

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

Eliot Ivan Bernstein,
Appellant,

V.

Case No. 0:25-CV-61397-AHS

Charles Revard,
as Guardian of the Ward of Patricia Sahm,
Appellee.

**APPELLANT -DEBTOR ELIOT BERNSTEIN INITIAL BRIEF ON
APPEAL**

On Appeal from the
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
Case No. 25-14028-PDR

In Re:

Case No. **25-14028-PDR**
Ch. 13

Eliot Bernstein,

Debtor,

/s/ Eliot I. Bernstein
Eliot I. Bernstein, Ch. 13 Debtor Pro Se
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TABLE OF AUTHORITIES

11 U.S.C. § 105(a)

11 USC 1302(b)(1)

LOCAL RULE 4001-1

LOCAL 5071-1 a

IN RE: Thomas ERRICO (2020) for the Middle District of Florida

Bullard v Blue Hills Bank, US Supreme Court 2015.

Parker v. Connors Steel Co., 855 F. 2d 1510 - Court of Appeals, 11th Circuit 1988.

Bates v. State Bar of Ariz., 433 U.S. 350, 383, n. 37, 97 S.Ct. 2691, 53 L.Ed.2d 810 (1977)

MIDLAND FUNDING, LLC, Petitioner v. Aleida JOHNSON. 137 S.Ct. 1407, 197 L.Ed.2d 790 (2017).

JURISDICTIONAL STATEMENT

This Court has jurisdiction pursuant to 28 U.S.C. § 158(a)(1), which provides that district courts have jurisdiction to hear appeals from final judgments, orders, and decrees of bankruptcy courts.

INTRODUCTION

Appellant (“Debtor”) appeals from the Order(s) of the United States Bankruptcy Court for the Southern District of Florida which denied fundamental due process protections, including the right to be heard, to present evidence in an evidentiary hearing, and to have contingent claims and reorganization efforts fairly considered. The Bankruptcy Court also lifted the automatic stay without proper notice to affected parties according to law and Rules.

The real property at issue was purchased as part of “Asset Protection” for the benefit of myself, wife and sons by my father Simon Bernstein in a friendly business deal Private Note with Walter and Patricia Sahm. This Asset Protection came about after other frauds against my companies and Intellectual Property inventions on Technologies used by the Federal Government and across the globe

had occurred and after a Car bombing of my family minivan. The FBI and USPTO and other government authorities have been involved yet the US Trustee and Bankruptcy Court were deliberately indifferent to my rights under law. While the property is “titled” in an LLC set up for the Asset Protection, my entire immediate family was always to enjoy the home for life and I maintain equity and claims to Homestead rights under the Florida Constitution which were never heard or adjudicated by the Bankruptcy Court. A good faith confirmable Plan was filed and all Schedules filed except one that needs proper accounting of assets that have been withheld. The Creditors Meeting was attended and good faith extensions filed that were denied without hearing. The “Missing Millions” alone wholly ignored by the Bankruptcy Court and US Trustee not only would satisfy the proper secured Creditor Patricia Sahm, Sr. many times over but I engaged in Plans in good faith for years to unlock other family monies to satisfy the Secured Creditor while family monies were wrongfully withheld in fraud. Part of the fraud is the wrongful withholding of Trust monies to pay the proper Secured Creditor being withheld by parties acting in common with an attorney and law firm acting in fraud against the proper Secured Creditor Patricia Sahm, Sr. who wanted to come forward. Specific witnesses and evidence were wholly denied and due process denied as no hearings were granted.

Most importantly, the Bankruptcy Court specifically failed to address allegations of fraud raised by Debtor where a Florida licensed counsel and former Intern Prosecutor sought to come forward about fraud in both bankruptcy and state court proceedings under the protection as a whistleblower. Both the Bankruptcy Court and US Trustee had advanced specific knowledge that the attorney sought to come forward as a Whistleblower prior to a Non-Evidentiary Hearing as Debtor had notified the US Trustee by email and a written submission filed by email according to US Trustee procedure which was also attached as an Exhibit to a direct filing with the US Bankruptcy Court. The Transcript of June 2, 2025 makes it crystal clear that the US Bankruptcy Court not only failed to give Debtor due process but specifically cut off the Debtor literally as soon as the Debtor mentioned the whistleblower's name. The entire Record makes it clear that neither the Bankruptcy Court nor US Trustee addressed any of the fraud, did not let the witness attorney Whistleblower on fraud be heard, did not consider my filed Chapter 13 Plan and did not follow obligations to pursue claims that would benefit my estate including identified "Missing Millions".

The Bankruptcy Court cut off proceedings and upon Debtor leaving the Court, the US Trustee and one of the attorneys alleged in fraud, Mr. Shraiberg proceeded to take further relief against Debtor Ex Parte without Debtor being heard. The Bankruptcy Court not only failed to correct manifest errors of fact and law on post

dismissal motions but proceeded to create a false record and should have been mandatorily disqualified.

The Appellee not only failed to properly serve and notice all interested parties on the Lift stay motion but failed to show inadequate protection where substantial equity is present in the subject real property and this was one of many factual issues that should have been heard in an evidentiary hearing. Debtor believes just part of the fraud the whistleblower could speak to is whether the Appellee is the proper party in interest and Mr. Shraiberg's role in this fraud. Part of the fraud never heard in addition to Ms. Garcia trying to come forward is from my prior Bankruptcy in 2023 where the actual party in interest secured creditor Patricia Sahm, Sr. wanted to come forward, didn't want my family to lose the home or me to be in Bankruptcy and that she had never hired Mr. Shraiberg. Instead, on April 13, 2023 after I had exposed fraud in the case by my written papers Judge Russin converted a "Zoom" Non evidentiary hearing into an evidentiary hearing during the hearing itself and Patricia Sahm, Sr. was not available for this action without notice and was not heard. Her daughter Joanna Sahm who was implicated in the fraud was on the April 2023 Zoom but "left" the Zoom before she could be called as a Witness where Judge Russin expressly had before him who the proper secured creditor was and if Joanna Sahm through Mr. Shraiberg had proper standing to bring the lift stay motion.

The automatic stay in Bankruptcy or a proper Stay should be reinstated immediately to protect the property and proper parties and do the equity balancing that Bankruptcy Courts were designed to provide. The actual secured creditor did not want my family to have to file bankruptcy and there is adequate equity in the home and not all proper parties were Noticed for the Lift Stay motion.

STATEMENT OF THE ISSUES:

- A. Improper Ex Parte determination that the Bankruptcy filing was done in violation of a prior Order in 2023. The filing was made timely and proper according to the express terms of the Order and Debtor was denied any opportunity to be heard as this finding was made Ex Parte submitted by attorney Shraiberg.
- B. Failure of Bankruptcy Judge to mandatorily Disqualify under 28 USC Sec 455. After bias and prejudice shown and filed and shown by Hearing Transcript of June 2, 2025.
- C. Abuse of discretion and due process errors in failing to schedule an Evidentiary hearing on Debtor's motion and Defendant's In Rem motion;
- D. Fundamental due process failures by the Bankruptcy Court in failing to provide a fair opportunity to be heard according to due process by a

fair, independent and neutral Bankruptcy Judge free from words of bias and prejudice;

- E. Failure of Bankruptcy Judge and US Trustee to comply with federal statutory obligations to even hear from a licensed attorney seeking federal whistleblower protection to show fraud in the bankruptcy proceedings and related state proceedings;
- F. US Bankruptcy Judge issuing materially false statements in official decisions;
- G. US Bankruptcy Judge failing to afford due process to Debtor for the proper scheduling of witnesses;
- H. US Bankruptcy Judge failing to uphold Local Rules and Bankruptcy Rules on proper interested parties entitled to Notice for In Rem relief and Lift Stay relief;
- I. Failure to determine value of real property by proper fact finding determination and evidentiary hearing;
- J. Failure to consider and address Ch. 13 Plan filed and failure to consider any amendments or allow same with total failure of US Trustee to communicate with Debtor on Plan filed and total failure of Bankruptcy Judge to hear or consider Debtor's Plan and denials of due process;

- K. Abuse of discretion and impropriety of Bankruptcy Judge issuing further relief ex parte after Debtor no longer present in Non evidentiary hearing;
- L. Failure of Bankruptcy Court and US Trustee to consider any of the contingent and other claims of Debtor despite statutory duties;
- M. Failure to consider or communicate on “the missing millions” as part of Debtor’s Plan and bankruptcy estate;
- N. Failure to vacate In Rem relief orders and Dismissal;
- O. Total failure to hear Florida Licensed attorney Inger Garcia former Intern Prosecutor seeking federal Whistleblower protection on fraud not heard by US Trustee Weiner or Bankruptcy Judge where attorney not under the direction and control of Debtor;
- P. Failure of Bankruptcy Court to consider estoppel issues as abuse of discretion and contrary to 11th Circuit rulings.
- Q. Abuse of discretion and manifest errors of law in denying post dismissal relief under Rules 59 and 60.

STATEMENT OF THE CASE

This case raises fundamental issues of due process and fair access to the Courts and fair adjudication of rights consistent with due process and the Code of Bankruptcy.

I have raised Homestead rights in the real property and have lived there since 2008 and the title into my family LLC was done by my father as part of Asset Protection after fraud against my companies in the Southern District Bankruptcy Court where Brad Shraiberg himself acted without my knowledge as the Founder and Board Member. The Technology rights stolen were deemed the “Holy Grail” of the Internet by leading Engineers at Lockheed Martin, Intel Corp. Silicon Graphics and valued in the hundreds of billions of dollars. The theft of my patents lead to the director of the OED of the USPTO Harry Moatz directing me to file “Fraud against the United States (Patent Office) and my Patents remain suspended and cases open. Even putting aside those monies not yet gained, since the first Bankruptcy in Chapter 11 2022 by my sons “Missing Millions” have been shown to each court including this recent case but all disregarded by the Court and US Trustee even though specific accounts have been shown. Even putting aside those monies the Courts have been aware of other Court Trust Registry monies that could satisfy the Secured Creditor and this has all been disregarded as well. The fraud against this friendly business deal Private Note between my father and Walter and Pat Sahm, Sr. has taken a \$100,000 Note that had dedicated income streams to pay off and ballooned into a \$500,000 plus Judgment by parties not properly representing Pat Sahm, Sr., the true Secured Creditor. Even with that inflated fraud amount there is and has been sufficient equity in the real property to satisfy Pat Sahm, Sr. The court

was shown how this time around Joanna Sahm and Charlie Revard rigged a Sale at a grossly inadequate price of \$375,000 to sell the property back to themselves to steal all the equity which I had shown the Court the present value of the property is \$800,000.00 to \$950,000.00. Witnesses like William Stansbury and affidavits of Mr. Stansbury and even Pat Sahm, Sr. have all been identified yet disregarded by both the Bankruptcy Court and US Trustee denying all due process and evidentiary hearings. The automatic Stay should be reinstated and the proper parties determined so a proper Settlement can be achieved. The proper history shows myself and my family have tried to satisfy the proper Secured Creditor Pat Sahm, Sr. out of the Registry Funds held for my sons who are now adults but even that was blocked for years by Alan Rose and Ted Bernstein working in conjunction with Robert Sweetapple and Brad Shraiberg. Pat Sahm, Sr's affidavit not only shows she did not want the Bankruptcy and wants to settle but further did not even hire Mr. Shraiberg in the Bankruptcies The whistleblower should be compelled forward to testify about the frauds and evidentiary hearings scheduled. The original Judgment was taken in fraud using now deceased Walter Sahm as if alive by attorney Sweetapple. Motions to vacate that Judgment were improperly decided by the State Court Judge Kastranakes while the original Bankruptcy Stay was in place and at least 2 attorneys were aware of this but Concealed this from the 2022 Bankruptcy Court until my sons lost the opportunity for an attorney for BFR, LLC

at which time Judge Kimball shifted gears to now claim their filing improper and then allow Judge Kastranakes Order denying vacating the Judgment to stand by retroactively annulling the Stay.

SUMMARY OF THE ARGUMENT

The clear denial of due process is shown by the Transcript of proceedings at June 2, 2025 where I was not only not given a fair opportunity to be heard but was specifically cut off and Dismissed as soon as I announced the former Intern Prosecutor Florida licensed attorney Inger Garcia trying to come forward as a Whistleblower. The Transcript is clear the Bankruptcy Court proceeded against me Ex parte after I left the proceeding after being dismissed. Even the US Trustee shows she did not want to issue Order against my motion and said the Judge should as I had sought a continuance and evidentiary hearing yet got dismissed at a non evidentiary hearing without even being able to be heard. See, DE Nos. 29, 41, 42 and 45. The strength of this Appeal and facts and argument are proven through these filings together with the Transcripts. The Bankruptcy Court never determined value of the real estate which was the burden of Mr. Shraiberg, never determined the proper secured creditor was being heard, never determined that the Lift Stay motions were clearly not served on interested parties BFR, LLC, Candice Bernstein, Joshua Bernstein, Jacob Bernstein and Daniel Bernstein in compliance with Federal Rules of Bankruptcy Procedure 4001 and Local Rule 4001, failed to

determine my Homestead claims, failed to give my Filed Plan any consideration or allow amendment, failed to enforce the statutory duties of the US Trustee to pursue contingent claims to benefit the Bankruptcy estate, and disregarding identified witnesses, affidavits and evidence to justify evidentiary hearings. The motion to vacate and supplement and motion for reconsideration identified specific words and conduct of actual prejudice and bias to mandate Disqualification. The automatic stay or proper stay should be reinstated as the wrong parties are attempting to reinstate a clearly inadequate sale and such stay should be in place until proper hearings are conducted including compelling the Whistleblower Inger Garcia to be heard and until proper adjudication under due process. The foreclosure clerk of Palm Beach County should also be heard as a witness as it is this Clerk who canceled the Sale upon reviewing the Suggestion of Bankruptcy and researching and this process took about an hour for the Sale to be canceled but both in this Court Mr. Shraiberg ex parte got the Bankruptcy Judge to Order this cancellation was due to my misconduct without being heard and the same has occurred with the State Court now ruling on Bankruptcy issues again without any witnesses or hearings. The Bankruptcy Court further improperly ruled ex parte on June 2, 2025 at Mr. Shraiberg's suggestion that my Bankruptcy filing violated the 2 year Order again without being heard according to due process as the filing was

consistent with the terms of the Order. The case should be reinstated and assigned to a neutral Judge consistent with due process.

ARGUMENT

This case raises fundamental questions of due process of law and the lack of due process of law afforded Debtor and issues of fraud in the adjudication of proceedings, fraud used against Debtor and immediate family. The Transcript of June 2, 2025 Non evidentiary hearing clearly shows I was not afforded due process and was cut off as soon as I announced the licensed Florida attorney former Intern Prosecutor Inger Garcia seeking to come forward as a whistleblower to show fraud in the bankruptcy proceedings and related State proceedings. DE No. 29 in this case clearly shows the Trustee and Court knew of the Whistleblower to provide evidence of fraud which was entirely disregarded. Numerous factual issues never heard but shown to the Court supported a reasonable continuance to schedule an evidentiary hearing.

It is clear as Debtor I had communicated in good faith with the US Trustee both on confirmation of my filed Chapter 13 Plan and most importantly a former Intern Prosecutor licensed attorney Inger Garcia attempting to get Whistleblower Protection to come forward to show fraud in the Bankruptcy cases and related state cases. This includes but is not limited to whether attorney Shraiberg was properly

in the case for any proper party and specifically that Pat Sahm, Sr. is the only proper secured party who never hired Mr. Shraiberg.

As directly filed with the Bankruptcy Court prior to a Non Evidentiary hearing on June 2, 2025 that lead to Dismissal,

“I have been emailing with the Office of US Trustee Robin Weiner for over a week now seeking cooperation and support for my filed Chapter 13 Plan which can be Amended and modified as needed and more specifically because Florida Licensed Attorney Inger Garcia who was a prior Intern Prosecutor in the Miami Office of the US Attorney has specifically requested me to ask for Whistleblower Protection from Trustee Weiner’s Office so she can report fraud in both the Bankruptcy Court and State Court specifically including Bradley Shraiberg who filed the Amended Motion for Stay Relief being heard this Monday June 2, 2025.” See, Par. 8 DE No. 29 May 30 2025 Case 25-14028-PDR.

After the improper dismissal with no evidentiary hearings, the Bankruptcy Court was moved to correct the errors and vacate prior Orders and was shown the pattern of not fairly adjudicating issues against myself and immediate family. This below is specifically in relation to an improper “Second Mortgage” used by attorney Alan Rose in conjunction with attorney Brad Shraiberg and Robert Sweetapple and perhaps others to prevent my family from securing funds to satisfy the proper Secured Creditor on a Private Note just over \$100,000.00 which was supposed to

be paid off by dedicated income from Estate and Trusts of my parents which was specifically known to both Walter and Pat Sahm, Sr and evidenced in handwritten letters in 2013. This was also known to William Stansbury who issued an affidavit in 2022. Appellant - Debtor has been fundamentally denied due process and due process hearings despite providing specific witnesses and relevant areas of evidence to be heard. In the prior Bankruptcy of 2022, the Trustee once again did not even question this Second Mortgage despite the fact it was past the Statute of Limitations by nearly 4 years as of 2022 and had no "Consideration" as it was done for Asset Protection yet has been allowed to survive without being heard and used against my family and the property. Thus I showed the Court as follows below.

“In 2017 well before the first Bankruptcy by my sons as Petitioning Creditors the US Supreme Court noted, “Indeed, to determine whether a statement is misleading normally "requires consideration of the legal sophistication of its audience." Bates v. State Bar of Ariz., 433 U.S. 350, 383, n. 37, 97 S.Ct. 2691, 53 L.Ed.2d 810

(1977). *The audience in Chapter 13 bankruptcy cases includes a trustee, 11 U.S.C. § 1302(a), who must examine proofs of claim and, where appropriate, pose an objection, §§ 704(a)(5), 1302(b)(1) (including any timeliness objection, §§ 502(b)(1), 558). And that trustee is likely to understand that, as the Code says, a proof of claim is a statement by the creditor that he or she has a right to payment subject to disallowance (including disallowance based upon, and*

following, the trustee's objection for untimeliness). §§ 101(5)(A), 502(b),

704(a)(5), 1302(b)(1). (We do not address the appropriate standard in ordinary civil

litigation.)” See, MIDLAND FUNDING, LLC, Petitioner v. Aleida JOHNSON.

137 S.Ct. 1407, 197 L.Ed.2d 790 (2017).” See Par 63 DE No. 42, June 23, 2025

Case No. 25-14028-PDR.

I further showed, “The bankruptcy system, as we have already noted, treats

untimeliness as an affirmative defense. **The trustee normally bears the burden of**

investigating claims and pointing out that a claim is stale. See supra, at 1412 –

1413. Moreover, protections available in a Chapter 13 bankruptcy proceeding

minimize the risk to the debtor. See supra, at 1413. And, at least on occasion, the

assertion of even a stale claim can benefit a debtor.” See, MIDLAND FUNDING,

LLC, Petitioner v. Aleida JOHNSON. 137 S.Ct. 1407, 197 L.Ed.2d 790 (2017).”

See Par 64 DE No. 42, June 23, 2025 Case No. 25-14028-PDR.

It is crystal clear that statutory duties and professional duties of the US Trustee (s)

have been disregarded against my family in these cases. The Bankruptcy Court

Judge Russin has abused his discretion in wholly failing to address the issues and

wholly failing to issue proper hearings on the issues despite statutory obligations of

the US Trustees.

“When district courts review the factual findings of a bankruptcy court, the burden

is on the appellant to show that the bankruptcy court's findings are clearly

erroneous.” Jet Networks FC Holding Corp. v. Goldberg, No. 2009 WL 10668551, at *3 (S.D. Fla. Sep. 2009). “A finding of fact is not clearly erroneous unless ‘this court, after reviewing all the evidence, is left with the definite and firm conviction that a mistake has been committed.’” Id. (quoting IBT Int’l, Inc. v. N. (In re Int’l Admin. Serv., Inc.), 408 F.3d 689, 698 (11th Cir. 2005)).

The Court reviews the bankruptcy court’s imposition of sanctions for abuse of discretion. See In re Cooper, No. 2018 WL 5112996, at * 2 (S.D. Fla. Oct. 2018) (citing Thomas v. Tenneco Packaging Co., Inc., 293 F.3d 1306, 1319 (11th Cir. 2002). “An abuse of discretion occurs where a bankruptcy court applies the wrong principle of law or **makes clearly erroneous findings of fact.**” In re Zadeh, 772 F. App’x 837, 838 (11th Cir. 2019).

The Transcript of June 2, 2025 makes it crystal clear that the Bankruptcy Court was predetermined to not hear about the Whistleblower on fraud and not allow me to be heard according to due process.

Page 15 lines 2-11 “MR. BERNSTEIN: Well, there's a whistleblower who's a former intern prosecutor for Janet Reno and a licensed Florida attorney - THE COURT: All right. So denied. I'm granting your motion, Mr. Shraiberg. Please get me the order.
Mr. Bernstein - MR. BERNSTEIN: Yeah? THE COURT:

-- this is a - MR. BERNSTEIN: We'll sit down. THE

COURT: -- an abusive process, so --" See Transcript

It was clear from the first Bankruptcy in 2023 with Judge Russin that he let Joanna Sahm leave the Hearing converted to "Evidentiary" during the Non Evidentiary when she had been implicated in the fraud I alleged on April 13, 2023.

MR. SHRAIBERG: Yeah. Good morning, Your Honor.

5 Brad Shraiberg, S-H-R-A-I-B-E-R-G, on behalf of Joanna Sahm,
6 as personal representative of the Estate of Walter Sahm and
7 Patricia Sahm. I am joined today with Ms. Joanna Sahm, who
8 is the personal representative and holds the power of
9 attorney for Ms. Patricia Sahm.

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Thus, it was clear Joanna Sahm was present at the Hearing but then able to leave when it turned evidentiary despite fraud allegations being made against her and where Judge Russin had the issue of her standing to file the Lift Stay yet never determined her standing and let her leave without being questioned in 2023. Four days later after that hearing Joanna Sahm initiated a Guardianship in the State Court to silence her mother Pat Sahm, Sr from being heard.

Whistleblower Garcia is known to have direct information on the fraud on that Guardianship yet has never been called by any Court on this. This is directly relevant to whether any Bankruptcy Court has heard from a proper

Secured Creditor and relevant to equity and fairness and justice and the proper party to settle with.

It was further clear I had caught them in 2023 in their “shifting” positions across both the first Bankruptcy in Chapter 11 in 2022 and across the State case.

MR. BERNSTERIN: And according to Mr. Shraiberg's 25 in testimony, he has said that it is by tenants entirety 34

1 passed to Patricia Shraiberg (sic), but he's caught in the 2 fact that the state court issued a final judgment on behalf 3 of a dead person because they failed to inform the court for 4 two years that Walter had died and that it had transferred 5 in. But as he claims –

See Transcript Page 33, 34 April 13, 2023 Case No. 23-12630-PDR.

I withdrew that 2023 Bankruptcy only at the suggestion of Ms. Garcia who has wanted to come forward as a Whistleblower who should have been heard before Judge Russin who must now be disqualified.

IMPROPERLY DETERMINED 2 YEAR PERIOD NO EVIDENCE NO DUE PROCESS DONE EX PARTE

The June 2, 2025 Transcript is clear the Bankruptcy Court issued this ruling on whether the Chapter 13 Petition was properly filed for an Automatic Stay ex parte after I left the proceeding after the Judge granted Mr. Shraiberg’s motion without letting me be heard after I announced the Whistleblower. This violated due process and at minimum is subject to an evidentiary hearing where the Foreclosure Clerk in

Palm Beach County can also be heard. As Debtor I was denied due process to be heard and argue on this and the filing was made according to the specific terms of the prior Order.

When a federal court imposes sanctions under its inherent power, it must “comply with the mandates of due process[.]” *Chambers v. NASCO, Inc.*, 501 U.S. 32, 50 (1991). **“Due process requires that the attorney (or party) be given fair notice that his conduct may warrant sanctions and the reasons why. Notice can come from the party seeking sanctions, from the court, or from both.”** *In re Mroz*, 65 F.3d 1567, 1575 (11th Cir. 1995) (citation omitted). **The court must also provide the attorneys (or party) “an opportunity to respond, orally or in writing, to the invocation of such sanctions and to justify [their] actions.”** *Id.* at 1575–76.”

The Record is clear I was denied an opportunity to respond either orally or in writing and denied due process as this was knowingly issued by Judge Russin ex parte.

How Many “Missing Millions” must be Missing for the Chapter 13 Trustee to exercise duties by law in South Florida and South Florida Bankruptcy Court to consider?

Well before my 2 Minute non evidentiary opportunity to be heard at the first and only hearing in this second Bankruptcy Case filed just over 2 years after my first case both Judge Russin and the US Trustee had in writing as an Exhibit just a partial financial record on the “missing millions” involved in the case showing

\$2.8 Million in a Wilmington Trust that has never been accounted for where my Bankruptcy Estate and direct family have claims and rights to these funds which obviously could be used to Satisfy any proper creditor.

Yet, Ch. 13 US Trustee Robin Weiner never once asked a single question of myself about these “missing millions” either before my 2 minute opportunity to speak or during this non-evidentiary time nor during nor after.

Likewise Hon. Judge Russin did not allow or consider this in any way nor even discuss my Ch. 13 Plan where I had properly attended the Creditor’s Meeting in this case and substantially complied with all Schedules.

This is nearly another \$2 Million never accounted where I have direct claims and rights or my adult children do yet the US Trustee and Judge Russin never afforded due process and the Trustee has failed in statutory obligations to benefit my Bankruptcy Estate: By Tescher & Spallina, PA Bates Doc. No. TS005478 JP Morgan Bernstein Family Investment LLP Acct. W32635000 showed \$1,872,810.91 for a 49.5% interest in the total Market Value with Accruals with \$807,289.79 Cash included for Statement covering 8/1/12-8/31/12 just weeks before Simon Bernstein’s passing.

And further: From Tescher & Spallina, PA Production already exhibited herein TED allegedly settled Simon’s \$2,000,000.00 of CD’s with Stanford with Grant Thornton for \$1,062,734.50. There is no complete accounting.

And further: Tescher & Spallina, PA Bates Doc. No. TS003734 the STANFORD Simon & Shirley Bernstein Valuations as of 5/28/2008 reflect a Net Worth for that Statement at \$6, 928,933.52 (Million) with \$839,362.12 in Cash Available.

Where none of the accountancy includes assets of my mother Shirley Bernstein which may “double” all of the numbers we do know of since she held 49.5 Percent interest in the same investment holdings of my father Simon whose numbers only show his 49.5 percent and where some of the parties acting against my family are involved in using my father while deceased to sign documents to attempt to close her case with No accounting, yes fraudulent use of a deceased person to sign documents like the underlying bad faith void Judgment of Foreclosure.

This is only the tip of the iceberg on “missing millions” yet not a single question by the US Trustee nor allowed to speak by Judge Russin.

This also does not consider the considerable cash held in a Registry by my sons that could have been directed to the proper Secured Creditor for interim Cash payments where a Settlement was already in progress yet not even 2 minutes to speak.

My ADDENDUM to my Schedule listed multiple companies where I have interests for my Estate that the Trustee and this Court did not consider where no accountings from those companies have been provided. See DE No. 42.

Clearly this was an abuse of discretion to not afford a continuance and evidentiary hearings. All of this supports a general lack of due process against my rights and the fair adjudication of my case being denied a reasonable extension, evidentiary hearings, denied all consideration of my Filed Plan even after attending the Creditors Meeting, having filed all Schedules except those were accountancy and records are missing, not having the Trustee communicated on my Plan or contingent claims and the Missing millions at all.

The Bankruptcy Court abused its discretion in denying the Motions to Vacate and reconsideration under FRCP 59-60 and should have been mandatorily disqualified.

18 U.S. Code § 3057 - Bankruptcy investigations provides in part “(a)Any judge, receiver, or trustee having reasonable grounds for believing that any violation under chapter 9 of this title or other laws of the United States relating to insolvent debtors, receiverships or reorganization plans has been committed, or that an investigation should be had in connection therewith, shall report to the appropriate United States attorney all the facts and circumstances of the case, the names of the witnesses and the offense or offenses believed to have been committed. Where one of such officers has made such report, the others need not do so.” (emphasis added)

This Court of Hon. Judge Russin and likely his Law Clerk as stated on the Record on June 2, 2025 as being the one to “write” Orders in this case after Trustee Weiner announced on the Record that day that the Court should issue the Order denying my motion for a reasonable continuance and Evidentiary Hearing and other relief under DE No. 29 has now issued an Order under DE No. 43 that continues to violate 18 USC Sec. 3507 as has been violated since at least June 2, 2025 and has gone even further by issuing an Order that is predominantly false, like a false official document by knowingly denying items in the Record and even denying the conduct of the June 2, 2025 as if it did not occur and is now directly adverse, hostile and prejudicial to Debtor and also being a Witness to what occurred June 2, 2025 together with Trustee Weiner, her Assistant attorney present, Mr. Shraiberg and the Courtroom Deputy at minimum.

Trustee Weiner and this Court know and have actual knowledge of the attempt to have Whistleblower protection afforded to licensed Florida attorney former Intern Prosecutor Inger Garcia to report Fraud specifically in the Bankruptcy proceedings and specifically involving at least Brad Shraiberg as both the Trustee and this Court received actual and true images and copies of direct texts from Inger Garcia in the Trustee letter that was attached as an Exhibit to DE NO. 29 and also referenced in other filings specifically in the main document. See, DE No. 45.

The bankruptcy Court went so far as to issue a substantially false Order in DE No. 43 as shown below in and my motion to vacate under DE No. 45 where I showed: “Contrary to the knowingly false information filed by Judge Russin and likely his clerk in DE No. 43, my prior submissions were directly based off of the Official Audio Transcript where Judge Russin’s Court Deputy was aware I had purchased and Ordered this the same day June 2, 2025 and did have quotations and specific evidence in the prior motion to Vacate the Orders.

The prior submissions gave many examples of outside influence surrounding the case and neither the Docket of this case nor the 2023 Bankruptcy Docket have any indication of how Judge Russin was even assigned the Case as in this Case it was last assigned to Judge Mindy Mora but nowhere is it assigned to Judge Russin by any Order or Transfer of Record.” See DE No. 45.

More egregiously and supporting the mandatory Disqualification of Judge Russin and Transfer of my case as **nowhere in DE No. 43 does Judge Russin even mention the Whistleblower or that Fraud was Reported or being attempted to be Reported.**

The pleadings showed efforts with the FBI by Inger Garcia, my Car bombing with Ted Bernstein refusing to speak to the FBI, my ongoing contacts with a DC person with access to Signal Intelligence “SigInt” who has been seeing passing by Security in Federal Courthouses and going into Federal Judge’s Chambers, my

efforts with the USPTO where a federal investigation of the Patent Bar has stopped and stalled then restarted then stalled and goes on where my Patents remain Suspended by the USPTO.

The Court disregarded all statutory obligations of the Trustee in DE No. 43, disregarded my Plan, disregarded my addendums of specific Trusts and areas where accountancy are needed.

The Bankruptcy Court specifically disregarded the Affidavit of Pat Sahm Sr of April 19, 2023 in this Record as an Exhibit under DE No. 29 that specifically counters any claim of Bad faith, shows she did not ask Brad Shraiberg to take actions in the prior 2023 case and other relevant information but was wholly disregarded and denied even though admissible under the Federal Rules of Evidence.

Same for William Stansbury who is still available as a Live Witness.

Even in the 11th Circuit case cited in DE No. 43 it shows “Section 455 of Title 28 of the U.S. Code creates two conditions for recusal. United States v. Patti, 337 F.3d 1317, 1321 (11th Cir.2003). First, **§ 455(a) provides that a judge shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned. 28 U.S.C. § 455(a).** Under § 455(a), recusal is appropriate only if "an objective, disinterested, lay observer fully informed of the facts underlying the grounds on which recusal was sought would entertain a significant doubt about the

judge's impartiality." Patti, 337 F.3d at 1321 (citation omitted). And "judicial rulings alone almost never constitute a valid basis for a bias or partiality motion." *Liteky v. United States*, 510 U.S. 540, 555, 114 S.Ct. 1147, 1157, 127 L.Ed.2d 474 (1994) (citation omitted)."

The language of the case say "almost never" provide a basis but does not say "never".

This Court appears in most parts to be directly involved in the Fraud at this stage as the Court has been provided with multiple opportunities to address the fraud and evidentiary issues but acts "officially" as if these items do not exist.

Since the Court has never even heard from the Whistleblower nor the Trustee neither could have formed any reasonable determination which violates 18 USC 3057.

For these reasons and the pervasive bias shown and direct factual and legal issues knowingly disregarded all Orders must be vacated, the case transferred and Stay reinstated.

CONCLUSION

Because of clear lack of due process and improper adjudication consistent with the Bankruptcy Code and bias and prejudice shown and that the Lift stay was not served on all interested parties nor according to Rule 4001 and Local Rule and no proper hearing held and evidentiary hearings being necessary and with the State

Court foreclosure Judge improperly trying to rule on Federal law of Bankruptcy without hearings to reinstate a Sale the Automatic Stay should be reinstated or appropriate Bankruptcy Stay issued pending reinstatement of the case and proper hearings including the Whistleblower before an independent and new Judge.

Dated: September 19, 2025

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CERTIFICATE OF COMPLIANCE

I hereby Certify that the Initial Brief is in compliance with Local Rules and Rules of Bankruptcy being less than 13,000 words with Word Count at 6506 and less than 30 pages double spaced in Roman type character.

CERTIFICATE OF SERVICE

I certify that I served by electronic mail the US Trustee and Mr. Shraiberg and other parties required for Service as known on this day.

Dated: September 19, 2025

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