IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF PROBATE DIVISION

SHIRLEY BERNSTEIN, File No. 502011CP000653XXXXSB

Deceased.

2011 FEB 10 AM 8:40
SHARON R. BOCK
PALM BEACH
SOUTH CTY FR.

PETITION FOR ADMINISTRATION
(testate Florida resident)

Petitioner, SIMON L. BERNSTEIN, alleges:

1. Petitioner has an interest in the above estate as the named personal representative under the decedent's Will. The Petitioner's address is 7020 Lions Head Lane, Boca Raton, Florida 33496, and the name and office address of petitioners attorney are set forth at the end of this Petition.

2. Decedent, SHIRLEY BERNSTEIN, whose last known address was 7020 Lions Head Lane, Boca Raton, Florida 33496, whose age was 71, and whose social security number is xxx-xx-9749, died on December 8, 2010, at her home at 7020 Lions Head Lane, Boca Raton, Florida 33496, and on the date of death decedent was domiciled in Palm Beach County, Florida.

3. So far as is known, the names of the beneficiaries of this estate and of decedent's surviving spouse, if any, their addresses and relationship to decedent, and the dates of birth of any who are minors, are:

NAME	ADDRESS	RELATIONSHIP	BIRTH DATE (if Minor)
Simon L. Bernstein	7020 Lions Head Lane Boca Raton, FL 33496	husband	adult
Ted S. Bernstein	880 Berkeley Street Boca Raton, FL 33487	son	adult
Pamela B. Simon	950 North Michigan Avenue, Snite 2603 Chicago, IL 60606	daughter	adult
Eliot Bernstein	2753 NW 34th St. 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

4. Venue of this proceeding is in this county because decedent was a resident of Palm Beach County at the time of her death.

5. Simon L. Bernstein, whose address is listed above, and who is qualified under the laws of the State of Florida to serve as personal representative of the decedent's estate is entitled to preference in appointment as personal representative because he is the person designated to serve as personal representative under the decedent's Will.

6. The nature and approximate value of the assets in this estate are: tangible and intangible assets with an approximate value of less than $ TBD .

7. This estate will not be required to file a federal estate tax return.

8. The original of the decedent's last will, dated May 20, 2008, is being filed simultaneously with this Petition with the Clerk of the Court for Palm Beach County, Florida.

9. Petitioner is unaware of any unrevoked will or codicil of decedent other than as set forth in paragraph 8.

Petitioner requests that the decedent's Will be admitted to probate and that Simon L. Bernstein be appointed as personal representative of the estate of the decedent.

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

Signed on FEB 9, 2011.

SIMON L. BERNSTEIN, Petitioner

Respectfully Submitted,
TESCHER & SPALLINA, P.A.

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

N:\WPDATA\...\Bernstein, Shirley\Pleadings\Administration Pet.wpd

Eliot Ivan Bernstein

From: Ben Brown <bbrown@matbrolaw.com>
Sent: Friday, September 19, 2014 11:35 AM
To: Eliot Ivan Bernstein
Cc: Linda McDaniel; Ben Brown
Subject: RE: Eliot Bernstein request for information.
Attachments: FW: Bernstein - bank account statements (4.02 MB)

Hi Eliot-

We are getting all of the account statements that we have together to send to you. Please note we do not have any statements for your mother or either of the trusts; all we have are statements for accounts that your father held individually. Also, please see the attached e-mail from 7/16 that attached some of the account statements. We also believe that there were additional account statements in the T&S documents provided to you; however, we will include those statements again in the set we are going to send you (we will try to send the set in a series of pdf's).
We have not received the tax returns from the IRS yet. As soon as we do, we will send them to you and to Brian.

Regards,

Ben

Benjamin P. Brown, Esq.
625 North Flagler Drive
Suite 401
West Palm Beach, FL 33401
(561) 651-4004

From: Eliot Ivan Bernstein [mailto:iviewit@gmail.com]
Sent: Friday, September 19, 2014 11:08 AM
To: Ben Brown
Cc: Andrew Dietz @ Rock-It Cargo USA, Inc.; CANDICE BERNSTEIN; Caroline Prochotska Rogers Esq.; Eliot I. Bernstein; Marc R. Garber Esq.; Marc R. Garber Esq. @ Flaster Greenberg P.C.; Marc R. Garber Esq. @ Flaster Greenberg P.C.; Michele M. Mulrooney ~ Partner @ Venable LLP
Subject: Eliot Bernstein request for information.

Ben, nice seeing you at Court and per the hearing I am requesting that you send me all the information you stated before Judge Colin you would send me regarding the accounting backup information, including but not limited to, all account statements you have for any accounts on the accounting and especially the JP Morgan account histories for

Shirley and Simon and the IRS certified copies you ordered and any other germane issue that provides back up to your accounting submitted and your amended accounting submitted.

Thanks,

Eliot

Eliot I. Bernstein
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Eliot Ivan Bernstein

From: Ashley Bourget <abourget@mrachek-law.com>
Sent: Thursday, February 9, 2017 1:32 PM
To: ''Eliot Ivan Bernstein' (iviewit@iviewit.tv)'; ''John P. Morrissey Esq. @ John P. Morrissey, P.A. ' (john@jmorrisseylaw.com)'; ''Pamela Beth Simon' (psimon@stpcorp.com)'; 'service@feamanlaw.com'; ''Peter Feaman' (mkoskey@feamanlaw.com)'; ''Gary R. Shendell' (gary@shendellpollock.com)'; ''Kenneth S. Pollock' (ken@shendellpollock.com)'; 'matt@shendellpollock.com'; 'estella@shendellpollock.com'; 'Brittney Christian (Britt@shendellpollock.com)'; ''Kenneth S. Pollock' (grs@shendelllpollock.com)'; 'robyne@shendellpollock.com'; ''Lisa S. Friedstein' (Lisa@friedsteins.com)'; 'dzlewis@aol.com'; ''Jill Iantoni' (jilliantoni@gmail.com)'; ''Brian M. O'Connell PA ~ Partner @ Ciklin Lubitz Martens & O'Connell ' (boconnell@ciklinlubitz.com)'; ''Joielle A. Foglietta, Esq.' (jfoglietta@ciklinlubitz.com)'; 'slobdell@ciklinlubitz.com'
Cc: Alan Rose; Marie Chandler
Subject: In Re: Estate of Simon Bernstein [4391] | Proposed Order
Attachments: ABR 02-09-17 Judge Scher Enclosing Materials for 02-16-17 Hearing.pdf; Spiral Notebook to Judge Scher on 02-09-17.pdf

Good Afternoon,
Please see attached correspondence and referenced enclosure.
Thank you,

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MRACHEK
FITZGERALD
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KONOPKA
THOMAS
& WEISS, P.A.

L A W

WRITER'S DIRECT DIAL NUMBER: (561) 355-6991
WRITER'S E-MAIL ADDRESS: arose@mrachek-law.com

February 9, 2017

VIA HAND-DELIVERY VIA COURIER
The Honorable Rosemarie Scher
North County Courthouse
3188 PGA Boulevard
Palm Beach Gardens, FL 33410

Re: *Estate of Simon L. Bernstein*
Case No.: 502012CP004391XXXXNBIH

Dear Judge Scher:

Enclosed for your consideration is a four page *Trustee's Supplemental Submission to Court Regarding Motion to Vacate in Part Order Permitting Retention of Mrachek Firm [DE 497] and Motion to Disqualify [DE 508]*, with some limited additional materials and the relevant rules highlighted.

This matter is scheduled to be heard before you on **February 16, 2017 at 2:30 p.m.**

We appreciate Your Honor's time and attention to these matters.

Respectfully submitted,
Alan B. Rose
Alan B. Rose
(Signed in Mr. Rose's absence to avoid delay)

cc: All parties on attached service list

SERVICE LIST - CASE NO. 502012CP004391XXXXNBIH

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Individually and as trustee for her children, and as natural guardian for M.F. and C.F., Minors

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Guardian *Ad Litem* for
Eliot Bernstein's minor children,
Jo.B., Ja.B., and D.B.

Jill Iantoni
2101 Magnolia Lane
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Individually and as trustee for her children, and as natural guardian for J.I. a minor

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

IN RE: CASE NO. 502012CP004391XXXXNB IH

ESTATE OF SIMON L. BERNSTEIN,
_____/

TRUSTEE'S SUPPLEMENTAL SUBMISSION TO COURT REGARDING MOTION TO VACATE IN PART ORDER PERMITTING RETENTION OF MRACHEK FIRM [DE 497] AND MOTION TO DISQUALIFY [DE 508]

Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A
505 South Flagler Drive, Suite 600 | West Palm Beach, FL 33401

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

IN RE: CASE NO. 502012CP004391XXXXNBIH

ESTATE OF SIMON L. BERNSTEIN,
_____/

TRUSTEE'S SUPPLEMENTAL SUBMISSION TO COURT REGARDING MOTION TO VACATE IN PART ORDER PERMITTING RETENTION OF MRACHEK FIRM [DE 497] AND MOTION TO DISQUALIFY [DE 508]

TAB	DESCRIPTION
A.	Trustee's Supplemental Submission to Court Regarding Motion to Vacate in Part Order Permitting Retention of Mrachek Firm [DE 497] and Motion to Disqualify [DE 508]
1.	PR's Statement of its Position That There is no Conflict and His Waiver of Any Potential Conflict
2.	Highlighted Copies of Rule 4-1.7 and 4-1.9
3.	Email to and from Stansbury's Counsel Dated December 22, 2016 in which Trustee's counsel provided the PR's Waiver and additional information and requesting that Stansbury carefully reconsider his position, and Stansbury's counsel's response four minutes later declining that request
4.	Copy of the Amended Motion for 57.105 Sanctions filed against Stansbury and his counsel

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

IN RE: CASE NO. 502012CP004391XXXXNBIH

ESTATE OF SIMON L. BERNSTEIN,
_____/

TRUSTEE'S SUPPLEMENTAL SUBMISSION TO COURT REGARDING MOTION TO VACATE IN PART ORDER PERMITTING RETENTION OF MRACHEK FIRM [DE 497] AND MOTION TO DISQUALIFY [DE 508]

Ted S. Bernstein, as Successor Trustee of the Simon L. Bernstein Amended and Restated Trust ("Trustee"), submits his supplemental materials in connection with the hearing on February 16, 2017, on William Stansbury's Motion to Vacate [DE 497] and the Motion to Disqualify [DE 503].

Both Motions are filed by a claimant, Stansbury, who is suing the Estate in an independent action seeking millions of dollars in damages. Stansbury seeks to prevent the Estate from retaining the counsel chosen by the Personal Representative and the beneficiaries to defend against Stansbury's claims. There is absolutely no merit to the Motion, as explained in the *Omnibus Response* [DE 507; Tab 5 in the Binder previously provided] and the *Amended Motion for Sanctions Pursuant to Florida Statute §57.105 Against William Stansbury and Peter Feaman, Esq.* [DE 526]

In essence, Stansbury as the Plaintiff is trying to choose who can represent the Defendant Estate against from Stansbury's claims. Rather than have the Estate defended by its chosen counsel – lawyers who already have full knowledge of the facts and evidence.[1] ***Most importantly, the Mrachek Firm has never represented Stansbury in anything – so he has no reason to complain.***

[1] Mrachek has been involved in defending Stansbury's claims since March 2013, representing most of the other defendants, handling all aspects of the litigation: interviewing witnesses; document production; motion practice, winning the dismissal of any derivative claims; deposing Stansbury; preparing for trial; conducting mediation. Indeed, the interim Curator appointed by this Court confirmed in a Motion for Stay that the Mrachek Firm's legal services to the other defendants enabled him to ***not retain separate counsel*** for the Estate, thereby saving the Estate from incurring fees. [Case 502012CA0013933 DE 215]

The Motions seeking disqualification are procedurally and substantively improper

First, Stansbury has no standing to object to the Estate's retention of the Mrachek Firm.

Second, Mrachek Firm was approved as counsel for the Estate on September 7, 2016. As of that time, any limited involvement in the Illinois case, such as attending the one deposition of Ted Bernstein on May 6, 2015, was over. Under Rule 4-1.9, only the former client's consent is necessary. There is no doubt that Ted Bernstein wants Mrachek to represent the Estate, and consents to that. So there is absolutely no issue here.

Third, even if some representation were ongoing, under Rule 4-1.7, the representation of Ted Bernstein as Trustee in an Illinois insurance interpleader proceeding is not "directly adverse" to the Estate. Mrachek is not acting as an advocate in the Illinois case, and has not appeared as counsel of record for anyone. In that Illinois case, the Estate is represented by one Chicago law firm and the opposing party by another Chicago law firm.

Nevertheless, if the Court is concerned there is or may be an actual or potential conflict of interest, all relevant persons have consented and waived any conflict. The comments to Rule 4-1.7 provide, in relevant part:

> **Conflicts in litigation**
> . . . . Ordinarily, a lawyer may not act as advocate against a client the lawyer represents in some other matter, even if the other matter is wholly unrelated. **However, there are circumstances in which a lawyer may act as advocate against a client.** For example, a lawyer representing an enterprise with diverse operations may accept employment as an advocate against the enterprise **in an unrelated matter if doing so will not adversely affect the lawyer's relationship with the enterprise or conduct of the suit and if both clients consent upon consultation.**

Here, both "clients" consented and waived any conflict of interest. The PR, Brian O'Connell, signed a written Statement acknowledging (a) there is no conflict and (b) if there is any conflict, he

would waive that conflict to allow the Estate to retain the Mrachek Firm, thereby reducing expenses and complying with the beneficiaries' wishes. (Attached as Exhibit "1")

Fourth, in deciding this issue this Court should not lose sight of the fact that this disqualification motion is brought by the ***opposing party*** who is using the Rules of Professional Conduct as a ***procedural weapons*** (exactly what the Rules warn against). In doing so, Stansbury is seeking to either exert control over this relatively modest estate,[2] or drive up the Estate's costs of defending his multi-million dollar lawsuit. Or, he is simply trying to get rid of the two people best positioned to defend his case – Ted Bernstein and Alan Rose, Esq. of Mrachek.

Conclusion

For more than four years, Stansbury has been trying to exert control over the administration, having opposed the PR and the Trustee on numerous issues, and having already tried and failed to remove the Trustee. The goal in retaining Mrachek was to lower expenses given the firm's prior knowledge and get the Stansbury case tried as soon as possible. Stansbury already is defeating that by forcing money to spent on this attempt to disqualify the Estate's counsel.

To assist the Court in preparing for the hearing, the Trustee submit the following supplemental materials:

1. *PR's Statement of Its Position That There Is No Conflict and His Waiver of Any Potential Conflict*;

2. Highlighted copies of Rule 4-1.7 and 4-1.9;

---

[2] The Inventory filed by the current Personal Representative, Brian O'Connell, lists the total assets of the Estate of Simon L. Bernstein at $1,121,325.51. Removing the illiquid assets, the Estate now has only a few hundred thousand dollars in cash, and the remaining assets are of dubious value. Just defending against Stansbury's claim may consume most of the remaining Estate assets (other than the Estate's potential claim against Stansbury to recover fees).

3. Email to and from Stansbury's counsel dated December 22, 2016, in which Trustee's counsel provided the PR's Waiver and additional information and requesting that Stansbury carefully reconsider his position, and Stansbury's counsel's response four minutes later declining that request;

4. Copy of the Amended Motion for 57.105 Sanctions filed against Stansbury and his counsel.

For the reasons expressed in the Omnibus Response, this Supplemental Submission, and the attachments, the Motion seeking to disqualify the Mrachek Firm has no merit, and should be denied.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing Supplemental Submission has been served on all parties on the attached Service List, specifically including counsel for William Stansbury, by E-mail Electronic Transmission, this 9th day of February, 2017.

MRACHEK, FITZGERALD, ROSE, KONOPKA,
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email: arose@mrachek-law.com
Attorneys for Ted S. Bernstein

By: /s/ Alan B. Rose
Alan B. Rose (Fla. Bar No. 961825)

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Individually and as trustee for her children, and as natural guardian for M.F. and C.F., Minors

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Guardian *Ad Litem* for Eliot Bernstein's minor children, Jo.B., Ja.B., and D.B.

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

IN RE: CASE NO. 502012CP004391XXXXNBIH

ESTATE OF SIMON L. BERNSTEIN,
_____/

PR'S STATEMENT OF ITS POSITION THAT THERE IS NO CONFLICT AND HIS WAIVER OF ANY POTENTIAL CONFLICT

I, Brian O'Connell, am the court-appointed Personal Representative ("PR") of The Estate of Simon L. Bernstein ("Estate"). Based upon the Will upheld during a probate trial conducted last December, resulting in a Final Judgment dated December 16, 2015, Simon Bernstein's children are the named devisees of certain personal property, but the sole residuary beneficiary of the Estate is the current trustee of the Simon L. Bernstein Amended and Restated Trust dated July 25, 2012 ("Trust"). That role is currently being fulfilled by Ted S. Bernstein, as Successor Trustee ("Trustee").

There are certain persons who have asserted potential claims against the Estate. The largest such claim is an independent action styled *William E. Stansbury, Plaintiff, v. Estate of Simon L. Bernstein and Bernstein Family Realty, LLC, Defendants*, in the Circuit Court of the 15th Judicial Circuit in and for Palm Beach County, Florida, Case No.: 50 2012 CA 013933 MB AN (the "Stansbury Lawsuit"). In that action, Stansbury is suing the Estate for more than $2.5 million, asserting claims for breach of oral contract; fraud in the inducement; civil conspiracy; unjust enrichment; equitable lien; and constructive trust. Each of these claims arises from Stansbury's employment with and involvement in an insurance business in which the principal shareholders were Ted Bernstein and Simon Bernstein.

EXHIBIT 1

The Stansbury Lawsuit was filed in July 2012, while Simon was alive. After Simon died, the Estate was substituted as the party defendant, and the former personal representatives hired counsel to defend the Estate. The primary defendant in that action was LIC Holdings, Inc. ("LIC"), along with its wholly-owned company, Arbitrage International Management, LLC, f/k/a Arbitrage International Holdings, LLC ("AIM"). Stansbury also maintained claims against the Shirley Bernstein Trust Agreement Dated May 20, 2008 ("Shirley Trust"), and Ted S. Bernstein, Individually ("Ted").

The law firm of Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A. ("Mrachek") served as counsel for LIC, AIM, Shirley Trust and Ted Mrachek beginning in April 2013, formally appearing on April 15, 2013. As I was not appointed PR until sometime in July of 2014, I had no involvement or knowledge of this matter at that time.

I have been advised that Mrachek represented those defendants and the position taken is not in conflict or adverse to the Estate's position. After mediation in June 2014, LIC, AIM, Shirley Trust and Ted settled with Stansbury. The Estate, then under the control of a Curator, did not settle with Stansbury. After my appointment, to avoid unnecessary expense, settlement efforts were made. Those efforts, including through a mediation held on July 25, 2016, were unsuccessful.

Some of the direct and indirect beneficiaries of the Estate I am administering advised me, in light of the Mrachek firm's prior and extensive involvement in the Stansbury Lawsuit, the beneficiaries wanted Mrachek to represent the Estate in the Stansbury Lawsuit. I agreed to that request, and agreed that Mrachek was retained to represent the Estate.

Additionally, I agreed to Trustee, Ted, being appointed to serve as administrator ad litem with regard to overseeing the defense of the Estate in the Stansbury Lawsuit for at least three two reasons: (i) Ted agreed to serve in that role for no additional compensation, whereas any time I spend will cost the Estate a reasonable fee for my services; (ii) Ted has direct knowledge of the facts and circumstances surrounding the Stansbury lawsuit, because he was part of LIC and AIM at the relevant time, he was Simon's son, and he was extensively involved in the Stansbury Lawsuit already as a defendant and as a corporate representative of LIC and AIM; (iii) I have no personal knowledge or involvement in this matter; and (iv) there is no reason to believe Mrachek and Ted will not adequately and vigorously defend the Estate's interests.

It is also in the best interest of the Estate (not only the beneficiaries but any creditors and claimants with the possible exception of Stansbury) to have the Stansbury Lawsuit resolved as quickly and efficiently as possible, because this Estate administration must remain open and ongoing until the Stansbury Lawsuit is resolved, and the expenses of defending the claim will cost the Estate money and time until the case is finally determined.

To the extent there is a waivable conflict of interest, as PR of the Estate I would waive any such conflict.

BRIAN O'CONNELL, Personal Representative

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

IN RE: CASE NO. 502012CP004391XXXXNBIH

ESTATE OF SIMON L. BERNSTEIN,
_____/

PR'S STATEMENT OF ITS POSITION THAT THERE IS NO CONFLICT AND HIS WAIVER OF ANY POTENTIAL CONFLICT

I, Brian O'Connell, am the court-appointed Personal Representative ("PR") of The Estate of Simon L. Bernstein ("Estate"). Based upon the Will upheld during a probate trial conducted last December, resulting in a Final Judgment dated December 16, 2015, Simon Bernstein's children are the named devisees of certain personal property, but the sole residuary beneficiary of the Estate is the current trustee of the Simon L. Bernstein Amended and Restated Trust dated July 25, 2012 ("Trust"). That role is currently being fulfilled by Ted S. Bernstein, as Successor Trustee ("Trustee").

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I have been advised that Mrachek represented those defendants and the position taken is not in conflict or adverse to the Estate's position. After mediation in June 2014, LIC, AIM, Shirley Trust and Ted settled with Stansbury. The Estate, then under the control of a Curator, did not settle with Stansbury. After my appointment, to avoid unnecessary expense, settlement efforts were made. Those efforts, including through a mediation held on July 25, 2016, were unsuccessful.

Some of the direct and indirect beneficiaries of the Estate I am administering advised me, in light of the Mrachek firm's prior and extensive involvement in the Stansbury Lawsuit, the beneficiaries wanted Mrachek to represent the Estate in the Stansbury Lawsuit. I agreed to that request, and agreed that Mrachek was retained to represent the Estate.

Additionally, I agreed to Trustee, Ted, being appointed to serve as administrator ad litem with regard to overseeing the defense of the Estate in the Stansbury Lawsuit for at least three two reasons: (i) Ted agreed to serve in that role for no additional compensation, whereas any time I spend will cost the Estate a reasonable fee for my services; (ii) Ted has direct knowledge of the facts and circumstances surrounding the Stansbury lawsuit, because he was part of LIC and AIM at the relevant time, he was Simon's son, and he was extensively involved in the Stansbury Lawsuit already as a defendant and as a corporate representative of LIC and AIM; (iii) I have no personal knowledge or involvement in this matter; and (iv) there is no reason to believe Mrachek and Ted will not adequately and vigorously defend the Estate's interests.

It is also in the best interest of the Estate (not only the beneficiaries but any creditors and claimants with the possible exception of Stansbury) to have the Stansbury Lawsuit resolved as quickly and efficiently as possible, because this Estate administration must remain open and ongoing until the Stansbury Lawsuit is resolved, and the expenses of defending the claim will cost the Estate money and time until the case is finally determined.

To the extent there is a waivable conflict of interest, as PR of the Estate I would waive any such conflict.

BRIAN O'CONNELL, Personal Representative

or those proceeding derivatively, must comply with applicable rules regulating notification of class members and other procedural requirements designed to ensure adequate protection of the entire class.

Acquisition of interest in litigation

Subdivision (i) states the traditional general rule that lawyers are prohibited from acquiring a proprietary interest in litigation. This general rule, which has its basis in common law champerty and maintenance, is subject to specific exceptions developed in decisional law and continued in these rules, such as the exception for reasonable contingent fees set forth in rule 4–1.5 and the exception for certain advances of the costs of litigation set forth in subdivision (e).

This rule is not intended to apply to customary qualification and limitations in legal opinions and memoranda.

Representation of insureds

As with any representation of a client when another person or client is paying for the representation, the representation of an insured client at the request of the insurer creates a special need for the lawyer to be cognizant of the potential for ethical risks. The nature of the relationship between a lawyer and a client can lead to the insured or the insurer having expectations inconsistent with the duty of the lawyer to maintain confidences, avoid conflicts of interest, and otherwise comply with professional standards. When a lawyer undertakes the representation of an insured client at the expense of the insurer, the lawyer should ascertain whether the lawyer will be representing both the insured and the insurer, or only the insured. Communication with both the insured and the insurer promotes their mutual understanding of the role of the lawyer in the particular representation. The Statement of Insured Client's Rights has been developed to facilitate the lawyer's performance of ethical responsibilities. The highly variable nature of insurance and the responsiveness of the insurance industry in developing new types of coverages for risks arising in the dynamic American economy render it impractical to establish a statement of rights applicable to all forms of insurance. The Statement of Insured Client's Rights is intended to apply to personal injury and property damage tort cases. It is not intended to apply to workers' compensation cases. Even in that relatively narrow area of insurance coverage, there is variability among policies. For that reason, the statement is necessarily broad. It is the responsibility of the lawyer to explain the statement to the insured. In particular cases, the lawyer may need to provide additional information to the insured.

Because the purpose of the statement is to assist laypersons in understanding their basic rights as clients, it is necessarily abbreviated. Although brevity promotes the purpose for which the statement was developed, it also necessitates incompleteness. For these reasons, it is specifically provided that the statement shall not serve to establish any legal rights or duties, nor create any presumption that an existing legal or ethical duty has been breached. As a result, the statement and its contents should not be invoked by opposing parties as grounds for disqualification of a lawyer or for procedural purposes. The purpose of the statement would be subverted if it could be used in such a manner.

The statement is to be signed by the lawyer to establish that it was timely provided to the insured, but the insured client is not required to sign it. It is in the best interests of the lawyer to have the insured client sign the statement to avoid future questions, but it is considered impractical to require the lawyer to obtain the insured client's signature in all instances.

Establishment of the statement and the duty to provide it to an insured in tort cases involving personal injury or property damage should not be construed as lessening the duty of the lawyer to inform clients of their rights in other circumstances. When other types of insurance are involved, when there are other third-party payors of fees, or when multiple clients are represented, similar needs for fully informing clients exist, as recognized in rules 4–1.7(c) and 4–1.8(f).

Imputation of prohibitions

Under subdivision (k), a prohibition on conduct by an individual lawyer in subdivisions (a) through (i) also applies to all lawyers associated in a firm with the personally prohibited lawyer. For example, 1 lawyer in a firm may not enter into a business transaction with a client of another member of the firm without complying with subdivision (a), even if the first lawyer is not personally involved in the representation of the client.

Rule 4–1.9. Conflict of Interest; Former Client

A lawyer who has formerly represented a client in a matter must not afterwards:

(a) represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent;

(b) use information relating to the representation to the disadvantage of the former client except as these rules would permit or require with respect to a client or when the information has become generally known; or

(c) reveal information relating to the representation except as these rules would permit or require with respect to a client.

Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); April 25, 2002 (820 So.2d 210); March 23, 2006, effective May 22, 2006 (933 So.2d 417); Nov. 19, 2009, effective Feb. 1, 2010 (24 So.3d 63); May 29, 2014, effective June 1, 2014 (140 So.3d 541).

Comment

After termination of a client-lawyer relationship, a lawyer may not represent another client except in conformity with this rule. The principles in rule 4–1.7 determine whether the interests of the pres-

ent and former client are adverse. Thus, a lawyer could not properly seek to rescind on behalf of a new client a contract drafted on behalf of the former client. So also a lawyer who has prosecuted an accused person could not properly represent the accused in a subsequent civil action against the government concerning the same transaction.

The scope of a "matter" for purposes of rule 4–1.9(a) may depend on the facts of a particular situation or transaction. The lawyer's involvement in a matter can also be a question of degree. When a lawyer has been directly involved in a specific transaction, subsequent representation of other clients with materially adverse interests clearly is prohibited. On the other hand, a lawyer who recurrently handled a type of problem for a former client is not precluded from later representing another client in a wholly distinct problem of that type even though the subsequent representation involves a position adverse to the prior client. Similar considerations can apply to the reassignment of military lawyers between defense and prosecution functions within the same military jurisdiction. The underlying question is whether the lawyer was so involved in the matter that the subsequent representation can be justly regarded as a changing of sides in the matter in question.

Matters are "substantially related" for purposes of this rule if they involve the same transaction or legal dispute, or if the current matter would involve the lawyer attacking work that the lawyer performed for the former client. For example, a lawyer who has previously represented a client in securing environmental permits to build a shopping center would be precluded from representing neighbors seeking to oppose rezoning of the property on the basis of environmental considerations; however, the lawyer would not be precluded, on the grounds of substantial relationship, from defending a tenant of the completed shopping center in resisting eviction for nonpayment of rent.

Lawyers owe confidentiality obligations to former clients, and thus information acquired by the lawyer in the course of representing a client may not subsequently be used by the lawyer to the disadvantage of the client without the former client's consent. However, the fact that a lawyer has once served a client does not preclude the lawyer from using generally known information about that client when later representing another client. Information that has been widely disseminated by the media to the public, or that typically would be obtained by any reasonably prudent lawyer who had never represented the former client, should be considered generally known and ordinarily will not be disqualifying. The essential question is whether, but for having represented the former client, the lawyer would know or discover the information.

Information acquired in a prior representation may have been rendered obsolete by the passage of time. In the case of an organizational client, general knowledge of the client's policies and practices ordinarily will not preclude a subsequent representation; on the other hand, knowledge of specific facts gained in a prior representation that are relevant to the matter in question ordinarily will preclude such a representation. A former client is not required to reveal the confidential information learned by the lawyer in order to establish a substantial risk that the lawyer has confidential information to use in the subsequent matter. A conclusion about the possession of such information may be based on the nature of the services the lawyer provided the former client and information that would in ordinary practice be learned by a lawyer providing such services.

The provisions of this rule are for the protection of clients and can be waived if the former client gives informed consent. See terminology.

With regard to an opposing party's raising a question of conflict of interest, see comment to rule 4–1.7. With regard to disqualification of a firm with which a lawyer is associated, see rule 4–1.10.

Rule 4–1.10. Imputation of Conflicts of Interest; General Rule

(a) Imputed Disqualification of All Lawyers in Firm. While lawyers are associated in a firm, none of them may knowingly represent a client when any 1 of them practicing alone would be prohibited from doing so by rule 4–1.7 or 4–1.9 except as provided elsewhere in this rule, or unless the prohibition is based on a personal interest of the prohibited lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm.

(b) Former Clients of Newly Associated Lawyer. When a lawyer becomes associated with a firm, the firm may not knowingly represent a person in the same or a substantially related matter in which that lawyer, or a firm with which the lawyer was associated, had previously represented a client whose interests are materially adverse to that person and about whom the lawyer had acquired information protected by rules 4–1.6 and 4–1.9(b) and (c) that is material to the matter.

(c) Representing Interests Adverse to Clients of Formerly Associated Lawyer. When a lawyer has terminated an association with a firm, the firm is not prohibited from thereafter representing a person with interests materially adverse to those of a client represented by the formerly associated lawyer unless:

(1) the matter is the same or substantially related to that in which the formerly associated lawyer represented the client; and

(2) any lawyer remaining in the firm has information protected by rules 4–1.6 and 4–1.9(b) and (c) that is material to the matter.

(d) Waiver of Conflict. A disqualification prescribed by this rule may be waived by the affected client under the conditions stated in rule 4–1.7.

(e) Government Lawyers. The disqualification of lawyers associated in a firm with former or current government lawyers is governed by rule 4–1.11.

Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); March 23, 2006, effective May 22, 2006 (933 So.2d 417); July 7, 2011, effective Oct. 1, 2011 (67 So.3d 1037); May 29, 2014, effective June 1, 2014 (140 So.3d 541).

(e) if the lawyer has made reasonable efforts to prevent the access or disclosure. Factors to be considered in determining the reasonableness of the lawyer's efforts include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer's ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use). A client may require the lawyer to implement special security measures not required by this rule or may give informed consent to forgo security measures that would otherwise be required by this rule. Whether a lawyer may be required to take additional steps to safeguard a client's information in order to comply with other law, for example state and federal laws that govern data privacy or that impose notification requirements on the loss of, or unauthorized access to, electronic information, is beyond the scope of these rules. For a lawyer's duties when sharing information with nonlawyers outside the lawyer's own firm, see the comment to rule 4–5.3.

When transmitting a communication that includes information relating to the representation of a client, the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients. This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions. Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement. A client may require the lawyer to implement special security measures not required by this rule or may give informed consent to the use of a means of communication that would otherwise be prohibited by this rule. Whether a lawyer may be required to take additional steps in order to comply with other law, for example state and federal laws that govern data privacy, is beyond the scope of these rules.

Former client

The duty of confidentiality continues after the client-lawyer relationship has terminated. See rule 4–1.9 for the prohibition against using such information to the disadvantage of the former client.

Rule 4–1.7. Conflict of Interest; Current Clients

(a) Representing Adverse Interests. Except as provided in subdivision (b), a lawyer must not represent a client if:

(1) the representation of 1 client will be directly adverse to another client; or

(2) there is a substantial risk that the representation of 1 or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Informed Consent. Notwithstanding the existence of a conflict of interest under subdivision (a), a lawyer may represent a client if:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

(2) the representation is not prohibited by law;

(3) the representation does not involve the assertion of a position adverse to another client when the lawyer represents both clients in the same proceeding before a tribunal; and

(4) each affected client gives informed consent, confirmed in writing or clearly stated on the record at a hearing.

(c) Explanation to Clients. When representation of multiple clients in a single matter is undertaken, the consultation must include an explanation of the implications of the common representation and the advantages and risks involved.

(d) Lawyers Related by Blood, Adoption, or Marriage. A lawyer related by blood, adoption, or marriage to another lawyer as parent, child, sibling, or spouse must not represent a client in a representation directly adverse to a person who the lawyer knows is represented by the other lawyer except with the client's informed consent, confirmed in writing or clearly stated on the record at a hearing.

(e) Representation of Insureds. Upon undertaking the representation of an insured client at the expense of the insurer, a lawyer has a duty to ascertain whether the lawyer will be representing both the insurer and the insured as clients, or only the insured, and to inform both the insured and the insurer regarding the scope of the representation. All other Rules Regulating The Florida Bar related to conflicts of interest apply to the representation as they would in any other situation.

Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); Jan. 23, 2003, effective July 1, 2003 (838 So.2d 1140); March 23, 2006, effective May 22, 2006 (933 So.2d 417); May 29, 2014, effective June 1, 2014 (140 So.3d 541).

Comment

Loyalty to a client

Loyalty and independent judgment are essential elements in the lawyer's relationship to a client. Conflicts of interest can arise from the lawyer's responsibilities to another client, a former client or a third person, or from the lawyer's own interests. For specific rules regarding certain conflicts of interest, see rule 4–1.8. For former client conflicts of interest, see rule 4–1.9. For conflicts of interest involving prospective clients, see rule 4–1.18. For definitions of "informed consent" and "confirmed in writing," see terminology.

An impermissible conflict of interest may exist before representation is undertaken, in which event

the representation should be declined. If such a conflict arises after representation has been undertaken, the lawyer should withdraw from the representation. See rule 4–1.16. Where more than 1 client is involved and the lawyer withdraws because a conflict arises after representation, whether the lawyer may continue to represent any of the clients is determined by rule 4–1.9. As to whether a client-lawyer relationship exists or, having once been established, is continuing, see comment to rule 4–1.3 and scope.

As a general proposition, loyalty to a client prohibits undertaking representation directly adverse to that client's or another client's interests without the affected client's consent. Subdivision (a)(1) expresses that general rule. Thus, a lawyer ordinarily may not act as advocate against a person the lawyer represents in some other matter, even if it is wholly unrelated. On the other hand, simultaneous representation in unrelated matters of clients whose interests are only generally adverse, such as competing economic enterprises, does not require consent of the respective clients. Subdivision (a)(1) applies only when the representation of 1 client would be directly adverse to the other and where the lawyer's responsibilities of loyalty and confidentiality of the other client might be compromised.

Loyalty to a client is also impaired when a lawyer cannot consider, recommend, or carry out an appropriate course of action for the client because of the lawyer's other responsibilities or interests. The *conflict in effect* forecloses alternatives that would otherwise be available to the client. Subdivision (a)(2) addresses such situations. A *possible conflict* does not itself preclude the representation. The critical questions are the likelihood that a conflict will eventuate and, if it does, whether it will materially interfere with the lawyer's independent professional judgment in considering alternatives or foreclose courses of action that reasonably should be pursued on behalf of the client. Consideration should be given to whether the client wishes to accommodate the other interest involved.

Consultation and consent

A client may consent to representation notwithstanding a conflict. However, as indicated in subdivision (a)(1) with respect to representation directly adverse to a client and subdivision (a)(2) with respect to material limitations on representation of a client, when a disinterested lawyer would conclude that the client should not agree to the representation under the circumstances, the lawyer involved cannot properly ask for such agreement or provide representation on the basis of the client's consent. When more than 1 client is involved, the question of conflict must be resolved as to each client. Moreover, there may be circumstances where it is impossible to make the disclosure necessary to obtain consent. For example, when the lawyer represents different clients in related matters and 1 of the clients refuses to consent to the disclosure necessary to permit the other client to make an informed decision, the lawyer cannot properly ask the latter to consent.

Lawyer's interests

The lawyer's own interests should not be permitted to have adverse effect on representation of a client. For example, a lawyer's need for income should not lead the lawyer to undertake matters that cannot be handled competently and at a reasonable fee. See rules 4–1.1 and 4–1.5. If the probity of a lawyer's own conduct in a transaction is in serious question, it may be difficult or impossible for the lawyer to give a client detached advice. A lawyer may not allow related business interests to affect representation, for example, by referring clients to an enterprise in which the lawyer has an undisclosed interest.

Conflicts in litigation

Subdivision (a)(1) prohibits representation of opposing parties in litigation. Simultaneous representation of parties whose interests in litigation may conflict, such as co-plaintiffs or co-defendants, is governed by subdivisions (a), (b), and (c). An impermissible conflict may exist by reason of substantial discrepancy in the parties' testimony, incompatibility in positions in relation to an opposing party, or the fact that there are substantially different possibilities of settlement of the claims or liabilities in question. Such conflicts can arise in criminal cases as well as civil. The potential for conflict of interest in representing multiple defendants in a criminal case is so grave that ordinarily a lawyer should decline to represent more than 1 co-defendant. On the other hand, common representation of persons having similar interests is proper if the risk of adverse effect is minimal and the requirements of subdivisions (b) and (c) are met.

Ordinarily, a lawyer may not act as advocate against a client the lawyer represents in some other matter, even if the other matter is wholly unrelated. However, there are circumstances in which a lawyer may act as advocate against a client. For example, a lawyer representing an enterprise with diverse operations may accept employment as an advocate against the enterprise in an unrelated matter if doing so will not adversely affect the lawyer's relationship with the enterprise or conduct of the suit and if both clients consent upon consultation. By the same token, government lawyers in some circumstances may represent government employees in proceedings in which a government agency is the opposing party. The propriety of concurrent representation can depend on the nature of the litigation. For example, a suit charging fraud entails conflict to a degree not involved in a suit for a declaratory judgment concerning statutory interpretation.

A lawyer may represent parties having antagonistic positions on a legal question that has arisen in different cases, unless representation of either client would be adversely affected. Thus, it is ordinarily not improper to assert such positions in cases pending in different trial courts, but it may be improper to do so in cases pending at the same time in an appellate court.

Interest of person paying for a lawyer's service

A lawyer may be paid from a source other than the client, if the client is informed of that fact and consents and the arrangement does not compromise the lawyer's duty of loyalty to the client. See rule

4–1.8(f). For example, when an insurer and its insured have conflicting interests in a matter arising from a liability insurance agreement and the insurer is required to provide special counsel for the insured, the arrangement should assure the special counsel's professional independence. So also, when a corporation and its directors or employees are involved in a controversy in which they have conflicting interests, the corporation may provide funds for separate legal representation of the directors or employees, if the clients consent after consultation and the arrangement ensures the lawyer's professional independence.

Other conflict situations

Conflicts of interest in contexts other than litigation sometimes may be difficult to assess. Relevant factors in determining whether there is potential for adverse effect include the duration and intimacy of the lawyer's relationship with the client or clients involved, the functions being performed by the lawyer, the likelihood that actual conflict will arise, and the likely prejudice to the client from the conflict if it does arise. The question is often one of proximity and degree.

For example, a lawyer may not represent multiple parties to a negotiation whose interests are fundamentally antagonistic to each other, but common representation is permissible where the clients are generally aligned in interest even though there is some difference of interest among them.

Conflict questions may also arise in estate planning and estate administration. A lawyer may be called upon to prepare wills for several family members, such as husband and wife, and, depending upon the circumstances, a conflict of interest may arise. In estate administration the identity of the client may be unclear under the law of some jurisdictions. In Florida, the personal representative is the client rather than the estate or the beneficiaries. The lawyer should make clear the relationship to the parties involved.

A lawyer for a corporation or other organization who is also a member of its board of directors should determine whether the responsibilities of the 2 roles may conflict. The lawyer may be called on to advise the corporation in matters involving actions of the directors. Consideration should be given to the frequency with which such situations may arise, the potential intensity of the conflict, the effect of the lawyer's resignation from the board, and the possibility of the corporation's obtaining legal advice from another lawyer in such situations. If there is material risk that the dual role will compromise the lawyer's independence of professional judgment, the lawyer should not serve as a director.

Conflict charged by an opposing party

Resolving questions of conflict of interest is primarily the responsibility of the lawyer undertaking the representation. In litigation, a court may raise the question when there is reason to infer that the lawyer has neglected the responsibility. In a criminal case, inquiry by the court is generally required when a lawyer represents multiple defendants. Where the conflict is such as clearly to call in question the fair or efficient administration of justice, opposing counsel may properly raise the question. Such an objection should be viewed with caution, however, for it can be misused as a technique of harassment. See scope.

Family relationships between lawyers

Rule 4–1.7(d) applies to related lawyers who are in different firms. Related lawyers in the same firm are also governed by rules 4–1.9 and 4–1.10. The disqualification stated in rule 4–1.7(d) is personal and is not imputed to members of firms with whom the lawyers are associated.

The purpose of Rule 4–1.7(d) is to prohibit representation of adverse interests, unless informed consent is given by the client, by a lawyer related to another lawyer by blood, adoption, or marriage as a parent, child, sibling, or spouse so as to include those with biological or adopted children and within relations by marriage those who would be considered in-laws and stepchildren and stepparents.

Representation of insureds

The unique tripartite relationship of insured, insurer, and lawyer can lead to ambiguity as to whom a lawyer represents. In a particular case, the lawyer may represent only the insured, with the insurer having the status of a non-client third party payor of the lawyer's fees. Alternatively, the lawyer may represent both as dual clients, in the absence of a disqualifying conflict of interest, upon compliance with applicable rules. Establishing clarity as to the role of the lawyer at the inception of the representation avoids misunderstanding that may ethically compromise the lawyer. This is a general duty of every lawyer undertaking representation of a client, which is made specific in this context due to the desire to minimize confusion and inconsistent expectations that may arise.

Consent confirmed in writing or stated on the record at a hearing

Subdivision (b) requires the lawyer to obtain the informed consent of the client, confirmed in writing or clearly stated on the record at a hearing. With regard to being confirmed in writing, such a writing may consist of a document executed by the client or one that the lawyer promptly records and transmits to the client following an oral consent. See terminology. If it is not feasible to obtain or transmit the writing at the time the client gives informed consent, then the lawyer must obtain or transmit it within a reasonable time afterwards. See terminology. The requirement of a writing does not supplant the need in most cases for the lawyer to talk with the client, to explain the risks and advantages, if any, of representation burdened with a conflict of interest, as well as reasonably available alternatives, and to afford the client a reasonable opportunity to consider the risks and alternatives and to raise questions and concerns. Rather, the writing is required in order to impress upon clients the seriousness of the decision the client is being asked to make and to avoid disputes or ambiguities that might later occur in the absence of a writing.

Ashley Bourget

From: Peter M. Feaman <pfeaman@feamanlaw.com>
Sent: Thursday, December 22, 2016 3:53 PM
To: Alan Rose
Cc: boconnell@ciklinlubitz.com; Foglietta, Joy A; tbernstein@lifeinsuranceconcepts.com; dzlewis@aol.com
Subject: RE: 57.105 Motion -- follow up

We believe or Motion is very well grounded in fact and law.

Peter M. Feaman
PETER M. FEAMAN, P.A.
3695 West Boynton Beach Boulevard
Suite 9
Boynton Beach, FL 33436
Telephone: 561-734-5552
Facsimile: 561-734-5554
www.feamanlaw.com

From: Alan Rose [mailto:ARose@mrachek-law.com]
Sent: Thursday, December 22, 2016 3:49 PM
To: Peter M. Feaman
Cc: 'boconnell@ciklinlubitz.com'; 'Foglietta, Joy A'; 'Ted Bernstein (tbernstein@lifeinsuranceconcepts.com)'; 'dzlewis@aol.com'
Subject: 57.105 Motion -- follow up

Peter:

In light of the attached Notice of No Conflict or Waiver by the PR of the Estate and, paragraph 4 from the attached filing from long ago by the Curator, who clearly states that our work saved the Estate from incurring fees, we implore you to drop the nonsense and withdraw the Motion to Vacate and the Motion to Disqualify my law firm.

These are frivolous motions, and we will be seeking severe sanctions against your client and your law firm for these actions.

Stansbury's case will tried next year, by me or someone else, and then he will have his answer. In meantime, for the sake of the grandchildren, withdraw these motions and lets get to the merits.

Happy holidays.

Alan

Alan B. Rose, Esq.
arose@Mrachek-Law.com
561.355.6991

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

IN RE: CASE NO. 502012CP004391XXXXNBIH

ESTATE OF SIMON L. BERNSTEIN,
_____/

PR'S STATEMENT OF ITS POSITION THAT THERE IS NO CONFLICT AND HIS WAIVER OF ANY POTENTIAL CONFLICT

I, Brian O'Connell, am the court-appointed Personal Representative ("PR") of The Estate of Simon L. Bernstein ("Estate"). Based upon the Will upheld during a probate trial conducted last December, resulting in a Final Judgment dated December 16, 2015, Simon Bernstein's children are the named devisees of certain personal property, but the sole residuary beneficiary of the Estate is the current trustee of the Simon L. Bernstein Amended and Restated Trust dated July 25, 2012 ("Trust"). That role is currently being fulfilled by Ted S. Bernstein, as Successor Trustee ("Trustee").

There are certain persons who have asserted potential claims against the Estate. The largest such claim is an independent action styled *William E. Stansbury, Plaintiff, v. Estate of Simon L. Bernstein and Bernstein Family Realty, LLC, Defendants*, in the Circuit Court of the 15th Judicial Circuit in and for Palm Beach County, Florida, Case No.: 50 2012 CA 013933 MB AN (the "Stansbury Lawsuit"). In that action, Stansbury is suing the Estate for more than $2.5 million, asserting claims for breach of oral contract; fraud in the inducement; civil conspiracy; unjust enrichment; equitable lien; and constructive trust. Each of these claims arises from Stansbury's employment with and involvement in an insurance business in which the principal shareholders were Ted Bernstein and Simon Bernstein.

The Stansbury Lawsuit was filed in July 2012, while Simon was alive. After Simon died, the Estate was substituted as the party defendant, and the former personal representatives hired counsel to defend the Estate. The primary defendant in that action was LIC Holdings, Inc. ("LIC"), along with its wholly-owned company, Arbitrage International Management, LLC, f/k/a Arbitrage International Holdings, LLC ("AIM"). Stansbury also maintained claims against the Shirley Bernstein Trust Agreement Dated May 20, 2008 ("Shirley Trust"), and Ted S. Bernstein, Individually ("Ted").

The law firm of Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A. ("Mrachek") served as counsel for LIC, AIM, Shirley Trust and Ted Mrachek beginning in April 2013, formally appearing on April 15, 2013. As I was not appointed PR until sometime in July of 2014, I had no involvement or knowledge of this matter at that time.

I have been advised that Mrachek represented those defendants and the position taken is not in conflict or adverse to the Estate's position. After mediation in June 2014, LIC, AIM, Shirley Trust and Ted settled with Stansbury. The Estate, then under the control of a Curator, did not settle with Stansbury. After my appointment, to avoid unnecessary expense, settlement efforts were made. Those efforts, including through a mediation held on July 25, 2016, were unsuccessful.

Some of the direct and indirect beneficiaries of the Estate I am administering advised me, in light of the Mrachek firm's prior and extensive involvement in the Stansbury Lawsuit, the beneficiaries wanted Mrachek to represent the Estate in the Stansbury Lawsuit. I agreed to that request, and agreed that Mrachek was retained to represent the Estate.

Additionally, I agreed to Trustee, Ted, being appointed to serve as administrator ad litem with regard to overseeing the defense of the Estate in the Stansbury Lawsuit for at least three two reasons: (i) Ted agreed to serve in that role for no additional compensation, whereas any time I spend will cost the Estate a reasonable fee for my services; (ii) Ted has direct knowledge of the facts and circumstances surrounding the Stansbury lawsuit, because he was part of LIC and AIM at the relevant time, he was Simon's son, and he was extensively involved in the Stansbury Lawsuit already as a defendant and as a corporate representative of LIC and AIM; (iii) I have no personal knowledge or involvement in this matter; and (iv) there is no reason to believe Mrachek and Ted will not adequately and vigorously defend the Estate's interests.

It is also in the best interest of the Estate (not only the beneficiaries but any creditors and claimants with the possible exception of Stansbury) to have the Stansbury Lawsuit resolved as quickly and efficiently as possible, because this Estate administration must remain open and ongoing until the Stansbury Lawsuit is resolved, and the expenses of defending the claim will cost the Estate money and time until the case is finally determined.

To the extent there is a waivable conflict of interest, as PR of the Estate I would waive any such conflict.

BRIAN O'CONNELL, Personal Representative

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

IN RE:
WILLIAM E. STANSBURY,
Plaintiff,
v.

CASE NO. 502012CA013933MBAA

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

CURATOR'S MOTION TO STAY PROCEEDINGS

COMES NOW, Curator, Benjamin P. Brown ("Curator"), by and through undersigned counsel, files this Motion to Stay Proceedings, and states as follows:

1. On February 25, 2014, in probate court in Case No. 5021012CP004391, *In Re: Estate of Simon L. Bernstein*, (Palm Beach County Probate Division) (the "Probate Court") entered an Order on "Interested Person" William Stansbury's Motion for the Appointment of a Curator or Successor Personal Representative ("Order Appointing Curator"), appointing Benjamin P. Brown as Curator of the Estate of Simon L. Bernstein ("Estate"). On March 11, 2014, this Court entered Letters of Curatorship in Favor of Benjamin Brown ("Letters"). A copy of the Letters is attached hereto as Exhibit A.

2. The Letters authorize the Curator to appear on behalf of the Estate in this case for the stated purposes.

3. Co-Defendant, Ted Bernstein ("Ted"), is the son of the decedent.

4. In this case, Ted, along with other Co-Defendants represented by the same counsel, has defended against all of the Plaintiff's allegations and claims. The Curator did not retain counsel in order to avoid having the Estate incur the expense of legal work that was likely to be duplicative of the work being performed by Ted's counsel.

5. However, on June 23, 2014, this Court entered an Order, attached hereto as Exhibit B, dismissing Ted and the other Co-Defendants in this case, except for the Estate and Bernstein Family Realty, LLC.

6. As a result, the Estate will need to retain counsel in this case.

7. On July 11 and 16, 2014, the Probate Court will conduct hearings during which the Probate Court has indicated that a Successor Personal Representative will be appointed. The Probate Court has further indicated that the Successor Personal Representative, rather than the Curator, should defend the claims Plaintiff has made against the Estate.

8. A short stay will permit the appointment of a Successor Personal Representative and allow the Successor Personal Representative to retain counsel to defend against the claims Plaintiff has made against the Estate.

9. There are currently no hearings or depositions set, no pending discovery, and no unheard motions in this case. This case is not set for trial.

10. Accordingly, it would be in the interest of judicial economy to stay this proceeding until appointment of a Successor Personal Representative. *See, REWJB Gas Invs. v. Land O'Sun Realty, Ltd.*, 643 So. 2d 1107, 1108 (Fla. 4th DCA 1994) ("The granting of a stay of proceedings by a trial court, pending the outcome of an action in another court, is in the broad discretion of the trial court.").

WHEREFORE, the Curator requests stay of this proceeding for a period extending twenty (20) days after appointment of a Successor Personal Representative for the Estate by the Probate Court, and for such further relief as the Court deems just and proper.

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by e-mail upon the parties listed on the attached service list, on this 25 day of June, 2014.

MATWICZYK & BROWN LLP
Attorney for Curator
625 N. Flagler Drive, Suite 401
West Palm Beach, FL 33401
Telephone: (561) 651-4004
Fax: (561) 651-4003

By: _____
Benjamin P. Brown
Florida Bar No. 841552

SERVICE LIST
Estate of Simon L. Bernstein
Palm Beach County Case No. 502012CP004391XXXXSB

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

IN RE: CASE NO. 502012CP004391XXXXNBIH

ESTATE OF SIMON L. BERNSTEIN,
_____/

AMENDED MOTION FOR SANCTIONS PURSUANT TO FLORIDA STATUTE §57.105 AGAINST WILLIAM STANSBURY AND PETER FEAMAN, ESQ. FOR FILING MOTION TO VACATE IN PART ORDER PERMITTING RETENTION OF MRACHEK FIRM [DE 497] AND MOTION TO DISQUALIFY [filed 11-28-16]; AND FOR STANSBURY'S FILING RESPONSE IN OPPOSITION TO MOTIONS TO APPOINT ADMINISTRATOR AS LITEM [DE 471] AND TO RATIFY AND CONFIRM APPOINTMENT OF TED S. BERNSTEIN AS SUCCESSOR TRUSTEE OF THE SIMON BERNSTEIN AMENDED AND RESTATED TRUST [DE 495]

Ted S. Bernstein, as Successor Trustee of the Simon L. Bernstein Amended and Restated Trust ("Trustee"), moves for sanctions against Claimant, William Stansbury and his counsel, Peter Feaman, Esq. of the law firm Peter M. Feaman, P.A., for violating sections 57.105(1) and/or (2). In addition to the argument set forth herein, Trustee incorporates his Omnibus Response and Reply Memorandum filed November 28, 2016. In support of sanctions, Trustee states:

INTRODUCTION

William Stansbury and his counsel, Peter Feaman, Esq. (collectively "Stansbury"), have been the thorn in the side of this modest estate[1] for more than four years. Stansbury filed a multi-million dollar claim against the decedent, and is continuing that claim against the Estate, but has refused to settle or try the case. Instead, Stansbury has simply opposed (or ignored) everything that the Trustee has tried to accomplish to lower the expenses of the case and conclude the administration.

[1] The Inventory filed by the current Personal Representative, Brian O'Connell, lists the total assets of the Estate of Simon L. Bernstein at $1,121,325.51. Removing the illiquid assets, the Estate now has only a few hundred thousand dollars in cash. The remaining assets, including a second mortgage on Eliot Bernstein's home and certain claims, are of dubious value. By the time Stansbury's claim is tried, and given the high costs of administering this Estate, there likely will be very little remaining in the Estate (other than the Estate's fee claims against Stansbury).

Now, despite raising no argument at the hearing on the Trustee's Motion seeking, in part, approval for the Estate to retain Alan B. Rose, Esq. and the Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A. law firm ("Mrachek Firm") to defend it against Stansbury's claim, Stansbury now seeks to have this Court vacate and reconsider that Order.[2] In addition, Stansbury opposes the Trustee's Motion to ratify his appointment or to have the Court appoint Trustee based upon the unanimous agreement of the beneficiaries, despite a prior unappealed order finding he has no standing to seek the removal of a trustee.[3] As a result of the both of these frivolous positions, the court should award a reasonable attorney's fee, including prejudgment interest, to be paid to the prevailing party in equal amounts by the losing party and the losing party's attorney because these claims or defenses are not supported by the material facts necessary to establish the claim or defense, nor are they supported by the application of then-existing law to those material facts.

Through the Motion to Vacate the retention order and disqualify the Mrachek Firm from representing the Estate, Stansbury now is trying to choose who can represent his adversary (the Estate) in the independent action in which Stansbury seeks more than $2.5 million – far more in damages than the total assets of the Estate.

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[2] The full title is *Motion To Vacate In Part The Court's Ruling On September 7, 2016, and/or Any Subsequent Order, Permitting The Estate Of Simon Bernstein To Retain Alan Rose And Page, Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss P.A. As Legal Counsel And Motion for Evidentiary Hearing To Determine Whether Rose And Page, Mrachek Are Disqualified From Representing The Estate Due To An Inherent Conflict Of Interest*, filed October 7, 2010. [DE 497] On November 28, 2016, Stansbury also filed a similar *Motion to Disqualify etc.* [DE 508] raising the same issues. Both Motions are the subject of this sanctions motion.

[3] See *Motion to Ratify and Confirm Appointment of Ted S. Bernstein as Successor Trustee of Trust Which Is Sole Beneficiary of the Estate*, filed August 10, 2016 [DE 473] and Stansbury's *Response in Opposition to Motion to Ratify and Confirm Appointment of Ted S. Bernstein as Successor Trustee of the Simon Bernstein Amended and Restated Trust*, filed September 23, 2016. [DE 495]

The Motion is untimely, improper, and sanctionable, and evidences a further attempt by Stansbury to hijack the Estate for his own benefit. Stansbury also seeks to hinder, delay and obstruct the orderly administration of the Trust, which is the sole residuary beneficiary of the Estate. The Trust beneficiaries all agree the Trustee should continue to serve, and are trying to eliminate the unnecessary expense of continuing to litigate that issue. Because no funds can flow from the Estate to the Trust unless and until Stansbury's claim has been resolved, any claims by Stansbury that he has standing or may be prejudiced by Ted Bernstein serving as Trustee are nonsensical.

By way of background, preying on Simon's erratic child, Eliot Ivan Bernstein ("Eliot"), Stansbury has been manipulating these proceedings and attempting to exert influence over the selection of personal representatives; the selection of counsel; the accountings; the search for assets (except when inconsistent with Eliot's wishes); etc. Indeed, despite his opposition and objections to many things, even small dollar items, which has drastically increased the expense of the Estate's administration, Stansbury has never expressed concern over one of the largest assets in this Estate, a mortgage on Eliot's home. Nor has Stansbury ever questioned any of the substantial fee petitions filed by the Personal Representative to administer the Estate. Now that Eliot had been ruled to lack standing, Stansbury continues filing papers pushing Eliot's agenda.

Against the backdrop of increased expense and delay, the beneficiaries agreed in a Mediation Settlement Agreement to ratify the appointment of Ted S. Bernstein ("Ted" or "Trustee"), as Trustee of Simon's Trust, and to have the Trustee and the Mrachek Firm (which has been directly involved in Stansbury's litigation for several years) assume representation of the Estate in the independent action. Before the mediation, Stansbury had been complaining that the underlying action was moving too slowly. He requested a status conference on July 11, 2016, complaining that Mr. O'Connell was not available and the case was taking too long. In light of those concerns, the beneficiaries agreed

at the mediation to speed things up. Now, Stansbury says things are moving too quickly and should be slowed down or stayed altogether, for months.

After mediation, the Trustee filed the Motion to Retain [DE 471], seeking to appoint the Trustee as administrator ad litem and to retain the Mrachek Firm as counsel. Stansbury opposed the appointment of Ted Bernstein as administrator ad litem. This opposition may have been fueled by a desire to please Eliot. It may also have been fueled by anger and hostility toward Ted. Regardless, the most relevant consideration is that Stansbury seeks to prevent the most knowledgeable person (Ted) and the most knowledgeable and "up-to-speed" lawyers (Mrachek Firm) from defending against Stansbury's claims. Indeed, Ted is the only person still alive and still involved in these proceedings with any knowledge about Stansbury claims. After all, Ted was an officer, director and largest shareholder of the company which employed Stansbury, Simon and Ted and which is at the heart of Stansbury's $2.5 million claim. Ted also is the only person willing to stand up and defend the Estate against Stansbury's claim.

Stansbury's objection certainly cannot be based on the fact that Ted would serve for free, saving the Estate tens of thousands to be incurred by Mr. O'Connell defending the claim. Nor could it be based upon Ted's general availability, as contrasted with the very limited availability of Mr. O'Connell, a very busy probate lawyer. Regardless, Stansbury opposed Ted's appointment. But Stansbury filed nothing challenging the Estate's retention of the Mrachek Firm.

Judge Phillips conducted a hearing and entered an order approving the Estate's retention of the Mrachek Firm, and deferring on whether to appoint Ted. Then, there was a status conference before the trial court in the underlying action, at which the undersigned was granted leave to amend the affirmative defenses, and the parties discussed setting the case for trial immediately thereafter. Stansbury made no mention of any issue at the status conference. But as the train was about to get

moving, after the trial court status conference, Stansbury moved this Court to vacate the retention of the Mrachek Firm. He then sought to stay the underlying case ***for months*** until the Motion to Vacate (essentially disqualify the Mrachek firm) can be heard.

There is no basis for the Motion to Vacate. Purely tactical motions to disqualify opposing counsel are highly disfavored. In this case, the motion to disqualify counsel was brought by a party who was *never* a client of the law firm; shared no confidences or secrets with the law firm; and unreasonably delayed bringing the issue up the forefront. Trustee and his counsel move for sanctions because such strategic gambits are not only disfavored, but prohibited. Stansbury and his counsel should be sanctioned for this maneuver. The Motion to Vacate should be summarily denied; and Stansbury (both client and lawyer) should be sanctioned for pursuing this Motion which is meritless and filed for an improper purpose, and for pursuing other unsupportable defenses and positions.

The Mrachek Firm has never represented Stansbury. But the Mrachek Firm did serve as lead counsel for the primary defendant in the underlying Stansbury lawsuit, LIC Holdings, Inc. and other principal defendants in the underlying case:

PLAINTIFF	COUNSEL
William E. Stansbury,	Feaman
vs.	
DEFENDANTS	
Ted S. Bernstein	Mrachek
Estate of Simon L. Bernstein	Manceri/ ??
Ted S. Bernstein, as Trustees of the Shirley Bernstein Trust Agreement	Mrachek
Lic Holdings, Inc.	Mrachek
Arbitrage International Management, LLC	Mrachek
Bernstein Family Realty, Llc	Manceri/Lessne

Since the Mrachek Firm's representation of defendants in the Stansbury case began, its lawyers handled all aspects of the litigation, including but not limited to: interviewing witnesses; document production; motion practice, including winning a key issue resulting in the dismissal of any derivative claims; began the deposition of Stansbury; prepared for trial; conducted mediation, at which most of the case settled except for the claim against Simon individually.[4] ***Again, Mrachek Firm has never represented Stansbury in anything***.

Two additional points bear on this analysis. First, the Curator appointed by this Court, Ben Brown, confirmed in a Motion for Stay that the Mrachek Firm's legal services to the other defendants enabled him to not retain separate counsel for the Estate, thereby saving the Estate from incurring fees. [Case 502012CA0013933 DE 215]

Second, the Personal Representative, Brian O'Connell, has acknowledged in writing that (a) he sees no conflict and (b) he would waive any waivable conflict to allow the Estate to retain the Mrachek Firm, thereby reducing expenses and complying with the wishes of the beneficiaries. Mr. O'Connell's statement is attached as Exhibit "1".

The Motion for Stay and the written waiver were provided to Stansbury and his counsel to in an effort to persuade them to thoughtfully reconsider their position and withdraw the motion to disqualify. However, within three minutes (certainly not sufficient time to even read, let alone carefully consider this information), they responded their position remains unchanged.

Thus, the Motion to Vacate violates section 57.105 and warrants sanctions against Stansbury and his counsel.

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[4] The Curator appointed by this Court, Ben Brown, confirmed in a Motion for Stay that the Mrachek Firm's legal services to the other defendants enable him to not retain separate counsel for the Estate, thereby saving the Estate from incurring fees. [Case 502012CA0013933 DE 215] This filing has been provided to Stansbury and his counsel to enable them to thoughtfully reconsider their position, but within three minutes they responded their position remains unchanged.

GROUNDS FOR SANCTIONS

As grounds for sanctions, Trustee states:

1. On July 30, 2012, Stanbury filed suit against Simon Bernstein, his companies (LIC and AIM), his son (Ted S. Bernstein), a trust under his control (Shirley Trust), and others. Initially, all defendants including Simon retained the same counsel.

2. Simon died on September 13, 2012. Under the terms of his Will, Donald Tescher and Robert Spallina were nominated as Co-Personal Representatives. They hired counsel, Mark Manceri, to represent the Estate and Trustees, the Shirley Bernstein Trust, a related trust for which they served as Co-Successor.

3. On April 1, 2013, Mrachek Firm became involved in the Stansbury case, representing LIC, AIM and Ted. The Estate, through Tescher and Spallina, continued to be represented by Manceri, a sole practioner; however, Mrachek Firm took the laboring oar on all matters, and worked with Manceri to streamline the Estate's expense.

4. In January, 2014, Tescher and Spallina resigned. A Curator (Benjamin Brown, Esq.) was appointed because Stansbury and Eliot objected to the appointment of Ted S. Bernstein as Personal Representative. Thereafter, while Brown served as Curator, the Estate was essentially unrepresented by trial counsel, with Mr. Brown acting as counsel, but with Mrachek Firm doing all of the work.

5. At a mediation held on June 9, 2014, Stansbury settled with LIC, AIM, Ted and the Shirley Trust. Because no one was truly representing the Estate, and its only representative was Mr. Brown as the then-Curator, the Estate was unable to settle its claims. The Trustee, as sole beneficiary of the Estate, did everything he could to attempt to achieve a settlement for the Estate, but to no avail.

6. After the Curator was replaced with Mr. O'Connell as Personal Representative, and despite good faith efforts, it appears that there can be no settlement with Stansbury. Regardless, virtually nothing happened in the underlying litigation for more than two years, with Stansbury showing no interest in moving the case forward. From his standpoint and to his credit, Mr. O'Connell took no action and incurred virtually no expense in defending the Stansbury claim, likely operating under the hope and belief that the claim would be resolved. Toward that end, a mediation was held on July 25, 2016, at which the parties were hopeful that the case would settle. It did not.

7. Sometime in 2016, all of the sudden, Stansbury decided the case had to begin moving. Mr. O'Connell, the Personal Representative, was not available for depositions fast enough for Stansbury. So, on July 8, 2016, Stansbury filed a motion for case management conference, complaining that the Estate's counsel was not available and deposition could not be taken until November, 2016, which was unacceptable to Stansbury.

8. Mediation occurred on July 25, 2016. The parties mediated all open issues, including the claim by Stansbury against the Estate. That case did not settle and an impasse was declared. However, the beneficiaries of the Estate (including the Guardian) and the Trustee all agreed to a global settlement of all disputes between and among the beneficiaries. The Trustee and beneficiaries included in their Mediation Settlement Agreement a provision confirming their agreement as to how to move the Stansbury claim to a prompt resolution:

> In light of their prior and extensive involvement in the case, the Mrachek Law firm shall represent the Estate in the case Stansbury v. the Estate, and if necessary and appropriate (subject to court approval), Ted Bernstein shall be appointed as administrator ad litem to defend the Estate's position in that case. They are directed to have the issues resolved by the court in an expeditious manner.

9. On August 5, 2016, the Trustee served the Motion to Retain, and emailed a copy to Stansbury's counsel. The email provided:

> We have filed the attached Motion to retain our firm and appoint Ted to defend against Stansbury's claim.
>
> If you object, advise us by 5 pm next Thursday, August 11, 2016. If no objections, we will submit an agreed order.
>
> If any objections, we will coordinate a hearing only with the objecting parties.
>
> ***As the PR, Mr. O'Connell, has agreed to this, I urge everyone to agree to this motion reduce expenses and save money for the Estate by avoiding a hearing.***
>
> Thanks

10. On Friday August 12, 2016, the Trustee's counsel emailed all counsel stating that he had received no objection to the Motion to Retain. Stansbury's counsel responded that day, stating "Mr. Stansbury OBJECTS to the Order. . . . We believe you have a non-waivable conflict of interest in representing the Estate."

11. On August 22, 2016, Stansbury filed an objection, but the objection was limited to opposing Ted serving as administrator ad litem. Stansbury's counsel did not object to the Personal Representative's retention of Mrachek Firm to defend the Estate against the Stansbury claim.

12. On September 1, 2016, Judge Phillips heard the Motion to Retain. Stansbury's counsel advised the Court that there was no objection to the retention of the Mrachek Firm; only to the administrator ad litem. Judge Phillips granted the Motion with regard to retaining Mrachek Firm, and deferred to a later evidentiary hearing the administrator ad litem issue. A proposed order was circulated by email on September 1. Mrachek Firm continued working on the matter defending the Estate.

13. On September 26, 2016, Judge Phillips entered the Order. [DE 496]

14. On October 5, 2016, the trial court held a Status Conference in the underlying case. The trial court, The Hon. Cheryl Caracuzzo, wanted to set the case for trial. There was an agreement

that the Estate was leave to amend its affirmative defenses, which has been completed. Now, the Stansbury litigation is at issue and ready to be set for trial.

15. On October 10, 2016, Stansbury filed the Motion to Vacate [DE 497], claiming there was a conflict of interest because Mrachek Firm represents Ted S. Bernstein as Trustee of the Simon Estate, and Ted S. Bernstein also is the trustee of a separate trust which, on a matter unrelated to Stansbury's claim against the Estate, is adverse to the Estate.[5]

16. On December 22, 2016, Mr. O'Connell signed a *Statement of Its Position There Is No Conflict and His Waiver of Any Potential Conflict* (Exhibit "1"), confirming there is no conflict in his view; supporting the retention and appointment of counsel and the administrator to handle the Stansbury litigation; and waiving any potential waivable conflict.

17. In an email entitled "57.105 Motion – follow up," the undersigned provided Stansbury and his counsel with a copy of the PR's *Statement* and an earlier filing by the Curator, confirming the Mrachek Firm's work saved the Estate from incurring fees. Within three minutes, Stansbury's counsel responded they would not reconsider the Motion to Disqualify.

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[5] Merely because Ted S. Bernstein is the Trustee of the Simon Trust, the sole beneficiary of the Estate, does not preclude Ted from serving in any other trustee capacity, including as the Trustee of a 1995 Insurance Trust. In his Trust, Simon provided:

> J. Interested Trustee. The Trustee may act under this Agreement even if interested . . . as a fiduciary of another trust. . . .

Regardless of the positions taken by Ted in the Illinois litigation, the Estate is represented through Mr. O'Connell and counsel, and nothing that happens in Illinois will impact or in any way materially limit the Mrachek Firm's ability and desire to the Estate against Stansbury's ill-founded claim.

LAW OF DISQUALIFICATION

Rule 4-1.7 of the Rules Regulating the Florida Bar, which addresses conflicts between two existing clients, states:

> Representing Adverse Interests . . . . a lawyer must not represent a client if:
>
> (1) the representation of 1 client will be directly adverse to another client; or
>
> (2) there is a substantial risk that the representation of 1 or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

Stansbury alleges that, because Mrachek Firm represented Ted S. Bernstein at his deposition in a matter in which the Estate is adverse to a different trust, a 1995 insurance trust, that somehow disqualifies Mrachek Firm. This is wrong for a number of reasons.

First, Mrachek Firm represents Ted S. Bernstein solely in his role as Trustee of the Simon Bernstein Trust, whose interests are fully aligned with the Estate – both want to defeat Stansbury's claims and recover the Estate's legal fees from Stansbury. Second, the deposition was being taken not only by Estate's Illinois counsel, but also Eliot Bernstein. Ted was entitled to have his counsel attend to protect his privileges and to protect against harassment by Eliot. During that deposition, Ted Bernstein had the right to be represented by counsel.[6] At that time, on May 6, 2015, there were pending numerous motions to remove Ted Bernstein as Trustee, objecting to Ted's actions as Trustee

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[6] The plaintiff in the Illinois case, a 1995 Insurance Trust, was represented by its own counsel at the deposition and throughout the Illinois litigation. Mrachek Firm is not counsel for the adverse party. Mrachek Firm is solely counsel to the Trustee/PR of these Florida trusts and estate, and in those capacities Ted had every right to have counsel attend his deposition in the Illinois case. (The 1995 Insurance Trust's counsel knew little of these proceedings and was in no position to protect Ted *vis-a-vis* the issues in the Florida estate and trust matters.) Thus, Ted requested that counsel appear to represent his interests as Trustee of the Florida Trusts and as Personal Representative of the Estate of Shirley Bernstein.

and accountings, a complaint to determine the validity of testamentary documents and proper beneficiaries of the various estates and trusts. Counsel had to be at this deposition. Moreover, all counsel did was object several times to address privilege issues. Stansbury was at the deposition, the whole time, and observed everything of which he now complains. Third, there is no risk that the representation of the Estate will be materially limited by the lawyer's responsibilities to Ted S. Bernstein as Trustee

Moreover, even there were a conflict, which there is not, the Estate's court-appointed Personal Representative is the only person with standing to assert it. Stansbury has no standing to raise a challenge as he is the adverse party. Indeed, the Rules of Professional Conduct are not intended to be a weapon to be used by an opposing party:

> Violation of a rule should not itself give rise to a cause of action against a lawyer nor should it create any presumption that a legal duty has been breached. In addition, violation of a rule does not necessarily warrant any other nondisciplinary remedy, such as disqualification of a lawyer in pending litigation. The rules are designed to provide guidance to lawyers and to provide a structure for regulating conduct through disciplinary agencies. They are not designed to be a basis for civil liability. ***Furthermore, the purpose of the rules can be subverted when they are invoked by opposing parties as procedural weapons.*** The fact that a rule is a just basis for a lawyer's self-assessment, or for sanctioning a lawyer under the administration of a disciplinary authority, ***does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the rule.***

Preamble [emphasis added].[7]

In addition, Mr, O'Connell has consented to the Mrachek Firm assuming the Estate's representation in the Stansbury case. (See Exhibit "1")

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[7] *Stansbury claims to have standing because he has an interest in ensuring the proper* marshaling of assets of the Estate. Whether that is true or false, that is not what is at issue here. The Motion to Vacate seeks to hamstring the Estate in its preservation of assets, for distribution to beneficiaries. Stansbury seeks to take everything in the Estate and more if he is successful. He has no legal standing or moral right to preclude the Estate from defending itself against his claims.

The second part of Rule 1.7 states:

> (b) Informed Consent. Notwithstanding the existence of a conflict of interest under subdivision (a), a lawyer may represent a client if:
>
> (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
>
> (2) the representation is not prohibited by law;
>
> (3) the representation does not involve the assertion of a position adverse to another client when the lawyer represents both clients in the same proceeding before a tribunal; and
>
> (4) each affected client gives informed consent, confirmed in writing or clearly stated on the record at a hearing.

Each of those requirements is met. In particular, Mr. O'Connell as Personal Representative agreed with beneficiaries' direction to have the Mrachek Firm defend the Estate, and to waive any "waivable" conflict.

There are numerous cases in which conflict waivers were found to be appropriate and enforceable:

• *AlliedSignal Recovery Trust v. AlliedSignal, Inc.*, 934 So. 2d 675, 679 (Fla. 2d DCA 2006) (attorney for the creditor's trust, which was assigned the bankrupt corporation's rights to sue the seller of the business to the corporation for fraud, could not be disqualified even though he had previously represented the founders of the bankrupt corporation -- the trust waived any conflict of interest, the trust did not have a claim against the corporations founders, and the trust and the corporation's founders shared interest in securing meaningful recovery from seller);

• *Yang Enterprises, Inc. v. Georgalis*, 988 So. 2d 1180, 1184 (Fla. 1st DCA 2008) (attorney hired for estate planning services by a corporation and its principals could not be disqualified in litigation – petitioners were *former* clients law firm and had waived any claim regarding the conflict

because the litigation was extensive and ongoing and petitioners knew of the purported conflict of interest years before they moved to disqualify the firm);

- *Steinberg v. Winn-Dixie Stores, Inc.*, 121 So. 3d 622, 625 (Fla. 4th DCA 2013) (disqualification of an attorney in a premises-liability action was not warranted where attorney had spoken with the store manager a few days after his injured client's trip and fall, and could have become a witness against his own client on issue whether store had primary responsibility for any negligence – disqualification was not appropriate because the client waived any conflict and the attorney was not a necessary witness.).

The class of conflicts which would be non-waivable – those conflicts so extreme and direct the law does not permit the client to knowingly waive – is very limited. For example, in *Fla. Bar v. Feige*, 596 So.2d 433, 434 (Fla. 1992), the court held that a client (former wife) could not waive a conflict, even with full disclosure, when her former husband sued her *and her lawyer* for fraud. Because the lawsuit claimed that the former wife colluded with her attorney to defraud the husband, the lawyer could not adequately or ethically represent both her and himself in the fraud action brought by the former husband.

In *Fla. Bar v. Scott*, 39 So.3d 309, 315 (Fla. 2010), the court ruled there was an unwaivable conflict of interest where the attorney was representing multiple clients with claims to the same pool of money, such that one winning would directly result in the other losing. With regard to the Illinois case, that means the attorney could not represent the Estate and the Insurance Trust ***in that litigation***. But here Mrachek is not representing *either* the Estate or the Insurance Trust in that litigation. And, the results of the Illinois case and the Stansbury case are not mutually exclusive. Regardless of the outcome in Illinois, the Stansbury case must be defended and tried, and ***doing so in the manner to achieve the best result in absolutely in the best interests of everyone other than the complaining***

parties, Stansbury and his lawyers. There simply is no conflict here and, without doubt, there is not any unwaivable conflict.

The issue comes up more regularly in criminal cases. *E.g.*, *U.S. v. Culp*, 934 F. Supp. 394, 397 (M.D. Fla. 1996)(Conflict of interest was unwaivable where attorney had formerly represented a criminal defendant who was now cooperating with prosecution of a second co-conspirator). In such a case, the defense of the second defendant obviously would require the lawyer to attack veracity of his first client and also compromise the lawyer's integrity, and the result of the second case could impact potentially the "plea bargain" agreed to by the first. For example, if the lawyer proved his earlier client was lying, it would harm the first client. But if that were true, the lawyer would owe the second client a duty to expose. Such no-win situations are non-waivable.

Florida commentators address nonwaivable conflicts as follows:

> When a disinterested lawyer would conclude that the client should not agree to the representation under the particular circumstances of the case, the lawyer involved cannot properly ask for such agreement or provide representation on the basis of the client's consent.

4 Fla. Jur. 2d Attorneys at Law § 349.

Likewise, the relevant Comments to Rule 4-1.7 provide:

> In simultaneous representation of parties in litigation, an impermissible conflict may exist by reason of substantial discrepancy in the parties' testimony, incompatibility in positions in relation to an opposing party, or the fact that there are substantially different possibilities of settlement of the claims or liabilities in question . . . .
>
> Moreover, there may be circumstances where it is impossible to make the disclosure necessary to obtain consent. For example, when the lawyer represents different clients in related matters and one of the clients refuses to consent to the disclosure necessary to permit the other client to make an informed decision, the lawyer cannot properly ask the latter to consent.

None of those issues is present here. The Mrachek Firm is representing the Trustee, who is the sole beneficiary of this Estate, in related trust and estate matters. The interest of the Trustee is

to minimize the expenses and the exposure to Stansbury's claim, to maximize the ultimate distribution from the Estate to the Trust. All of the direct and indirect beneficiaries of the Trust favor this representation. The lawyer serving as PR of the Estate believes there is no conflict and has waived any potential conflict, because the Mrachek Firm's involvement will reduce expenses and because the beneficiaries favor it. The only persons complaining, Bill Stansbury and his lawyer, are far from disinterested. Their goals are to raise win their lawsuit and take as much money as possible from the Estate and Trust, or to drive up the expenses to the Estate to pressure an unfavorable settlement. Either way, they truly are in no position to raise a conflict and their actions in doing so are sanctionable.

Stansbury also cannot rely on Rule 4-1.9 of the Rules Regulating the Florida Bar, which governs conflicts with former clients:

> A lawyer who has formerly represented a client in a matter shall not thereafter:
>
> (a) represent another person *in the same or a substantially related matter* in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent; or
>
> (b) use information relating to the representation to the disadvantage of the former client except as rule 4-1.6 would permit with respect to a client or when the information has become generally known.

Neither of those prohibitions is implicated here. Mrachek Firm's representation of Ted as Trustee at his deposition in the Illinois case is not the same or substantially related to Stansbury's claim against the Estate. Likewise, Mrachek Firm's prior representation of Ted and the other defendants who were co-defendants in the Stansbury case was not adverse to the Estate. To the contrary, all of the defendants' interests were fully aligned to defeat Stansbury's claim, and Mrachek Firm's work assisted in lowering the Estate's burden. (Neither the Personal Representative of the

Estate nor the parties which could raise any potential "conflict"– LIC, AIM, Ted Bernstein, Shirley's Trust – have not complained and will not be complaining.) Finally, Mrachek Firm is not using any information to the disadvantage of the Estate.

If a prior attorney-client relationship had been shown, the party seeking disqualification must show that the current case involves the same subject matter or a substantially related matter in which the lawyer previously represented the moving party. *Waldrep v. Waldrep,* 985 So. 2d 700, 702 (Fla. 4th DCA 2008) (quoting *Key Largo Rest., Inc. v. T.H. Old Town Assocs., Ltd.*, 759 So. 2d 690, 693 (Fla. 5th DCA 2000)).

As the Fourth District Court of Appeal has stated,

> Before a client's former attorney can be disqualified from representing adverse interests, it must be shown that **the matters presently involved are substantially related to the matters in which prior counsel represented the former client.**

Campbell v. Am. Pioneer Sav. Bank, 565 So. 2d 417, 417 (Fla. 4th DCA 1990)(emphasis added).

In determining which matters are "substantially related," a comment to the rule which the supreme court adopted in 2006 provides as follows:

> ***Matters are "substantially related" for purposes of this rule if they involve the same transaction or legal dispute, or if the current matter would involve the lawyer attacking work that the lawyer performed for the former client***. For example, a lawyer who has previously represented a client in securing environmental permits to build a shopping center would be precluded from representing neighbors seeking to oppose rezoning of the property on the basis of environmental considerations; however, the lawyer would not be precluded, on the grounds of substantial relationship, from defending a tenant of the completed shopping center in resisting eviction for nonpayment of rent.

In re Amendments to the Rules Regulating the Florida Bar, 933 So. 2d 417, 445 (Fla. 2006) (emphasis supplied).

Disqualification of a party's chosen counsel is an extraordinary remedy and should only be resorted to sparingly. *Singer Island, Ltd. v. Budget Constr. Co.*, 714 So. 2d 651, 652 (Fla. 4th DCA 1998). Moreover, a Motion for Disqualification must be made with reasonable promptness. The Fourth District Court of Appeal has held:

> "A motion to disqualify should be made with reasonable promptness after the party discovers the facts which lead to the motion. " *Transmark, USA, Inc. v. State, Dep't of Ins.*, 631 So. 2d 1112, 1116 (Fla. 1st DCA 1994)(citations omitted). "The rationale behind this rule is to prevent a litigant from using the motion as a tool to deprive his opponent of counsel of his choice after completing substantial preparation of the case." *Id.* at 1116 (citing *Cox v. Am. Cast Iron Pipe Co.*, 847 F. 2d 724, 729 (11th Cir. 1988)).

Information Systems Assoc., Inc. v. Phuture World, Inc.., 106 So. 3d 982, 985 (Fla. 4th DCA 2013).

It is important for this Court to be aware of certain timing issues. The Motion to Retain was filed on August 5, 2016, and a copy of it was served on Stansbury's counsel. The undersigned had several discussions with Mr. Feaman from the filing through the hearing, and Mr. Feaman never expressed any concern about a conflict of interest in Mrachek Firm's involvement. On behalf of Stansbury, Feaman did file an objection on August 22, 2016, to that portion of the motion that sought to appoint Ted Bernstein as administrator *ad litem* to defend the claim, but only that part. The written objection has no reference to any concern about the Mrachek Firm's involvement.

A hearing was held on September 1, 2016, and Mr. Feaman, on behalf of Mr. Stansbury, raised no objection to the Mrachek Firm being retained as counsel. A proposed order was circulated, and Mr. Feaman never raised any objection to the order. The order was entered on September 26, 2016 [DE 496], and thereafter the parties appeared at a status conference before the circuit court judge handling the independent action, which occurred on Wednesday, October 5, 2016. Only now, after an initial hearing before the trial court and when the case is ready to be set for trial, does Stansbury assert there is some conflict of interest that he only recently discovered.

A party can waive his right to seek disqualification of the opposing party's counsel by failing to promptly move for disqualification upon learning of the facts leading to the alleged conflict. *See Zayas-Bazan v. Marcelin*, 40 So. 3d 870, 872–73 (Fla. 3d DCA 2010); *Rahman v. Jackson*, 992 So.2d 390, 390-91 (Fla. 1st DCA 2008); *Balda v. Sorchych*, 616 So.2d 1114, 1116 (Fla. 5th DCA 1993); *Cox v. American Cast Iron Pipe Co.*, 847 F.2d 725 (11th Cir.1988); *Glover v. Libman*, 578 F.Supp. 748 (N.D.Ga.1983). "The rationale behind this rule is to prevent a litigant from using the motion as a tool to deprive his opponent of counsel of his choice after completing substantial preparation of the case." *Cox v. Am. Cast Iron Pipe Co.*, 847 F.2d 725, 729 (11th Cir. 1988) (*quoting Jackson v. J. C. Penney Co., Inc.*, 521 F. Supp. 1032, 1034 (N.D. Ga. 1981)).

There is no exact timing for when a motion to disqualify is deemed untimely, instead it is a reasonableness standard. *See Transmark, U.S.A., Inc. v. State, Dept. of Ins.*, 631 So. 2d 1112, 1116 (Fla. 1st DCA 1994) ("A motion to disqualify should be made with reasonable promptness after the party discovers the facts which lead to the motion."). In *Transmark*, the petitioners argued that they did not learn of the conflict until eight weeks before filing their motion to disqualify. *Id.* However, in determining that the petitioners had waived any right to seek disqualification, the First District reasoned that the petitioners knew the attorneys in question (Poppell and Cullen) were engaged in legal matters and were on notice as to what legal matter they had been and were continuing to engage in by the time the law suit was filed. *Id.* Even if they did not, the petitioners engaged in substantial discovery from the day the suit was filed, and thus knew long before they filed the motion to disqualify that Poppell and Cullen were assisting the respondent in pretrial matters. *Id.* The petitioners did not raise the question of conflict until more than 10 months had elapsed and the respondent had already paid $2 million in legal fees. *Id.*

Because Stansbury waited months before first raising any objection to the Mrachek Firm's involvement, having failed to object despite having been given several chances to do so, the Motion to Disqualify was unreasonably delayed and sanctions should be awarded for that reason alone.

STANSBURY'S OTHER FRIVOLOUS OBJECTIONS

Stansbury's other objections to the Trustee serving as administrator ad litem for no fee and the Trustee's motion to ratify his appointment are patently frivolous.

First, Stansbury lacks standing to address either issue. See Order of August 22, 2014. [DE 240] That order was never appealed. As noted above, Stansbury has no right to choose how the Estate defends itself against Stansbury's claim, and no right to dictate anything to the beneficiaries of the Trust.

Second, there is no conflict. As explained in footnote 4, Simon Bernstein provided that a Trustee of his Trust could serve even if interested as a trustee of another trust. The Trustee's interest here is directly aligned with the Estates – to crush Stansbury's claim and to incur the least amount of cost and expense (including legal fees) in doing so, and thereafter to seek to recover all of the fees and expenses incurred in defeating Stansbury under section 768.79 and Rule 1.442. Everyone but Stansbury is aligned in that pursuit and share that common goal.

Regardless of what Stansbury says, his only motivation to file these motions is to advance his own interests as the expense of the Estate.

LAW OF SANCTIONS PURSUANT TO SECTION 57.105

Sanctions under section 57.105 are awarded "to discourage baseless claims, by placing a price tag through attorney's fees on losing parties who engage in these activities." *Albritton v. Ferrera*, 913 So. 2d 5, 8-9 (Fla. 1st DCA 2005); *accord Whitten v. Progressive Cas. Ins. Co.*, 410 So. 2d 501, 505 (Fla. 1982).

A party is required to drop or dismiss a claim once it is evident that the claim is not supported by material facts sufficient to establish the claim or not supported by existing law. If a party fails to drop a known frivolous claim, the court "shall" sanction the party. §57.105(a), Fla.Stat.; *see also Morrone v. State Farm Fire & Cas. Ins. Co.*, 664 So. 2d 972, 973 (Fla. 4th DCA 1995)("Section 57.105, Florida Statutes provides that a court 'shall' award attorney's fees to the prevailing party where there is 'a complete absence of a justiciable issue of either law or fact'.").

A frivolous claim is one that "presents no justiciable question and is so devoid of merit on the face of the record that there is little prospect it will ever succeed." *Visoly v. Sec. Pac. Credit Corp.*, 768 So. 2d 482, 490-91 (Fla. 4th DCA 2000). Pursuit of a claim that is completely without merit in law and undertaken primarily to harass or maliciously injure another establishes that the claim is frivolous. *See id.* at 491. Moreover, Rule 4-3.1 of the Rules Regulating The Florida Bar, imposes an ethical duty on attorneys to not file or pursue frivolous actions. *See De Vaux v. Westwood Baptist Church*, 953 So. 2d 677, 683 (Fla. 1st DCA 2007)(imposing sanctions on an attorney and his client for making "objectively groundless arguments on appeal"). That rule provides, in part, that "[a] lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous."

When a party files a motion to disqualify counsel that is unsupported by material facts or by the law applicable to the material facts, a court shall award attorney's fees under section 57.105(1), Florida Statutes. *See Yang Enterprises*, 988 So. 2d at 1184 . In *Yang,* the First District upheld the trial court's award of attorney's fees under section 57.105(1), after finding the petitioner's motion to disqualify counsel was "uncorroborated, subjective, highly dubious," and incredible because petitioners "knew or could have known" that the attorneys they were seeking to disqualify were representing the respondent in both this and other litigation. *Id.*

In *Freedom Commerce Ctr. Venture v. Ranson*, 823 So. 2d 817, 820 (Fla. 1st DCA 2002), the trial court denied the appellees' post judgment motion to disqualify appellants' counsel and initially awarded the appellants attorney's fees under section 57.105 because the motion to disqualify was not based in fact, appellees had expressly consented to the attorneys' representation of the appellants, and the appellees were aware of appellants' counsel's prior representations yet failed to raise the issue until the last possible moment. The trial court then issued a subsequent order finding that the amended version of section 57.105 governed but did not apply post judgment motions and therefore section 57.105 attorney's fees could not be awarded for the motion to disqualify. However the First District reversed the subsequent order, holding that the amended version of section 57.105 applied and, based on the trial court's findings, an award of fees was appropriate.

Here, Stansbury and his counsel should be sanctioned for continuing to pursue the Motion to Disqualify the Law Firm. There was no prior representation of Stansbury, so the Motion is frivolous. Likewise, if the former client was Ted S. Bernstein or the company LIC/AIM, that substantially related representation is precisely why the Personal Representative, Trustee, and the beneficiaries (specifically including the Guardian) want Mrachek Firm to undertake this role. Also, Stansbury waived any right to object and did not make a timely Motion to Disqualify the Law Firm, which alone should also be grounds for sanctions.

Prior to filing this Motion, the Estate and Mrachek Firm served (but did not file at this time) this Motion upon counsel for Stansbury in accordance with the "Safe Harbor" provisions of section 57.105, Florida Statutes. The Motion will be filed with or presented to the court unless, within 21 days after service of the motion, the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected.

WHEREFORE, because the above described Motions and Responses are not supported by material facts sufficient to establish a basis for the relief sought, are not supported by existing law, and/or are filed for an improper purpose, the Court must grant the Motion for Sanctions and enter an award of attorneys' fees and costs against Stansbury and his counsel for the reasons set forth herein.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing Amended Motion has been served on all parties on the attached Service List, specifically including counsel for William Stansbury, by E-mail Electronic Transmission, this 28th day of December, 2016, but the Motion is not being filed at this time in accordance with the safe harbor provisions of section 57.105(4) of the Florida Statutes.

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By: /s/ Alan B. Rose
Alan B. Rose (Fla. Bar No. 961825)

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

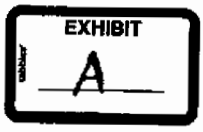
IN RE: CASE NO. 502012CP004391XXXXNBIH

ESTATE OF SIMON L. BERNSTEIN,
_____/

PR'S STATEMENT OF ITS POSITION THAT THERE IS NO CONFLICT AND HIS WAIVER OF ANY POTENTIAL CONFLICT

I, Brian O'Connell, am the court-appointed Personal Representative ("PR") of The Estate of Simon L. Bernstein ("Estate"). Based upon the Will upheld during a probate trial conducted last December, resulting in a Final Judgment dated December 16, 2015, Simon Bernstein's children are the named devisees of certain personal property, but the sole residuary beneficiary of the Estate is the current trustee of the Simon L. Bernstein Amended and Restated Trust dated July 25, 2012 ("Trust"). That role is currently being fulfilled by Ted S. Bernstein, as Successor Trustee ("Trustee").

There are certain persons who have asserted potential claims against the Estate. The largest such claim is an independent action styled *William E. Stansbury, Plaintiff, v. Estate of Simon L. Bernstein and Bernstein Family Realty, LLC, Defendants*, in the Circuit Court of the 15th Judicial Circuit in and for Palm Beach County, Florida, Case No.: 50 2012 CA 013933 MB AN (the "Stansbury Lawsuit"). In that action, Stansbury is suing the Estate for more than $2.5 million, asserting claims for breach of oral contract; fraud in the inducement; civil conspiracy; unjust enrichment; equitable lien; and constructive trust. Each of these claims arises from Stansbury's employment with and involvement in an insurance business in which the principal shareholders were Ted Bernstein and Simon Bernstein.



The Stansbury Lawsuit was filed in July 2012, while Simon was alive. After Simon died, the Estate was substituted as the party defendant, and the former personal representatives hired counsel to defend the Estate. The primary defendant in that action was LIC Holdings, Inc. ("LIC"), along with its wholly-owned company, Arbitrage International Management, LLC, f/k/a Arbitrage International Holdings, LLC ("AIM"). Stansbury also maintained claims against the Shirley Bernstein Trust Agreement Dated May 20, 2008 ("Shirley Trust"), and Ted S. Bernstein, Individually ("Ted").

The law firm of Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A. ("Mrachek") served as counsel for LIC, AIM, Shirley Trust and Ted Mrachek beginning in April 2013, formally appearing on April 15, 2013. As I was not appointed PR until sometime in July of 2014, I had no involvement or knowledge of this matter at that time.

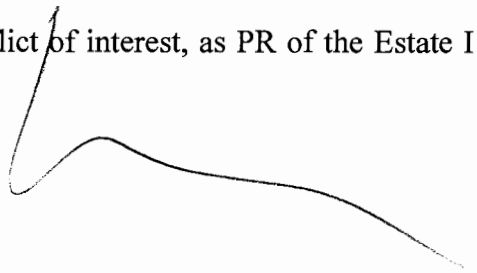
I have been advised that Mrachek represented those defendants and the position taken is not in conflict or adverse to the Estate's position. After mediation in June 2014, LIC, AIM, Shirley Trust and Ted settled with Stansbury. The Estate, then under the control of a Curator, did not settle with Stansbury. After my appointment, to avoid unnecessary expense, settlement efforts were made. Those efforts, including through a mediation held on July 25, 2016, were unsuccessful.

Some of the direct and indirect beneficiaries of the Estate I am administering advised me, in light of the Mrachek firm's prior and extensive involvement in the Stansbury Lawsuit, the beneficiaries wanted Mrachek to represent the Estate in the Stansbury Lawsuit. I agreed to that request, and agreed that Mrachek was retained to represent the Estate.

Additionally, I agreed to Trustee, Ted, being appointed to serve as administrator ad litem with regard to overseeing the defense of the Estate in the Stansbury Lawsuit for at least three two reasons: (i) Ted agreed to serve in that role for no additional compensation, whereas any time I spend will cost the Estate a reasonable fee for my services; (ii) Ted has direct knowledge of the facts and circumstances surrounding the Stansbury lawsuit, because he was part of LIC and AIM at the relevant time, he was Simon's son, and he was extensively involved in the Stansbury Lawsuit already as a defendant and as a corporate representative of LIC and AIM; (iii) I have no personal knowledge or involvement in this matter; and (iv) there is no reason to believe Mrachek and Ted will not adequately and vigorously defend the Estate's interests.

It is also in the best interest of the Estate (not only the beneficiaries but any creditors and claimants with the possible exception of Stansbury) to have the Stansbury Lawsuit resolved as quickly and efficiently as possible, because this Estate administration must remain open and ongoing until the Stansbury Lawsuit is resolved, and the expenses of defending the claim will cost the Estate money and time until the case is finally determined.

To the extent there is a waivable conflict of interest, as PR of the Estate I would waive any such conflict.



BRIAN O'CONNELL, Personal Representative

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

IN RE: THE ESTATE OF
SIMON BERNSTEIN,
Deceased
_____/

CASE NO. 502012CP004391XXXXSB

HON. JUDGE MARTIN H. COLIN

ELIOT IVAN BERNSTEIN, PRO SE
PETITIONER,

V.

TESCHER & SPALLINA, P.A., (AND ALL PARTNERS, ASSOCIATES AND OF COUNSEL),
ROBERT L. SPALLINA, ESQ., PERSONALLY,
ROBERT L. SPALLINA, ESQ., PROFESSIONALLY,
DONALD R. TESCHER, ESQ., PERSONALLY,
DONALD R. TESCHER, ESQ., PROFESSIONALLY,
THEODORE STUART BERNSTEIN, INDIVIDUALLY,
THEODORE STUART BERNSTEIN, AS ALLEGED PERSONAL REPRESENTATIVE,
THEODORE STUART BERNSTEIN, AS ALLEGED TRUSTEE AND SUCCESSOR TRUSTEE PERSONALLY,
THEODORE STUART BERNSTEIN, AS ALLEGED TRUSTEE AND SUCCESSOR TRUSTEE, PROFESSIONALLY
THEODORE STUART BERNSTEIN, AS TRUSTEE FOR HIS CHILDREN,
LISA SUE FRIEDSTEIN, INDIVIDUALLY AS A BENEFICIARY,
LISA SUE FRIEDSTEIN, AS TRUSTEE FOR HER CHILDREN,
JILL MARLA IANTONI, INDIVIDUALLY AS A BENEFICIARY,
JILL MARLA IANTONI, AS TRUSTEE FOR HER CHILDREN,
PAMELA BETH SIMON, INDIVIDUALLY,
PAMELA BETH SIMON, AS TRUSTEE FOR HER CHILDREN,
MARK MANCERI, ESQ., PERSONALLY,
MARK MANCERI, ESQ., PROFESSIONALLY,
MARK R. MANCERI, P.A. (AND ALL PARTNERS, ASSOCIATES AND OF COUNSEL)·
JOSHUA ENNIO ZANDER BERNSTEIN (ELIOT

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

IN RE: THE ESTATE OF
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CASE NO. 502012CP004391XXXXSB

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DONALD R. TESCHER, ESQ., PERSONALLY,
DONALD R. TESCHER, ESQ., PROFESSIONALLY,
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MARK MANCERI, ESQ., PERSONALLY,
MARK MANCERI, ESQ., PROFESSIONALLY,
MARK R. MANCERI, P.A. (AND ALL PARTNERS, ASSOCIATES AND OF COUNSEL)
JOSHUA ENNIO ZANDER BERNSTEIN (ELIOT

MINOR CHILD)
JACOB NOAH ARCHIE BERNSTEIN (ELIOT MINOR CHILD)
DANIEL ELIJSHA ABE OTTOMO BERNSTEIN (ELIOT MINOR CHILD)
ALEXANDRA BERNSTEIN (THEODORE ADULT CHILD)
ERIC BERNSTEIN (THEODORE ADULT CHILD)
MICHAEL BERNSTEIN (THEODORE ADULT CHILD)
MATTHEW LOGAN (THEODORE'S SPOUSE ADULT CHILD)
MOLLY NORAH SIMON (PAMELA ADULT CHILD)
JULIA IANTONI – JILL MINOR CHILD
MAX FRIEDSTEIN – LISA MINOR CHILD
CARLY FRIEDSTEIN – LISA MINOR CHILD
JOHN AND JANE DOE (1-5000)
_____/

OBJECTION TO FINAL ACCOUNTING AND PETITION FOR FORMAL, DETAILED, AUDITED AND FORENSIC ACCOUNTING AND DOCUMENT ANALYSIS

Petitioner, ELIOT IVAN BERNSTEIN, individually and on behalf of his minor children ("Petitioner"), who are alleged qualified beneficiaries[1] of the Estate (the "Estate"), and Trusts of Simon L. Bernstein hereby Objects to the Final Accounting put forth by the former resigned Co-Personal Representatives, Donald R. Tescher, Esq. and Robert L. Spallina, Esq. and their alleged counsel Robert L. Spallina, Esq. as permitted by Florida Probate Rule 5.401. OBJECTIONS TO PETITION FOR DISCHARGE OR FINAL ACCOUNTING and any other germane statutes and in support thereof, Petitioner alleges as follows:

BACKGROUND

1. That SIMON L. BERNSTEIN ("Settlor") is the decedent of this Estate.

[1] The Will of the Estate is being challenged and the beneficiaries of the Estate of Simon may be different that what is in the Will being probated.

2. That the ALLEGED Will of Settlor dated July 25, 2012 ("Settlor's Will) was admitted to probate in this proceeding and is being challenged in this Court in Petitioner's yet unheard prior Petitions and Motions. The notarizations on this alleged 2012 Will have been recently been found to be improperly notarized by the Governor Rick Scott Notary Public Enforcement Division and Settlor cannot be shown to have been present at the signing of this document[2].

3. That the alleged 2012 Amended and Restated Trusts of Settlor are being challenged and the notarizations have recently been found to be improperly notarized by the Governor Rick Scott Notary Public Enforcement Division and Settlor cannot be shown to have been present at the signing of this document.

4. That both the alleged 2012 Will and Amended Trust were allegedly executed weeks before Settlor's death, Petitioner alleges that if they were signed by Settlor it would have been under undue influence or done Post Mortem. These documents were drafted and executed unlawfully as admitted to by Spallina to the Palm Beach County Sheriff's Department when he stated to Detectives,

> "SPALLINA REITERATED THAT SIMON CAN DO WHATEVER HE WANTS WITH HIS ESTATE, BUT ALL HE CAN DO WITH SHIRLEY'S TRUST IS GIVE IT TO LISA, JILL, AND ELIOT'S CHILDREN."
>
> "NEW DOCUMENTS WERE DRAWN UP FOR SIMON'S ESTATE. THESE NEW DOCUMENTS GAVE EVERYTHING

---

[2] April 21, 2014 Governor Rick Scott Notary Public Division Letter re: Lindsay Baxley http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140421%20Office%20Of%20Governor%20Lindsay%20Baxley%20Complaint%20Misconduct.pdf , hereby incorporated in entirety by reference herein.

and

April 30, 2014 Governor Rick Scott Notary Public Division Letter re: Lindsay Baxley Giles and Third Degree Felony misuse of Notary Stamp Ongoing Investigation. http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140430%20Lindsay%20Baxley%20Giles%202nd%20Notary%20Complaint%20-%20Name%20False.pdf , hereby incorporated in entirety by reference herein.

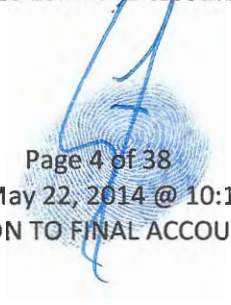
TO ALL 10 GRANDKIDS. HE ALSO EXCERCISED HIS POWERS OF SHIRLEY'S ESTATE, GIVING EVERYTHING TO ALL 10 GRANDKIDS, EVEN THOUGH LEGALLY HE COULD NOT INCLUDE TED AND PAM'S KID'S BECAUSE OF THE PREDECEASED LIMITATION."

Petitioner alleges that along with other documents already proven signed POST MORTEM by Settlor through FRAUD and FORGERY, these documents too were procured through similar FRAUD and possible FORGERY and have therefore been challenged by Petitioner as being part of a larger fraud to seize Dominion and Control of the Estate, change beneficiaries of the Estate and loot the Estate and Trusts of Settlor, while simultaneously billing the Estate outrageous legal fees for these criminal acts.

5. That Petitioner has challenged these documents both civilly in this Court and criminally with the proper authorities, along with other documents allegedly executed in 2012 by Settlor and Petitioner claims all these documents are part of a Fraud to change beneficiaries of Settlor's Estate and his wife Shirley Bernstein's ("Shirley") Estate POST MORTEM in each case. Proven FRAUD and admitted FORGERY have forced the Estate of Shirley to be reopened. Attempts have been made in both Estates and Trusts of Simon and Shirley to change the beneficiaries from three of five of Settlor's children to Settlor's ten grandchildren.

6. That due to Forgery, Fraud and more, the Estates and Trusts and Fiduciary positions in Settlor and Shirley's Estates and Trusts have been illegally seized to further loot the Estate and Trusts of tens of millions of dollars of assets and deny Petitioner ANY accountings or other information relating to the Estates and Trusts of Settlor and Shirley.

7. That Fraud and Forgery have already been discovered and proven in the Estates and Trusts of Settlor and Shirley and where now the former Personal Representatives/Executors, Trustees,



Theodore Stuart Bernstein ("Theodore") and others are the subject of ongoing state and federal, civil and criminal, investigations and actions.

8. That recently the 2012 alleged Will and the 2012 Amended and Restated Trust of Simon, have been confirmed by Governor Rick Scott's Notary Public division to have been improperly notarized by Theodore Bernstein's personal assistant, a one Lindsay Baxley aka Lindsay Giles, as evidenced already herein and where it cannot now or ever be proven that Settlor was present at the signing of these documents in 2012.

9. That this new notarization fraud is almost identical to that of the one committed in Shirley's Estate by Theodore's close personal and business friends, who he brought into Settlor's affairs, Tescher & Spallina's Legal Assistant and Notary Public, the now convicted of felony fraud and admitted forgery in these matters, Kimberly Moran and whose Notary Public license has been revoked.

10. That there has been unearthed an evolving and expanding conspiratorial PATTERN AND/OR PRACTICE of criminal activity in the Estates and Trusts of Simon and Shirley Bernstein, including but not limited to, proven FORGERY (six counts, including a Post Mortem Forgery of Settlor), proven FRAUD (six counts), FRAUD ON THE COURT, new admissions of POST MORTEM ALTERATION OF TRUST DOCUMENTS directly by Spallina and more, committed by the former Personal Representatives and their Legal Assistant and Notary Public and others.

11. That due to the criminal acts proven, prosecuted, admitted and alleged against the former Co-Personal Representatives and Co-Trustees, Donald Tescher, Esq. and Robert Spallina, Esq. and their accomplices, including but not limited to, Theodore S. Bernstein, Mark Manceri, Esq., Alan Rose, Esq., John Pankauski, Esq., Kimberly Moran and Lindsay Baxley aka

Lindsay Giles, this Court must now allow FORMAL, DETAILED, AUDITED AND FORENSIC ACCOUNTING AND DOCUMENT ANALYSIS to take place to determine the extent of the crimes, to Marshall missing assets and account for them properly, to determine the validity of ALL ESTATE DOCUMENTS, including but not limited to the Trust and Estate documents and BILL THE COSTS TO THE PARTIES THAT HAVE THE CAUSED THE NEED FOR THESE EXPENSES through sanctions or any other remedies this Court sees fit. That this Court should not force the Estate to bear the burden of these costs to the already victimized beneficiaries, interested parties and creditors, especially where damage has been admitted to and relief has been offered by Tescher and Spallina.[3]

12. That the Final Accounting is alleged to be further Fraud on this Court, the Beneficiaries and Interested Parties, in efforts to hide assets, hide relevant and pertinent information to support the purported Final Accounting and further conceal criminal wrongdoings by Tescher and Spallina and others.

13. That the former Personal Representatives/Executors and Trustees of Settlor's Estate and Trusts, Tescher and Spallina, have resigned in disgrace and for committing criminal acts and after resigning have continued to NOT follow Probate Rules and Statutes and timely turn over accountings, assets and other materials of the Estate to the Curator and beneficiaries as ordered by this Court[4and5] and required by Statute, further inflicting ongoing damages to all beneficiaries, interested parties and creditors.

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[3] January 14, 2014 Donald Tescher Resignation Letter due to FRUAD by his Partner Spallina in altering estates *documents to change beneficiaries.* http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140114%20Tescher%20and%20Spallina%20Resignation%20Letter%20as%20PR%20in%20estates%20of%20Simon%20and%20Shirley.pdf , fully incorporated by reference herein,

[4] *February 18, 4 ORDER ON PETITION FOR RESIGNATION AND DISCHARGE* http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140218%20Orders%20for%20Discharge%20and%20

14. That contempt proceedings should be held by this Court as these violations of the Court order and Statutes to timely turn over all documents and records and provide a final accounting timely has caused considerable further waste of Estate assets and time of both the Curator and beneficiaries in attempting to marshal missing assets and documents and further damaging beneficiaries, interested parties and creditors.

15. That Contempt of Court charges should also be ordered for failing to close the Estate timely as ORDERED by this Court on the Letters of Administration done and ordered on October 02, 2012, which ordered that the Estate of Settlor be closed by October 02, 2013[6] and for further failing to ever file an extension.

16. That the former Personal Representatives/Executors in an attempt to continue to cover up their alleged crimes, allegedly then appointed Theodore Bernstein as Trustee upon their resignation, despite having notified Sheriff's authorities that Theodore Bernstein had taken improper distributions in self-dealing transactions, AGAINST THE ADVICE OF COUNSEL (Tescher and Spallina). MOST IMPORTANTLY, TESCHER AND SPALLINA TRANSFERRED TRUSTEESHIP TO THEODORE AFTER THEY HAD ADMITTED TO FRAUD ON THE BENEFICIARIES AND RESIGNED IN DISGRACE TO FURTHER CONTINUE THE COVER UP TO THEIR CRIMES. Theodore has expressed in writing to

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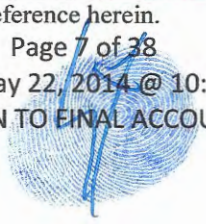
Withdrawal%20of%20Counsel%20Tescher%20Spallina%20in%20Simon%20Shirley%20Estates.pdf , hereby incorporated in entirety by reference herein.

[5] RULE 5.430 (j)
Failure to File Accounting or Deliver Records or Property. The resigning personal representative **shall be** subject to contempt proceedings if the resigning personal representative fails to file an accounting or fails to deliver all property of the estate and all estate records under the control of the resigning personal representative to the remaining personal representative or the successor fiduciary within the time prescribed by this rule or by court order.

[6] October 02, 2012 LETTERS OF ADMINISTRATION
http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20121002%20LETTERS%20OF%20ADMINISTRATION%20DONALD%20TESCHER%20AND%20ROBERT%20SPALLINA%20SIMON%20FILED%20WITH%20COURT.pdf , hereby incorporated in entirety by reference herein.



Petitioner and Petitioner has submitted this evidence to the Court in prior yet unheard pleadings, that he was upset with Petitioner for prosecuting his close personal business friends and bedfellows, Tescher, Spallina, Moran and Baxley for their crimes against his parents Estates and thus Theodore must again be removed from any fiduciary capacities as he is unwilling to harm his friends at the expense of the true and proper beneficiaries, his family.

17. That from the Palm Beach County Sheriff Supplemental Report dated erroneously on 1/21/13 AT 1:45 PM and which allegedly actually took place on 1/21/14 at 1:45PM, Detective Ryan Miller states,

> "HE SAID THOUGH, THAT AGAINST HIS BETTER JUDGEMENT HE ALTERED THE FIRST PAGE OF THE FIRST AMENDMENT TO THE SHIRLEY BERNSTEIN TRUST AGREEMENT, BEFORE HE TURNED IT OVER TO YATES. [PETITIONER'S LEGAL COUNSEL FOR HIM AND HIS CHILDREN]"
>
> "SPALLINA SAID THAT **THEY** [EMPHASIS ADDED] NOTICED THAT THE FIRST PAGE OF THE DOCUMENT SKIPPED FROM ONE TO THREE, SO HE TOOK IT UPON HIMSELF TO ADD IN NUMBER TWO, BEFORE SENDING IT TO YATES [ATTORNEY FOR PETITIONER AND HIS CHILDREN, CHRISTINE YATES AT TRIPP SCOTT LAW FIRM]. THE CHANGE THAT NUMBER TWO MADE TO THE TRUST, AMENDED PARAGRAPH E OF ARTICLE III, MAKING IT READ THAT ONLY TED AND PAM WERE CONSIDERED PREDECEASED, NOT THEIR CHILDREN. HE SAID THE ORIGINAL TRUST STATES THAT TED, PAM, AND THEIR CHILDREN ARE DEEMED PREDECEASED. SPALLINA SAID HE DID THIS AT HIS OFFICE IN BOCA RATON, FLORIDA. HE SAID THAT NO ONE ELSE TOOK PART IN ALTERING THE DOCUMENT [THE QUESTION THEN IS WHO IS THE "THEY" THAT NOTICED THE SKIPPED FIRST PAGE?]."
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> "SPALLINA STATED THAT ALTHOUGH HE CREATED THE ALTERED FORM [AN ALLEGED AMENDMENT TO SHIRLEY'S TRUST] AND ATTACHED IT TO THE ORIGINALLY SIGNED NOTARIZED FORM, HE RECEIVED NO INCOME OR GAIN FROM IT."

"SPALLINA REITERATED THAT TED WAS TOLD TO NOT MAKE DISTRIBUTIONS. SPALLINA WAS ASKED AND **CONFIRMED THAT HE ALTERED DOCUMENT** REFERENCE SHIRLEY'S, IS THE ONLY MISTAKE HE MADE. HE IS NOT AWARE OF ANY OTHER MISTAKES."[7]

18. That in hearings before this Court on September 13, 2013[8] and in an October 28, 2013 Evidentiary Hearing[9], Spallina had stated that he was also unaware of any other crimes other than those of Moran and yet continued to perpetrate yet ANOTHER Fraud on this Court, as he had knowledge in Court of his own criminal alteration of documents to change the beneficiaries at that time and failed to notify Your Honor or the beneficiaries and instead lied in the hearing about the beneficiaries knowing he altered documents to change them and further attacked Petitioner as a liar, all the while knowing he illegally had made changes to the beneficiaries months earlier. This series of lies in official proceedings proves that not only is Spallina guilty of FRAUD on the beneficiaries, interested parties, other attorneys at law but also continuing and ongoing FRAUD ON THE COURT. It appears that both Spallina and his partner Tescher are pathological serial liars and fraudsters willing to perpetrate fraud after fraud not only this Court but to criminal investigators.

19. That Petitioner again requests that this Court take Judicial Notice of these new fraudulent activities of Tescher and Spallina, including Spallina's admission to Palm Beach County Sheriff Detectives that he knowingly and with scienter altered Trust documents, in efforts to

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[7] Palm Beach County Sheriff Report Case No.14029489, Page 6
http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140131%20Palm%20Beach%20County%20Sheriff%20Office%20Supplemental%20Report%2014029489.pdf , hereby incorporated in entirety by reference herein.

[8] September 13, 2013 Hearing before Hon. Judge Colin
http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20130913%20TRANSCRIPT%20Emergency%20Hearing%20Colin%20Spallina%20Tescher%20Ted%20Manceri.pdf , hereby incorporated in entirety by reference herein.

[9] October 28, 2013 Hearing before Hon Judge Colin
http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20131028%20Evidentiary%20Hearing%20TRANSCRIPT%20Shirley%20Estate.pdf , hereby incorporated in entirety by reference herein.

commit fraud against the true and proper beneficiaries of the Estate to the advantage of his close personal friend and business partner Theodore Bernstein and his family to the detriment of others, by notifying any/all criminal authorities and state bar agencies of this criminal misconduct of an OFFICER OF THIS COURT. Petitioner alleges that automatic disbarment is required when an Attorney knowingly sends fraudulent documents to another attorney to perpetrate a fraud, as is the case in Spallina's admission to Sheriff Deputies that he knowingly transmitted by mail and wire, documents he fraudulently altered to attorney at law, Christine Yates, Esq. of Tripp Scott law firm, Petitioner and his children's counsel at that time.

20. That the alleged Appointment of Successor Trustee in Settlor's Trust is signed by Tescher and is astonishingly witnessed by convicted felon Moran and the Acceptance of Successor Trustee signed by Theodore Bernstein is Notarized by Lindsay Baxley aka Lindsay Giles, again improperly notarized using a FELONIOUS notarization stamp and the document also contains a scratched out and hand written over date with no initialization of the change, again improperly executed.

21. That the documents alleged to Appoint Theodore as Successor Trustee by Tescher and Spallina[10] are fraught with improper notarization by Lindsay Baxley aka Lindsay Giles, using a Notary stamp under a knowingly false name and witnessed in part by Moran, who has been arrested and convicted in these matters already for Fraud and who has also admitted to Forgery, yet Tescher and Spallina now use her again to sign as witness to these Estate

[10] Tescher and Spallina's Resignation letters and the ALLEGED appointment of Theodore Bernstein as Successor Trustee to the Simon Trust.
www.iviewit.tv/Simon and Shirley Estate/TescherSpallinaResignationsAndALLEGEDAppointmentOfSuccessorTrusteeTed.pdf

documents. Moran has been instructed by the Office of Corrections of the Governor Rick Scott's office to not participate in any transactions regarding the Bernstein Estates.

22. That nothing that Spallina, Tescher, Moran, Baxley, Rose, Pankauski or Theodore et al. now say or do forward in these matters can be trusted, as they have acted in concert together to perpetrate these frauds on the Court, the beneficiaries and creditors and now throw into question the authenticity of, the dispositive documents controlling the Estate and Trusts at this point, the fiduciary roles gained through the fraudulent documents and the Final Accounting they have put forth untimely, in violation of yet another Court Order. Again, all of these fraudulent felonious acts causing waste and abuse to all parties, including this Court.

23. That due to the failure to notify beneficiaries in the Estates and Trusts of Settlor by the former Personal Representatives/Executors of their transfer of Trusteeship and the failure of the alleged new Trustee Theodore to notify the beneficiaries of his successorship, as required by Probate Rules and Statutes. Therefore, the Trust of Settlor has been **abandoned** by the former Personal Co-Trustees Tescher and Spallina since their resignation on January 14th, 2014 and the new Trustee having also failed to establish Trusteeship according to Probate Rules and Statutes in Settlor's Trusts.

24. That the alleged new Personal Representatives/Executors of Shirley's Estate and alleged new Trustee of the Trusts of Simon, Theodore Bernstein, has also failed to comport with Probate Rules and Statutes entirely and failed to ever provide notice of his alleged fiduciary roles or provide successor accountings, trusts, etc. as required within the time limit legally required and thus has failed miserably as alleged Personal Representative/Executor and Trustee in any/all fiduciary capacities he claims he is acting under in both Settlor's Trusts and Shirley's Estate and Trusts. This Court will remember that Theodore was acting as Personal

Representative/Executor of Shirley's Estate for over a year without proper Letters as learned in several hearings held before this Court and further referenced herein with transcripts provided.

25. That Theodore has admitted to the Palm Beach County Sheriff Office that he was acting as Trustee but had never read the Trusts he was acting under, a failure of fiduciary responsibilities that defies belief, as claimed to Detective Ryan Miller of the Palm Beach County Sheriff, "Ted stated that he was told that Shirley's Trust was to be distributed amongst her 10 grandchildren. Ted stated that he did not read all of Shirley's Trust documents and that Spallina and Tescher had both told him several times how Shirley's Trust was to be distributed."[11]

26. That Theodore further claims to Sheriff's investigators that he read in Shirley's Trust documents where the beneficiaries of Shirley's Trust were to be the 10 grandchildren and where this claim is wholly untrue and nowhere in Shirley's documents does it state this. In fact, the documents state instead that Theodore, his sister Pamela and their lineal descendants are considered dead and predeceased for anything to do with her Trusts. This makes Theodore's alleged Trusteeship in Shirley's Estate even more unlawful as the only mention of his name is that he is dis-inherited, predeceased and dead technically and legally in the matters.

27. That per Donald Tescher's resignation letter dated January 14, 2014, see Tescher Resignation Letter already exhibited and incorporated herein to the Bernstein family, he states, "If the majority of the Bernstein family is in agreement, I would propose to exercise the power to

[11] Palm Beach County Sheriff Supplemental Report Case No.14029489, Page 9

http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140131%20Palm%20Beach%20County%20Sheriff%20Office%20Supplemental%20Report%2014029489.pdf , hereby incorporated in entirety by reference herein.

designate a successor trustee by appointing Ted Bernstein in that capacity. With regard to the Simon Bernstein Estate, the appointment of the successor would require a court proceeding." However, no further communications regarding this appointment were ever made to beneficiaries or Petitioner's family and the alleged appointment papers were never served on any beneficiaries or interested parties as required by the resigning the Trustees and new alleged Successor Trustee and this document was only tendered to Petitioner by the new Curator when the Court ordered all documents be turned over. Further, in seeking a court order to appoint Theodore as successor Personal Representative/Executor to the Estate, this Court ruled against Theodore for a number of reasons that were brought to the Court's attention that disqualify him and these same reasons should hold with respect to the Trusts of Simon and the Estate and Trusts of Shirley.

28. That in a recently unearthed set of documents, including a 2008 Will[12] of Simon, 2008 Irrevocable Trust[13] and 2008 Revocable Trust of Simon[14] that was SUPPRESSED AND DENIED - by the former Personal Representatives and Trustees of Simon's Estate and Trusts, Tescher and Spallina, we learn why these alleged prior estate documents have been suppressed and denied from beneficiaries and interested persons, in violation of Probate Rules and Statutes, as it shows that prior to the alleged changes to his prior Estate and Trusts

[12] May 20, 2008 Will of Simon
http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20080520SimonBernstein2008WillDeliveredByBenBrown20140506.pdf , hereby incorporated in entirety by reference herein.

[13] May 20, 2008 Irrevocable Trust
http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20080520SimonBernstein2008IRREVOCABLETRUSTdeliveredByBenBrownOn200140506.pdf , hereby incorporated in entirety by reference herein.

[14] May 20, 2008 Revocable Trust of Simon
http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20080520SimonBernstein2008REVOCABLETRUSTDeliveredByBenBrownOn20140506.pdf , hereby incorporated in entirety by reference herein.

work done with his wife Shirley in 2008, that allegedly are made only days before Simon's death and fraught with improper notarizations and more, the 2008 Personal Representative for the Estate and Trustee for the Trusts was WILLIAM STANSBURY, the creditor in the Estate of Simon.

29. That William Stansbury was forced to sue Theodore individually and the Estate, due to the alleged criminal and civil torts committed against him primarily by Theodore, according to Stansbury's complaint. The lawsuit was also instigated only weeks before Simon's untimely death and on information and belief, the lawsuit is also alleged to have put a further wedge in the disastrous relationship between Theodore and his father, whereby Settlor left working with Theodore and began a new venture in an unrelated business in different offices, again only weeks before his untimely death.

30. That this Court allegedly issued Letters in the Estate of Shirley to Theodore Bernstein on October 29, 2013 and since that time Theodore Bernstein has failed to turn over any accounting to beneficiaries of the Estate or Trusts of Shirley or notice the beneficiaries of his acceptance of his Letters with copies of the Wills and Trusts attached, in violation of Probate Rules and Statutes and this is further cause for his immediate removal in any fiduciary capacities in the Estates and Trusts of Settlor and Shirley.

31. That this Court erred in issuing Theodore Letters in Shirley's Estate and must instantly revoke such Letters in Shirley's Estate, acting on the Court's own motion, as Theodore now has absolute conflicts of interests with the TO BE DETERMINED beneficiaries of Shirley's estate caused by the newly admitted to Fraud crafted by Spallina and confessed to Palm Beach County Sheriff's that benefited his immediate family to the detriment of other beneficiaries.

32. That using the fraudulent document admitted to by Spallina, Theodore and his sister Pamela's children, were then included in the Trust of Shirley by an altered and Fraudulent Amendment in the Trusts of Shirley. However, without the altered and fraudulent Amendment and using Shirley's documents alone, Theodore, Pamela and their lineal descendants ARE TO BE excluded entirely and considered predeceased. Thus, Theodore cannot act further in any fiduciary capacity without wholly disregarding these new and additional conflicts of interest and adverse interests he now has. Therefore, Theodore does not now, nor did he ever, for a host of other conflicts and adverse interests[15], qualify to become the Personal Representative and/or the alleged Trustee of Shirley's Estate and Trusts.

33. That Theodore Bernstein is conflicted and has adverse interests with the Estates and Trusts beneficiaries for now both Simon and Shirley's Estates and Trusts entirely and to seal his fate as not qualified, in the Palm Beach County Sheriff's Investigatory Report, Spallina states that Theodore took distributions in self-dealing's that benefited his children to the detriment of Petitioner's children and Petitioner, AGAINST THE ADVICE OF COUNSEL.

34. That no prior accountings of any sort have been provided in the Estates and Trusts of Simon or Shirley Bernstein in violation of Probate Rules and Statutes and therefore there is no way to determine if the Final Accounting is accurate without a detailed formal accounting of BOTH SHIRLEY AND SIMON'S ESTATES and TRUSTS. To this point, almost four years after Shirley's death and almost two years after Simon's, Petitioner only has this recently produced Final Accounting submitted in Simon's Estate and NO OTHER ACCOUNTINGS, FINANCIAL RECORDS, BANK STATEMENTS, TAX RETURNS, etc., NOTHING to

[15] April 07, 2014 Petitioners unheard "PETITION FOR CONSTRUCTION OF TESTAMENTARY TRUST, FOR REMOVAL OF TRUSTEE AND FOR TRUST ACCOUNTING" http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140407PetitionForConstructionOfTestamentaryTrust.pdf , hereby incorporated in entirety by reference herein.

verify any of the information contained in the Final Accounting, in violation of PROBATE RULES AND STATUTES.

35. That while it is impossible to determine what items have transferred from the Estate to Trusts without accountings for both Estates and the Trusts, it is still clear that certain items are missing from the Final Accounting and the Amended Inventory.

36. That Petitioner states that the Final Accounting put forth is improperly signed by Spallina making it null and void and potentially further misconduct. That Robert Spallina, Esq. signs the Final Accounting on May 01, 2014 acting as counsel for the Co-Personal Representatives Tescher and Spallina in the present and where Spallina had resigned as Counsel to the now removed Co-Personal Representatives on February 18, 2014 by Order of this Court[16]. Therefore Spallina and Tescher should be forced to submit new and more detailed accounting submitted and signed by admitted, non-conflicted counsel as their counsel since they are precluded from acting as their own counsel.

37. That to date there has been a CRIMINAL lack of transparency with intent by the Personal Representatives and Trustees of the Estates and Trusts of Settlor and Shirley's, with blatant disregard of general accepted accounting principles legally required by Probate Rules and Statutes for the beneficiaries, interested parties and creditors to rely upon.

SPECIFIC AND DETAILED OBJECTIONS TO FINAL ACCOUNTING

Schedule A

38. No financial information, physical evidence, tangible things or backup relating to the "Monarch Life Proceeds" check(s) were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.

[16] *Tescher & Spallina resignation letters are at* http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140218%20Orders%20for%20Discharge%20and%20Withdrawal%20of%20Counsel%20Tescher%20Spallina%20in%20Simon%20Shirley%20Estates.pdf , fully incorporated by reference herein.

39. No financial information, physical evidence, tangible things or backup relating to the "US Treasury (tax refund)" were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
40. No financial information, physical evidence, tangible things or backup relating to the "Fee Reimbursement from Shirley Bernstein Trust," including but not limited to, copies of checks and other documentation were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
    a. Regarding Note 1 on Schedule A - No financial information, physical evidence, tangible things or backup relating to the Note 1 were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
41. No financial information, physical evidence, tangible things or backup relating to the "Required Minimum Distribution from Decedent Simon's IRA's," including but not limited to, JP Morgan account (ending 5007) were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
42. No financial information, physical evidence, tangible things or backup relating to the account statements for 2009-2014 of any JP Morgan accounts have been produced at this time for review.
43. No financial information, physical evidence, tangible things or backup relating to the Sabadell account (ending 7176) were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
    a. No financial information, physical evidence, tangible things or backup relating to the account statements with Sabadell for 2009-2014 were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
44. No financial information, physical evidence, tangible things or backup relating to the JP Morgan account (ending 5220) were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
    a. No financial information, physical evidence, tangible things or backup relating to the account statements for JP Morgan for 2009-2014 were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.

Schedule B

45. No financial information, physical evidence, tangible things or backup relating to the "Fees and Costs" billed by Tescher & Spallina, P.A. were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
    a. No financial information, physical evidence, tangible things or backup relating to the accountings, billings and other information regarding their fees from the period of 2007-2014 were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
    b. No financial information, physical evidence, tangible things or backup relating to the retainer agreements for Tescher & Spallina, P.A. were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.

46. No financial information, physical evidence, tangible things or backup relating to the "Fees and Costs" billed by Mark R. Manceri, P.A. were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
    a. No financial information, physical evidence, tangible things or backup relating to the accountings, billings and other information regarding Manceri's fees from the period of 2007-2014 were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
47. No financial information, physical evidence, tangible things or backup relating to the Retainer Agreements for Mark R. Manceri, P.A. were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
48. No financial information, physical evidence, tangible things or backup relating to the documents and information regarding "Bernstein Family Realty, LLC ("BFR")" were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
    a. No financial information, physical evidence, tangible things or backup relating to the any loans to BFR were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
49. No financial information, physical evidence, tangible things or backup relating to the "cancelled check payable to CASH (written pre death) by Decent" were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
50. No financial information, physical evidence, tangible things or backup relating to the documents and information regarding the "interest payment on LLLP Loan (autopay)" were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
    a. No financial information, physical evidence, tangible things or backup relating to the copies of the cancelled check for the interest payment were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
    b. No financial information, physical evidence, tangible things or backup relating to the loan documentation were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
51. No financial information, physical evidence, tangible things or backup relating to the documents and information regarding the "American Pioneer Premium (autopay)" were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
    a. No financial information, physical evidence, tangible things or backup relating to the cancelled checks, statements, etc. were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
    b. No financial information, physical evidence, tangible things or backup relating to the contract this was paid under were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.

52. No financial information, physical evidence, tangible things or backup relating to the copy of the "Unknown – Check written pre death" were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
53. No financial information, physical evidence, tangible things or backup relating to the "Wells Fargo Interest Payment check (HELOC)" and any account statements or information were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
    a. No financial information, physical evidence, tangible things or backup relating to the loan or other instrument this interest payment was due from were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
    b. No financial information, physical evidence, tangible things or backup relating to the Wells Fargo account were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
54. No financial information, physical evidence, tangible things or backup relating to the "Internal Revenue Service check" and the corresponding tax form that it was paid on were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
55. No financial information, physical evidence, tangible things or backup relating to the "Bank Expense to (close Legacy Account)" and all Legacy accounts held by Decedent, including statements, closing information, etc. were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
56. No financial information, physical evidence, tangible things or backup relating to the copy of the Jewelry Appraisal were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.

Schedule C

57. No financial information, physical evidence, tangible things or backup relating to the "Required Min. Distribution to Simon Estate Acct JPM (#Ending 5220)" were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
    a. No financial information, physical evidence, tangible things or backup relating to the account documents, statements or information regarding the account were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.

Schedule D

58. No financial information, physical evidence, tangible things or backup relating to the "BFR Note 1" and BFR Note 2" were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
59. No financial information, physical evidence, tangible things or backup relating to the account documents, statements or information regarding the "accrued legal fees from Simon Bernstein 1995 Insurance Trust payable to the Estate of Simon Bernstein (Note 3)" were

provided with the final accounting that evidence or relate to this transaction for review by Petitioner.

a. No financial information, physical evidence, tangible things or backup relating to the copy of the Simon Bernstein 1995 Insurance Trust were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
b. No financial information, physical evidence, tangible things or backup relating to the retainer agreements for the services billed to Simon Bernstein 1995 Insurance Trust were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
c. No financial information, physical evidence, tangible things or backup relating to the legal fee billings were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.

60. No financial information, physical evidence, tangible things or backup relating to any account documents, statements or information regarding the "Net change in Simon Bernstein IRA (ending 5007) were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.

SCHEDULE D – NOTES

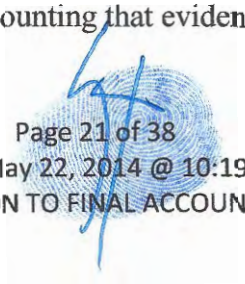
61. Note 1 – No financial information, physical evidence, tangible things or backup relating to the "Note 1" were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
62. No financial information, physical evidence, tangible things or backup relating to any account documents, statements or information regarding the "autopay months" cited and corresponding bank account information were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
63. Note 2 – No financial information, physical evidence, tangible things or backup relating to the "Note 2" were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
    a. No financial information, physical evidence, tangible things or backup relating to the copies of the billings for these fees to BFR were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
    b. No financial information, physical evidence, tangible things or backup relating to the copies of Tescher & Spallina retainer with BFR were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
64. Note 3 – No financial information, physical evidence, tangible things or backup relating to any account documents, statements or information regarding Simon Bernstein 1995 Insurance Trust were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
    a. No financial information, physical evidence, tangible things or backup relating to the billings for these fees to Simon Bernstein 1995 Insurance Trust were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.

b. No financial information, physical evidence, tangible things or backup relating to the copies of Tescher & Spallina retainer with Simon Bernstein 1995 Insurance Trust were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.

65. Note 4- No financial information, physical evidence, tangible things or backup relating to any account documents, statements or information regarding the Note 4 were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
    a. No financial information, physical evidence, tangible things or backup relating to the copies of the $50000 distribution check were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
    b. No financial information, physical evidence, tangible things or backup relating to the copies of the statements for the account distribution was taken from were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.

SCHEDULE E

66. No financial information, physical evidence, tangible things or backup relating to the furniture appraisal for Boca Home St. Andrews were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
    a. No financial information, physical evidence, tangible things or backup relating to the accounting of where any items went were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
67. No financial information, physical evidence, tangible things or backup relating to the furniture appraisal for Boca Condo were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
    a. No financial information, physical evidence, tangible things or backup relating to the accounting of where any items went were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
68. No financial information, physical evidence, tangible things or backup relating to the Jewelry appraisals were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
    a. No financial information, physical evidence, tangible things or backup relating to the accounting of Jewelry were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
69. No financial information, physical evidence, tangible things or backup relating to the accounting of where any jewelry went were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
70. No financial information, physical evidence, tangible things or backup relating to any account documents, statements or information regarding the "Secured Promissory Note" for BFR were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.



71. No financial information, physical evidence, tangible things or backup relating to any account documents, statements or information regarding Simon Bernstein IRA account information and Shirley Bernstein IRA account information were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
72. No financial information, physical evidence, tangible things or backup relating to any account documents, statements or information regarding the entry "Due from Bernstein Family Realty" amount of $25000 were provided with the final accounting that evidence or relate to this transaction for review by Petitioner .
73. No financial information, physical evidence, tangible things or backup relating to any account documents, statements or information regarding the entry "Due from Simon Bernstein 95 Insurance Trust" were provided with the final accounting that evidence or relate to this transaction for review by Petitioner
74. No financial information, physical evidence, tangible things or backup relating to any account documents, statements, valuations, stock certificates, buy-sell or any other information regarding LIC Holdings, Inc. were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
    a. That LIC Holdings, Inc. et al. were the companies Simon owned and to this date, per conversations with the Curator, Benjamin Brown, Esq. no records of LIC et al. have been tendered to the Estate. Beneficiaries also have received no records or copies of stock holdings, tax returns, etc. and the company has been listed on the Amended Inventory and Final Accounting as N/A. No Final Accounting can be completed without information on this company and all of Simon's companies holdings, as listed herein and any other unknowns.
75. That requests to Janet Craig of Oppenheimer Trust Company, by LIC Holdings, Inc. shareholders that she is acting as Trustee for the trusts holding the stock for Petitioner's three minor children has been thus far denied. Thus the Estate and Trusts appear to be denied these suppressed records that Theodore Bernstein appears in control of and which he apparently refuses to release in violation of law.

From: Eliot Bernstein [mailto:iviewit@gmail.com]
Sent: Friday, November 8, 2013 11:54 AM
To: 'Craig, Janet'; Hunt Worth ~ President @ Oppenheimer Trust Company (Hunt.Worth@opco.com); William McCabe Esq. @ Oppenheimer Trust Company (William.McCabe@opco.com); 'katie.saia@opco.com'; 'patrick.wade@opco.com'; 'pat.wade@opco.com'
Cc: Caroline Prochotska Rogers Esq. (caroline@cprogers.com); Michele M. Mulrooney ~ Partner @ Venable LLP (mmulrooney@Venable.com); Andrew R. Dietz @ Rock It Cargo USA; Marc R. Garber Esq. (marcrgarber@gmail.com); Marc R. Garber, Esquire @ Flaster Greenberg P.C.; Marc R. Garber Esq. @ Flaster Greenberg P.C. (marcrgarber@verizon.net)
Subject: RE: Joshua Jacob and Daniel Bernstein Trusts

Janet, while this addresses a small part of my requests in the email sent below, I do not see any reply to the other matters information was requested for, including the information on LIC Holdings. Did you request the information for LIC Holdings as requested below and if so can you please send me the letters sent to them and their response. I do also note that Ted and Spallina were copied on your response to my private and confidential email and I ask by what authority and whose direction are you copying this PRIVATE AND CONFIDENTIAL information to these parties on, please address each party separately? Please confirm that you did not blind copy any other parties on the emails. In addition to the

records for LIC Holdings, please provide the same information for Bernstein Family Realty LLC as requested below for LIC Holdings, as you were Manager and the shares for both are listed under the trusts you are still trustee of. I am still unclear under what authority you made Ted manager, knowing of the disputes going on and that my children are the owners of the company, as this seems a breach of fiduciary duties and trust. That you did this after first stating that you were turning over the Manager position to me and then without notice or approval of my family appointing Ted appears preposterous because he volunteered, how was he contacted about volunteering, please provide accurate details into how that occurred and who was involved in the decision. Did you contact him or he you?

That prior to my father's passing I am aware of information that he was concerned about his Oppenheimer accounts and these concerns had him making inquiries for accounting of all of his assets, in all of his family members Oppenheimer accounts and personal accounts, as he was concerned the balances were incorrect and did not think his assets were being handled properly and transferred correctly from the various banks they were shuffled to by his brokers from the transition from Stanford Bank (infamous for Sir Robert Allen Stanford Ponzi), to JP Morgan and Oppenheimer, please provide all past records of all Bernstein accounts or letters you may possess in regards to his inquiries immediately prior to his passing regarding the accounts and all of your firms responses. Also, I was informed that each child had 1.2 shares of LIC Holding and your accounting statement is only reflecting 1, please provide details regarding the discrepancies. Also, under Bernstein Family Realty you show each child owning 0.334 shares, so collectively 1 share, please clarify how many shares were issued and to whom and when and provide all records and minutes, etc. regarding the stocks? Also, please provide all records you received from Legacy Bank regarding the prior Legacy Account that was being used to pay my family bills, prior to Spallina redirecting this to you and converting it instead to the children's school trust funds to pay those bills, instead of Bernstein Family Realty LLC's accounts. As I am sure you are aware, Spallina's Law Firm was involved in fraud and forgery and their notary public was arrested for fraud and this would further make sharing my information with them without my express consent, as my emails maintain confidentiality statements on them as well, and again, for the third time this unauthorized transfer of the records to adversaries of my family seems a gross breach of fiduciary and more.

I will continue to send you all requests for funds since I have yet to see proper papers on the trusts and LLC as they are missing notaries in some instances and other documents you sent are incomplete with missing signatures as mentioned in my prior correspondences and with all this forgery and fraud going on with Spallina et al. it is hard to assess what has transpired in these accounts. I feel that you have obligations as Trustee and former Manager to verify if these monies and assets have been handled properly and have taken whatever actions and legal actions necessary to protect the beneficiaries you are responsible for and the funds you over sighted. Please go through this email and the email request below and answer each and every request separately as to how you're handling each issue. Finally, if you plan on sending this email to any other parties please get my consent if you are transferring my correspondences.

Eliot

From: Eliot Ivan Bernstein [mailto:iviewit@iviewit.tv]
Sent: Thursday, October 31, 2013 4:11 PM
To: Craig, Janet; Worth, Hunt
Cc: Caroline Prochotska Rogers Esq.; Michele M. Mulrooney ~ Partner @ Venable LLP; Andrew R. Dietz @ Rock It Cargo USA; Marc R. Garber Esq.; Marc R. Garber, Esquire @ Flaster Greenberg P.C.
Subject: Joshua Jacob and Daniel Bernstein Trusts

Janet, please provide the following based on the information that you sent to me whereby Oppenheimer is the trustee for the trusts for Joshua, Jacob and Daniel. As such under Article 5 (specifically 5.5), 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. Other than the 6 shares of LIC Holdings, Inc. stock, I am not sure what other assets there are. The current trustee has the right to ask prior trustees for an accounting if none was previously provided to you (refer to last sentence of 5.5). No accountings have been previously provided me or my children. Provide a complete accounting that includes investment accounts, bank accounts, trust tax returns, etc. for all years. As I am the legal guardian for my children, I am asking for all these as they were supposed to have been provided by you.

There are 6 shares of LIC Holdings Inc. stock in each trust. Oppenheimer should request on behalf of the trust beneficiaries pursuant to Florida Statute 607.1602 for inspection of the corporate records from LIC Holdings, Inc. The request should include all years from corporate inception to present. Florida Statute 607.1601 describes corporate records:

607.1601 Corporate records.—

(1) A corporation shall keep as permanent records minutes of all meetings of its shareholders and board of directors, a record of all actions taken by the shareholders or board of directors without a meeting, and a record of all actions taken by a committee of the board of directors in place of the board of directors on behalf of the corporation.

(2) A corporation shall maintain accurate accounting records. (at the very least, you should request accounting and financial records of LIC Holdings including income tax returns, general ledgers, balance sheets, P&L statements, bank statements, loan agreements or guarantees)

(3) A corporation or its agent shall maintain a record of its shareholders in a form that permits preparation of a list of the names and addresses of all shareholders in alphabetical order by class of shares showing the number and series of shares held by each.
(4) A corporation shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.
(5) A corporation shall keep a copy of the following records:
(a) Its articles or restated articles of incorporation and all amendments to them currently in effect;
(b) Its bylaws or restated bylaws and all amendments to them currently in effect;
(c) Resolutions adopted by its board of directors creating one or more classes or series of shares and fixing their relative rights, preferences, and limitations, if shares issued pursuant to those resolutions are outstanding;
(d) The minutes of all shareholders' meetings and records of all action taken by shareholders without a meeting for the past 3 years;
(e) Written communications to all shareholders generally or all shareholders of a class or series within the past 3 years, including the financial statements furnished for the past 3 years under s. 607.1620;
(f) A list of the names and business street addresses of its current directors and officers; and
(g) Its most recent annual report delivered to the Department of State under s. 607.1622.

Please advise LIC Holdings, Inc. that you are seeking to inspect the records in good faith and for the purpose of determining if misappropriation of corporate assets for improper purposes has previously or is currently taking place.

I will be happy to go to the LIC office on my children's behalf and copy the records requested if they have any problems copying them. I will provide you with a copy as well. As my schedule is flexible please make the request with a 5 day notice as the statute requires and I will co-ordinate the time with the secretary in the office or they can have them ready for pick up.

Eliot I. Bernstein

76. No financial information, physical evidence, tangible things or backup relating to any account documents, statements or information regarding Sabadell Account (ending 7176) were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
77. No financial information, physical evidence, tangible things or backup relating to any account documents, statements or information regarding the JP Morgan account (ending 5220) were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
78. No financial information, physical evidence, tangible things or backup relating to any account documents, statements or information regarding the Stanford Bank accounts and Stanford lawsuit information were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.
79. No financial information, physical evidence, tangible things or backup relating to any account documents, statements or information regarding Oppenheimer accounts were provided with the final accounting that evidence or relate to this transaction for review by Petitioner.

OTHER PROBLEMS WITH THE FINAL ACCOUNTING

80. The 2012 Will and Amended and Restated Trust of Simon may be invalid and have been contested in prior unheard Petitions before this Court and may make the whole accounting nothing more than continued fraud.
81. No financial information, physical evidence, tangible things or backup relating to the any and all fee arrangements, fee agreements, retainer agreements, bills, account statements and

settlement sheets that for any attorney who has been paid for rendering services to the Estate were provided with the final accounting to Petitioner.

82. That assets appear missing from the inventory regarding the Jewelry of Simon and Shirley Bernstein with no accounting for their disappearance and in fact, it appears from the records Petitioner has discovered that certain Jewels may have been fenced and replaced with other inferior Jewels.[17]
83. No financial information, physical evidence, tangible things or backup relating to the Boca Raton Beach Condominium at the Aragon, 2494 South Ocean Boulevard, Boca Raton, 33432, including, furnishings, artwork and other possessions were provided with the final accounting to Petitioner and it appears these items vanished.
84. No financial information, physical evidence, tangible things or backup relating to the decedents business possessions for any and all businesses where interest were held by Simon, including the contents of his office located at 950 Peninsula Corporate Circle, Suite 3010, Boca Raton, FL 33487 and the contents of his office at the St. Andrews home were provided with the final accounting to Petitioner.
85. No financial information, physical evidence, tangible things or backup relating to the any life insurance policy or other insurance contract or information were provided with the final accounting to Petitioner and is an asset of the estate as Simon Bernstein was the Owner of the Heritage Union Policy.
86. No financial information, physical evidence, tangible things or backup relating to a VEBA Plan and Trust with the Trustee currently being the LaSalle National Trust Company, N.A. were provided with the final accounting to Petitioner.
87. No financial information, physical evidence, tangible things or backup relating to any IRA or other qualified plan accounts for Simon or Shirley were provided with the final accounting to Petitioner.
88. No financial information, physical evidence, tangible things or backup relating to any federal, state personal, corporate, trust and estate tax returns were provided with the final accounting to Petitioner. That Petitioner and this Court were also informed that no 2012 estate return was done timely for 2012.
89. No financial information, physical evidence, tangible things or backup relating to the any Mortgages and/or Lines of Credit were provided with the final accounting to Petitioner.
90. No financial information, physical evidence, tangible things or backup relating to any insurance loans, withdrawals, etc. were provided with the final accounting to Petitioner. That Petitioner has learned that it is alleged that Simon Bernstein was the owner of the Life Insurance policy and therefore the policy would be an asset of the Estate or those values in the contract. No contract however has been provided either by any party and the insurance

[17] December 23, 2013 Jewelry Grand Theft Complaint with the Palm Beach County Sheriff Department http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20131224%20Palm%20Beach%20Sheriff%20Complaint%20Jewelry%20Theft%20Case%20No%2013%20097087%20WITH%20EXHIBITS.pdf , hereby incorporated in entirety by reference herein.

company appears to have lost the policy at this time too and thus until this is resolved the accounting appears deficient.

91. No financial information, physical evidence, tangible things or backup relating to any pension /profit sharing plans were provided with the final accounting to Petitioner.

92. No financial information, physical evidence, tangible things or backup relating to the any Sir Allen Stanford Lawsuit Interests of decedent were provided with the final accounting to Petitioner and do not appear on the accounting.

93. No financial information, physical evidence, tangible things or backup relating to the any patent interest holdings for the following intellectual properties either directly or through any corporate interests held by Simon Bernstein were provided with the final accounting to Petitioner:

1. 09/630,939 System & Method for Providing an Enhanced Digital Image File
2. PCT/US00/21211 System & Method for Providing an Enhanced Digital Image File
3. 75/725,802 THE CLICK HEARD 'ROUND THE WORLD June 8, 1999 FILED July 27, 2004
4. 09/630,939 System & Method for Providing an Enhanced Digital Image File
5. PCT/US00/15602 System & Method for Video Playback Over a Network
6. 75/725,805 IVIEWIT "YOUR THIRD EYE TO THE WORLD" June 8, 1999 FILED July 27, 2004
7. 09/630,939 System & Method for Providing an Enhanced Digital Image File
8. PCT/US00/15406 System & Method for Playing a Digital Video File
9. 15406 Part 1 Attachment
10. 15406 Part 2 Attachment
11. 15406 Part 3 Attachment
12. 75/725,806 IVIEWIT "YOUR THIRD EYE TO THE WORLD" June 8, 1999 FILED July 27, 2004
13. 09/522,721 Apparatus & Method for Producing Enhanced Digital Images
14. PCT US00/15408 System & Method for Streaming an Enhanced Digital Video File
15. 75/725,807 IVIEWIT 'YOUR THIRD EYE TO THE WORLD" (THIS MARK IS MISSING PROPER QUOTES June 8, 1999 FILED July 27, 2004
16. 09/587,734 System & Method for Providing an Enhanced Digital Video File
17. PCT/US00/15405 System & Method for Providing an Enhanced Digital Video File
18. 75/725,808 IVIEWIT "YOUR THIRD EYE TO THE WORLD June 8, 1999 FILED July 27, 2004
19. 09/587,734 System & Method for Providing an Enhanced Digital Video File
20. PCT US00/07772 Apparatus & Method for Producing Enhanced Digital Images
21. 75/725,809 IVIEWIT "YOUR THIRD EYE TO THE WORLD June 8, 1999 FILED July 27, 2004
22. 09/587,026 System & Method for Playing a Digital Video File
23. EPO 00938126.0 System & Method for Streaming an Enhanced Digital Video File
24. 75/725,810 IVIEWIT "YOUR THIRD EYE TO THE WORLD June 8, 1999 FILED July 27, 2004
25. 09/587,730 System & Method for Streaming an Enhanced Digital Video File

26. EPO 00944619.6 System & Method for Streaming an Enhanced Digital Video File
27. 75/725,816 IVIEWIT.COM June 8, 1999 FILED July 27, 2004
28. 60/223,344 Zoom & Pan Using a Digital Camera
29. EPO 00955352.0 System & Method for Providing an Enhanced Digital Image File
30. 75/725,816 IVIEWIT June 8, 1999 FILED July 27, 2004
31. 60/233,341 Zoom & Pan Imaging Design Tool
32. Japan 2001 502364 System & Method for Streaming an Enhanced Digital Video File
33. 75/725,817 IVIEWIT.COM June 8, 1999 FILED July 27, 2004
34. 60,169,559 Apparatus and Method for Producing Enhanced Video Images and/or Video Files
35. Japan 2001 502362 System & Method for Streaming an Enhanced Digital Video File
36. 75/725,817 IVIEWIT June 8, 1999 FILED July 27, 2004
37. 60/155,404 Apparatus & Method for Producing Enhanced Video Images and/or Video Files
38. Japan 2001 514379 System & Method for Providing an Enhanced Digital Image File
39. 75/725,818 IVIEWIT.COM June 8, 1999 FILED July 27, 2004
40. 60/149,737 Apparatus and Method for Producing Enhanced Digital Images and/or Digital Video Files
41. Korea PCT US00 15408
42. 75/725,819 THE CLICK HEARD 'ROUND THE WORLD June 8, 1999 FILED July 27, 2004
43. 60/146,726 Apparatus & Method for Producing Enhanced Digital Images
44. 75/725,819 IVIEWIT.COM June 8, 1999 FILED July 27, 2004
45. 60/141,440 Apparatus & Method for Providing and/or transmitting Video Data and/or Information in a Communication Network
46. 75/725,820 IVIEWIT.COM June 8, 1999 FILED July 27, 2004
47. 60/137,921 Apparatus & Method for Playing Video Files Across the Internet
48. 75/725,821 IVIEWIT June 8, 1999 FILED July 27, 2004
49. 60/137,297 Apparatus & Method for Producing Enhanced Video Images
50. 75/725,821 THE CLICK HEARD 'ROUND THE WORLD June 8, 1999 FILED July 27, 2004
51. 60/125,824 Apparatus & Method for Producing Enhanced Digital Images
52. 75/725,822 IVIEWIT June 8, 1999 FILED July 27, 2004
53. 75/725,823 IVIEWIT June 8, 1999 FILED July 27, 2004
54. 75/725,823 THE CLICK HEARD 'ROUND THE WORLD June 8, 1999 FILED July 27, 2004
55. 76/037,700 IVIEWIT.COM May 1, 2000 FILED July 27, 2004
56. 76/037,701 A SITE FOR SORE EYES May 1, 2000 FILED July 27, 2004
57. 76/037,702 A SITE FOR SORE EYES May 1, 2000 FILED July 27, 2004
58. 76/037,703 IVIEWIT May 1, 2000 FILED July 27, 2004
59. 76/037,843 IVIEWIT LOGO May 1, 2000 FILED July 27, 2004
60. 76/037,844 May 1, 2000 FILED July 27, 2004

94. No financial information, physical evidence, tangible things or backup relating to the estate planning documents including all Wills and Trusts for Shirley Bernstein and Simon Leon

Bernstein, whether qualified or contingent from 2000-2012 were provided with the final accounting to Petitioner, including but not limited to drafts, notes and more.

95. No financial information, physical evidence, tangible things or backup relating to the Trust Accounting and Trust Assets for "Simon L. Bernstein Amended and Restated Trust Agreement" dated July 25, 2012 and therefore it cannot be determined if assets are properly being administered between the estate and trusts of Simon at this time and make the accounting a further farce.
96. No financial information, physical evidence, tangible things or backup relating to the May 20, 2008 Simon Bernstein Trust were provided with the final accounting to Petitioner.
97. No financial information, physical evidence, tangible things or backup relating to the Trust Accounting and Assets for "Shirley Bernstein Trust Agreement" dated May 20, 2008 were provided with the final accounting to Petitioner.
98. No financial information, physical evidence, tangible things or backup relating to the 1995 Simon Bernstein Irrevocable Insurance Trust were provided with the final accounting to Petitioner. That despite claiming that he has never had or possessed or even seen this trust, Robert Spallina then filed a claim with Heritage Union Life acting as the alleged "Trustee" of this LOST Trust that does not legally exist at this time. That Spallina further acted as the Trustee of the LaSalle National Trust, N.A. to attempt to abscond with this estate asset, which on information and belief he is not. Spallina also claimed to the Sheriff office in the Supplemental Report already evidenced herein that Simon Bernstein had told him the five children were the beneficiaries of the policy and yet he still filed a fraudulent claim with Heritage then claiming a LOST TRUST was the beneficiary instead.
99. No financial information, physical evidence, tangible things or backup relating to the Records for SIMON BERNSTEIN IRREVOCABLE TRUST U/A 9/7/06 were provided with the final accounting to Petitioner and appear missing from the accounting.
100. No financial information, physical evidence, tangible things or backup relating to the Records for the MARITAL TRUST and FAMILY TRUST created by SHIRLEY BERNSTEIN, Trustee of the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008 were provided with the final accounting to Petitioner.
101. No financial information, physical evidence, tangible things or backup relating to the Records for SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN, Co-Trustees and ROBERT L. SPALLINA, Independent Trustee of the ELIOT BERNSTEIN FAMILY TRUST dated May 20, 2008 were provided with the final accounting to Petitioner.
102. No financial information, physical evidence, tangible things or backup relating to the Records for DANIEL BERNSTEIN IRREVOCABLE TRUST dated September 7, 2006 were provided with the final accounting to Petitioner.
103. No financial information, physical evidence, tangible things or backup relating to the Records for JAKE BERNSTEIN IRREVOCABLE TRUST dated September 7, 2006 were provided with the final accounting to Petitioner.

104. No financial information, physical evidence, tangible things or backup relating to the Records for JOSHUA Z. BERNSTEIN IRREVOCABLE TRUST dated September 7, 2006 were provided with the final accounting to Petitioner.
105. No financial information, physical evidence, tangible things or backup relating to the Records for Case: 502010CP003123XXXXSB INRE DANIEL BERNSTEIN IRREVOCABLE TRUST 07-JUL-10 0497381 ATTORNEY SPALLINA, ROBERT L. were provided with the final accounting to Petitioner
106. No financial information, physical evidence, tangible things or backup relating to the Records for Case: 502010CP003125XXXXSB INRE JAKE BERNSTEIN IRREVOCABLE TRUST 07-JUL-10 0497381 ATTORNEY SPALLINA, ROBERT L were provided with the final accounting to Petitioner
107. No financial information, physical evidence, tangible things or backup relating to the Records for Case: 502010CP003128XXXXSB INRE JOSHUA Z BERNSTEIN IRREVOCABLE TRUST 07-JUL-10 0497381 ATTORNEY SPALLINA, ROBERT L. were provided with the final accounting to Petitioner
108. No financial information, physical evidence, tangible things or backup relating to any creditor claims filed in the Estate of Shirley Bernstein and Simon Bernstein were provided with the final accounting to Petitioner.
109. No financial information, physical evidence, tangible things or backup relating to the lawsuit filed by William Stansbury lawsuit and creditor action filed against the Estate were provided with the final accounting to Petitioner. That it does not appear that this Lawsuit is included in the Final Accounting.
110. No financial information, physical evidence, tangible things or backup relating to the allocation of the tangible personal property of Simon Bernstein were provided with the final accounting to Petitioner.
111. No financial information, physical evidence, tangible things or backup relating to the Documentation concerning the allocation and division of all companies owned by Simon and/or Shirley at the time of their deaths and copies of any partnerships, operating, or stockholders agreements were provided with the final accounting to Petitioner were provided with the final accounting to Petitioner.
112. No financial information, physical evidence, tangible things or backup relating to the Records relating to ongoing litigation involving Bernstein Family Realty, LLC were provided with the final accounting to Petitioner.
113. No financial information, physical evidence, tangible things or backup relating to the Information with regards to the, grade school, middle school, high school and college funds set aside for by Simon and Shirley Bernstein for the benefit of Joshua, Jacob and/or Daniel schooling were provided with the final accounting to Petitioner.
114. No financial information, physical evidence, tangible things or backup relating to the Objections to claims filed in Estate of Simon Bernstein were provided with the final accounting to Petitioner.

115. No financial information, physical evidence, tangible things or backup relating to the Exempt Property Petition filed were provided with the final accounting to Petitioner.

116. 115. No financial information, physical evidence, tangible things or backup relating to the American Express bill claim filed were provided with the final accounting to Petitioner and is believed to have been used post mortem.

117.

118. No financial information, physical evidence, tangible things or backup relating to the Limited Power of Appointment executed by Simon were provided with the final accounting to Petitioner.

119. No financial information, physical evidence, tangible things or backup relating to the Mortgage documents and Promissory Note relating to Eliot's children's home and documents pertaining to the first mortgage Walter Sahm were provided with the final accounting to Petitioner.

120. No financial information, physical evidence, tangible things or backup relating to the Heritage Union Life Insurance Contract and any other insurance policies were provided with the final accounting to Petitioner.

121. No financial information, physical evidence, tangible things or backup relating to the Full documentation for Proskauer Rose's Will Exhibit in the Will of Simon filed in the Court and all estate and trust work relating to the Proskauer work product for Simon and Shirley their children were provided with the final accounting to Petitioner.

122. No financial information, physical evidence, tangible things or backup relating to the records for Simon and Shirley Estate assets from years 2000-2014, including but not limited to, banking records, investment accounts, business accounts, tax returns for both Simon and Shirley personally and for all business entities, real estate, transfers, titles, deeds, all insurance contracts, IRA's, pensions, retirement plans of any sort and any other records necessary to ascertain and account for the assets in the Estate were provided with the final accounting to Petitioner.

123. No financial information, physical evidence, tangible things or backup relating to the all records relating to Simon Bernstein's Life Insurance License and all, agent, agency, renewal commissions payable to decedent were provided with the final accounting to Petitioner, including but not limited to:

Licensee Details 12/8/2013
Name of Licensee: BERNSTEIN, SIMON L
License #: A020560
Business Location: BOCA RATON, FLORIDA

Type	Original Issue Date	Qualifying Appointment
LIFE & HEALTH(0218)	4/23/2004	YES

Types and Classes of Active Appointments
LIFE & HEALTH(0218)

Company Name	Original Issue Date	Exp Date	Type	County
1. JOHN HANCOCK LIFE INSURANCE COMPANY U.S.A.	12/8/2004	12/31/2014	STATE	Palm Beach
2. BANNER LIFE INSURANCE COMPANY	6/1/2010	12/31/2014	STATE	Palm Beach
3. ALLIANZ LIFE INSURANCE COMPANY OF NORTH AMERICA	4/7/2010	12/31/2014	STATE	Palm Beach
4. AMERICAN GENERAL LIFE INSURANCE COMPANY	7/20/2004	12/31/2014	STATE	Palm Beach
5. AMERICAN NATIONAL INSURANCE COMPANY	4/22/2010	12/31/2014	STATE	Palm Beach
6. RELIASTAR LIFE INSURANCE COMPANY	6/23/2011	12/31/2013	STATE	Palm Beach
7. SECURITY LIFE OF DENVER INSURANCE COMPANY	6/23/2011	12/31/2013	STATE	Palm Beach

124. No financial information, physical evidence, tangible things or backup relating to all investment account records from, including but not limited to, Stanford, JP Morgan, Legacy Bank, Sabadell and Oppenheimer were provided with the final accounting to Petitioner.
125. No financial information, physical evidence, tangible things or backup relating to all medical records and bills of Simon from all doctors involved in care for the years 2000-2012 were provided with the final accounting to Petitioner were provided with the final accounting to Petitioner.
126. No financial information, physical evidence, tangible things or backup relating to all medical records and bills in the prior 16 weeks leading up to Simon's death were provided with the final accounting to Petitioner.
127. No financial information, physical evidence, tangible things or backup relating to the all post mortem medical records, coroner records and bills and hospital records for Simon were provided with the final accounting to Petitioner.
128. No financial information, physical evidence, tangible things or backup relating to the all records and documents relating to the following BUSINESS ENTITIES owned by Simon were provided with the final accounting to Petitioner:

1. ALPS (Arbitrage Life Payment System)
2. Arbitrage International Holdings, LLC
3. Arbitrage International Management, LLC

4. Arbitrage International Management LLC
5. Arbitrage International Marketing, Inc.
6. Arbitrage International Marketing, Inc.
7. Bernstein & Associates, Inc.
8. Bernstein Family Investments, LLLP dated May 20, 2008
9. Bernstein Holdings, LLC dated May 20, 2008.
10. Bernstein Family Realty LLC
11. Bernstein Simon and Shirley – A company in Boca Raton, FL.
12. Cambridge Associates Of Indiana, Inc.
13. Cambridge Companies
14. Cambridge Financing Company
15. LIC Holdings, Inc. – This asset was listed as NOT AVAILABLE in the Final Accounting for it's value.
16. Life Insurance Concepts
17. Life Insurance Concepts Inc.
18. Life Insurance Concepts, LLC
19. Life Insurance Connection Inc.
20. Life Insurance Innovations, Inc.
21. National Service Association, Inc.
22. National Service Association, Inc.
23. National Service Corporation
24. National Service Corporation (Florida)
25. NSA, Inc.
26. S.T.P. Enterprises
27. SB Lexington. Inc.
28. Shirley Bernstein Family Foundation Inc. and Deborah Bernstein involvement
29. Simon and Shirley Bernstein (company or Foundation?)
30. Syracuse Partners Incorporated
31. Telenet Systems, Inc.
32. Telenet Systems, LLC
33. Total Brokerage Solutions LLC
34. TSB Holdings, LLC

129. No financial information, physical evidence, tangible things or backup relating to any Iviewit companies stock and patent interest holdings that Simon and Shirley held for the following companies and intellectual properties were provided with the final accounting to Petitioner:

1. Iviewit Holdings, Inc. – DL
2. Iviewit Holdings, Inc. – DL (two identically named in Delaware)
3. Iviewit Holdings, Inc. – NY (three identically named)
4. Iviewit Holdings, Inc. – FL (four identically named)
5. Iviewit Technologies, Inc. – DL
6. Uviewit Holdings, Inc. – DL
7. Uview.com, Inc. – DL
8. Iviewit.com, Inc. – FL
9. Iviewit.com, Inc. – DL

10. I.C., Inc. – FL
11. Iviewit.com LLC – DL
12. Iviewit LLC – DL
13. Iviewit Corporation – FL
14. Iviewit, Inc. – FL
15. Iviewit, Inc. – DL

130. No financial information, physical evidence, tangible things or backup relating to the all Banking and Balances for all Estate Assets including Business Entities, Individually and TOD'S, POD's and FBO's were provided with the final accounting to Petitioner.
131. No financial information, physical evidence, tangible things or backup relating to the accounting for Saint Andrews Club Membership required for 7020 Lions Head Lane were provided with the final accounting to Petitioner.
132. No financial information, physical evidence, tangible things or backup relating to the Title for 2013 Kia Soul given as a birthday gift to Josh Bernstein from Simon Bernstein on August 26, 2012 as birthday gift were provided with the final accounting to Petitioner. That this was claimed to be an asset of the Estate yet appears nowhere in the Final Accounting.
133. No financial information, physical evidence, tangible things or backup relating to the Claims filed in the Estates and all correspondences relating to the claims were provided with the final accounting to Petitioner, including but not limited to;

    1. William Stansbury,
    2. Maritza Puccio,
    3. Wells Fargo,
    4. Dr. Ronick Seecharan,
    5. Dr, Steven Rimer,
    6. American Express, and,
    7. Scott Banks – Telenet Systems.

134. No financial information, physical evidence, tangible things or backup relating to the corporate information regarding Telenet Systems, LLC, including but not limited to, including any stock information, correspondences and letters written in regards to Telenet Systems and any business plans, agreements or any other record, including all financial transactions were provided with the final accounting to Petitioner.
135. No financial information, physical evidence, tangible things or backup relating to the Accounting, Inventories and allocation of the tangible personal property of Shirley and Simon Bernstein, including but not limited to, Jewelry, Fine Art, Home furnishings, clothing, family pictures, contents of safety deposit boxes and safes, office documents, computers, hard drives and business contracts were provided with the final accounting to Petitioner.
136. No financial information, physical evidence, tangible things or backup relating to the allocation and division of all companies owned by Simon and/or Shirley at the time of their

deaths and copies of any partnership, operating, or stockholders agreements and accountings were provided with the final accounting to Petitioner.

137. No financial information, physical evidence, tangible things or backup relating to the ALL attorney and other professional or fiduciary accountings and billings for Shirley and Simon Estates were provided with the final accounting to Petitioner
138. No financial information, physical evidence, tangible things or backup relating to the homeowners insurance and any policies insuring any assets of the estates of SIMON and SHIRLEY were provided with the final accounting to Petitioner.
139. No financial information, physical evidence, tangible things or backup relating to the all information regarding the automobile of Simon Bernstein, a Porsche Panorama and records, lease papers, sale information, etc. were provided with the final accounting to Petitioner
140. No financial information, physical evidence, tangible things or backup relating to the information regarding Post Mortem Red Light Ticket in Simon's name leading to his DL being suspended were provided with the final accounting to Petitioner.
141. No financial information, physical evidence, tangible things or backup relating to the all documents which reflect or refer to any communication between any attorney or employee of T & S, or any attorney or other contracted by T & S or its predecessor and Simon/Shirley were provided with the final accounting to Petitioner, including but not limited to the following: (a) any emails sent or received; (b) any time records or bills which reflect or refer to such communications; (c) any correspondence sent or received; (d) any handwritten notes or memoranda which reflect or refer to such communications; and (e) any calendar entries which reflect or refer to such communications.
142. No financial information, physical evidence, tangible things or backup relating to any and all wills, drafts of wills and codicils to wills prepared by or for Simon/Shirley Bernstein were provided with the final accounting to Petitioner.
143. No financial information, physical evidence, tangible things or backup relating to any and all trust documents, drafts of trusts and trust amendments prepared by or for Simon were provided with the final accounting to Petitioner.
144. No financial information, physical evidence, tangible things or backup relating to any and all powers of attorney, designations of healthcare surrogates and living wills prepared by or for Simon Bernstein were provided with the final accounting to Petitioner.
145. No financial information, physical evidence, tangible things or backup relating to all documents and communications between or among Simon/Shirley Bernstein and their attorneys, accountants, financial advisors, or estate planning advisors from January 1, 1999 to September 13, 2012 were provided with the final accounting to Petitioner.
146. No financial information, physical evidence, tangible things or backup relating to the all documents and communications, including but not limited to emails, notes, letters, and postcards, between or among Simon/Shirley and any person(s) which discusses or refers to their testamentary intent, estate plan, or intent concerning the designation of beneficiaries for

any property, assets, or accounts they owned, including but not limited to all assets that are includable in the Estates and Trusts were provided with the final accounting to Petitioner.

147. No financial information, physical evidence, tangible things or backup relating to the documents and communications, including but not limited to attorney notes, files, time sheets, and memoranda, which discuss or refer to Simon/Shirley's testamentary intent, or intent concerning the designation of beneficiaries for any property, assets, or accounts they owned, including but not limited to all assets that are includable in the Estates and Trusts were provided with the final accounting to Petitioner.
148. No financial information, physical evidence, tangible things or backup relating to theall documents and communications, including but not limited to handwritten or typewritten notes, correspondence, tape recordings, email, or memoranda, relating to, discussing or mentioning Simon/Shirley's intent with regard to the disposition of their assets either upon death or during their lifetime were provided with the final accounting to Petitioner.
149. No financial information, physical evidence, tangible things or backup relating to the all documents and communications between or among Simon/Shirley and any other person or entity from and after January 1, 1999, including but not limited to emails, notes, postcards, letters, faxes, and phone messages (whether written or recorded) were provided with the final accounting to Petitioner.
150. No financial information, physical evidence, tangible things or backup relating to the all diaries, desk calendars, address books, telephone books, and notebooks kept by or for Simon/Shirley from and after January 1, 1999 were provided with the final accounting to Petitioner.
151. No financial information, physical evidence, tangible things or backup relating to the all documents and communications, including but not limited to records, reports, notes or correspondence from any and all doctors, nurses, hospitals, clinics, medical facilities or other care givers relating to Simon/Shirley mental or physical condition conditions from January 2008 were provided with the final accounting to Petitioner.
152. No financial information, physical evidence, tangible things or backup relating to the documents and communications relating to any medications purchased by or on the behalf of Simon/Shirley from and after January 2008, including but not limited to all pharmacy records, prescriptions, and receipts.

PETITION FOR FORMAL, DETAILED, AUDITED AND FORENSIC ACCOUNTING AND DOCUMENT ANALYSIS

153. Petitioner states that all costs for an audited forensic accounting and forensic document analysis should be billed to Tescher and Spallina et al. who have caused the need for now a thorough analysis of the Estates and Trusts.

WHEREFORE, Petitioner respectfully requests that this Court enter an Order:

1. Denying the Final Accounting and demanding a new properly executed Final Accounting be tendered to this Court;
2. Demand that all records be produced to support the Final Accounting to all appropriate parties, necessary to validate the Final Accounting;
3. Demand a Full Forensic Accounting of the Final Accounting, the Dispositive Documents and all documents and records in the Estates and Trusts, and
4. granting such other and further relief as the Court deems just and proper.

Signed on May 22, 2014.

Respectfully submitted,

By: ELIOT BERNSTEIN, individually and on behalf of his minor children, who are alleged qualified beneficiaries of Settlor's Estate and Trusts,

Petitioner (*pro se*)

2753 N.W. 34th St.
Boca Raton, Florida 33434-3459
(561) 245.8588 (telephone)
Email address: iviewit@iviewit.tv

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petition was served via electronic mail on May 22, 2014 to the parties listed in the attached Service List.

Eliot Bernstein, Pro Se Petitioner
2753 N.W. 34th St.
Boca Raton, Florida 33434-3459

(561) 245.8588 (telephone)
Email address: iviewit@iviewit.tv

EMAIL SERVICE LIST

Theodore Stuart Bernstein Life Insurance Concepts 950 Peninsula Corporate Circle, Suite 3010 Boca Raton, Florida 33487 tbernstein@lifeinsuranceconcepts.com	Alan B. Rose, Esq. Page, Mrachek, Fitzgerald & Rose, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 (561) 355-6991 arose@pm-law.com	John J. Pankauski, Esq. Pankauski Law Firm PLLC 120 South Olive Avenue 7th Floor West Palm Beach, FL 33401 (561) 514-0900 courtfilings@pankauskilawfirm.com	Carley & Max Friedstein, Minors c/o Jeffrey and Lisa Friedstein Parents and Natural Guardians 2142 Churchill Lane Highland Park, IL 6003 Lisa@friedsteins.com lisa.friedstein@gmail.com
Pamela Beth Simon 950 N. Michigan Avenue Apartment 2603 Chicago, IL 60611 psimon@stpcorp.com	Irwin J. Block, Esq. The Law Office of Irwin J. Block PL 700 South Federal Highway Suite 200 Boca Raton, Florida 33432 ijb@ijblegal.com	William M. Pearson, Esq. P.O. Box 1076 Miami, FL 33149 wpearsonlaw@bellsouth.net	Robert L. Spallina, Esq., RESPONDENT Tescher & Spallina, P.A. Boca Village Corporate Center I 4855 Technology Way Suite 720 Boca Raton, FL 33431 rspallina@tescherspallina.com
Jill Iantoni 2101 Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com	Peter Feaman, Esquire Peter M. Feaman, P.A. 3615 Boynton Beach Blvd. Boynton Beach, FL 33436 pfeaman@feamanlaw.com	Benjamin Brown, Esq. Matwiczyk & Brown, LLP 625 No. Flagler Drive Suite 401 West Palm Beach, FL 33401 bbrown@matbrolaw.com	Donald Tescher, Esq., RESPONDENT Tescher & Spallina, P.A. Boca Village Corporate Center I 4855 Technology Way Suite 720 Boca Raton, FL 33431 dtescher@tescherspallina.com
Lisa Friedstein 2142 Churchill Lane Highland Park, IL 60035 Lisa@friedsteins.com lisa.friedstein@gmail.com	William H. Glasko, Esq. Golden Cowan, P.A. 1734 South Dixie Highway Palmetto Bay, FL 33157 bill@palmettobaylaw.com	Alexandra Bernstein 3000 Washington Blvd, Apt 424 Arlington, VA, 22201 alb07c@gmail.com	Mark R. Manceri, Esq., RESPONDENT and Mark R. Manceri, P.A., RESPONDENT 2929 East Commercial Boulevard Suite 702 Fort Lauderdale, FL 33308 mrmlaw@comcast.net
Eric Bernstein 2231 Bloods Grove Circle Delray Beach, FL 33445 ebernstein@lifeinsuranceconcepts.com	Michael Bernstein 2231 Bloods Grove Circle Delray Beach, FL 33445 mchl_bernstein@yahoo.com	Molly Simon 1731 N. Old Pueblo Drive Tucson, AZ 85745 molly.simon1203@gmail.com	John P. Morrissey, Esq. 330 Clematis Street, Suite 213 West Palm Beach, FL 33401 (561) 833-0866 (561) 833-0867 john@jmorrisseylaw.com

Matt Logan 2231 Bloods Grove Circle Delray Beach, FL 33445 matl89@aol.com	Joshua, Jacob and Daniel Bernstein, Minors c/o Eliot and Candice Bernstein, Parents and Natural Guardians 2753 NW 34th Street Boca Raton, FL 33434 iviewit@iviewit.tv	Julia Iantoni, a Minor c/o Guy and Jill Iantoni, Her Parents and Natural Guardians 210 I Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com	

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

IN RE: ESTATE OF

SIMON L. BERNSTEIN,
Deceased.
_____/

PROBATE DIVISION
CASE NO. 502012CP004391XXXXSB
JUDGE MARTIN COLIN

OBJECTIONS TO FINAL ACCOUNTING OF PERSONAL REPRESENTATIVE

COMES NOW Jill Iantoni and Lisa Friedstein, by and through their undersigned Counsel, and file this their Objections to Final Accounting of Personal Representative, and in support thereof state as follows:

1. Upon information and belief, all or a portion of the attorney's fees paid to Tescher & Spallina, P.A. on the asserted basis as fees generated on behalf of the personal representative, are excessive, unauthorized, and/or attributable to the acts, errors, and/or omissions of Tescher & Spallina, P.A.

2. The objectors are unaware of, and the docket does not reflect, any Court orders authorizing and/or directing payments to attorneys for the Personal Representatives, Tescher & Spallina, P.A. or Mark R. Manceri, P.A., in this case and no invoices or retainer agreements have been provided with the Final Accounting.

WHEREFORE, Jill Iantoni and Lisa Friedstein by and through their undersigned Counsel, respectfully request that the Court enter an order upholding the objections as herein filed and enter judgment in favor of said Objectors, awarding costs and fees as applicable and appropriate along with such further orders as this Honorable Court deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent this 30th day of May, 2014, via e-service to: Matwiczyk & Browan LLP, **Benjamin P. Brown, Esquire**, Curator, 625 N. Flagler Drive, Suite 401, West Palm Beach, Florida 33401, attorneys@matbrolaw.com; Peter M. Feaman, P.A., **Peter M. Feaman, Esquire**, for William E. Stansbury (creditor), 3615 West Boynton Beach Boulevard, Boynton Beach, Florida 33436, service@feamanlaw.com and mkoskey@feamanlaw.com; **Alan Rose, Esquire**, for Ted Bernstein, 505 South Flagler Drive, Suite 600, West Palm Beach, Florida 33401, arose@pm-law.com and mchandler@pm-law.com; **John Pankauski, Esquire**, for Ted Bernstein, 120 South Olive Avenue, Suite 701, West Palm Beach, Florida 33401, courtfilings@pankauskilawfirm.com; **Eliot Bernstein**, 2753 N.W. 34th Street, Boca Raton, Florida 33434, iviewit@iviewit.tv.; Robert L. Spallina, Esq., rspallina@tescherspallina.com; kmoran@tescherspallina.com; ddustin@tescherspallina.com.

GOLDEN & COWAN, P.A.
Palmetto Bay Law Center
17345 S. Dixie Highway
Palmetto Bay, Florida 33157

By: _____
WILLIAM H. GLASKO, ESQ.
Florida Bar No. 167916

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

IN RE: ESTATE OF

SIMON L. BERNSTEIN,

Deceased.

_____/

PROBATE DIVISION

FILE NO.: 502012CP004391XXXXSB

OBJECTION TO FINAL ACCOUNTING OF CO-PERSONAL REPRESENTATIVES

MOLLY SIMON, ALEXANDRA BERNSTEIN, ERIC BERNSTEIN and MICHAEL BERNSTEIN (collectively "Objectors"), by and through their undersigned counsel, having reviewed the Final Accounting filed by the former Co-Personal Representatives, DONALD R. TESCHER and ROBERT SPALLINA, file their objections to said Final Accounting and state:

1. All or a portion of the attorney's fees paid to Tescher & Spallina, P.A. on the asserted basis as fees generated on behalf of the former Co-Personal Representatives, are excessive, unauthorized and/or attributable to the acts, errors and/or omissions of Tescher & Spallina, P.A.

2. Objectors are unaware of any Court orders authorizing and/or directing payments to attorneys for the former Co-Personal Representatives, Tescher & Spallina, P.A. or Mark R. Manceri, P.A., and no invoices or retainer agreements were provided with the Final Accounting.

WHEREFORE, Objectors respectfully request that this Court enter an order (a) sustaining the objections set forth hereinabove and entering judgment in favor of Objectors, (b) deeming the Final Accounting of the former Co-Personal Representatives incomplete and, to the extent necessary, requiring that the former Co-Personal Representatives file an Amended Final Accounting, (c) requiring the former Co-Personal Representatives to reimburse the decedent's

estate for all improper payments made from estate assets, (d) awarding attorney's fees and costs to Objectors, and (e) granting any further relief as the Court deems just and proper.

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via e-mail to: ALAN ROSE, Esquire, 505 South Flagler Drive, Suite 600, West Palm Beach, Florida 33401 (arose@pm-law.com); JOHN PANKAUSKI, Esquire, 120 South Olive Avenue, Suite 701, West Palm Beach, Florida 33401 (courtfilings@pankauskilawfirm.com); PETER M. FEAMAN, Esquire, 3615 West Boynton Beach Boulevard, Boynton Beach, Florida 33436 (service@feamanlaw.com); WILLIAM H. GLASKO, Esquire, 17345 South Dixie Highway, Palmetto Bay, Florida 33157 (eservice@palmettobaylaw.com); BENJAMIN P. BROWN, Esquire, 625 North Flagler Drive, Suite 401, West Palm Beach, Florida 33401 (bbrown@matbrolaw.com); and ELIOT BERNSTEIN, 2753 NW 34th Street, Boca Raton, Florida 33436 (iviewit@iviewit.tv), this 1ST day of June, 2014.

JOHN P. MORRISSEY, P.A.

By: _____

John P. Morrissey, Esquire
330 Clematis Street, Suite 213
West Palm Beach, FL 33401
Telephone: (561) 833-0866
Facsimile: (561) 833-0867
E-Mail: john@jmorrisseylaw.com
Florida Bar #: 993727

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

IN RE:

Case No.: 50 2012 CP 004391 SB
JUDGE MARTIN COLIN

ESTATE OF SIMON
BERNSTEIN,
Deceased. Division: IY
_____/

OBJECTIONS TO FINAL ACCOUNTING
OF CO-PERSONAL REPRESENTATIVES

COMES NOW creditor of the Estate of Simon Bernstein and interested person, William E. Stansbury ("Stansbury"), by and through his undersigned counsel, and for his objections to the Final Accounting submitted by now-resigned Co-Personal Representatives Donald R. Tescher and Robert L. Spallina, states as follows:

1. Stansbury objects to the omission from the estate assets the life insurance proceeds currently at issue in the case styled *Simon Bernstein Irrevocable Insurance Trust DTD 6/21/95, Case No. 13 cv 3643,* filed in the United States District Court for the Northern District of Illinois, Eastern Division. The policy benefit is approximately $1.7 million, and the Estate is a potential beneficiary of the policy should the federal court determine that the Plaintiff insurance trust either no longer exists or it fails for lack of identifiable beneficiaries. This potential expectancy should be represented in the Accounting.

2. Stansbury objects to Schedule B setting forth disbursements to Tescher & Spallina, P.A. in the amount of $122,515.69. All or a portion of these fees paid are excessive, and/or are attributable to the intentional and/or negligent acts, errors and/or omissions of Tescher & Spallina, P.A. and should be disgorged to the Estate, in whole or in part.

3. Stansbury objects to the required minimum distributions to the Estate for the Simon Bernstein IRA as set forth in Schedule C for the reason that the minimum amounts represented were incorrectly calculated as per current Internal Revenue Service Regulations, Rules and/or Guidelines.

4. Stansbury, long acquainted with the Decedent, with knowledge of the Decedent's personal affairs, and upon Stansbury's own information and belief, objects to the dollar value of the furniture appraisal set forth in Schedule E on the basis that it is undervalued and understated.

5. Stansbury, upon Stansbury's information and belief, objects to the dollar value of the jewelry appraisal set forth in Schedule E on the basis that it is undervalued and understated.

WHEREFORE, interested person William E. Stansbury, respectfully requests that this Court enter an Order that:

a) Sustains Stansbury's objections set forth above and enters judgment in favor of Stansbury sustaining the objections;

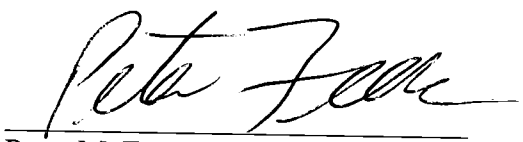
b) Determines that the Final Accounting filed by Tescher & Spallina, P.A. is inaccurate and incomplete;

c) Directs Tescher & Spallina, P.A. to file an Amended Final Accounting that reflects the objections raised by Stansbury as sustained by the Court's Order;

d) Requires Tescher & Spallina, P.A. to disgorge to the Estate all fees and costs improperly paid from Estate assets;

e) Awards attorney fees and costs to Stansbury; and,

f) Grants such other relief as the Court deems just and proper.



Peter M. Feaman, Esq.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been forwarded via e-mail service to: Alan Rose, Esq., PAGE, MRACHEK, 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, arose@pm-law.com and mchandler@pm-law.com; John Pankauski, Esq., PANKAUSKI LAW FIRM, 120 So. Olive Avenue, Suite 701, West Palm Beach, FL 33401, courtfilings@pankauskilawfirm.com; Eliot Bernstein, 2753 NW 34th Street, Boca Raton, FL 33434, *iviewit@iviewit.tv;* and William H. Glasko, Esq., Golden Cowan, P.A., PALMETTO BAY LAW CENTER, 17345 S. Dixie Highway, Palmetto Bay, FL 33157, bill@palmettobaylaw.com; Benjamin P. Brown, Esq., Matwiczyk & Brown, LLP, 625 N. Flagler Drive, Suite 401, West Palm Beach, FL 33401, bbrown@matbrolaw.com; John P. Morrissey, Esq., 330 Clematis Street, Suite 213, West Palm Beach, FL 33401, john@jmorrisseylaw.com on this 27 day of June, 2014.

PETER M. FEAMAN, P.A.
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Boynton Beach, FL 33436
Tel.: (561) 734-5552
Fax: (561) 734-5554
Service: service@feamanlaw.com
mkoskey@feamanlaw.com

By: _____
Peter M. Feaman
Florida Bar No.: 260347

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

IN RE: ESTATE OF:	PROBATE DIVISION
SIMON L. BERNSTEIN,	FILE NO:502012CP4391XXXXSB
Deceased.	

_____/

OBJECTION TO FINAL ACCOUNTING OF PERSONAL REPRESENTATIVE FOR THE TIME PERIOD OF SEPTEMBER 13, 2012 THROUGH FEBRUARY 28, 2014

BRIAN M. O'CONNELL, as Personal Representative of the Estate of Simon Bernstein ("Personal Representative" and "Estate," respectively), by and through undersigned counsel, hereby files his objections to the "Final Accounting of Personal Representative" for the time period of September 13, 2012 through February 28, 2014 ("Accounting"), as follows:

1. On or about May 1, 2014, Robert L. Spallina and Donald R. Tescher served the Accounting.

2. The following items on the "Summary" need further investigation, thus the Personal Representative objects as set forth below. In addition, the Personal Representative objects as no substantiating documents were provided, thus the Personal Representative reserves his right to further object to same:

a. "Starting Balance"; and

b. "Assets on Hand at Close of Accounting Period."

3. Personal Representative objects to the omission of the life insurance proceeds currently at issue in the case styled *Simon Bernstein Irrevocable Trust DTD*

6/21/95, Case No. 13cv3643, filed in the United States District Court for the Northern District of Illinois, Eastern Division, from the Estate assets.

4. Personal Representative objects to Schedule A Receipts as no substantiating documents were provided, thus the Personal Representative reserves any and all further objections after examination of same.

5. The following items listed on Schedule A Receipts need further investigation, thus the Personal Representative objects as set forth below. In addition, the Personal Representative objects as no substantiating documents were provided, thus the Personal Representative reserves his right to further object to same:

a. "Monarch Life Proceeds" $2,000 on 10/9/2012;

b. "Required Min. Distribution from Simon IRA JPM (#Ending 5007)"; and

c. "Fee Reimbursement from Shirley Bernstein Trust" and Note 1 associated with same.

6. Personal Representative objects to Schedule B Disbursements as no substantiating documents were provided, thus the Personal Representative reserves any and all further objections after examination of same.

7. Personal Representative objects to Fees and Costs paid to Tescher & Spallina, P.A. listed on Schedule B Disbursements as without an itemized description of their services it cannot be determined if their fees benefited the Estate. In addition, to the extent the co-personal representatives and/or the attorneys for the co-personal representatives breached their fiduciary duty, there is no entitlement to attorneys' fees.

8. Personal Representative objects to Attorney's Fees and Costs paid to Mark R. Manceri, P.A. listed on Schedule B Disbursements as such fees did not benefit the

Estate, thus there is no entitlement to attorney's fees. In addition, documentation is needed which shows an itemization of the services provided and time incurred.

9. Personal Representative objects to the extent there are no Court orders authorizing and/or directing payments to attorneys for the co-personal representatives, Tescher & Spallina, P.A. and/or Mark R. Manceri, P.A., as listed on Schedule B.

10. The following items listed on Schedule B need further investigation, thus the Personal Representative objects as set forth below. In addition, the Personal Representative objects as no substantiating documents were provided, thus the Personal Representative reserves his right to further object to same:

a. "LOANS (Bernstein Family Realty)" on 9/14/2012;

b. "LOANS (Bernstein Family Realty)" on 10/15/2012;

c. "Interest Payment on LLLP Loan" on 10/1/2012; and

d. "Wells Fargo Interest Payment (HELOC)" on 10/15/2012.

11. Personal Representative objects to Schedule C Distributions as no substantiating documents were provided, thus the Personal Representative reserves any and all further objections after examination of same.

12. The following items listed on Schedule C Distributions need further investigation, thus the Personal Representative objects as set forth below. In addition, the Personal Representative objects as no substantiating documents were provided, thus the Personal Representative reserves his right to further object to same:

a. "Required Min. Distribution to Simon Estate Acct JPM (#Ending 5220)".

13. Personal Representative objects to Schedule D Capital Transactions and Adjustments as no substantiating documents were provided, thus the Personal Representative reserves any and all further objections after examination of same.

14. The following items listed on Schedule D Capital Transactions and Adjustments need further investigation, thus the Personal Representative objects as set forth below. In addition, the Personal Representative objects as no substantiating documents were provided, thus the Personal Representative reserves his right to further object to same:

a. "Accounts Receivable from Bernstein Family Realty, LLC" on 9/14/12 and Note 1 associated with same;

b. "Accounts Receivable from Bernstein Family Realty, LLC" on 10/15/12 and Note 1 associated with same;

c. "Accrued Legal Fees from Bernstein Family Realty, LLC payable to the Estate of Simon Bernstein" and Note 2 associated with same;

d. "Accrued Legal Fees from Simon Bernstein 1995 Insurance Trust payable to the Estate of Simon Bernstein" and Note 3 associated with same; and

e. "Net change in Simon Bernstein IRA Acct Ending 5007 at JPM Morgan" and Note 4 associated with same.

15. Personal Representative objects to Schedule E Assets on Hand at Close of Accounting Period as no substantiating documents were provided, thus the Personal Representative reserves any and all further objections after examination of same.

16. The following items on Schedule E Assets on Hand at Close of Accounting Period need further investigation, thus the Personal Representative objects as

set forth below. In addition, the Personal Representative objects as no substantiating documents were provided, thus the Personal Representative reserves his right to further object to same:

a. Furniture and furnishings;

b. Jewelry;

c. "Secured Promissory Note- Due from Bernstein Family Realty, LLC";

d. "Simon Bernstein IRA (JP Morgan Acct. Ending 5007)";

e. "Due From Bernstein Family Realty, LLC";

f. "Due from Simon Bernstein 1995 Insurance Trust";

g. "LIC Holdings, Inc.";

h. Sabadell Bank (Acct. Ending 7176)"; and

i. "JP Morgan (Acct. Ending 5220)."

17. The Accounting fails to comply with Fla. R. P. 5.346(b)(4) with regard to LIC Holdings, Inc. listed on Schedule E Assets on Hand at Close of Accounting Period.

18. The Accounting is deficient as it fails to comport with Fla. R. P. 5.346(b)(1) & (3) as, among other things, the accounting classifies multiple transactions as "LOANS" or "Interest Payment," yet provides no other information.

WHEREFORE, BRIAN M. O'CONNELL, as Personal Representative of the Estate of Simon Bernstein, by and through undersigned counsel, hereby objects to the "Final Accounting of Personal Representative" for the time period of September 13, 2012 through February 28, 2014, and requests attorneys' fees and costs and any further relief deemed necessary or proper.

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by e-mail service on the 13 day of, August 2014 to all on the Service List attached.

BRIAN M. O'CONNELL, ESQ.
Florida Bar No: 308471
ASHLEY N. CRISPIN, ESQ.
Florida Bar No: 37495
JOIELLE A. FOGLIETTA, ESQ.
Florida Bar No. 94238
CIKLIN LUBITZ MARTENS & O'CONNELL
515 N. Flagler Dr., 20th Floor
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SERVICE LIST

Alan B. Rose, Esq. Page, Mrachek, Fitzgerald & Rose, PA. 505 S. Flagler Dr., Suite 600 West Palm Beach, FL 33401 (561) 355-6991 arose@pm-law.com Attorney for Ted S. Bernstein	John J. Pankauski, Esq. Pankauski Law Firm PLLC 120 South Olive Ave., 7th Floor West Palm Beach, FL 33401 (561) 514-0900 john@Pankauskilawfirm.com Attorney for Ted S. Bernstein	Irwin J. Block, Esq. The Law Office of Irwin J. Block, PL 700 South Federal Highway, Suite 200 Boca Raton, FL 33432 ijb@ijblegal.com	Peter Feaman, Esq. Peter M. Feaman, P.A. 3695 Boynton Beach Blvd., uite 9 Boynton Beach, FL 33436 pfeaman@feamanlaw.com
William H. Glasko, Esq. Golden Cowan, P.A. 1734 South Dixie Highway Palmetto Bay, FL 33157 bill@palmettobaylaw.com	John P. Morrissey, Esq. 330 Clematis St., Suite 213 West Palm Beach, FL 33401 john@jmorrisseylaw.com	Max Friedstein 2142 Churchill Lane Highland Park, IL 60035 Beneficiary	Carley Friedstein, Minor c/o Jeffrey and Lisa Friedstein Parent and Natural Guardian 2142 Churchill Lane Highland Park, IL 60035 Lisa@friedsteins.com Lisa.friedstein@gmail.com Beneficiary
Lisa Friedstein 2142 Churchill Lane Highland Park, IL 60035 Lisa@friedsteins.com Lisa.friedstein@gmail.com	Jill Iantoni 2101 Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com	Julia Iantoni, a Minor c/o Guy and Jill Iantoni, her Parents & Natural Guardians 2101 Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com	Eliot Bernstein 2753 N.W. 34th St. Boca Raton, FL 33434 iviewit@iviewit.tv
Joshua, Jacob and Daniel Bernstein, Minors c/o Eliot and Candice Bernstein, Parents and Natural Guardians 2753 N.W. 34th St. Boca Raton, FL 33434 iviewit@iviewit.tv	Pamela Beth Simon 950 N. Michigan Ave., Apt. 2603 Chicago, IL 60611 psimon@stpcorp.com	Benjamin P. Brown, Esq. Matwiczyk & Broaw LLP 625 N. Flagler Dr., #401 West Palm Beach, FL 33401 bbrown@matbrolaw.com	

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

PROBATE DIVISION
JUDGE JOHN L. PHILIPS
CASE NO. 502012CP4391XXXXNB/IH;
JUDGE HOWARD COATES;
JUDGE MARTIN COLIN
CASE NO. 502012CP004391XXXXSB;
JUDGE DAVID E FRENCH
CASE NO. 20I2CP004391 IX

IN RE:
ESTATE OF: SIMON L. BERNSTEIN
DECEASED.

ELIOT IVAN BERNSTEIN, PRO SE
PETITIONER,

V.

TESCHER & SPALLINA, P.A., (AND ALL PARTNERS, ASSOCIATES AND OF COUNSEL);
ROBERT L. SPALLINA, ESQ., PERSONALLY;
ROBERT L. SPALLINA, ESQ., PROFESSIONALLY;
DONALD R. TESCHER, ESQ., PERSONALLY;
DONALD R. TESCHER, ESQ., PROFESSIONALLY;
THEODORE STUART BERNSTEIN, INDIVIDUALLY;
THEODORE STUART BERNSTEIN, AS ALLEGED PERSONAL REPRESENTATIVE;
THEODORE STUART BERNSTEIN, AS ALLEGED TRUSTEE AND SUCCESSOR TRUSTEE PERSONALLY;
THEODORE STUART BERNSTEIN, AS ALLEGED TRUSTEE AND SUCCESSOR TRUSTEE, PROFESSIONALLY;
THEODORE STUART BERNSTEIN, AS TRUSTEE FOR HIS CHILDREN;
LISA SUE FRIEDSTEIN, INDIVIDUALLY AS A BENEFICIARY;
LISA SUE FRIEDSTEIN, AS TRUSTEE FOR HER CHILDREN;
JILL MARLA IANTONI, INDIVIDUALLY AS A BENEFICIARY;
JILL MARLA IANTONI, AS TRUSTEE FOR HER CHILDREN;
PAMELA BETH SIMON, INDIVIDUALLY;
PAMELA BETH SIMON, AS TRUSTEE FOR HER CHILDREN;
MARK MANCERI, ESQ., PERSONALLY;
MARK MANCERI, ESQ., PROFESSIONALLY;
MARK R. MANCERI, P.A. (AND ALL PARTNERS, ASSOCIATES AND OF COUNSEL);
JOSHUA ENNIO ZANDER BERNSTEIN;

JNAB BERNSTEIN (ELIOT MINOR CHILD);
DEAO BERNSTEIN (ELIOT MINOR CHILD);
ALEXANDRA BERNSTEIN;
ERIC BERNSTEIN;
MICHAEL BERNSTEIN;
MATTHEW LOGAN;
MOLLY NORAH SIMON;
J. IANTONI – JILL MINOR CHILD;
MAX FRIEDSTEIN;
C. FRIEDSTEIN – LISA MINOR CHILD;
PAGE, MRACHEK, FITZGERALD & ROSE, P.A.
(AND ALL PARTNERS, ASSOCIATES AND OF
COUNSEL);
ALAN B. ROSE, ESQ. – PERSONALLY;
ALAN B. ROSE, ESQ. – PROFESSIONALLY;
PANKAUSKI LAW FIRM PLLC, (AND ALL
PARTNERS, ASSOCIATES AND OF COUNSEL);
JOHN J. PANKAUSKI, ESQ. – PERSONALLY;
JOHN J. PANKAUSKI, ESQ. – PROFESSIONALLY;
KIMBERLY FRANCIS MORAN – PERSONALLY;
KIMBERLY FRANCIS MORAN –
PROFESSIONALLY;
LINDSAY BAXLEY AKA LINDSAY GILES –
PERSONALLY;
LINDSAY BAXLEY AKA LINDSAY GILES –
PROFESSIONALLY;
THE ALLEGED "2008 SIMON L. BERNSTEIN
TRUST AGREEMENT, AS AMENDED AND
RESTATED IN THE SIMON L. BERNSTEIN
AMENDED AND RESTATED TRUST AGREEMENT
DATED JULY 25, 2012";
JOHN AND JANE DOE'S (1-5000),

RESPONDENTS

TO BE ADDED RESPONDENTS:
JUDGE MARTIN COLIN, BOTH PERSONALLY
AND PROFESSIONALLY;
JUDGE DAVID E. FRENCH, BOTH PERSONALLY
AND PROFESSIONALLY.
_____/

OBJECTION TO SIMON BERNSTEIN TRUST ACCOUNTING

COMES NOW, Eliot Ivan Bernstein ("Eliot" or "Plaintiff" or "Objector"), Pro Se, individually and as a beneficiary of the "2008 SIMON L. BERNSTEIN TRUST AGREEMENT, as amended and restated in the SIMON L. BERNSTEIN AMENDED AND RESTATED TRUST

AGREEMENT dated July 25, 2012" and the Eliot Bernstein Family Trust created thereunder and Eliot as Guardians for his three minor children, as alleged beneficiaries, of the "SIMON L. BERNSTEIN AMENDED AND RESTATED TRUST AGREEMENT dated July 25, 2012" and hereby files this "**OBJECTION TO SIMON BERNSTEIN TRUST ACCOUNTING**" and in support thereof states, on information and belief, as follows:

1. That I, Eliot Ivan Bernstein make this Limited Appearance for purposes of satisfying obligations to timely file objections but otherwise object and do not consent to the jurisdiction of this Court and these proceedings, particularly pending the outcome of proceedings in the Florida State Supreme Court.
2. That I have filed a Petition for All Writs with the Florida State Supreme Court seeking various forms of relief including an injunction and also mandamus for Judge Martin Colin to issue a mandatory Disqualification Order being at minimum a necessary Material Fact Witness in the Florida probate proceedings to the circumstances of fraudulent waivers and related documents being filed in his Court and ex parte communications with the office of attorneys Robert L. Spallina, Esq. and Donald R. Tescher, Esq., those offices of Tescher & Spallina, PA being involved in the underlying fraud. A copy of said Petition is attached hereto as Exhibit A.
3. That the entire case and cases should be re-set based upon the frauds upon the Court including the re-setting and voiding of any and all Orders, including but not limited to, those relating to Fiduciaries, Personal Representatives and Trustees.
4. That the Probate matters previously before Judge Martin Colin and Judge French have been grounded in fraud where related direct fraud and related crimes have been admitted to and where Eliot Bernstein individually and on behalf of his minor children reserves any and all

rights to further object based upon fraud which has not yet been discovered and remains concealed by the alleged Trustee Ted Bernstein, his counsel Alan B. Rose, Esq. and related parties.

5. That Ted S. Bernstein is not a valid and legal Successor Trustee and according to the language of the alleged Trust presented to beneficiaries, the Successor Trustee cannot be a related party and further the language of the Trust states that Ted is considered predeceased for all purposes of the Trust and Dispositions made thereunder.
6. That Eliot I. Bernstein as a Beneficiary and Objector herein and on behalf of his minor children makes a general objection to the Accounting in its entirety including but not limited to all payments, disbursements, distributions, fees and monies and values paid or made or distributed of any kind and further raises a general objection that All documents filed in this case and these proceedings may in fact be fraud.
7. That the alleged 2012 Simon Trust accounted for has been found to be improperly notarized and has serious other defects that make the document invalid and Ted has failed to provide a full and complete set of original Simon Trust documents for beneficiaries and forensic analysis to be performed on and thus has failed to prove the existence of a valid Trust and a valid Trust that allows his claim of Trustee.
8. That the alleged Trustee Ted Bernstein has improper business interests and conflicts of interest with the Tescher & Spallina, PA law firm who was acting as his counsel, being the same parties involved in fraud where Attorney Spallina has admitted to fraudulently changing a related Trust document, Shirley Bernstein's Trust, for the benefit of primarily Ted Bernstein at the harm and expense of other beneficiaries and where a Tescher & Spallina, PA employee under their care and direction, Kimberly Moran, has admitted to and been

convicted of fraudulently changing Waivers and improperly notarizing them and forging them for six parties, including the deceased Simon Bernstein whereupon Eliot I. Bernstein individually as Objector and on behalf of his minor children therefore objects to the existence of Ted Bernstein as Trustee in its entirety, objects to the Accounting in its entirety and reserves any and all rights to further object as further fraud is discovered and as justice allows.

9. That the alleged Successor Trustee failed to get a statutorily required accounting on change of Trusteeship from the prior Co-Trustees Tescher and Spallina within 60 days from their resignation. Any and all rights are reserved by Objector Eliot I. Bernstein individually and on behalf of his minor children from failures and breaches of duty caused by alleged Trustee Ted Bernstein and the prior Co-Trustees as a result of these failures.
10. That there is no accounting for the time that Tescher and Spallina were Co-Trustees or prior to that when Simon Bernstein was Trustee and therefore the accounting fails to provide a clear picture of the assets from the time of Simon Bernstein's death to present. Any and all rights are reserved by Objector Eliot I. Bernstein individually and on behalf of his minor children from failures and breaches of duty caused by alleged Trustee Ted Bernstein and the prior Co-Trustees as a result of these failures.
11. That the alleged Successor Trustee has failed to statutorily notice beneficiaries of his Trusteeship after accepting a change of trusteeship from the prior Co-Trustees Tescher and Spallina.
12. That there are not clearly accounted for records of the trust instrument and amendments and requests to inspect the originals have been denied.

13. That the Governor Rick Scott's Notary Public Division has determined the Amended Trust document is not properly notarized, is alleged to be fraudulent and has trust construction and verification processes under litigation currently.

14. That it has been alleged by the PR of Simon's Estate, Brian O'Connell Esq. that Ted is not a valid legal Trustee. See Exhibit B - O'Connell Pleading, and that as stated above the existence of Ted Bernstein as the alleged Trustee is objected to by myself individually and on behalf of my minor children.

15. That it has been alleged by Counsel Peter Feaman, Esq. that Ted and his Counsel Alan B. Rose, Esq. are acting in violation of fiduciary and conduct codes. See Exhibit C - Feaman to O'Connell Letter, and that as stated above the existence of Ted Bernstein as the alleged Trustee is objected to by Objector individually and on behalf of his minor children.

16. There are pending actions against Ted Bernstein as alleged trustee for various breaches of fiduciary duties and violations of law and actions have been taken to remove alleged Trustee Ted Bernstein, which are being litigated before this Court presently, including but not limited to two stayed counter complaints.

17. The 2014 Florida Statutes

    Title XLII
    ESTATES AND TRUSTS
    Chapter 736
    FLORIDA TRUST CODE
    736.08135 Trust accountings.—

    That Ted has failed to provide an understandable accounting. Ted failed as fiduciary to get the statutorily required accounting from the prior Co Trustees, TESCHER and SPALLINA and thus his accounting fails without the historical and statutorily required accounting and

supporting evidence to present an accounting for the Trust's assets since the time Simon died to present.

18. There is no prior accounting of Simon's Trust as the former Co-Trustees, TESCHER and SPALLINA, have failed to provide the statutorily required accounting upon transfer of the trusteeship to Ted and Ted has failed as a fiduciary to demand the required accounting due upon the transfer and necessary to fully account for the Trust assets.

> (1) A trust accounting must be a reasonably understandable report from the date of the last accounting or, if none, from the date on which the trustee became accountable, that adequately discloses the information required in subsection (2).

Ted Bernstein has failed to comply with these requirements and the Accounting is objected to in all respects with all rights reserved.

> (b) The accounting must show all cash and property transactions and all significant transactions affecting administration during the accounting period, including compensation paid to the trustee and the trustee's agents. Gains and losses realized during the accounting period and all receipts and disbursements must be shown.

Ted Bernstein has failed to comply with these requirements and the Accounting is objected to in all respects with all rights reserved.

> (c) To the extent feasible, the accounting must identify and value trust assets on hand at the close of the accounting period. For each asset or class of assets reasonably **capable of valuation**, the accounting shall contain two values, the asset acquisition value or carrying value and the estimated current value. The accounting must identify each known non-contingent liability with an estimated current amount of the liability if known.

Ted Bernstein has failed to comply with these requirements and the Accounting is objected to in all respects with all rights reserved.

> (d) To the extent feasible, the accounting must show significant transactions that do not affect the amount for which the trustee is accountable, including name changes in investment holdings, adjustments to carrying value, a change of custodial institutions, and stock splits.

Ted Bernstein has failed to comply with these requirements and the Accounting is objected to in all respects with all rights reserved.

(e) The accounting must reflect the allocation of receipts, disbursements, accruals, or allowances between income and principal when the allocation affects the interest of any beneficiary of the trust.

Ted Bernstein has failed to comply with these requirements and the Accounting is objected to in all respects with all rights reserved.

The 2014 Florida Statutes
Title XLII
ESTATES AND TRUSTS
Chapter 736
FLORIDA TRUST CODE

736.0813 Duty to inform and account.—The trustee shall keep the qualified beneficiaries of the trust reasonably informed of the trust and its administration.

(1) The trustee's duty to inform and account includes, but is not limited to, the following:

19. That Ted Bernstein within 60 days failed to notice the qualified beneficiaries of the acceptance of the trust, the full name and address of the Trustee and of the fiduciary lawyer-client privilege with respect to the trustee and attorneys employed by the trustee.

(a) Within 60 days after acceptance of the trust, the trustee shall give notice to the qualified beneficiaries of the acceptance of the trust, the full name and address of the trustee, and that the fiduciary lawyer-client privilege in s. 90.5021 applies with respect to the trustee and any attorney employed by the trustee.

Ted Bernstein has failed to comply with these requirements and the Accounting is objected to in all respects with all rights reserved.

(b) Within 60 days after the date the trustee acquires knowledge of the creation of an irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise, the trustee shall give notice to the qualified beneficiaries of the trust's existence, the identity of the settlor or settlors, the right to request a copy of the trust instrument, the right to

accountings under this section, and that the fiduciary lawyer-client privilege in s. 90.5021 applies with respect to the trustee and any attorney employed by the trustee.

Ted Bernstein has failed to comply with these requirements and the Accounting is objected to in all respects with all rights reserved.

Thus, it is objected by myself individually and on behalf of my minor children that alleged Trustee Ted Bernstein has failed to abide by such statutes and rules and duties and any and all rights are reserved herein.

20. That despite repeated requests in writing and in Court filings for Ted Bernstein to provide a complete copy of the trust instrument, codicils, attachments and amendments and allow for inspection of the originals, which in this case is necessary for forensic analysis due to the prior proven multiple fraudulent and forged documents in the Estates and Trusts of Simon and Shirley Bernstein, Ted Bernstein has failed to provide proof of the actual trust. That in Eliot's deposition, Alan Rose, Esq. claimed that neither Ted nor he was in possession of original trust documents for inspection.

(c) Upon reasonable request, the trustee shall provide a qualified beneficiary with a complete copy of the trust instrument.

Thus, it is objected by myself individually and on behalf of my minor children that alleged Trustee Ted Bernstein has failed to abide by such statutes and rules and duties and any and all rights are reserved herein.

21. That Ted Bernstein has failed to provide accountings annually and on change of a trustee.

(d) A trustee of an irrevocable trust shall provide a trust accounting, as set forth in s. 736.08135, from the date of the last accounting or, if none, from the date on which the trustee became accountable, to each qualified beneficiary at least annually and on termination of the trust **or on change of the trustee**.

Thus, it is objected by myself individually and on behalf of my minor children that the alleged Trustee Ted Bernstein has failed to abide by such statutes and rules and duties and any and all rights are reserved herein.

22. That Ted Bernstein has failed to provide any information about the assets and liabilities of the trust and the particulars relating to administration. That the accounting submitted by Ted will show that two and half years after Simon died there are still assets that remain secreted and without value or name.

> (e) **Upon reasonable request, the trustee shall provide a qualified beneficiary with relevant information about the assets and liabilities of the trust** and the particulars relating to administration.

Ted Bernstein has failed to comply with these requirements and the Accounting is objected to in all respects with all rights reserved.

> (3) The representation provisions of part III apply with respect to all rights of a qualified beneficiary under this section.

Thus, it is objected by myself individually and on behalf of my minor children that the alleged Trustee Ted Bernstein has failed to abide by such statutes and rules and duties and any and all rights are reserved herein.

23. That the accounting for Simon Bernstein is flawed in that the Inventory prepared by Simon, See Exhibit D - Simon Inventories, has assets of his wife Shirley that were not properly inventoried on her Inventory before any alleged transfer, See Exhibit E - Shirley Inventories.
24. That a list of assets of Simon's that are not accounted for on the inventory and requests in writing from the alleged fiduciaries, former CO-TRUSTEES TESCHER and SPALLINA and the current alleged Trustee TED have gone unanswered for over two and half years.

SPECIFIC OBJECTIONS TO ACCOUNTING (See Exhibit F – Simon Trust Accounting)

APPENDIX B

UNIFORM FIDUCIARY ACCOUNTING PRINCIPLES

I. ACCOUNTS SHOULD BE STATED IN A MANNER THAT IS UNDERSTANDABLE BY PERSONS WHO ARE NOT FAMILIAR WITH PRACTICES AND TERMINOLOGY PECULIAR TO THE ADMINISTRATION OF ESTATES AND TRUSTS.

February 23, 2015 Florida Probate Rules 85

25. Ted Bernstein has failed to comply with these requirements and the Accounting is objected to in all respects with all rights reserved.

II. A FIDUCIARY ACCOUNT SHALL BEGIN WITH A CONCISE SUMMARY OF ITS PURPOSE AND CONTENT.

February 23, 2015 Florida Probate Rules 86

III. A FIDUCIARY ACCOUNT SHALL CONTAIN SUFFICIENT INFORMATION TO PUT THE INTERESTED PARTIES ON NOTICE AS TO ALL SIGNIFICANT TRANSACTIONS AFFECTING ADMINISTRATION DURING THE ACCOUNTING PERIOD.

Commentary: The presentation of the information account shall allow an interested party to follow the progress of the fiduciary's administration of assets during the accounting period.

An account is not complete if it does not itemize, or make reference to, assets on hand at the beginning of the accounting period.

Illustration:

3.1 The first account for a decedent's estate or a trust may detail the items received by the fiduciary and for which the fiduciary is responsible. It may refer to the total amount of an inventory filed elsewhere or assets described in a schedule attached to a trust agreement.

Instead of retyping the complete list of assets in the opening balance, the preparer may prefer to attach as an exhibit a copy of the inventory, closing balance from the last account, etc., as appropriate, or may refer to them if previously provided to the interested parties who will receive it.

Transactions shall be described in sufficient detail to give interested parties notice of their purpose and effect

Illustrations:

3.2 Extraordinary appraisal costs should be shown separately and explained.

3.3 Interest and penalties in connection with late filing of tax returns should be shown separately and explained.

3.4 An extraordinary allocation between principal and income such as apportionment of proceeds of property acquired on foreclosure should be separately stated and explained.

3.5 Computation of a formula marital deduction gift involving non-probate assets should be explained.

26. Ted Bernstein has failed to comply with these requirements and the Accounting is objected to in all respects with all rights reserved.

IV. A FIDUCIARY ACCOUNT SHALL CONTAIN TWO VALUES, THE ASSET ACQUISITION VALUE OR CARRYING VALUE, AND CURRENT VALUE.

Commentary: In order for transactions to be reported on a consistent basis, an appropriate carrying value for assets must be chosen and employed consistently.

The carrying value of an asset should reflect its value at the time it is acquired by the fiduciary (or a predecessor fiduciary). When such a value is not precisely determinable, the figure used should reflect a thoughtful decision by the fiduciary. For assets owned by a decedent, inventory values or estate tax values — generally reflective of date of death —would be appropriate. Assets received in kind by a trustee from a settlor of an inter vivos trust should be carried at their value at the time of receipt. For assets purchased during the administration of the fund, cost would normally be used. Use of Federal income tax basis for carrying value is acceptable when basis is reasonably representative of real values at the time of acquisition. Use of tax basis as a carrying value under other circumstances could be affirmatively misleading to beneficiaries and therefore is not appropriate.

February 23, 2015 Florida Probate Rules 88

In the Model Account, carrying value is referred to as "fiduciary acquisition value." The Model Account establishes the initial carrying value of assets as their value at date of death for inventoried assets, date of receipt for subsequent receipts, and cost for investments.

Carrying value would not normally be adjusted for depreciation.

Except for adjustments that occur normally under the accounting system in use, carrying values should generally be continued unchanged through successive accounts and assets should not be arbitrarily "written up" or "written down." In some circumstances, however, with proper disclosure and explanation, carrying value may be adjusted.

Illustrations:

4.1 Carrying values based on date of death may be adjusted to reflect changes on audit of estate or inheritance tax returns.

4.2 Where appropriate under applicable local law, a successor fiduciary may adjust the carrying value of assets to reflect values at the start of that fiduciary's administration.

4.3 Assets received in kind in satisfaction of a pecuniary legacy should be carried at the value used for purposes of distribution.

Though essential for accounting purposes, carrying values are commonly misunderstood by laypersons as being a representation of actual values. To avoid this, the account should include both current values and carrying values.

27. Ted Bernstein has failed to comply with these requirements and the Accounting is objected to in all respects with all rights reserved.

The value of assets at the beginning and ending of each accounting period is necessary information for the evaluation of investment performance. Therefore, the account should show, or make reference to, current values at the start of the period for all assets whose carrying values were established in a prior accounting period.

Illustrations:

4.4 The opening balance of the first account of a testamentary trustee will usually contain assets received in kind from the executor. Unless the carrying value was written up at the time of distribution (e.g., 4.2 or 4.3 supra) these assets will be carried at a value established during the executor's administration. The current value at the beginning of the accounting period should also be shown.

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4.5 An executor's first account will normally carry assets at inventory (date of death) values or costs. No separate listing of current values at the beginning of the accounting period is necessary.

Current values should also be shown for all assets on hand at the close of the accounting period. The date on which current values are determined shall be stated and shall be the last day of the accounting period, or a date as close thereto as reasonably possible.

Current values should be shown in a column parallel to the column of carrying values. Both columns should be totalled.

In determining current values for assets for which there is no readily ascertainable current value, the source of the value stated in the account shall be explained. The fiduciary shall make a good faith effort to determine realistic values but should not be expected to incur expenses for appraisals or similar costs when there is no reason to expect that the resulting information will be of practical consequence to the administration of the estate or the protection of the interests of the parties.

Illustrations:

4.6 When an asset is held under circumstances that make it clear that it will not be sold (e.g., a residence held for use of a beneficiary) the fiduciary's estimate of value would be acceptable in lieu of an appraisal.

28. Ted Bernstein has failed to comply with these requirements and the Accounting is objected to in all respects with all rights reserved.

4.7 Considerations such as a pending tax audit or offer of the property for sale may indicate the advisability of not publishing the fiduciary's best estimate of value. In such circumstances, a statement that value was fixed by some method such as "per company books," "formula under buy-sell agreement," or "300% of assessed value" would be acceptable, but the fiduciary would be expected to provide further information to interested parties upon request.

29. Ted Bernstein has failed to comply with these requirements and the Accounting is objected to in all respects with all rights reserved.

V. GAINS AND LOSSES INCURRED DURING THE ACCOUNTING PERIOD SHALL BE SHOWN SEPARATELY IN THE SAME SCHEDULE.

Commentary: Each transaction involving the sale or other disposition of securities during the accounting period shall be shown as a separate item in one combined schedule of the account indicating the transaction, date, explanation, and any gain or loss.

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Although gains and losses from the sale of securities can be shown separately in accounts, the preferred method of presentation is to present this information in a single schedule. Such a presentation provides the most meaningful description of investment performance and will tend to clarify relationships between gains and losses that are deliberately realized at the same time.

VI. THE ACCOUNT SHALL SHOW SIGNIFICANT TRANSACTIONS THAT DO NOT AFFECT THE AMOUNT FOR WHICH THE FIDUCIARY IS ACCOUNTABLE.

Commentary: Transactions such as the purchase of an investment, receipt of a stock split, or change of a corporate name do not alter the total fund for which a fiduciary is accountable but must be shown in order to permit analysis and an understanding of the administration of the fund. These can be best shown in information schedules.

One schedule should list all investments made during the accounting period. It should include those subsequently sold as well as those still on hand. Frequently the same money will be used for a series of investments. Therefore, the schedule should not be totalled in order to avoid giving an exaggerated idea of the size of the fund.

A second schedule (entitled "Changes in Investment Holdings" in the Model Account) should show all transactions affecting a particular security holding, such as purchase of additional shares, partial sales, stock splits, change of corporate name, divestment distributions, etc. This schedule, similar to a ledger account for each holding, will reconcile opening and closing entries for particular holdings, explain changes in carrying value, and avoid extensive searches through the account for information scattered among other schedules.

30. Ted Bernstein has failed to comply with these requirements and the Accounting is objected to in all respects with all rights reserved.

RULE 5.350. CONTINUANCE OF UNINCORPORATED BUSINESS OR VENTURE

(a) Separate Accounts and Reports. In the conduct of an unincorporated business or venture, the personal representative shall keep separate, full, and accurate accounts of all receipts and expenditures and make reports as the court may require.

(b) Petition. If the personal representative determines it to be in the best interest of the estate to continue an unincorporated business or venture beyond the February 23, 2015 time authorized by statute or will, the personal representative shall file a verified petition which shall include:

(1) a statement of the nature of that business or venture;

(2) a schedule of specific assets and liabilities;

(3) the reasons for continuation;

(4) the proposed form and times of accounting for that business or venture;

(5) the period for which the continuation is requested; and

(6) any other information pertinent to the petition.

(c) Order. If the continuation is authorized, the order shall state:

(1) the period for which that business or venture is to continue;

(2) the particular powers of the personal representative in the continuation of that business or venture; and

(3) the form and frequency of accounting by that business or venture.

(d) Petition by Interested Person. Any interested person, at any time, may petition the court for an order regarding the operation of, accounting for, or termination of an unincorporated business or venture, and the court shall enter an order thereon.

Committee Notes

SUCCESSOR TRUSTEE'S NOTICE OF ACCOUNTING OF THE SIMON BERNSTEIN REVOCABLE TRUST

From: February 3, 2014 through March 15, 2015

Ted S. Bernstein, as Successor Trustee, hereby gives notice of serving upon all interested persons an accounting of the Simon L. Bernstein Amended and Restated Trust u/a/d 7-25-2012. This accounting is rendered from the date on which the Trustee became accountable, February 3, 2014.

LIMITATION NOTICE

Pursuant to Florida Statute Section 736.1008, this Limitation Notice is provided with respect to the enclosed trust accounting for the Simon Bernstein Amended and Restated Trust u/a/d 7-25-2012, for the period from February 3, 2014 and ending March 15, 2015.

AN ACTION FOR BREACH BASED ON MATTERS DISCLOSED IN A TRUST ACCOUNTING OR OTHER WRITTEN REPORT OF THE TRUSTEE MAY BE SUBJECT TO A SIX (6) MONTH STATUTE OF LIMITATIONS FROM THE RECEIPT OF THE TRUST ACCOUNTING OR OTHER WRITTEN REPORT. IF YOU HAVE ANY QUESTIONS, PLEASE CONSULT YOUR ATTORNEY.

31. That Ted S. Bernstein is not a valid and legal Successor Trustee and according to the language of the alleged Trust presented to beneficiaries, the Successor Trustee cannot be a related party and further the language of the Trust states that Ted is considered predeceased for all purposes of the Trust and Dispositions made thereunder.

32. That the alleged 2012 Simon Trust accounted for has been found to be improperly notarized and has serious other defects that make the document invalid and Ted has failed to provide a full and complete set of original Simon Trust documents for beneficiaries and forensic analysis to be performed on and thus has failed to prove the existence of a valid Trust and a valid Trust that allows his claim of Trustee.

33. That the accounting provided for by the alleged Successor Trustee Ted fails to properly account for the assets of Simon Bernstein and items have been reported Stolen to Palm Beach County Sheriff Investigators, where Ted Bernstein is one of several alleged perpetrators of stolen assets under ongoing investigation.

SUMMARY INFORMATION FOR ATTACHED ACCOUNTING

This summary information is provided pursuant to Florida Statute **736.08135**:

Trust name: Simon L. Bernstein Amended and Restated Trust Agreement u/a/d 7-25-

2012 Trustee: Ted S. Bernstein

Time Period: February 3, 2014 through March 15, 2015

ACCOUNTING OF SIMON BERNSTEIN TRUST BY TED S. BERNSTEIN, SUCCESSOR TRUSTEE

Trust: Simon L. Bernstein Amended and Restated Trust Agreement u/a/d 7-25-2012 Trustee: Ted S. Bernstein

Time Period: February 3, 2014 through March 15, 2015

34. That the following items on the "Summary" need further investigation, thus Objector objects as set forth below. In addition, the Objector objects as no substantiating documents were provided, thus the Objector reserves his right to further object to same:

    a. "Starting Balance"; and

    b. "Assets on Hand at Close of Accounting Period."

		Income	Principal	Total
I.	Starting Balance Assets per Inventory or on Hand at Close of Last Accounting Period			
			$30,177.17	$30,177.17

35. Objector objects to "Receipts" as no substantiating documents were provided, thus the Objector reserves any and all further objections after examination of same.

36. The following items listed need further investigation, thus the Objector objects as set forth below. In addition, the Objector objects as no substantiating documents were provided, thus the Objector reserves his right to further object to same.

		Income	Principal	Total
II.	Receipts	$0	$0	$0

37. Objector objects to "Disbursements" as no substantiating documents were provided, thus the Objector reserves any and all further objections after examination of same.

		Income	Principal	Total
III.	Disbursements			
		$0	($7,250.00)	($7,250.00)

38. Objector objects to "Distributions" as no substantiating documents were provided, thus the Objector reserves any and all further objections after examination of same.

		Income	Principal	Total
III.	Distributions			
		$0	$0	$0

39. Objector objects to "Capital Transactions and Adjustments" as no substantiating documents were provided, thus the Objector reserves any and all further objections after examination of same.

IV. Capital Transactions and Adjustments

Income	Principal	Total
$0	$0	$0

40. Objector objects to "Assets on Hand at Close of Accounting Period" as no substantiating documents were provided, thus the Objector reserves any and all further objections after examination of same.

V. Assets of Hand at Close of Accounting Period

Income	Principal	Total
$0	$22,927.17	$22,927.17

41. Objector objects to "Total Assets" numbers 1, 2 and 3 as no substantiating documents were provided, thus the Objector reserves any and all further objections after examination of same.
42. That Objector objects to 1, as it does not comply with Generally Accepted Accounting Principles as the interest in the LLLP are undisclosed and undefined as there is no way of knowing what the LLLP is composed of and why the assets are illiquid and the values undetermined 2 ½ years after the decedent's death.
43. That Objector objects to 2, as there is no prior history of the JP Morgan Account and changes to account since the time of the decedent's death due to the failure of the Alleged Fiduciary Ted to secure prior accountings from his former counsel and discharged Co-Trustees, Tescher and Spallina.
44. That Objector objects to 3, as the Simon Bernstein Trust is not the sole beneficiary of the

Simon Bernstein Estate, as the children of Simon Bernstein are beneficiaries of Personal Properties of the Estate per the Will.

During Tenure of Ted Bernstein as Successor Trustee

Total Assets in existence at time of acceptance of appointment: Feb. 3, 2014

1.	Interest in Bernstein Family Investments, LLLP	$illiquid/undetermined
2.	JP Morgan Account	$30,177.17
3.	Expectancy - sole beneficiary of Simon Bernstein Estate	$ unknown

45. Objector objects to "Accounting 1 – Interest in Bernstein Family Investments, LLLP" as no substantiating documents were provided, thus the Objector reserves any and all further objections after examination of same.

Accounting:

1. Interest in Bernstein Family Investments, LLLP

   No known activity

   Value: maximum would be 49% of total value (BFI, LLLP assets = approx. $436,275 less tax liabilities, expenses)

   $illiquid/undetermined

   Est. range: $150,000-200,000

46. Objector objects to "No known activity" above as it is vague and unsubstantiated and no substantiating documents were provided, thus the Objector reserves any and all further objections after examination of same.

47. That Objector objects to the "Value" of BFI, LLLP assets and the approximated value as this does not comply with Generally Accepted Accounting Principles as the interests in BFI and

the LLLP are undisclosed and undefined and there is no way of knowing what BFI and the LLLP are composed of and why unidentified assets are illiquid and the values undetermined 2 ½ years after the decedent's death.

48. That Objector objects to "Est. range" as it does not comply with Generally Accepted Accounting Principles as it is an estimate with no supporting documents to show how the estimate was derived and no appraisal or other method used to determine such estimate.
49. Objector objects to "Funds from JP Morgan Account" as no substantiating documents were provided, thus the Objector reserves any and all further objections after examination of same.
50. Objector objects to "Starting Balance," "Additions," "Expenses," "Ending Balance," and "Ending Balance at JP Morgan" as no substantiating documents were provided and no historical information is available due to the Alleged Trustee Ted's failure to demand the statutorily required accounting from the resigning former Co-Trustees, Tescher and Spallina, thus the Objector reserves any and all further objections after examination of same.
51. Objector objects to Fees and Costs paid to Expert Witness Fee: Bruce Stone ($ 7,250.00) as such fees did not benefit the Trust, thus there is no entitlement to fees. In addition, documentation is needed which shows an itemization of the services provided and time incurred.
52. Objector objects to "Mrachek-Law IOTA" as no substantiating documents were provided and no historical information is available due to the Alleged Trustee Ted's failure to demand the statutorily required accounting from the resigning former Co-Trustees, Tescher and Spallina, thus the Objector reserves any and all further objections after examination of same.

2 Funds from JP Morgan Account:

Starting balance: $30,177.17

Additions:		$0
Expenses:		
	11/19/2014	
	Expert Witness Fee: Bruce Stone	($ 7,250.00)
Ending balance 3-18-15		$22,927.17*
*	Balance at JP Morgan	$10,000.00
Balance in Mrachek-Law IOTA		$12,927.17

53. Objector objects to "Additional Information" below as no substantiating documents were provided and no historical information is available due to the Alleged Trustee Ted's failure to demand the statutorily required accounting from the resigning former Co-Trustees, Tescher and Spallina, thus the Objector reserves any and all further objections after examination of same.

54. That while demonstrating knowledge of missing accounting for Trust assets by former fiduciaries, Ted has done nothing to secure such accountings. That this failure to account is alleged to be due to theft of enormous amounts of assets from the Estates and Trusts of both Simon and Shirley Bernstein, thus the Objector reserves any and all further objections after examination of same.

Additional Information

The prior trustees have not done any accounting, formal or informal.

The Successor Trustee has investigated and makes the following report (which does not constitute any accounting required of the prior trustees, including Simon Bernstein, as Settlor/Trustee (initial trustee), or Donald Tescher and Robert Spallina, as Successor Co-Trustees.

55. That Ted claims no knowledge of transactions done during trusteeship of Simon Bernstein and Ted has failed as a fiduciary to disclose records of Simon Bernstein that would show any transactions done by Simon and continues a pattern and practice of fraud on the beneficiaries through the suppression of all of Simon's financial records and tax returns, thus the Objector reserves any and all further objections after examination of same..

Transactions during trusteeship of Simon Bernstein, Settlor/Trustees

No knowledge. Settlor-Trustee deceased.

56. That Objector Objects to all entries in "Transactions during trusteeship of Donald Tescher and Robert Spallina, as Successor Co-Trustees" as while Ted claims to have no accounting from the former removed Successor Co-Trustees, TESCHER and SPALLINA, Ted's accounting attempts to reconcile assets during the time they served with no supporting accounting or documentation, thus the Objector reserves any and all further objections after examination of same.

Transactions during trusteeship of Donald Tescher and Robert Spallina, as Successor Co-Trustees

Total Assets in existence at time of appointment:

1.	Interest in Bernstein Family Investments, LLLP	$illiquid/undetermined
2.	Bank Accounts or other assets:	$ none
3.	Expectancy - sole beneficiary of Simon Bernstein Estate	$ unknown

Accounting:

1. Transactions involving Bernstein Family Investments, LLLP

Outflows: Several cash distributions made to limited partner, Simon Bernstein Restated Trust u/a/d 7/25/12:

10/23/12	60,000.00
11/2/12	39,000.00
12/20/13	100,000.00
Total	199,000.00

Ending Value: see above

57. That as Objector I hereby object both individually and on behalf of my minor children to any and all Fees, disbursements, monies or items of value of any kind whatsoever provided and or disbursed or paid to attorneys Tescher & Spallina or any legal or professional counsel and specifically object to the $15,000 plus "professional fees" paid to said firm and individuals and reserve any and all rights individually and on behalf of my minor children.
58. That the alleged Trustee, Ted, has breached his fiduciary duties by failing to timely and properly account under Florida Statutes.

Filed on Wednesday, September 2, 2015,

Eliot Bernstein, Pro Se, Individually and as legal guardian on behalf of his minor three children.

X_____

CERTIFICATE OF SERVICE

I, ELIOT IVAN BERNSTEIN, HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by email to all parties on the following Service List, Wednesday, September 2, 2015.

Eliot Bernstein, Pro Se, Individually and as

legal guardian on behalf of his minor three children

X _____

SERVICE LIST

RESPONDENT PERSONALLY, PROFESSIONALLY, AS A GUARDIAN AND TRUSTEE FOR MINOR/ADULT CHILDREN, AS AN ALLEGED TRUSTEE AND ALLEGED PERSONAL REPRESENTATIVE	RESPONDENT INDIVIDUALLY, PROFESSIONALLY AND LAW FIRM and COUNSEL TO THEODORE BERNSTEIN IN VARIOUS CAPACITIES	RESPONDENT INDIVIDUALLY, PROFESSIONALLY AND LAW FIRM and COUNSEL TO THEODORE BERNSTEIN IN VARIOUS CAPACITIES	RESPONDENT INDIVIDUALLY, PROFESSIONALLY AND LAW FIRM AND AS FORMER COUNSEL TO THEODORE BERNSTEIN IN VARIOUS CAPACITIES
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