hire and discharge employees, fix their compensation, and define their duties;
- To invest funds in other land holdings and to use those funds for all improvements, operations, or other similar purposes;
- Except as otherwise provided with respect to mandatory income distributions, to retain any amount of the net earnings for working capital and other purposes that it deems advisable in conformity with sound and efficient management; and
- To purchase and sell machinery, equipment, and supplies of all kinds as needed for the operation and maintenance of the land holdings.

## ARTICLE 8 SUBCHAPTER S STOCK

Despite any other provisions of this Trust Agreement, if a trust created in this instrument is to become the owner of, or already owns, stock in a corporation that has an election in effect (or one that proposes to make an election) under Section 1362 of the Internal Revenue Code (an "S Corporation"), and that trust would not otherwise be permitted to be an S Corporation shareholder, the following provisions will apply:

**8.1 Electing Small Business Trust.** The Trustee in its discretion may elect for the trust to become an Electing Small Business Trust ("ESBT") as defined in the Internal Revenue Code.

**8.2 Qualified Subchapter S Trust.** If the Trustee does not cause the trust to become an ESBT, the Trustee shall set aside the S Corporation stock in a separate trust for the current income beneficiary of such trust, so that a Qualified Subchapter S Trust ("QSST") election under Section 1361 of the Internal Revenue Code can be filed with respect to that trust. The Trustee shall hold each share as a separate QSST for the persons described above, and each such person will be the sole beneficiary of his or her QSST. To the greatest extent possible, the Trustee shall administer each QSST under the terms of the trust from which it was derived, but subject to the following overriding provisions:

(a) **Consent.** The Trustee shall notify the beneficiary of each separate trust promptly that a QSST election must be filed with the Internal Revenue Service. Thereafter, each beneficiary shall file a timely and proper QSST election with the Internal Revenue Service. If a beneficiary fails or refuses to make the QSST election, the Trustee shall make an ESBT election for that trust. If the beneficiary does make the QSST election, then his or her separate trust will be administered as set forth below.

(b) **Income Payments.** During the beneficiary's life, the Trustee shall pay all net income of the trust to the beneficiary (and only to that beneficiary) in quarterly or more frequent installments. The beneficiary's income interest in the trust will terminate on the earlier of his or her death or the termination of the trust under its terms.

(c) **Principal Invasions.** If the beneficiary is otherwise entitled to receive principal distributions, the Trustee may distribute principal from that separate trust during the beneficiary's life only to or for the benefit of that beneficiary (and no one else).

(d) **Final Distribution.** If the QSST is terminated during the beneficiary's life, the Trustee shall distribute all remaining assets of that separate trust to that beneficiary. If the beneficiary dies before that trust's termination, all remaining assets of the QSST are to be distributed as provided in the original trust, but subject to this article.

(e) **Termination of QSST Status.** If a separate trust would cease to qualify as an S Corporation shareholder, the Trustee in its discretion may: (i) make an ESBT election for that separate trust, or (ii) distribute all S Corporation stock to the beneficiary. The Trustee in its discretion also may convert a QSST to an ESBT, whether or not the beneficiary has consented to QSST treatment and, if the beneficiary consents, may convert an ESBT into a QSST.

**ARTICLE 9**  
**PERPETUITIES PROVISION**

Despite any contrary provisions of this Trust Agreement, from the creation of this Trust and for up to 21 years after the death of the last of the Settlor's grandparents' descendants who are living at the creation of this Trust, a trust beneficiary (which includes persons succeeding to the interest of a deceased beneficiary) will be entitled to terminating distributions only at the ages specified in this Trust Agreement. In all events, however, the share of each beneficiary will vest (in the beneficiary or his or her estate) immediately prior to the expiration of the 21 year period described above.

**ARTICLE 10**  
**ADMINISTRATION AND CONSTRUCTION**

**10.1 Rules for Distributions.** In making distributions to beneficiaries under this Trust Agreement, the Trustee must use the following criteria.

(a) **Other Resources.** Whenever the Trustee has the authority to decide how much to distribute to or for the benefit of a beneficiary, the Trustee can make decisions without taking into account any information about the beneficiary's other available income and resources. The Trustee can make payments directly to a beneficiary or to other persons for the beneficiary's benefit, but it does not have to make payments to a court appointed guardian.

(b) **Trustee's Decision.** Absent clear and convincing evidence of bad faith, the Trustee's decisions as to amounts to be distributed will be final.

(c) **Standard of Living.** Distributions to a beneficiary for health, education, support, or maintenance are to be based on his or her standard of living, determined as of the date of the distribution.

**10.2 Funding Gifts.** The following rules will apply to funding gifts under this Trust Agreement.

(a) **Pecuniary Gifts.** All pecuniary gifts under this Trust Agreement that are paid by an in-kind distribution of assets must use values having an aggregate fair market value at the date or dates of distribution equal to the amount of this gift as finally determined for federal estate tax purposes.

(b) **Adjustments.** The Trustee shall select one or more dates of allocation or distribution for purposes of satisfying gifts and funding shares or trusts. The Trustee may make allocations before the final determination of federal estate tax, with those allocations being based upon the information then available to the Trustee,



and may thereafter adjust properties among the shares or trusts if it is determined that the allocation should have been made differently.

**10.3 Accumulated Income.** Any income not distributed to the beneficiaries pursuant to either a mandatory direction or a discretionary power is to be incorporated into principal, at such intervals as the Trustee deems convenient.

**10.4 Estate Tax on Included Property.** If assets of any trust created under this Trust Agreement are included in a beneficiary's estate for federal estate tax purposes, the following will apply.

(a) **Appointed Assets.** If the beneficiary exercises a power of appointment over those assets, the Trustee is authorized to withhold from those assets the amount of estate taxes apportioned to them by applicable law, if the beneficiary does not make provisions for the payment of those taxes from other sources.

(b) **Other Assets.** If the beneficiary does not have or does not exercise a power of appointment over those assets, the Trustee will pay the estate taxes attributable to those assets. The estate taxes attributable to those assets will be the amount that the beneficiary's estate taxes are increased over the amount those taxes would have been if those assets had not been included in the beneficiary's gross estate.

(c) **Certification and Payment.** The Trustee may rely upon a written certification by the beneficiary's personal representative of the amount of the estate taxes, and may pay those taxes directly or to the personal representative of the beneficiary's estate. The Trustee will not be held liable for making payments as directed by the beneficiary's personal representative.

**10.5 Transactions With Other Entities.** The Trustee may buy assets from other estates or trusts, or make loans to them, so that funds will be available to pay claims, taxes, and expenses. The Trustee can make those purchases or loans even if it serves as the fiduciary of that estate or trust, and on whatever terms and conditions the Trustee thinks are appropriate, except that the terms of any transaction must be commercially reasonable.

## ARTICLE 11 MISCELLANEOUS PROVISIONS

**11.1 Definitions.** As used in this Trust Agreement, the following terms have the meanings set forth below:

(a) **Trustees.**



- (1) **Independent Trustee** means a trustee of a particular trust, either individual or corporate, who is not the Settlor or a beneficiary, and who is not a Related Person as to the Settlor or a beneficiary (if the Settlor or the beneficiary, respectively, is living and participated in that person's appointment). For purposes of this definition a beneficiary is a person who is a permissible distributee of income or principal, or someone with an interest in the trust in excess of five percent (5%) of its value, assuming a maximum exercise of discretion in his or her favor. Whenever this Trust Agreement requires an action be taken by, or in the discretion of, an Independent Trustee but no such Trustee is then serving, a court may appoint an Independent Trustee to serve as an additional Trustee whose sole function and duty will be to exercise the specified power.
- (2) **Corporate Trustee** means a trustee that is a bank, trust company, or other entity authorized to serve as a trustee under the laws of the United States or any state thereof that is not a Related Person to the Settlor. A bank or trust company that does not meet this requirement cannot serve as Trustee.

(b) **Internal Revenue Code Terms.**

- (1) **Internal Revenue Code** means the federal Internal Revenue Code of 1986, as amended from time to time, or successor provisions of future federal internal revenue laws.
- (2) The terms **health, education, support, and maintenance** are intended to set forth an "ascertainable standard," as described in the Internal Revenue Code and its associated Regulations. To the extent not inconsistent with the foregoing, "health" means a beneficiary's physical and mental health, including but not limited to payments for examinations, surgical, dental, or other treatment, medication, counseling, hospitalization, and health insurance premiums; "education" means elementary, secondary, post-secondary, graduate, or professional schooling in an accredited institution, public or private, or attendance at other formal programs in furtherance of the beneficiary's spiritual, athletic, or artistic education, including but not limited to payments for tuition, books,

fees, assessments, equipment, tutoring, transportation, and reasonable living expenses.

- (3) **Related Person** as to a particular individual is someone who is deemed to be "related or subordinate" to that individual under Section 672(c) of the Internal Revenue Code (as though that individual was a grantor).

(c) **Other Terms.**

- (1) Distributions that are to be made to a person's **descendants, per stirpes**, will be divided into equal shares, so that there will be one share for each living child (if any) of that person and one share for each deceased child who has then living descendants. The share of each deceased child will be further divided among his or her descendants on a per stirpes basis, by reapplying the preceding rule to that deceased child and his or her descendants as many times as necessary.
- (2) **Disabled or under a disability** means (i) being under the legal age of majority, (ii) having been adjudicated to be incapacitated, or (iii) being unable to manage properly personal or financial affairs because of a mental or physical impairment (whether temporary or permanent in nature). A written certificate executed by an individual's attending physician confirming that person's impairment will be sufficient evidence of disability under item (iii) above, and all persons may rely conclusively on such a certificate.
- (3) Removal of a Trustee **for cause** includes, without limitation, the following: the willful or negligent mismanagement of the trust assets by that individual Trustee; the abuse or abandonment of, or inattention to, the trust by that individual Trustee; a federal or state charge against that individual Trustee involving the commission of a felony or serious misdemeanor; an act of theft, dishonesty, fraud, embezzlement, or moral turpitude by that individual Trustee; or the use of narcotics or excessive use of alcohol by that individual Trustee.
- (4) The words **will** and **shall** are used interchangeably in this Trust Agreement and mean, unless the context clearly indicates otherwise, that the Trustee must take the action

indicated; as used in this Trust Agreement, the word **may** means that the Trustee has the discretionary authority to take the action but is not automatically required to do so.

**11.2 Powers of Appointment.** The following provisions relate to all powers of appointment under this Trust Agreement.

- (a) A **general power of appointment** granted to a person is one that can be exercised in favor of that person or his or her estate, his or her creditors, or the creditors of his or her estate.
- (b) A **special power of appointment** is any power that is not a general power.
- (c) A **testamentary power of appointment** (either general or special) is exercisable upon the powerholder's death by his or her Last Will or by a revocable trust agreement established by that person, but only by specific reference to the instrument creating the power. A "testamentary power of appointment" may not be exercised in favor of the person possessing the power.
- (d) In determining whether a person has exercised a testamentary power of appointment, the Trustee may rely upon an instrument admitted to probate in any jurisdiction as that person's Last Will, or upon any trust agreement certified to be valid and authentic by sworn statement of the trustee who is serving under that trust agreement. If the Trustee has not received written notice of such an instrument within six months after the powerholder's death, the Trustee may presume that the powerholder failed to exercise that power and will not be liable for acting in accordance with that presumption.

**11.3 Notices.** Any person entitled or required to give notice under this Trust Agreement shall exercise that power by a written instrument clearly setting forth the effective date of the action for which notice is being given. The instrument may be executed in counterparts.

**11.4 Certifications.**

(a) **Facts.** A certificate signed and acknowledged by the Trustee stating any fact affecting the Trust Estate or the Trust Agreement will be conclusive evidence of such fact in favor of any transfer agent and any other person dealing in good faith with the Trustee. The Trustee may rely on a certificate signed and acknowledged by any beneficiary stating any fact concerning the Trust beneficiaries, including dates of

birth, relationships, or marital status, unless an individual serving as Trustee has actual knowledge that the stated fact is false.

(b) **Copy.** Any person may rely on a copy of this instrument (in whole or in part) certified to be a true copy by the Settlor; by any person specifically named as a Trustee (or successor Trustee); by any Corporate Trustee whether or not specifically named; or, if there are none of the above, by any then serving Trustee.

**11.5 Applicable Law.** All matters involving the validity and interpretation of this Trust Agreement are to be governed by Florida law. Subject to the provisions of this Trust Agreement, all matters involving the administration of a trust are to be governed by the laws of the jurisdiction in which the trust has its principal place of administration.

**11.6 Gender and Number.** Reference in this Trust Agreement to any gender includes either masculine or feminine, as appropriate, and reference to any number includes both singular and plural where the context permits or requires. Use of descriptive titles for articles and paragraphs is for the purpose of convenience only and is not intended to restrict the application of those provisions.

**11.7 Further Instruments.** The Settlor agrees to execute such further instruments as may be necessary to vest the Trustee with full legal title to the property transferred to this Trust.

**11.8 Binding Effect.** This Trust Agreement extends to and is binding upon the Settlor's Personal Representative, successors, and assigns, and upon the Trustee.

CONFIDENTIAL



Executed as of the date first written above.

Signed in the presence of:

SETTLOR

Judith M. Johnson  
Julian M.

[Signature]  
Simon Bernstein

Two witnesses as to Simon Bernstein

Signed in the presence of:

TRUSTEE

Traci Kratish, P.A.

Judith M. Johnson  
[Signature]

[Signature] FOR TRACI KRATISH, P.A.

[Signature] AS PRESIDENT

Two witnesses as to Traci Kratish

Traci Kratish, President

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**Schedule A**  
**Initial Transfers to Trust**

Transfer of 6 shares of LIC Holdings, Inc.



***TRUST AGREEMENT***  
***FOR THE***  
***JAKE BERNSTEIN IRREVOCABLE TRUST***

*September 7, 2006*



**TRUST AGREEMENT**  
**FOR THE**  
**JAKE BERNSTEIN IRREVOCABLE TRUST**

SIMON BERNSTEIN, as Settlor, hereby creates the Jake Bernstein Irrevocable Trust ("the Trust") on September 7, 2006. Traci Kratish, P.A. is the trustee of this Trust and, in that capacity, he and his successors are collectively referred to in this Trust Agreement as the "Trustee."

**ARTICLE 1**  
**BENEFICIARY**

This Trust is for the benefit of the Settlor's Grandchild, JAKE BERNSTEIN.

**ARTICLE 2**  
**TRANSFERS TO TRUST**

The Settlor hereby conveys to the Trustee all his interest in the assets listed on Schedule A, which together with any assets later added to this Trust are referred to as the "Trust Estate." Any person may transfer assets to the Trust Estate, if the Trustee agrees to accept them. Assets do not have to be listed on Schedule A to be part of the Trust Estate. Unless otherwise specified in writing at the time of the transfer, those assets will be held as provided in this Trust Agreement. The Trustee acknowledges receipt of the current Trust assets and agrees to hold the Trust Estate as set forth in this Trust Agreement.

**ARTICLE 3**  
**IRREVOCABLE PROVISION**

The Settlor declares that he has no right to alter, amend, modify, or revoke this Trust Agreement; to withdraw assets from the Trust; or to require changes in the investments of the Trust. No part of the Trust may ever revert to the Settlor, be used for his benefit, or be distributed in discharge of his legal obligations.

**ARTICLE 4**  
**ADMINISTRATION OF TRUST**

The Trustee shall hold, administer, and distribute the Trust Estate in accordance with the powers granted under this Trust Agreement as follows:

**4.1 Discretionary Distributions.** The Trustee shall pay or apply such sums of principal from this Trust as in the Trustee's discretion are necessary or advisable for Beneficiary's health, education, support, and maintenance.

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INITIALS \_\_\_\_\_  
JAKE BERNSTEIN IRREVOCABLE TRUST

**4.2 Distribution of Principal.** When Beneficiary has reached age 21, the trustee shall distribute one-half (½) of the corpus of trust to Beneficiary plus accrued income. When Beneficiary has reached age 25 the Trustee shall distribute the entire remaining principal balance of the corpus of the trust to Beneficiary plus accrued income.

**4.3 Distribution Upon Death Before Age 25.** Upon the death of Beneficiary prior to age 25, the Trustee shall distribute the remaining assets in the trust to the estate of Beneficiary.

**ARTICLE 5**  
**PROVISIONS GOVERNING TRUSTEES**

The following provisions apply to all Trustees appointed under this Trust Agreement:

**5.1 Incapacity of Trustee.** If any Trustee becomes disabled, he or she will immediately cease to act as Trustee. If a Trustee who ceases to serve because of a disability, or who is suspended, thereafter recovers from that disability or consents to the release of relevant medical information, he or she may elect to become a Trustee again by giving written notice to the then serving Trustee, and the last Trustee who undertook to serve will then cease to be a Trustee until another successor Trustee is required.

**5.2 Resignation.** Any Trustee may resign by giving 30 days' written notice delivered personally or by mail to any then serving Co-Trustee and to the Settlor if he is then living and not disabled; otherwise to the next named successor Trustee, or if none, to the persons having power to appoint successor Trustees.

**5.3 Power to Name Other Trustees.** Whenever a successor Trustee is required and that position is not filled under the terms specified in this Trust Agreement, an individual Trustee ceasing to serve (other than a Trustee being removed) may appoint his or her successor, but if none is appointed, the remaining Trustees, if any, or the beneficiary shall appoint a successor Corporate Trustee. The appointment will be by a written document (including a testamentary instrument) delivered to the appointed Trustee. In no event may the Settlor ever be appointed as the Trustee under this Trust Agreement nor shall a Successor trustee be appointed that will cause this trust to be a grantor trust.

**5.4 Powers of Successor Trustees.** Successor Trustees will have all powers granted to the original Trustee, except that only an Independent Trustee will succeed to the powers vested exclusively in the Independent Trustee.

**5.5 Accountings.** Accountings must be given to the beneficiary of each trust at least annually (quarterly if a Corporate Trustee is serving). The accountings must show the assets held in trust and all receipts and disbursements. A beneficiary's written approval of an accounting will be final and binding upon that beneficiary and all persons represented by him or her as to all matters disclosed in that accounting. In any event, if a

beneficiary fails to object to an accounting within six months of receiving it, his or her approval is conclusively presumed. A successor Trustee may require the prior Trustee to render a full and final accounting.

**5.6 Acts by Other Fiduciaries.** The Trustee is not required to question any acts or failures to act of the fiduciary of any other trust or estate, and will not be liable for any prior fiduciary's acts or failures to act. The Trustee can require a beneficiary who requests an examination of another fiduciary's actions or omissions to advance all costs and fees incurred in the examination, and if the beneficiary does not, the Trustee may elect not to proceed or may proceed and offset those costs and fees directly against any payment that would otherwise be made to that beneficiary.

**5.7 Court Supervision.** The Settlor waives compliance by the Trustee with any law requiring bond, registration, qualification, or accounting to any court.

**5.8 Compensation.** Each Trustee is entitled to be paid reasonable compensation for services rendered in the administration of the Trust. Reasonable compensation for a Corporate Trustee will be its published fee schedule in effect when its services are rendered unless otherwise agreed in writing, and except as follows. Any fees paid to a Corporate Trustee for making principal distributions, for termination of the trust, and upon termination of its services must be based solely on the value of its services rendered, not on the value of the trust principal. During the Settlor's lifetime the Trustee's fees are to be charged wholly against income (to the extent sufficient), unless directed otherwise by the Settlor in writing.

**5.9 Indemnity.** Any Trustee who ceases to serve for any reason will be entitled to receive (and the continuing Trustee shall make suitable arrangements to provide) reasonable indemnification and security to protect and hold that Trustee harmless from any damage or liability of any nature that may be imposed upon it because of its actions or omissions while serving as Trustee. This protection, however, does not extend to a Trustee's negligent actions or omissions that clearly and demonstrably result in damage or liability. A prior Trustee may enforce these provisions against the current Trustee or against any assets held in the Trust, or if the prior Trustee is an individual, against any beneficiary to the extent of distributions received by that beneficiary. This indemnification right will extend to the estate, personal representatives, legal successors, and assigns of a Trustee.

**5.10 Successor Trustee.** In the event the initial Trustee, Steven I. Greenwald, resigns or ceases to serve as Trustee, then and in that event, I hereby appoint Larry V. Bishins to serve as Trustee.



**ARTICLE 6**  
**PROTECTION OF INTERESTS**

The interest of any beneficiary under this Trust Agreement, in either income or principal, may not be anticipated, alienated, or in any other manner assigned by the beneficiary, whether voluntarily or involuntarily, and will not be subject to any legal process, bankruptcy proceedings, or the interference or control of the beneficiary's creditors or others.

**ARTICLE 7**  
**FIDUCIARY POWERS**

The Settlor grants to the Trustee full power to deal freely with any property in the Trust. The Trustee may exercise these powers independently and without the approval of any court. No person dealing with the Trustee need inquire into the propriety of any of its actions or into the application of any funds or assets. The Trustee shall, however, exercise all powers in a fiduciary capacity for the best interest of the beneficiary of this Trust or any trust created under it. Without limiting the generality of the foregoing, the Trustee is given the following discretionary powers in addition to any other powers conferred by law:

**7.1 Type of Assets.** Except as otherwise provided to the contrary, to hold funds uninvested for such periods as the Trustee deems prudent, and to invest in any assets the Trustee deems advisable even though they are not technically recognized or specifically listed in so-called "legal lists," without responsibility for depreciation or loss on account of those investments, or because those investments are non-productive, as long as the Trustee acts in good faith.

**7.2 Original Assets.** Except as otherwise provided to the contrary, to retain the original assets it receives for as long as it deems best, and to dispose of those assets when it deems advisable, even though such assets, because of their character or lack of diversification, would otherwise be considered improper investments for the Trustee.

**7.3 Tangible Personal Property.** To receive and hold tangible personal property; to pay or refrain from paying storage and insurance charges for such property; and to permit any beneficiaries to use such property without either the Trustee or beneficiaries incurring any liability for wear, tear, and obsolescence of the property.

**7.4 Specific Securities.** To invest in assets, securities, or interests in securities of any nature, including (without limit) commodities, options, futures, precious metals, currencies, and in domestic and foreign markets and in mutual or investment funds, including funds for which the Trustee or any affiliate performs services for additional fees, whether as custodian, transfer agent, investment advisor or otherwise, or in securities distributed, underwritten, or issued by the Trustee or by syndicates of which



it is a member; to trade on credit or margin accounts (whether secured or unsecured); and to pledge assets of the Trust Estate for that purpose.

**7.5 Property Transactions.** To buy, sell, pledge, exchange, or lease any real or personal property, publicly or privately, for cash or credit, without court approval and upon the terms and conditions that the Trustee deems advisable; to execute deeds, leases, contracts, bills of sale, notes, mortgages, security instruments, and other written instruments; to abandon or dispose of any real or personal property in the Trust which has little or no monetary or useful value; to improve, repair, insure, subdivide and vacate any property; to erect, alter or demolish buildings; to adjust boundaries; and to impose easements, restrictions, and covenants as the Trustee sees fit. A lease will be valid and binding for its full term even if it extends beyond the full duration of the Trust.

**7.6 Borrow Money.** To borrow money from any source (including the Trustee in its nonfiduciary capacity), to guarantee indebtedness, and to secure the loan or guaranty by mortgage or other security interest.

**7.7 Maintain Assets.** To expend whatever funds it deems proper for the preservation, maintenance, or improvement of assets. The Trustee in its discretion may elect any options or settlements or exercise any rights under all insurance policies that it holds. However, no fiduciary who is the insured of any insurance policy held in the Trust may exercise any rights or have any incidents of ownership with respect to the policy, including the power to change the beneficiary, to surrender or cancel the policy, to assign the policy, to revoke any assignment, to pledge the policy for a loan, or to obtain from the insurer a loan against the surrender value of the policy. All such power is to be exercised solely by the remaining Trustee, if any, or if none, by a special fiduciary appointed for that purpose by a court having jurisdiction.

**7.8 Advisors.** To employ and compensate attorneys, accountants, advisors, financial consultants, managers, agents, and assistants (including any individual or entity who provides investment advisory or management services, or who furnishes professional assistance in making investments for the Trust) without liability for any act of those persons, if they are selected and retained with reasonable care. Fees may be paid from the Trust Estate even if the services were rendered in connection with ancillary proceedings.

**7.9 Indirect Distributions.** To make distributions, whether of principal or income, to any person under age 21 or to any incapacitated person according to the terms of this Trust Agreement by making distributions directly to that person whether or not that person has a guardian; to the parent, guardian, or spouse of that person; to a custodial account established by the Trustee or others for that person under an applicable Uniform Gift to Minors Act or Uniform Transfers to Minors Act; to any adult who resides in the same household with that person or who is otherwise responsible for the care and well-being of that person; or by applying any distribution for the benefit of that person in any

manner the Trustee deems proper. The receipt of the person to whom payment is made will constitute full discharge of the Trustee with respect to that payment. No distributions may be made to the Settlor under this Section.

**7.10 Non-Pro Rata Distribution.** To make any division or distribution in money or in kind, or both, without allocating the same kind of property to all shares or distributees, and without regard to the income tax basis of the property. Any division will be binding and conclusive on all parties.

**7.11 Nominee.** Except as prohibited by law, to hold any assets in the name of a nominee without disclosing the fiduciary relationship; to hold the property unregistered, without affecting its liability; and to hold securities endorsed in blank, in street certificates, at a depository trust company, or in a book entry system.

**7.12 Custodian.** To employ a custodian or agent ("the Custodian") located anywhere within the United States, at the discretion of the Trustee but at the expense of the Trust, whether or not such Custodian is an affiliate of the Trustee or any person rendering services to the Trust; to register securities in the name of the Custodian or a nominee thereof without designation of fiduciary capacity; and to appoint the Custodian to perform such other ministerial functions as the Trustee may direct. While such securities are in the custody of the Custodian, the Trustee will be under no obligation to inspect or verify such securities nor will the Trustee be responsible for any loss by the Custodian.

**7.13 Settle Claims.** To contest, compromise, arbitrate, or otherwise adjust claims in favor of or against the Trust, to agree to any rescission or modification of any contract or agreement, and to refrain from instituting any suit or action unless indemnified for reasonable costs and expenses.

**7.14 Corporate Rights.** To vote and exercise any option, right, or privilege to purchase or to convert bonds, notes, stock (including shares or fractional shares of stock of any Corporate Trustee), securities, or other property; to borrow money for the purpose of exercising any such option, right, or privilege; to delegate those rights to an agent; to enter into voting trusts and other agreements or subscriptions; to participate in any type of liquidation or reorganization of any enterprise; and to write and sell covered call options, puts, calls, straddles, or other methods of buying or selling securities, as well as all related transactions.

**7.15 Partnership Interests.** To hold interests in sole proprietorships, general or limited partnerships, joint ventures, business trusts, land trusts, limited liability companies, and other domestic and foreign forms of organizations; and to exercise all rights in connection with such interests as the Trustee deems appropriate, including any powers applicable to a non-admitted transferee of any such interest.



**7.16 Self-Dealing.** To exercise all its powers even though it may also be acting individually or on behalf of any other person or entity interested in the same matters. The Trustee, however, shall exercise these powers at all times in a fiduciary capacity, primarily in the interest of the beneficiaries of the Trust. Despite any other provision of this Trust Agreement, no Trustee may participate in the decision to make a discretionary distribution that would discharge a legal support obligation of that Trustee. No Trustee who has made a disclaimer, either individually or as a Trustee, may exercise any discretion in determining the recipient of the disclaimed property. All power to make such distributions, or to determine recipients of disclaimed property, will be exercised solely by the remaining Trustees, if any, or if there are no other Trustees then serving, by the person or persons named to serve as the next successor Trustee, or if there are none, by a special Trustee appointed for that purpose by a court having jurisdiction.

**7.17 Expenses.** An Independent Trustee may determine how expenses of administration and receipts are to be apportioned between principal and income.

**7.18 Terminate Small Trusts.** To exercise its discretion to refrain from funding or to terminate any trust whenever the value of the principal of that trust would be or is too small to administer economically, and to distribute the remaining principal and all accumulated income of the trust as provided in Section 7.9 to the income beneficiary of that trust. The Trustee shall exercise this power to terminate in its discretion as it deems prudent for the best interest of the beneficiaries at that time. This power cannot be exercised by the Settlor or any beneficiary, either alone or in conjunction with any other Trustee, but must be exercised solely by the other Trustee, or if none, by a special Trustee appointed for that purpose by a court having jurisdiction.

**7.19 Allocations to Income and Principal.** To treat premiums and discounts on bonds and other obligations for the payment of money in accordance with either generally accepted accounting principles or tax accounting principles and, except as otherwise provided to the contrary, to hold nonproductive assets without allocating any principal to income, despite any laws or rules to the contrary. The Trustee in its discretion may exercise the power described in Section 738.104 of the Florida Statutes to adjust between principal and income, as appropriate, and, in addition, may convert any income interest into a unitrust interest, or a unitrust interest to an income interest, as it sees fit, all as provided in Section 738.1041 of the Florida Statutes, despite any provision of those sections to the contrary.

**7.20 Use of Income.** Except as otherwise provided in this Trust Agreement, and in addition to all other available sources, to exercise its discretion in the use of income from the assets of the Trust to satisfy the liabilities described in this Trust Agreement, without accountability to any beneficiary.

**7.21 Valuations.** In making distributions or allocations under the terms of this Trust Agreement to be valued as of a particular date, the Trustee may use asset valuations

obtained for a date reasonably close to that particular date (such as a quarterly closing date before or after that date) if, in the Trustee's judgment, obtaining appraisals or other determinations of value on that date would result in unnecessary expense, and if in the Trustee's judgment, the fair market value as determined is substantially the same as on that actual date. This paragraph will not apply if valuation on a specific date is required to preserve a qualification for a tax benefit, including any deduction, credit, or most favorable allocation of an exemption.

**7.22 Incorporation.** To incorporate any business or venture, and to continue any unincorporated business that the Trustee determines to be not advisable to incorporate.

**7.23 Delegation.** To delegate periodically among themselves the authority to perform any act of administration of any trust.

**7.24 Advances.** To make cash advances or loans to beneficiaries, with or without security.

**7.25 Investment Manager.** To employ any investment management service, financial institution, or similar organization to advise the Trustee and to handle all investments of the Trust and to render all accountings of funds held on its behalf under custodial, agency, or other agreements. If the Trustee is an individual, these costs may be paid as an expense of administration in addition to fees and commissions.

**7.26 Depreciation.** To deduct from all receipts attributable to depreciable property a reasonable allowance for depreciation, computed in accordance with generally accepted accounting principles consistently applied.

**7.27 Disclaim Assets or Powers.** To disclaim any assets otherwise passing or any fiduciary powers pertaining to any trust created hereunder, by execution of an instrument of disclaimer meeting the requirements of applicable law generally imposed upon individuals executing disclaimers. No notice to or consent of any beneficiary, other interested person, or any court is required for any such disclaimer, and the Trustee is to be held harmless for any decision to make or not make such a disclaimer.

**7.28 Transfer Situs.** To transfer the situs of any trust or any trust property to any other jurisdiction as often as the Trustee deems advisable, and if necessary to appoint a substitute or ancillary Trustee to act with respect to that property. The Trustee may delegate to the substitute Trustee any or all of the powers given to the Trustee; may elect to act as advisor to the substitute Trustee and receive reasonable compensation for that service; and may remove any acting or substitute Trustee and appoint another, or reappoint itself, at will.



**7.29 Related Parties.** To enter into any transaction on behalf of the Trust despite the fact that another party to that transaction may be: (i) a business or trust controlled by the Trustee, or of which the Trustee, or any director, officer, or employee of the Corporate Trustee, is also a director, officer, or employee; (ii) an affiliate or business associate of any beneficiary or the Trustee; or (iii) a beneficiary or Trustee under this Trust Agreement acting individually, or any relative of such a party.

**7.30 Additional Powers for Income-Producing Real Estate.** In addition to the other powers set forth above or otherwise conferred by law, the Trustee has the following powers with respect to any income-producing real property which is or may become a part of the Trust Estate:

- To retain and operate the property for as long as it deems advisable;
- To control, direct, and manage the property, determining the manner and extent of its active participation in these operations, and to delegate all or any part of its supervisory power to other persons that it selects;
- To hire and discharge employees, fix their compensation, and define their duties;
- To invest funds in other land holdings and to use those funds for all improvements, operations, or other similar purposes;
- Except as otherwise provided with respect to mandatory income distributions, to retain any amount of the net earnings for working capital and other purposes that it deems advisable in conformity with sound and efficient management; and
- To purchase and sell machinery, equipment, and supplies of all kinds as needed for the operation and maintenance of the land holdings.

## ARTICLE 8 SUBCHAPTER S STOCK

Despite any other provisions of this Trust Agreement, if a trust created in this instrument is to become the owner of, or already owns, stock in a corporation that has an election in effect (or one that proposes to make an election) under Section 1362 of the Internal Revenue Code (an "S Corporation"), and that trust would not otherwise be permitted to be an S Corporation shareholder, the following provisions will apply:

**8.1 Electing Small Business Trust.** The Trustee in its discretion may elect for the trust to become an Electing Small Business Trust ("ESBT") as defined in the Internal Revenue Code.

**8.2 Qualified Subchapter S Trust.** If the Trustee does not cause the trust to become an ESBT, the Trustee shall set aside the S Corporation stock in a separate trust for the current income beneficiary of such trust, so that a Qualified Subchapter S Trust ("QSST") election under Section 1361 of the Internal Revenue Code can be filed with respect to that trust. The Trustee shall hold each share as a separate QSST for the persons described above, and each such person will be the sole beneficiary of his or her QSST. To the greatest extent possible, the Trustee shall administer each QSST under the terms of the trust from which it was derived, but subject to the following overriding provisions:

(a) **Consent.** The Trustee shall notify the beneficiary of each separate trust promptly that a QSST election must be filed with the Internal Revenue Service. Thereafter, each beneficiary shall file a timely and proper QSST election with the Internal Revenue Service. If a beneficiary fails or refuses to make the QSST election, the Trustee shall make an ESBT election for that trust. If the beneficiary does make the QSST election, then his or her separate trust will be administered as set forth below.

(b) **Income Payments.** During the beneficiary's life, the Trustee shall pay all net income of the trust to the beneficiary (and only to that beneficiary) in quarterly or more frequent installments. The beneficiary's income interest in the trust will terminate on the earlier of his or her death or the termination of the trust under its terms.

(c) **Principal Invasions.** If the beneficiary is otherwise entitled to receive principal distributions, the Trustee may distribute principal from that separate trust during the beneficiary's life only to or for the benefit of that beneficiary (and no one else).

(d) **Final Distribution.** If the QSST is terminated during the beneficiary's life, the Trustee shall distribute all remaining assets of that separate trust to that beneficiary. If the beneficiary dies before that trust's termination, all remaining assets of the QSST are to be distributed as provided in the original trust, but subject to this article.

(e) **Termination of QSST Status.** If a separate trust would cease to qualify as an S Corporation shareholder, the Trustee in its discretion may: (i) make an ESBT election for that separate trust, or (ii) distribute all S Corporation stock to the beneficiary. The Trustee in its discretion also may convert a QSST to an ESBT, whether or not the beneficiary has consented to QSST treatment and, if the beneficiary consents, may convert an ESBT into a QSST.

**ARTICLE 9**  
**PERPETUITIES PROVISION**

Despite any contrary provisions of this Trust Agreement, from the creation of this Trust and for up to 21 years after the death of the last of the Settlor's grandparents' descendants who are living at the creation of this Trust, a trust beneficiary (which includes persons succeeding to the interest of a deceased beneficiary) will be entitled to terminating distributions only at the ages specified in this Trust Agreement. In all events, however, the share of each beneficiary will vest (in the beneficiary or his or her estate) immediately prior to the expiration of the 21 year period described above.

**ARTICLE 10**  
**ADMINISTRATION AND CONSTRUCTION**

**10.1 Rules for Distributions.** In making distributions to beneficiaries under this Trust Agreement, the Trustee must use the following criteria.

(a) **Other Resources.** Whenever the Trustee has the authority to decide how much to distribute to or for the benefit of a beneficiary, the Trustee can make decisions without taking into account any information about the beneficiary's other available income and resources. The Trustee can make payments directly to a beneficiary or to other persons for the beneficiary's benefit, but it does not have to make payments to a court appointed guardian.

(b) **Trustee's Decision.** Absent clear and convincing evidence of bad faith, the Trustee's decisions as to amounts to be distributed will be final.

(c) **Standard of Living.** Distributions to a beneficiary for health, education, support, or maintenance are to be based on his or her standard of living, determined as of the date of the distribution.

**10.2 Funding Gifts.** The following rules will apply to funding gifts under this Trust Agreement.

(a) **Pecuniary Gifts.** All pecuniary gifts under this Trust Agreement that are paid by an in-kind distribution of assets must use values having an aggregate fair market value at the date or dates of distribution equal to the amount of this gift as finally determined for federal estate tax purposes.

(b) **Adjustments.** The Trustee shall select one or more dates of allocation or distribution for purposes of satisfying gifts and funding shares or trusts. The Trustee may make allocations before the final determination of federal estate tax, with those allocations being based upon the information then available to the Trustee,



and may thereafter adjust properties among the shares or trusts if it is determined that the allocation should have been made differently.

**10.3 Accumulated Income.** Any income not distributed to the beneficiaries pursuant to either a mandatory direction or a discretionary power is to be incorporated into principal, at such intervals as the Trustee deems convenient.

**10.4 Estate Tax on Included Property.** If assets of any trust created under this Trust Agreement are included in a beneficiary's estate for federal estate tax purposes, the following will apply.

(a) **Appointed Assets.** If the beneficiary exercises a power of appointment over those assets, the Trustee is authorized to withhold from those assets the amount of estate taxes apportioned to them by applicable law, if the beneficiary does not make provisions for the payment of those taxes from other sources.

(b) **Other Assets.** If the beneficiary does not have or does not exercise a power of appointment over those assets, the Trustee will pay the estate taxes attributable to those assets. The estate taxes attributable to those assets will be the amount that the beneficiary's estate taxes are increased over the amount those taxes would have been if those assets had not been included in the beneficiary's gross estate.

(c) **Certification and Payment.** The Trustee may rely upon a written certification by the beneficiary's personal representative of the amount of the estate taxes, and may pay those taxes directly or to the personal representative of the beneficiary's estate. The Trustee will not be held liable for making payments as directed by the beneficiary's personal representative.

**10.5 Transactions With Other Entities.** The Trustee may buy assets from other estates or trusts, or make loans to them, so that funds will be available to pay claims, taxes, and expenses. The Trustee can make those purchases or loans even if it serves as the fiduciary of that estate or trust, and on whatever terms and conditions the Trustee thinks are appropriate, except that the terms of any transaction must be commercially reasonable.

## ARTICLE 11 MISCELLANEOUS PROVISIONS

**11.1 Definitions.** As used in this Trust Agreement, the following terms have the meanings set forth below:

(a) **Trustees.**



- (1) **Independent Trustee** means a trustee of a particular trust, either individual or corporate, who is not the Settlor or a beneficiary, and who is not a Related Person as to the Settlor or a beneficiary (if the Settlor or the beneficiary, respectively, is living and participated in that person's appointment). For purposes of this definition a beneficiary is a person who is a permissible distributee of income or principal, or someone with an interest in the trust in excess of five percent (5%) of its value, assuming a maximum exercise of discretion in his or her favor. Whenever this Trust Agreement requires an action be taken by, or in the discretion of, an Independent Trustee but no such Trustee is then serving, a court may appoint an Independent Trustee to serve as an additional Trustee whose sole function and duty will be to exercise the specified power.
- (2) **Corporate Trustee** means a trustee that is a bank, trust company, or other entity authorized to serve as a trustee under the laws of the United States or any state thereof that is not a Related Person to the Settlor. A bank or trust company that does not meet this requirement cannot serve as Trustee.

(b) **Internal Revenue Code Terms.**

- (1) **Internal Revenue Code** means the federal Internal Revenue Code of 1986, as amended from time to time, or successor provisions of future federal internal revenue laws.
- (2) The terms **health, education, support, and maintenance** are intended to set forth an "ascertainable standard," as described in the Internal Revenue Code and its associated Regulations. To the extent not inconsistent with the foregoing, "health" means a beneficiary's physical and mental health, including but not limited to payments for examinations, surgical, dental, or other treatment, medication, counseling, hospitalization, and health insurance premiums; "education" means elementary, secondary, post-secondary, graduate, or professional schooling in an accredited institution, public or private, or attendance at other formal programs in furtherance of the beneficiary's spiritual, athletic, or artistic education, including but not limited to payments for tuition, books,

fees, assessments, equipment, tutoring, transportation, and reasonable living expenses.

- (3) **Related Person** as to a particular individual is someone who is deemed to be "related or subordinate" to that individual under Section 672(c) of the Internal Revenue Code (as though that individual was a grantor).

(c) **Other Terms.**

- (1) Distributions that are to be made to a person's **descendants, per stirpes**, will be divided into equal shares, so that there will be one share for each living child (if any) of that person and one share for each deceased child who has then living descendants. The share of each deceased child will be further divided among his or her descendants on a per stirpes basis, by reapplying the preceding rule to that deceased child and his or her descendants as many times as necessary.
- (2) **Disabled or under a disability** means (i) being under the legal age of majority, (ii) having been adjudicated to be incapacitated, or (iii) being unable to manage properly personal or financial affairs because of a mental or physical impairment (whether temporary or permanent in nature). A written certificate executed by an individual's attending physician confirming that person's impairment will be sufficient evidence of disability under item (iii) above, and all persons may rely conclusively on such a certificate.
- (3) Removal of a Trustee **for cause** includes, without limitation, the following: the willful or negligent mismanagement of the trust assets by that individual Trustee; the abuse or abandonment of, or inattention to, the trust by that individual Trustee; a federal or state charge against that individual Trustee involving the commission of a felony or serious misdemeanor; an act of theft, dishonesty, fraud, embezzlement, or moral turpitude by that individual Trustee; or the use of narcotics or excessive use of alcohol by that individual Trustee.
- (4) The words **will** and **shall** are used interchangeably in this Trust Agreement and mean, unless the context clearly indicates otherwise, that the Trustee must take the action

indicated; as used in this Trust Agreement, the word **may** means that the Trustee has the discretionary authority to take the action but is not automatically required to do so.

**11.2 Powers of Appointment.** The following provisions relate to all powers of appointment under this Trust Agreement.

- (a) A **general power of appointment** granted to a person is one that can be exercised in favor of that person or his or her estate, his or her creditors, or the creditors of his or her estate.
- (b) A **special power of appointment** is any power that is not a general power.
- (c) A **testamentary power of appointment** (either general or special) is exercisable upon the powerholder's death by his or her Last Will or by a revocable trust agreement established by that person, but only by specific reference to the instrument creating the power. A "testamentary power of appointment" may not be exercised in favor of the person possessing the power.
- (d) In determining whether a person has exercised a testamentary power of appointment, the Trustee may rely upon an instrument admitted to probate in any jurisdiction as that person's Last Will, or upon any trust agreement certified to be valid and authentic by sworn statement of the trustee who is serving under that trust agreement. If the Trustee has not received written notice of such an instrument within six months after the powerholder's death, the Trustee may presume that the powerholder failed to exercise that power and will not be liable for acting in accordance with that presumption.

**11.3 Notices.** Any person entitled or required to give notice under this Trust Agreement shall exercise that power by a written instrument clearly setting forth the effective date of the action for which notice is being given. The instrument may be executed in counterparts.

**11.4 Certifications.**

(a) **Facts.** A certificate signed and acknowledged by the Trustee stating any fact affecting the Trust Estate or the Trust Agreement will be conclusive evidence of such fact in favor of any transfer agent and any other person dealing in good faith with the Trustee. The Trustee may rely on a certificate signed and acknowledged by any beneficiary stating any fact concerning the Trust beneficiaries, including dates of



birth, relationships, or marital status, unless an individual serving as Trustee has actual knowledge that the stated fact is false.

(b) **Copy.** Any person may rely on a copy of this instrument (in whole or in part) certified to be a true copy by the Settlor; by any person specifically named as a Trustee (or successor Trustee); by any Corporate Trustee whether or not specifically named; or, if there are none of the above, by any then serving Trustee.

**11.5 Applicable Law.** All matters involving the validity and interpretation of this Trust Agreement are to be governed by Florida law. Subject to the provisions of this Trust Agreement, all matters involving the administration of a trust are to be governed by the laws of the jurisdiction in which the trust has its principal place of administration.

**11.6 Gender and Number.** Reference in this Trust Agreement to any gender includes either masculine or feminine, as appropriate, and reference to any number includes both singular and plural where the context permits or requires. Use of descriptive titles for articles and paragraphs is for the purpose of convenience only and is not intended to restrict the application of those provisions.

**11.7 Further Instruments.** The Settlor agrees to execute such further instruments as may be necessary to vest the Trustee with full legal title to the property transferred to this Trust.

**11.8 Binding Effect.** This Trust Agreement extends to and is binding upon the Settlor's Personal Representative, successors, and assigns, and upon the Trustee.



Executed as of the date first written above.

Signed in the presence of:

SETTLOR

Joseph M. Johnson  
[Signature]

[Signature]  
Simon Bernstein

Two witnesses as to Simon Bernstein

Signed in the presence of:

TRUSTEE

Traci Kratish, P.A.

Joseph M. Johnson  
[Signature]

[Signature] FOR TRACI KRATISH, P.A.  
[Signature] AS PRESIDENT

Two witnesses as to Traci Kratish

Traci Kratish, President

**Schedule A**  
**Initial Transfers to Trust**

Transfer of 6 shares of LIC Holdings, Inc.



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
P.O. BOX 9003  
HOLTSVILLE NY 11742-9003

Date of this notice: 03-12-2007

Employer Identification Number:  
20-7294156

Form: SS-4

Number of this notice: CP 575 B

For assistance you may call us at  
1-800-829-4933

JOSH BERNSTEIN IRREV TRUST  
TRACI KRATISH PA TTEE  
950 PENNISULA CORP CIR STE 3010  
BOCA RATON FL 33487

IF YOU WRITE, ATTACH THE  
STUB OF THIS NOTICE.

102592

**WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER**

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 20-7294156. This EIN will identify your estate or trust. If you are not the applicant, please contact the individual who is handling the estate or trust for you. Please keep this notice in your permanent records.

When filing tax documents, please use the label we provided. If this isn't possible, it is very important that you use your EIN and complete name and address exactly as shown above on all federal tax forms, payments and related correspondence. Any variation may cause a delay in processing, result in incorrect information in your account or even cause you to be assigned more than one EIN. If the information isn't correct as shown above, please correct it using tear off stub from this notice and return it to us so we can correct your account.

Based on the information from you or your representative, you must file the following form(s) by the date(s) shown.

Form 1041

04/15/2007

If you have questions about the form(s) or the due dates(s) shown, you can call or write to us at the phone number or address at the top of the first page of this letter. If you need help in determining what your tax year is, see Publication 536, Accounting Periods and Methods, available at your local IRS office or you can download this Publication from our Web site at [www.irs.gov](http://www.irs.gov).

We assigned you a tax classification based on information obtained from you or your representative. It is not a legal determination of your tax classification, and is not binding on the IRS. If you want a legal determination on your tax classification, you may request a private letter ruling from the IRS under the guidelines in Revenue Procedure 2004-1, 2004-1 I.R.B. 1 (or superseding Revenue Procedure for the year at issue.)

***TRUST AGREEMENT***  
***FOR THE***  
***JOSHUA Z. BERNSTEIN IRREVOCABLE TRUST***

***September 7, 2006***



**TRUST AGREEMENT**  
**FOR THE**  
**JOSHUA Z. BERNSTEIN IRREVOCABLE TRUST**

SIMON BERNSTEIN, as Settlor, hereby creates the Joshua Z. Bernstein Irrevocable Trust ("the Trust") on September 7, 2006. Traci Kratish, P.A. is the trustee of this Trust and, in that capacity, he and his successors are collectively referred to in this Trust Agreement as the "Trustee."

**ARTICLE 1**  
**BENEFICIARY**

This Trust is for the benefit of the Settlor's Grandchild, JOSHUA Z. BERNSTEIN ("Beneficiary").

**ARTICLE 2**  
**TRANSFERS TO TRUST**

The Settlor hereby conveys to the Trustee all his interest in the assets listed on Schedule A, which together with any assets later added to this Trust are referred to as the "Trust Estate." Any person may transfer assets to the Trust Estate, if the Trustee agrees to accept them. Assets do not have to be listed on Schedule A to be part of the Trust Estate. Unless otherwise specified in writing at the time of the transfer, those assets will be held as provided in this Trust Agreement. The Trustee acknowledges receipt of the current Trust assets and agrees to hold the Trust Estate as set forth in this Trust Agreement.

**ARTICLE 3**  
**IRREVOCABLE PROVISION**

The Settlor declares that he has no right to alter, amend, modify, or revoke this Trust Agreement; to withdraw assets from the Trust; or to require changes in the investments of the Trust. No part of the Trust may ever revert to the Settlor, be used for his benefit, or be distributed in discharge of his legal obligations.

**ARTICLE 4**  
**ADMINISTRATION OF TRUST**

The Trustee shall hold, administer, and distribute the Trust Estate in accordance with the powers granted under this Trust Agreement as follows:

**4.1 Discretionary Distributions.** The Trustee shall pay or apply such sums of principal from this Trust as in the Trustee's discretion are necessary or advisable for Beneficiary's health, education, support, and maintenance.

**4.2 Distribution of Principal.** When Beneficiary has reached age 21, the trustee shall distribute one-half (½) of the corpus of trust to Beneficiary plus accrued income. When Beneficiary has reached age 25 the Trustee shall distribute the entire remaining principal balance of the corpus of the trust to Beneficiary plus accrued income.

**4.3 Distribution Upon Death Before Age 25.** Upon the death of Beneficiary prior to age 25, the Trustee shall distribute the remaining assets in the trust to the estate of Beneficiary.

**ARTICLE 5**  
**PROVISIONS GOVERNING TRUSTEES**

The following provisions apply to all Trustees appointed under this Trust Agreement:

**5.1 Incapacity of Trustee.** If any Trustee becomes disabled, he or she will immediately cease to act as Trustee. If a Trustee who ceases to serve because of a disability, or who is suspended, thereafter recovers from that disability or consents to the release of relevant medical information, he or she may elect to become a Trustee again by giving written notice to the then serving Trustee, and the last Trustee who undertook to serve will then cease to be a Trustee until another successor Trustee is required.

**5.2 Resignation.** Any Trustee may resign by giving 30 days' written notice delivered personally or by mail to any then serving Co-Trustee and to the Settlor if he is then living and not disabled; otherwise to the next named successor Trustee, or if none, to the persons having power to appoint successor Trustees.

**5.3 Power to Name Other Trustees.** Whenever a successor Trustee is required and that position is not filled under the terms specified in this Trust Agreement, an individual Trustee ceasing to serve (other than a Trustee being removed) may appoint his or her successor, but if none is appointed, the remaining Trustees, if any, or the beneficiary shall appoint a successor Corporate Trustee. The appointment will be by a written document (including a testamentary instrument) delivered to the appointed Trustee. In no event may the Settlor ever be appointed as the Trustee under this Trust Agreement nor shall a Successor trustee be appointed that will cause this trust to be a grantor trust.

**5.4 Powers of Successor Trustees.** Successor Trustees will have all powers granted to the original Trustee, except that only an Independent Trustee will succeed to the powers vested exclusively in the Independent Trustee.

**5.5 Accountings.** Accountings must be given to the beneficiary of each trust at least annually (quarterly if a Corporate Trustee is serving). The accountings must show the assets held in trust and all receipts and disbursements. A beneficiary's written approval of an accounting will be final and binding upon that beneficiary and all persons represented by him or her as to all matters disclosed in that accounting. In any event, if a beneficiary fails to object to an accounting within six months of receiving it, his or her

approval is conclusively presumed. A successor Trustee may require the prior Trustee to render a full and final accounting.

**5.6 Acts by Other Fiduciaries.** The Trustee is not required to question any acts or failures to act of the fiduciary of any other trust or estate, and will not be liable for any prior fiduciary's acts or failures to act. The Trustee can require a beneficiary who requests an examination of another fiduciary's actions or omissions to advance all costs and fees incurred in the examination, and if the beneficiary does not, the Trustee may elect not to proceed or may proceed and offset those costs and fees directly against any payment that would otherwise be made to that beneficiary.

**5.7 Court Supervision.** The Settlor waives compliance by the Trustee with any law requiring bond, registration, qualification, or accounting to any court.

**5.8 Compensation.** Each Trustee is entitled to be paid reasonable compensation for services rendered in the administration of the Trust. Reasonable compensation for a Corporate Trustee will be its published fee schedule in effect when its services are rendered unless otherwise agreed in writing, and except as follows. Any fees paid to a Corporate Trustee for making principal distributions, for termination of the trust, and upon termination of its services must be based solely on the value of its services rendered, not on the value of the trust principal. During the Settlor's lifetime the Trustee's fees are to be charged wholly against income (to the extent sufficient), unless directed otherwise by the Settlor in writing.

**5.9 Indemnity.** Any Trustee who ceases to serve for any reason will be entitled to receive (and the continuing Trustee shall make suitable arrangements to provide) reasonable indemnification and security to protect and hold that Trustee harmless from any damage or liability of any nature that may be imposed upon it because of its actions or omissions while serving as Trustee. This protection, however, does not extend to a Trustee's negligent actions or omissions that clearly and demonstrably result in damage or liability. A prior Trustee may enforce these provisions against the current Trustee or against any assets held in the Trust, or if the prior Trustee is an individual, against any beneficiary to the extent of distributions received by that beneficiary. This indemnification right will extend to the estate, personal representatives, legal successors, and assigns of a Trustee.

**5.10 Successor Trustee.** In the event the initial Trustee, Steven I. Greenwald, resigns or ceases to serve as Trustee, then and in that event, I hereby appoint Larry V. Bishins to serve as Trustee.

## ARTICLE 6 PROTECTION OF INTERESTS

The interest of any beneficiary under this Trust Agreement, in either income or principal, may not be anticipated, alienated, or in any other manner assigned by the beneficiary, whether voluntarily or involuntarily, and will not be subject to any legal process,



bankruptcy proceedings, or the interference or control of the beneficiary's creditors or others.

**ARTICLE 7**  
**FIDUCIARY POWERS**

The Settlor grants to the Trustee full power to deal freely with any property in the Trust. The Trustee may exercise these powers independently and without the approval of any court. No person dealing with the Trustee need inquire into the propriety of any of its actions or into the application of any funds or assets. The Trustee shall, however, exercise all powers in a fiduciary capacity for the best interest of the beneficiary of this Trust or any trust created under it. Without limiting the generality of the foregoing, the Trustee is given the following discretionary powers in addition to any other powers conferred by law:

**7.1 Type of Assets.** Except as otherwise provided to the contrary, to hold funds uninvested for such periods as the Trustee deems prudent, and to invest in any assets the Trustee deems advisable even though they are not technically recognized or specifically listed in so-called "legal lists," without responsibility for depreciation or loss on account of those investments, or because those investments are non-productive, as long as the Trustee acts in good faith.

**7.2 Original Assets.** Except as otherwise provided to the contrary, to retain the original assets it receives for as long as it deems best, and to dispose of those assets when it deems advisable, even though such assets, because of their character or lack of diversification, would otherwise be considered improper investments for the Trustee.

**7.3 Tangible Personal Property.** To receive and hold tangible personal property; to pay or refrain from paying storage and insurance charges for such property; and to permit any beneficiaries to use such property without either the Trustee or beneficiaries incurring any liability for wear, tear, and obsolescence of the property.

**7.4 Specific Securities.** To invest in assets, securities, or interests in securities of any nature, including (without limit) commodities, options, futures, precious metals, currencies, and in domestic and foreign markets and in mutual or investment funds, including funds for which the Trustee or any affiliate performs services for additional fees, whether as custodian, transfer agent, investment advisor or otherwise, or in securities distributed, underwritten, or issued by the Trustee or by syndicates of which it is a member; to trade on credit or margin accounts (whether secured or unsecured); and to pledge assets of the Trust Estate for that purpose.

**7.5 Property Transactions.** To buy, sell, pledge, exchange, or lease any real or personal property, publicly or privately, for cash or credit, without court approval and upon the terms and conditions that the Trustee deems advisable; to execute deeds, leases, contracts, bills of sale, notes, mortgages, security instruments, and other written instruments; to abandon or dispose of any real or personal property in the Trust which has little or no monetary or useful value; to improve, repair, insure, subdivide and vacate



any property; to erect, alter or demolish buildings; to adjust boundaries; and to impose easements, restrictions, and covenants as the Trustee sees fit. A lease will be valid and binding for its full term even if it extends beyond the full duration of the Trust.

**7.6 Borrow Money.** To borrow money from any source (including the Trustee in its nonfiduciary capacity), to guarantee indebtedness, and to secure the loan or guaranty by mortgage or other security interest.

**7.7 Maintain Assets.** To expend whatever funds it deems proper for the preservation, maintenance, or improvement of assets. The Trustee in its discretion may elect any options or settlements or exercise any rights under all insurance policies that it holds. However, no fiduciary who is the insured of any insurance policy held in the Trust may exercise any rights or have any incidents of ownership with respect to the policy, including the power to change the beneficiary, to surrender or cancel the policy, to assign the policy, to revoke any assignment, to pledge the policy for a loan, or to obtain from the insurer a loan against the surrender value of the policy. All such power is to be exercised solely by the remaining Trustee, if any, or if none, by a special fiduciary appointed for that purpose by a court having jurisdiction.

**7.8 Advisors.** To employ and compensate attorneys, accountants, advisors, financial consultants, managers, agents, and assistants (including any individual or entity who provides investment advisory or management services, or who furnishes professional assistance in making investments for the Trust) without liability for any act of those persons, if they are selected and retained with reasonable care. Fees may be paid from the Trust Estate even if the services were rendered in connection with ancillary proceedings.

**7.9 Indirect Distributions.** To make distributions, whether of principal or income, to any person under age 21 or to any incapacitated person according to the terms of this Trust Agreement by making distributions directly to that person whether or not that person has a guardian; to the parent, guardian, or spouse of that person; to a custodial account established by the Trustee or others for that person under an applicable Uniform Gift to Minors Act or Uniform Transfers to Minors Act; to any adult who resides in the same household with that person or who is otherwise responsible for the care and well-being of that person; or by applying any distribution for the benefit of that person in any manner the Trustee deems proper. The receipt of the person to whom payment is made will constitute full discharge of the Trustee with respect to that payment. No distributions may be made to the Settlor under this Section.

**7.10 Non-Pro Rata Distribution.** To make any division or distribution in money or in kind, or both, without allocating the same kind of property to all shares or distributees, and without regard to the income tax basis of the property. Any division will be binding and conclusive on all parties.

**7.11 Nominee.** Except as prohibited by law, to hold any assets in the name of a nominee without disclosing the fiduciary relationship; to hold the property

unregistered, without affecting its liability; and to hold securities endorsed in blank, in street certificates, at a depository trust company, or in a book entry system.

**7.12 Custodian.** To employ a custodian or agent ("the Custodian") located anywhere within the United States, at the discretion of the Trustee but at the expense of the Trust, whether or not such Custodian is an affiliate of the Trustee or any person rendering services to the Trust; to register securities in the name of the Custodian or a nominee thereof without designation of fiduciary capacity; and to appoint the Custodian to perform such other ministerial functions as the Trustee may direct. While such securities are in the custody of the Custodian, the Trustee will be under no obligation to inspect or verify such securities nor will the Trustee be responsible for any loss by the Custodian.

**7.13 Settle Claims.** To contest, compromise, arbitrate, or otherwise adjust claims in favor of or against the Trust, to agree to any rescission or modification of any contract or agreement, and to refrain from instituting any suit or action unless indemnified for reasonable costs and expenses.

**7.14 Corporate Rights.** To vote and exercise any option, right, or privilege to purchase or to convert bonds, notes, stock (including shares or fractional shares of stock of any Corporate Trustee), securities, or other property; to borrow money for the purpose of exercising any such option, right, or privilege; to delegate those rights to an agent; to enter into voting trusts and other agreements or subscriptions; to participate in any type of liquidation or reorganization of any enterprise; and to write and sell covered call options, puts, calls, straddles, or other methods of buying or selling securities, as well as all related transactions.

**7.15 Partnership Interests.** To hold interests in sole proprietorships, general or limited partnerships, joint ventures, business trusts, land trusts, limited liability companies, and other domestic and foreign forms of organizations; and to exercise all rights in connection with such interests as the Trustee deems appropriate, including any powers applicable to a non-admitted transferee of any such interest.

**7.16 Self-Dealing.** To exercise all its powers even though it may also be acting individually or on behalf of any other person or entity interested in the same matters. The Trustee, however, shall exercise these powers at all times in a fiduciary capacity, primarily in the interest of the beneficiaries of the Trust. Despite any other provision of this Trust Agreement, no Trustee may participate in the decision to make a discretionary distribution that would discharge a legal support obligation of that Trustee. No Trustee who has made a disclaimer, either individually or as a Trustee, may exercise any discretion in determining the recipient of the disclaimed property. All power to make such distributions, or to determine recipients of disclaimed property, will be exercised solely by the remaining Trustees, if any, or if there are no other Trustees then serving, by the person or persons named to serve as the next successor Trustee, or if there are none, by a special Trustee appointed for that purpose by a court having jurisdiction.