










































2013/10/11 OATH	10/11/2013 4:21:17 PM	47626
2013/10/16 NOTICE OF FILING	10/16/2013 2:01:11 PM	128446
2013/10/17 MOTION	10/18/2013 8:49:59 AM	1440686
2013/10/17 NOTICE OF HEARING	10/17/2013 4:19:00 PM	49178
2013/10/22 NOTICE OF APPEARANCE	10/22/2013 4:23:57 PM	48392
2013/10/23 ORDER DENYING	10/24/2013 11:12:11 AM	31884
2013/10/23 WAIVER	10/24/2013 10:14:52 AM	52774
2013/10/23 WAIVER	10/24/2013 10:14:52 AM	58584
2013/10/23 WAIVER	10/24/2013 10:14:53 AM	53554
2013/10/24 NOTICE	10/25/2013 8:36:13 AM	34954
2013/10/24 NOTICE OF APPEARANCE	10/25/2013 8:36:12 AM	39234
2013/10/25 NOTICE OF APPEARANCE	10/25/2013 12:13:09 PM	51512
2013/10/25 WAIVER AND CONSENT	10/28/2013 8:01:15 AM	50634
2013/10/29 LETTERS OF ADMINISTRATION RECORDED	10/29/2013 12:48:33 PM	31999
2013/11/01 NOTICE OF SERVICE	11/1/2013 3:02:04 PM	208850
2013/11/01 REQUEST TO PRODUCE	11/1/2013 3:02:03 PM	116576
2013/11/08 MOTION	11/8/2013 1:45:56 PM	38670
2013/11/08 NOTICE OF HEARING	11/8/2013 1:45:56 PM	27590
2013/11/11 NOTICE OF HEARING	11/12/2013 8:59:22 AM	29046
2013/11/15 ORDER	11/18/2013 9:31:24 AM	284992
2013/11/20 ORDER GRANTING	11/21/2013 9:08:18 AM	30316
2013/12/02 MOTION	12/3/2013 11:40:31 AM	118156
2013/12/02 OBJECTION	12/3/2013 11:40:32 AM	66222
2013/12/10 NOTICE OF FILING	12/11/2013 10:56:32 AM	789618
2013/12/10 NOTICE OF FILING	12/11/2013 10:56:16 AM	790676
2013/12/17 MEMORANDUM	12/17/2013 4:37:59 PM	111282
2013/12/19 NOTICE OF HEARING	12/19/2013 4:19:20 PM	1707452
2013/12/19 REQUEST TO PRODUCE	12/19/2013 11:25:36 AM	211032
2013/12/31 MOTION	1/2/2014 9:02:20 AM	172086
2014/01/02 MOTION	1/2/2014 11:19:31 AM	3590186
2014/01/02 ORDER	1/2/2014 11:42:31 AM	64056
2014/01/09 ORDER DENYING	1/10/2014 8:58:16 AM	44344
2014/01/10 MOTION TO WITHDRAW	1/13/2014 2:10:21 PM	93908
2014/01/13 NOTICE OF HEARING	1/13/2014 3:37:29 PM	67256
2014/01/22 CONSENT	1/23/2014 8:36:32 AM	59410
2014/01/22 MOTION TO WITHDRAW	1/22/2014 4:39:48 PM	66884
2014/01/23 ORDER	1/23/2014 4:10:22 PM	61308
2014/01/28 NOTICE OF HEARING	1/28/2014 4:36:51 PM	117718
2014/02/14 OBJECTION REDACTED	2/19/2014 11:45:33 AM	2322626
2014/02/18 ORDER	2/19/2014 12:12:25 PM	45112
2014/02/24 MOTION	2/25/2014 1:12:47 PM	79750

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DELL

	2013/10/11 OATH	10/11/2013 4:21:17 PM	47626
	2013/10/16 NOTICE OF FILING	10/16/2013 2:01:11 PM	128446
	2013/10/17 MOTION	10/18/2013 8:49:59 AM	1440686
	2013/10/17 NOTICE OF HEARING	10/17/2013 4:19:00 PM	49178
	2013/10/22 NOTICE OF APPEARANCE	10/22/2013 4:23:57 PM	48392
	2013/10/23 ORDER DENYING	10/24/2013 11:12:11 AM	31884
	2013/10/23 WAIVER	10/24/2013 10:14:52 AM	52774
	2013/10/23 WAIVER	10/24/2013 10:14:52 AM	58584
	2013/10/23 WAIVER	10/24/2013 10:14:53 AM	53554
	2013/10/24 NOTICE	10/25/2013 8:36:13 AM	34954
	2013/10/24 NOTICE OF APPEARANCE	10/25/2013 8:36:12 AM	39234
	2013/10/25 NOTICE OF APPEARANCE	10/25/2013 12:13:09 PM	51512
	2013/10/25 WAIVER AND CONSENT	10/28/2013 8:01:15 AM	50634
	2013/10/29 LETTERS OF ADMINISTRATION RECORDED	10/29/2013 12:48:33 PM	31999
	2013/11/01 NOTICE OF SERVICE	11/1/2013 3:02:04 PM	208850
	2013/11/01 REQUEST TO PRODUCE	11/1/2013 3:02:03 PM	116576
	2013/11/08 MOTION	11/8/2013 1:45:56 PM	38670
	2013/11/08 NOTICE OF HEARING	11/8/2013 1:45:56 PM	27590
	2013/11/11 NOTICE OF HEARING	11/12/2013 8:59:22 AM	29046
	2013/11/15 ORDER	11/18/2013 9:31:24 AM	284932
	2013/11/20 ORDER GRANTING	11/21/2013 9:08:18 AM	30318
	2013/12/02 MOTION	12/3/2013 11:40:31 AM	118156
	2013/12/02 OBJECTION	12/3/2013 11:40:32 AM	66222
	2013/12/10 NOTICE OF FILING	12/11/2013 10:56:32 AM	789618
	2013/12/10 NOTICE OF FILING	12/11/2013 10:56:16 AM	790676
	2013/12/17 MEMORANDUM	12/17/2013 4:37:59 PM	111282
	2013/12/19 NOTICE OF HEARING	12/19/2013 4:19:20 PM	1707452
	2013/12/19 REQUEST TO PRODUCE	12/19/2013 11:25:36 AM	211032
	2013/12/31 MOTION	1/2/2014 9:02:20 AM	172086
	2014/01/02 MOTION	1/2/2014 11:19:31 AM	3590186
	2014/01/02 ORDER	1/2/2014 11:42:31 AM	64056
	2014/01/09 ORDER DENYING	1/10/2014 8:58:16 AM	44344
	2014/01/10 MOTION TO WITHDRAW	1/13/2014 2:10:21 PM	93908
	2014/01/13 NOTICE OF HEARING	1/13/2014 3:37:29 PM	67256
	2014/01/22 CONSENT	1/23/2014 8:36:32 AM	59410
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	2014/01/28 NOTICE OF HEARING	1/28/2014 4:36:51 PM	117718
	2014/02/14 OBJECTION REDACTED	2/19/2014 11:45:33 AM	2322626
	2014/02/19 ORDER	2/19/2014 12:12:25 PM	45112
	2014/02/24 MOTION	2/25/2014 1:12:47 PM	79750

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Local intranet

train10

View Electronic Documents - Windows Internet Explorer

http://vct02.cweb-bk/THWebPublicTest/view.asp

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2011/10/06 PROOF OF SERVICE	10/7/2011 8:44:41 AM	48290
2012/10/24 AFFIDAVIT/STMT RE: CREDITORS	10/29/2012 11:12:53 AM	34780
2012/10/24 NON-TAX CERT/RCPT/AFFIDAVIT REDACTED	10/29/2012 11:12:57 AM	41932
2012/10/24 PETITION FOR DISCHARGE	10/29/2012 11:12:54 AM	75474
2012/10/24 PROBATE CHECKLIST	10/29/2012 11:12:57 AM	43044
2012/10/24 WAIVER	10/29/2012 11:12:56 AM	39476
2012/10/24 WAIVER	10/29/2012 11:12:56 AM	37362
2012/10/24 WAIVER	10/29/2012 11:12:55 AM	39506
2012/10/24 WAIVER	10/29/2012 11:12:55 AM	40248
2012/10/24 WAIVER	10/29/2012 11:12:54 AM	39772
2012/10/24 WAIVER	10/29/2012 11:12:55 AM	37592
2012/11/06 EX PARTE CLERKS MEMO	11/6/2012 4:33:30 PM	55658
2012/11/19 PETITION FOR DISCHARGE	11/21/2012 11:10:48 AM	52714
2012/11/19 WAIVER	11/21/2012 11:10:44 AM	54630
2012/11/19 WAIVER	11/21/2012 11:10:40 AM	53554
2012/11/19 WAIVER	11/21/2012 11:10:39 AM	54432
2012/11/19 WAIVER	11/21/2012 11:10:41 AM	53292
2012/11/19 WAIVER	11/21/2012 11:10:49 AM	53808
2013/01/03 FINAL DISPOSITION SHEET	1/5/2013 12:55:10 PM	22580
2013/01/03 ORDER OF DISCHARGE RECORDED	1/5/2013 12:55:11 PM	25828
2013/05/06 PETITION REDACTED	5/7/2013 2:01:38 PM	21045040
2013/05/07 MEMORANDUM	5/7/2013 1:52:48 PM	29112
2013/05/09 ORDER DENYING	5/9/2013 2:46:41 PM	44104
2013/05/14 PROOF OF SERVICE REDACTED	5/15/2013 11:15:59 AM	352686
2013/05/29 PETITION REDACTED	5/29/2013 4:53:37 PM	20580014
2013/05/31 ORDER DENYING	5/31/2013 11:57:06 AM	53662
2013/06/26 MOTION	6/27/2013 12:26:06 PM	455596
2013/07/15 MOTION	7/16/2013 12:04:18 PM	75130
2013/07/24 MOTION	7/25/2013 8:07:34 AM	2425074
2013/08/28 MOTION	8/28/2013 3:56:48 PM	40598
2013/08/28 NOTICE REDACTED	8/30/2013 8:04:36 AM	3679068
2013/08/29 PROOF OF SERVICE	8/30/2013 9:54:01 AM	68936
2013/09/04 NOTICE REDACTED	9/4/2013 11:15:59 AM	5844434
2013/09/05 ORDER SETTING HEARING	9/5/2013 11:21:51 AM	49470
2013/09/11 NOTICE OF APPEARANCE	9/12/2013 8:14:48 AM	47460
2013/09/16 NOTICE OF FILING	9/16/2013 2:56:02 PM	449558
2013/09/25 AGREED ORDER	9/25/2013 11:20:04 AM	31678
2013/09/25 ORDER	9/25/2013 11:20:04 AM	57890
2013/10/09 OATH	10/9/2013 2:28:00 PM	50400
2013/10/09 PROPOSED UNSIGNED ORDER	10/9/2013 2:28:00 PM	62338
2013/10/10 NOTICE REDACTED	10/11/2013 3:51:38 PM	17964270
2013/10/11 OATH	10/11/2013 4:21:17 PM	47626
2013/10/16 NOTICE OF FILING	10/16/2013 2:01:11 PM	128446

Done

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Public Search 01/12...

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Local intranet

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9:33 AM

DELL

2011/09/09 INVENTORY - ESTATE SECURED	9/9/2011 4:29:08 PM	72344
2011/10/06 PROOF OF SERVICE	10/7/2011 8:44:41 AM	48290
2012/10/24 AFFIDAVIT/STMT RE: CREDITORS	10/29/2012 11:12:53 AM	34780
2012/10/24 NON-TAX CERT/RCPT/AFFIDAVIT REDACTED	10/29/2012 11:12:57 AM	41932
2012/10/24 PETITION FOR DISCHARGE	10/29/2012 11:12:54 AM	75474
2012/10/24 PROBATE CHECKLIST	10/29/2012 11:12:57 AM	43044
2012/10/24 WAIVER	10/29/2012 11:12:56 AM	39476
2012/10/24 WAIVER	10/29/2012 11:12:56 AM	37362
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2012/10/24 WAIVER	10/29/2012 11:12:55 AM	40248
2012/10/24 WAIVER	10/29/2012 11:12:54 AM	39772
2012/10/24 WAIVER	10/29/2012 11:12:55 AM	37592
2012/11/06 EX-PARTE CLERKS MEMO	11/6/2012 4:33:30 PM	55658
2012/11/19 PETITION FOR DISCHARGE	11/21/2012 11:10:48 AM	52714
2012/11/19 WAIVER	11/21/2012 11:10:44 AM	54690
2012/11/19 WAIVER	11/21/2012 11:10:40 AM	53954
2012/11/19 WAIVER	11/21/2012 11:10:39 AM	54432
2012/11/19 WAIVER	11/21/2012 11:10:41 AM	53292
2012/11/19 WAIVER	11/21/2012 11:10:49 AM	53808
2013/01/03 FINAL DISPOSITION SHEET	1/5/2013 12:55:10 PM	22580
2013/01/03 ORDER OF DISCHARGE RECORDED	1/5/2013 12:55:11 PM	25828
2013/05/06 PETITION REDACTED	5/7/2013 2:01:38 PM	21045040
2013/05/07 MEMORANDUM	5/7/2013 1:52:48 PM	29112
2013/05/09 ORDER DENYING	5/9/2013 2:46:41 PM	44104
2013/05/14 PROOF OF SERVICE REDACTED	5/15/2013 11:15:59 AM	352686
2013/05/29 PETITION REDACTED	5/29/2013 4:53:37 PM	20580014
2013/05/31 ORDER DENYING	5/31/2013 11:57:06 AM	63662
2013/06/26 MOTION	6/27/2013 12:26:06 PM	455596
2013/07/15 MOTION	7/16/2013 12:04:18 PM	75130
2013/07/24 MOTION	7/25/2013 8:07:34 AM	2425074
2013/08/28 MOTION	8/28/2013 3:56:48 PM	40598
2013/08/28 NOTICE REDACTED	8/30/2013 8:04:36 AM	3679068
2013/08/29 PROOF OF SERVICE	8/30/2013 9:54:01 AM	68936
2013/09/04 NOTICE REDACTED	9/4/2013 11:15:59 AM	5844434
2013/09/05 ORDER SETTING HEARING	9/5/2013 11:21:51 AM	49470
2013/09/11 NOTICE OF APPEARANCE	9/12/2013 8:14:48 AM	47460
2013/09/16 NOTICE OF FILING	9/16/2013 2:56:02 PM	449558
2013/09/25 AGREED ORDER	9/25/2013 11:20:04 AM	31678
2013/09/25 ORDER	9/25/2013 11:20:04 AM	57890
2013/10/09 OATH	10/9/2013 2:28:00 PM	50400
2013/10/09 PROPOSED UNSIGNED ORDER	10/9/2013 2:28:00 PM	62338
2013/10/10 NOTICE REDACTED	10/11/2013 3:51:38 PM	17964270
2013/10/11 OATH	10/11/2013 4:21:17 PM	47626
2013/10/16 NOTICE OF FILING	10/16/2013 2:01:11 PM	128446

SHARON R. BOCK
Clerk & Comptroller
Palm Beach County



Case Number

502011CP000653

Format:

yyyyXXnnnnnnZZZ

where:

yyyy = Year - must be 4 digits

XX = Case Type - one of the following:

AP AS CA CC CP DR GA JN MH SC

nnnnnn = Sequence number - up to six digits

ZZZ = Optional suffix - up to three characters
starting with a letter

Examples: 2012CA000001, 2012CP000001A

Find Case

1 object found: 2011-CP-000653 Volume: 001
SHIRLEY BERNSTEIN

Object 2011-CP-000653 Volume: 001 contains electronic documents.
To view a document, click on one of the items below.

Name ▲	Description	Date Created	Size
2011/02/10 DEATH CERT PROBATE DECEDENT REDACTED		2/14/2011 12:37:59 PM	143730
2011/02/10 LETTERS OF ADMINISTRATION RECORDED		2/14/2011 12:38:25 PM	32984
2011/02/10 NOTICE OF TRUST		2/14/2011 12:38:21 PM	41222
2011/02/10 OATH		2/14/2011 12:38:24 PM	48154
2011/02/10 ORDER ADMITTING WILL		2/14/2011 12:38:24 PM	36216
2011/02/10 PETITION FOR ADMINISTRATION		2/14/2011 12:37:58 PM	71946
2011/02/10 WILL RECORDED		2/14/2011 12:38:18 PM	309163
2011/04/06 NOTICE OF FILING		4/7/2011 8:44:42 AM	110588
2011/04/06 NOTICE OF FILING		4/7/2011 8:44:43 AM	149630
2011/04/25 PROOF OF SERV NOT TO CREDITORS		4/29/2011 9:47:20 AM	96366
2011/08/01 PROOF OF SERV NOTICE OF ADMIN		8/1/2011 11:14:23 AM	131300
2011/09/09 INVENTORY - ESTATE SECURED		9/9/2011 4:29:06 PM	72344
2011/10/06 PROOF OF SERVICE		10/7/2011 8:44:41 AM	40290
2012/10/24 AFFIDAVIT/STMT RE CREDITORS		10/29/2012 11:12:53 AM	24700
2012/10/24 NON-TAX CERT/ACPT/AFFIDAVIT REDACTED		10/29/2012 11:12:57 AM	41932
2012/10/24 PETITION FOR DISCHARGE		10/29/2012 11:12:54 AM	75474
2012/10/24 PROBATE CHECKLIST		10/29/2012 11:12:57 AM	43044
2012/10/24 WAIVER		10/29/2012 11:12:56 AM	29476
2012/10/24 WAIVER		10/29/2012 11:12:56 AM	37362
2012/10/24 WAIVER		10/29/2012 11:12:55 AM	29506
2012/10/24 WAIVER		10/29/2012 11:12:55 AM	40248
2012/10/24 WAIVER		10/29/2012 11:12:54 AM	29772
2012/10/24 WAIVER		10/29/2012 11:12:55 AM	37682

DELL

Case Number

502012CP004391

Format:

yyyyXXnnnnnnZZZ

where:

yyyy = Year - must be 4 digits

XX = Case Type - one of the following

AP, AS, CA, CC, CP, DR, GA, IN, MH, SC

nnnnnn = Sequence number - up to six digits























ZZZ = Optional suffix - up to three characters, starting with a letter

Examples: 2012CA000001, 2012CP000001A

Find Case

1 object found: 2012-CP-004391 Volume: 001
SIMON L BERNSTEIN

Object 2012-CP-004391 Volume: 001 contains electronic documents.
To view a document, click on one of the items below:

Name ▲	Description	Date Created	Size
 2012/10/02 DEATH CERT PROBATE DECEDENT REDACTED		10/4/2012 2:40:05 PM	105526
 2012/10/02 LETTERS OF ADMINISTRATION RECORDED		10/4/2012 2:40:09 PM	36312
 2012/10/02 NOTICE OF EMAIL DESIGNATION		10/4/2012 2:40:07 PM	26230
 2012/10/02 NOTICE OF TRUST		10/4/2012 2:40:07 PM	37410
 2012/10/02 OATH		10/4/2012 2:40:08 PM	58634
 2012/10/02 OATH		10/4/2012 2:40:09 PM	56966
 2012/10/02 ORDER ADMITTING WILL		10/4/2012 2:40:07 PM	38132
 2012/10/02 PETITION FOR ADMINISTRATION REDACTED		10/4/2012 2:40:04 PM	81690
 2012/10/02 WILL RECORDED		10/4/2012 2:40:06 PM	441388
 2012/10/10 WILL		10/16/2012 1:41:08 PM	1087378
 2012/11/06 STATEMENT OF CLAIM		11/7/2012 9:17:04 AM	834934
 2012/11/09 STATEMENT OF CLAIM		11/17/2012 9:35:54 AM	37704
 2012/11/21 PROOF OF PUBLICATION		11/27/2012 9:00:12 AM	156940
 2012/11/21 PROOF OF PUBLICATION		11/27/2012 9:00:13 AM	133434
 2012/12/14 PETITION TO EXTEND TIME		12/19/2012 9:43:15 AM	31840
 2013/01/10 STATEMENT OF CLAIM REDACTED		1/15/2013 8:20:49 AM	77108
 2013/01/14 ORDER EXTENDING TIME		1/17/2013 10:55:56 AM	28958
 2013/01/16 STATEMENT OF CLAIM		1/24/2013 9:27:44 AM	76816
 2013/01/24 NOTICE OF FILING		1/29/2013 10:56:44 AM	232418
 2013/01/24 NOTICE OF FILING		1/29/2013 10:56:45 AM	98430
 2013/02/05 OBJECTION TO CLAIM		2/8/2013 9:16:51 AM	40656
 2013/03/04 NOTICE		3/9/2013 10:30:03 AM	40864
 2013/05/06 PETITION REDACTED		5/7/2013 2:29:37 PM	19797622

DELL

SELF SERVICE

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train10

Electronic Documents - Windows Internet Explorer

http://vct02xweb-tk/TMwebPublicTest/view.asp

2013/01/24 NOTICE OF HEARING	1/23/2013 10:30:45 AM	30430
2013/02/05 OBJECTION TO CLAIM	2/8/2013 9:16:51 AM	40656
2013/03/04 NOTICE	3/9/2013 10:30:03 AM	40864
2013/05/06 PETITION REDACTED	5/7/2013 2:29:37 PM	19797822
2013/05/08 ORDER DENYING	5/9/2013 9:15:29 AM	39864
2013/05/09 ORDER DENYING	5/9/2013 4:12:19 PM	46048
2013/05/14 PROOF OF SERVICE REDACTED	5/15/2013 11:15:58 AM	354278
2013/05/22 REQUEST FOR COPIES	5/22/2013 11:45:13 AM	35516
2013/05/29 PETITION REDACTED	5/30/2013 8:28:41 AM	20397020
2013/05/30 ORDER DENYING	5/30/2013 4:43:20 PM	37942
2013/06/11 INVENTORY - ESTATE SECURED REDACTED	6/11/2013 4:49:40 PM	73224
2013/06/26 MOTION	6/27/2013 12:26:03 PM	401068
2013/07/15 MOTION	7/16/2013 12:04:19 PM	77384
2013/07/24 MOTION	7/25/2013 8:07:35 AM	2429962
2013/08/28 NOTICE REDACTED	8/28/2013 4:26:31 PM	3660436
2013/08/29 PROOF OF SERVICE	8/30/2013 9:54:00 AM	64772
2013/09/04 NOTICE REDACTED	9/4/2013 11:14:58 AM	5815676
2013/09/09 ORDER DENYING	9/9/2013 12:17:51 PM	53540
2013/10/10 PETITION	10/11/2013 12:20:24 PM	140278
2013/10/24 MOTION TO STRIKE	10/24/2013 4:26:02 PM	746458
2013/12/12 MOTION	12/12/2013 2:15:50 PM	1693612
2013/12/12 NOTICE OF HEARING	12/12/2013 2:28:05 PM	51866
2013/12/13 NOTICE OF FILING	12/13/2013 2:28:30 PM	216940
2013/12/17 NOTICE OF FILING	12/18/2013 4:38:39 PM	2492812
2013/12/18 MEMORANDUM	12/19/2013 11:41:37 AM	34190
2013/12/20 MOTION	12/23/2013 10:04:07 AM	1733114
2013/12/23 RE-NOTICE	12/26/2013 11:15:52 AM	54354
2013/12/27 INVENTORY - ESTATE SECURED REDACTED	12/30/2013 2:25:40 PM	78704
2014/01/02 NOTICE OF CANCELLATION	1/2/2014 3:46:35 PM	56458
2014/01/10 MOTION	1/13/2014 9:58:19 AM	76650
2014/01/13 NOTICE OF HEARING	1/13/2014 4:49:32 PM	57606
2014/01/22 CONSENT	1/22/2014 4:39:49 PM	60374
2014/01/22 PETITION FOR DISCHARGE	1/22/2014 1:24:47 PM	98704
2014/01/23 ORDER	1/23/2014 4:38:34 PM	47368
2014/01/28 NOTICE OF HEARING	1/28/2014 4:36:53 PM	141248
2014/01/31 NOTICE OF HEARING	1/31/2014 4:10:29 PM	133426
2014/01/31 NOTICE OF HEARING	1/31/2014 4:09:55 PM	147908
2014/02/07 MOTION	2/7/2014 3:59:12 PM	122994
2014/02/07 PETITION	2/7/2014 3:59:11 PM	147734
2014/02/11 MOTION TO WITHDRAW	2/11/2014 11:34:14 AM	70312
2014/02/11 NOTICE OF HEARING	2/11/2014 11:34:15 AM	52704
2014/02/12 RESPONSE TO REDACTED	2/12/2014 12:25:27 PM	3843332
2014/02/13 NOTICE OF HEARING	2/14/2014 8:57:19 AM	151508
2014/02/13 NOTICE OF SERVICE	2/14/2014 8:57:18 AM	91490
2014/02/14 NOTICE OF HEARING	2/14/2014 1:00:00 PM	1320000

start Public Search 01/12... View Electronic Docu... Local intranet 100% 9:34 AM

train 10

Electronic Documents - Windows Internet Explorer

http://jct02web-01/TMwebPublicTest/view.asp

2013/10/24 MOTION TO STRIKE	10/24/2013 4:26:02 PM	746458
2013/12/12 MOTION	12/12/2013 2:15:50 PM	1699612
2013/12/12 NOTICE OF HEARING	12/12/2013 2:29:05 PM	51866
2013/12/13 NOTICE OF FILING	12/13/2013 2:28:30 PM	216940
2013/12/17 NOTICE OF FILING	12/18/2013 4:38:39 PM	2492812
2013/12/18 MEMORANDUM	12/19/2013 11:41:37 AM	34190
2013/12/20 MOTION	12/23/2013 10:04:07 AM	1733114
2013/12/23 RE NOTICE	12/26/2013 11:15:52 AM	54354
2013/12/27 INVENTORY - ESTATE SECURED REDACTED	12/30/2013 2:25:40 PM	78704
2014/01/02 NOTICE OF CANCELLATION	1/2/2014 3:46:35 PM	56458
2014/01/10 MOTION	1/13/2014 9:58:19 AM	76650
2014/01/13 NOTICE OF HEARING	1/13/2014 4:49:32 PM	57606
2014/01/22 CONSENT	1/22/2014 4:39:49 PM	60374
2014/01/22 PETITION FOR DISCHARGE	1/22/2014 1:24:47 PM	98704
2014/01/23 ORDER	1/23/2014 4:39:34 PM	47368
2014/01/28 NOTICE OF HEARING	1/28/2014 4:36:53 PM	141248
2014/01/31 NOTICE OF HEARING	1/31/2014 4:10:29 PM	133426
2014/01/31 NOTICE OF HEARING	1/31/2014 4:09:55 PM	147908
2014/02/07 MOTION	2/7/2014 3:58:12 PM	122994
2014/02/07 PETITION	2/7/2014 3:59:11 PM	147734
2014/02/11 MOTION TO WITHDRAW	2/11/2014 11:34:14 AM	78312
2014/02/11 NOTICE OF HEARING	2/11/2014 11:34:15 AM	52704
2014/02/12 RESPONSE TO REDACTED	2/12/2014 12:25:27 PM	3843332
2014/02/13 NOTICE OF HEARING	2/14/2014 8:57:19 AM	151508
2014/02/13 NOTICE OF SERVICE	2/14/2014 8:57:18 AM	31430
2014/02/14 NOTICE OF FILING	2/14/2014 4:22:30 PM	279002
2014/02/14 NOTICE OF FILING	2/14/2014 4:22:32 PM	255144
2014/02/17 NOTICE OF FILING	2/19/2014 12:57:23 PM	442516
2014/02/18 NOTICE OF APPEARANCE	2/20/2014 8:19:27 AM	42896
2014/02/18 ORDER	2/19/2014 12:12:25 PM	43432
2014/02/18 ORDER	2/19/2014 12:12:26 PM	105186
2014/02/19 MOTION	2/20/2014 4:39:36 PM	907594
2014/02/20 AFFIDAVIT	2/21/2014 3:58:18 PM	77088
2014/02/20 NOTICE OF FILING	2/21/2014 3:58:18 PM	175342
2014/02/20 ORDER	2/21/2014 8:25:15 AM	32498
2014/02/20 ORDER	2/21/2014 8:25:15 AM	32092
2014/02/24 MOTION	2/25/2014 10:51:16 AM	1584952
2014/02/24 MOTION	2/25/2014 1:12:48 PM	70986
2014/02/24 NOTICE OF HEARING	2/25/2014 11:58:11 AM	46824
2014/02/25 EXHIBIT LIST	2/25/2014 4:41:42 PM	48116
2014/02/25 ORDER	2/25/2014 3:47:48 PM	53936

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2013/10/24 MOTION TO STRIKE	10/24/2013 4:28:02 PM	746458
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2014/01/10 MOTION	1/13/2014 9:58:19 AM	76650
2014/01/13 NOTICE OF HEARING	1/13/2014 4:49:32 PM	57606
2014/01/22 CONSENT	1/22/2014 4:39:49 PM	60374
2014/01/22 PETITION FOR DISCHARGE	1/22/2014 1:24:47 PM	98704
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2014/02/13 NOTICE OF HEARING	2/14/2014 8:57:19 AM	151508
2014/02/13 NOTICE OF SERVICE	2/14/2014 8:57:18 AM	91490
2014/02/14 NOTICE OF FILING	2/14/2014 4:22:30 PM	279002
2014/02/14 NOTICE OF FILING	2/14/2014 4:22:32 PM	255144
2014/02/17 NOTICE OF FILING	2/19/2014 12:57:23 PM	442516
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2014/02/20 AFFIDAVIT	2/21/2014 3:58:18 PM	77088
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2014/02/20 ORDER	2/21/2014 8:25:15 AM	32498
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2014/02/24 MOTION	2/25/2014 10:51:16 AM	1594952
2014/02/24 MOTION	2/25/2014 1:12:48 PM	70396
2014/02/24 NOTICE OF HEARING	2/25/2014 11:58:11 AM	46824
2014/02/25 EXHIBIT LIST	2/25/2014 4:41:42 PM	48116
2014/02/25 ORDER	2/25/2014 3:47:48 PM	53936

Close this Window

EXHIBIT "A"**DUCES TECUM**

The deponent shall be required to bring

- 1) All documents which Robert C. Wilkins, Jr., P.L. or any of its attorneys or employees sent to or received from Irving B. Lippton.
- 2) All videotapes or audiotapes of Irving B. Lippton.
- 3) All documents which were signed by Irving B. Lippton or which bear Irving B. Lippton's signature.
- 4) Your entire estate planning file for Irving B. Lippton.
- 5) All beneficiary designation documents, including life insurance policy and pension or profit sharing plan beneficiary designations, executed by Irving B. Lippton.
- 6) All documents which reflect or refer to any communication between any attorney or employee of Robert C. Wilkins, Jr., P.L. or its predecessor and Irving B. Lippton, including but not limited to the following: (a) any e-mails 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.
- 7) Any documents which any attorney or employee of Robert C. Wilkins, Jr., P.L. or its predecessor received from a lawyer representing or claiming to represent Irving B. Lippton.
- 8) Any medical records or reports, including any reports of any psychologists or psychiatrists, relating to Irving B. Lippton.
- 9) Any and all wills, drafts of wills and codicils to wills prepared by or for Irving B. Lippton.
- 10) Any and all trust documents, drafts of trusts and trust amendments prepared by or for Irving B. Lippton.
- 11) Any and all powers of attorney, designations of healthcare surrogates and living wills prepared by or for Irving B. Lippton.
- 12) All documents and communications between or among Irving B. Lippton and his attorneys, accountants, financial advisors, or estate planning advisors from January 1, 1998 to the present.

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Description

13) All documents and communications, including but not limited to emails, notes, letters, and postcards, between or among Irving B. Lippton and any person(s) which discusses or refers to his testamentary intent, estate plan, or intent concerning the designation of beneficiaries for any property, assets, or accounts he owned, including but not limited to all assets that are includable in the Estate.

14) All documents and communications, including but not limited to attorney notes, files, time sheets, and memoranda, which discuss or refer to Irving B. Lippton's testamentary intent, or intent concerning the designation of beneficiaries for any property, assets, or accounts he owned, including but not limited to all assets that are includable in the Estate.

15) All documents and communications, including but not limited to handwritten or typewritten notes, correspondence, tape recordings, email, or memoranda, relating to, discussing or mentioning Irving B. Lippton's intent with regard to the disposition of his assets either upon death or during his lifetime.

16) All documents and communications between or among Irving B. Lippton and any other person or entity from and after January 1, 2000, including but not limited to emails, notes, postcards, letters, faxes, and phone messages (whether written or recorded).

17) All diaries, desk calendars, address books, telephone books, and notebooks kept by or for Irving B. Lippton from and after January 1, 2000.

18) All documents and communications, including but not limited to records, reports, notes or correspondence from any and all doctors, nurses, certified nurse assistants, hospitals, clinics, medical facilities or other care givers, relating to Irving B. Lippton's mental or physical condition from January 1, 1998 to the present.

19) All documents and communications relating to any medication purchased by or on behalf of Irving B. Lippton from and after January 1, 2000, including but limited to all pharmacy records, prescriptions, and receipts.

WPB 1025529.3

IN RE: THE BEATRICE L. LIPPTON
AMENDED AND RESTATED TRUST
AGREEMENT

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

LISA L. FORMAN; VICKI L. GREENSTEIN;
and JOAN L. KIMBALL,

PROBATE DIVISION

CASE NO.: 502009CP001169XXXXMB

Plaintiffs,

v.

DONALD R. TESCHER, as Trustee of the
Beatrice L. Lippton Amended and Restated
Trust Agreement; and HOWARD L. LIPPTON,

Defendants.

SUBPOENA FOR DEPOSITION DUCES TECUM

THE STATE OF FLORIDA:

TO RECORDS CUSTODIAN OF ROBERT C. WILKINS, JR., P.L.
341 N. Maitland Avenue, Suite 346
Maitland, FL 32751

YOU ARE COMMANDED to appear before a person authorized by law to take depositions at King, Blackwell, Downs & Zehnder, P.A., 25 E. Pine Street, Orlando, FL 32801 on April 2, 2009 at 10:30 a.m. for the taking of your deposition in this action. You shall bring with you the documents on the attached duces tecum.

You may comply with this subpoena by providing legible copies of the items described in the attached duces tecum to John C. Moran, Esq., Gunster, Yoakley & Stewart, P.A., 777 South Flagler Dr., Suite 500 East, West Palm Beach, FL 33401 on or before the scheduled date of production. You may condition the preparation of the copies upon the payment in advance of the reasonable cost of preparation. You have the right to object to the production pursuant to this subpoena at any time before production by giving written notice to the attorney whose name appears on this subpoena.

IF YOU FAIL TO

- (1) appear as specified,
- (2) furnish the records instead of appearing as provided above, or
- (3) object to this subpoena,

you may be in contempt of court. You are subpoenaed to appear by the following attorneys and unless excused from this subpoena by these attorneys or the court, you shall respond to this subpoena as directed.

DATED this 21st day of March, 2009.

GUNSTER, YOAKLEY & STEWART, P.A.
777 South Flagler Drive, Suite 500 East
West Palm Beach, Florida 33401
Tel. (561) 655-1980
Fax (561) 655-5677
Attorneys for Plaintiffs

By: 

MICHAEL D. SIMON
Florida Bar No. 797110
JOHN C. MORAN
Florida Bar No. 0505072
WILLIAM T. HENNESSEY
Florida Bar No. 0104809

IN RE: THE BEATRICE L. LIPPTON
AMENDED AND RESTATED TRUST
AGREEMENT

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

LISA L. FORMAN; VICKI L. GREENSTEIN;
and JOAN L. KIMBALL,

PROBATE DIVISION

CASE NO.: 502009CP001169XXXXMB

Plaintiffs,

v.

DONALD R. TESCHER, as Trustee of the
Beatrice L. Lipperton Amended and Restated
Trust Agreement; and HOWARD L. LIPPTON,

Defendants.

NOTICE OF TAKING DEPOSITION DUCES TECUM

PLEASE TAKE NOTICE that the undersigned attorney will take the deposition of:

NAME	DATE/TIME	PLACE
RECORDS CUSTODIAN OF GUTTER, CHAVES, JOSEPH, RUBIN, FORMAN, FLEISHER, P.A.	April 1, 2009 AT 9:00 a.m.	Günster Yeakley & Stewart, P.A. 777 S. Flagler Dr., Suite 500 East West Palm Beach, FL 33401

upon oral examination pursuant to Florida Rules of Civil Procedure, before U.S. Legal Support, Inc. (561-835-0220; fax 561-835-3585) a court reporter or any other officer authorized to administer oaths by the laws of the United States. Said oral examination will continue from day to day until completed.

You are invited to appear and take part in said examination as you may be advised, and as shall be fit and proper. The deponent is directed to bring all documents and items listed on the

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SHARON L. DUCK, CLERK
PALM BEACH COUNTY
CIRCUIT COURT
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attached Exhibit "A" to the subpoena for deposition duces tecum. This deposition is being taken for the purposes of discovery, for use as primary evidence or for such other purposes as are permitted under the applicable statutes or Rules of Court.

CERTIFICATE SERVICE

HEREBY CERTIFY that a true and correct copy hereof was furnished via U.S. Mail to:
HOWARD L. LIPPTON, 9000 West Wilderness Way, #269, Shreveport, LA 71106 and
DONALD R. TESCHER, Tescher & Spallina P.A., 4855 Technology Way, Suite 720, Boca Raton, FL 33431 on this 26 day of March, 2009.

GUNSTER, YOAKLEY & STEWART, P.A.
777 South Flagler Drive, Suite 500 East
West Palm Beach, Florida 33401
Tel. (561) 655-1980
Fax (561) 655-5677
Attorneys for Plaintiffs

By: 

MICHAEL D. SIMON
Florida Bar No. 797110
JOHN C. MORAN
Florida Bar No. 0505072
WILLIAM T. HENNESSEY
Florida Bar No. 0104809

IN RE: THE BEATRICE L. LIPPTON
AMENDED AND RESTATED TRUST
AGREEMENT

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

LISA L. FORMAN; VICKI L. GREENSTEIN;
and JOAN L. KIMBALL,

PROBATE DIVISION

CASE NO.: 502009CP001169XXXXMB

Plaintiffs,

v.

DONALD R. TESCHER, as Trustee of the
Beatrice L. Lippton Amended and Restated
Trust Agreement; and HOWARD L. LIPPTON,

Defendants.

SUBPOENA FOR DEPOSITION DUCES TECUM

THE STATE OF FLORIDA:

TO RECORDS CUSTODIAN OF GUTTER, CHAVES, JOSEPH, RUBIN, FORMAN,
FLEISHER, P.A.

Gutter, Chaves, Joseph, Rubin, Forman, Fleisher, P.A.
2101 NW Corporate Blvd Ste 107
Boca Raton, FL 33431

YOU ARE COMMANDED to appear before a person authorized by law to take
depositions at Gunster, Yoakley & Stewart, P.A., 777 S. Flagler Dr., Ste 500E, West Palm
Beach, FL 33401 on April 1, 2009 at 9:00 a.m. for the taking of your deposition in this action.
You shall bring with you the documents on the attached duces tecum.

You may comply with this subpoena by providing legible copies of the items
described in the attached duces tecum to John C. Moran, Esq., Gunster, Yoakley &
Stewart, P.A., 777 South Flagler Dr., Suite 500 East, West Palm Beach, FL 33401 on or
before the scheduled date of production. You may condition the preparation of the copies
upon the payment in advance of the reasonable cost of preparation. You have the right to object
to the production pursuant to this subpoena at any time before production by giving written
notice to the attorney whose name appears on this subpoena.

IF YOU FAIL TO

- (1) appear as specified,
- (2) furnish the records instead of appearing as provided above, or

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items below.

Description

(3) object to this subpoena,

you may be in contempt of court. You are subpoenaed to appear by the following attorneys and unless excused from this subpoena by these attorneys or the court, you shall respond to this subpoena as directed.

DATED this 26 day of March, 2009.

GUNSTER, YOAKLEY & STEWART, P.A.
777 South Flagler Drive, Suite 500 East
West Palm Beach, Florida 33401
Tel. (561) 655-1980
Fax (561) 655-5677
Attorneys for Plaintiffs

By:

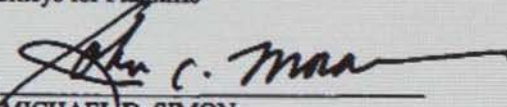

MICHAEL D. SIMON
Florida Bar No. 797110
JOHN C. MORAN
Florida Bar No. 0505072
WILLIAM T. HENNESSEY
Florida Bar No. 0104809

EXHIBIT "A"**DUCES TECUM**

The deponent shall be required to bring

- 1) All documents which Gutter, Chaves, Josepher, Rubin, Forman, Fleisher, P.A. ("Gutter Chaves") or its predecessor¹ sent to or received from Irving B. Lipton.
- 2) All videotapes or audiotapes of Irving B. Lipton.
- 3) All documents which were signed by Irving B. Lipton or which bear Irving B. Lipton's signature.
- 4) Your entire estate planning file for Irving B. Lipton.
- 5) All beneficiary designation documents, including life insurance policy and pension or profit sharing plan beneficiary designations, executed by Irving B. Lipton.
- 6) All documents which reflect or refer to any communication between any attorney or employee of Gutter Chaves or its predecessor and Irving B. Lipton, including but not limited to the following: (a) any e-mails 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.
- 7) Any documents which any attorney or employee of Gutter Chaves or its predecessor received from a lawyer representing or claiming to represent Irving B. Lipton.
- 8) Any medical records or reports, including any reports of any psychologists or psychiatrists, relating to Irving B. Lipton.
- 9) Any and all wills, drafts of wills and codicils to wills prepared by or for Irving B. Lipton.
- 10) Any and all trust documents, drafts of trusts and trust amendments prepared by or for Irving B. Lipton.
- 11) Any and all powers of attorney, designations of healthcare surrogates and living wills prepared by or for Irving B. Lipton.

¹ For purposes of this Duces Tecum, predecessor shall mean Tescher, Gutter, Chaves, Josepher, et. al., or any other law firm that preceded Tescher Gutter Chaves Josepher et. al.

12) All documents and communications between or among Irving B. Lipton and his attorneys, accountants, financial advisors, or estate planning advisors from January 1, 1998 to the present.

13) All documents and communications, including but not limited to emails, notes, letters, and postcards, between or among Irving B. Lipton and any person(s) which discusses or refers to his testamentary intent, estate plan, or intent concerning the designation of beneficiaries for any property, assets, or accounts he owned, including but not limited to all assets that are includable in the Estate.

14) All documents and communications, including but not limited to attorney notes, files, time sheets, and memoranda, which discuss or refer to Irving B. Lipton's testamentary intent, or intent concerning the designation of beneficiaries for any property, assets, or accounts he owned, including but not limited to all assets that are includable in the Estate.

15) All documents and communications, including but not limited to handwritten or typewritten notes, correspondence, tape recordings, email, or memoranda, relating to, discussing or mentioning Irving B. Lipton's intent with regard to the disposition of his assets either upon death or during his lifetime.

16) All documents and communications between or among Irving B. Lipton and any other person or entity from and after January 1, 2000, including but not limited to emails, notes, postcards, letters, faxes, and phone messages (whether written or recorded).

17) All diaries, desk calendars, address books, telephone books, and notebooks kept by or for Irving B. Lipton from and after January 1, 2000.

18) All documents and communications, including but not limited to records, reports, notes or correspondence from any and all doctors, nurses, certified nurse assistants, hospitals, clinics, medical facilities or other care givers, relating to Irving B. Lipton's mental or physical condition from January 1, 1998 to the present.

19) All documents and communications relating to any medication purchased by or on behalf of Irving B. Lipton from and after January 1, 2000, including but limited to all pharmacy records, prescriptions, and receipts.

WPB 1025529.1

IN RE: THE BEATRICE L. LIPPTON
AMENDED AND RESTATED TRUST
AGREEMENT

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

LISA L. FORMAN; VICKI L. GREENSTEIN;
and JOAN L. KIMBALL,

PROBATE DIVISION

CASE NO.: 502009CP001169XXXXMB

Plaintiffs,

v.

DONALD R. TESCHER, as Trustee of the
Beatrice L. Lipton Amended and Restated
Trust Agreement; and HOWARD L. LIPPTON,

Defendants.

SHARON R. BECK, CLERK
PALM BEACH COUNTY
CIRCUIT COURT / PROBATE
09 MAR 26 PM 4:25
FILED

NOTICE OF TAKING DEPOSITION DUCES TECUM

PLEASE TAKE NOTICE that the undersigned attorney will take the deposition of:

NAME	DATE/TIME	PLACE
RECORDS CUSTODIAN OF TESCHER & SPALLINA P.A.	April 1, 2009 AT 9:30 a.m.	Gunster Yoakley & Stewart, P.A. 777 S. Flagler Dr., Suite 500 East West Palm Beach, FL 33401

upon oral examination pursuant to Florida Rules of Civil Procedure, before U.S. Legal Support, Inc. (561-835-0220; fax 561-835-3585), a court reporter or any other officer authorized to administer oaths by the laws of the United States. Said oral examination will continue from day to day until completed.

You are invited to appear and take part in said examination as you may be advised, and as shall be fit and proper. The deponent is directed to bring all documents and items listed on the attached Exhibit "A" to the subpoena for deposition duces tecum. This deposition is being taken

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for the purposes of discovery, for use as primary evidence or for such other purposes as are permitted under the applicable statutes or Rules of Court.

CERTIFICATE SERVICE

HEREBY CERTIFY that a true and correct copy hereof was furnished via U.S. Mail to:
HOWARD L. LIPPTON, 9000 West Wilderness Way, #269, Shreveport, LA 71106 and
DONALD R. TESCHER, Tescher & Spallina P.A., 4855 Technology Way, Suite 720, Boca
Raton, FL 33431 on this 7th day of March, 2009.

GUNSTER, YOAKLEY & STEWART, P.A.
777 South Flagler Drive, Suite 500 East
West Palm Beach, Florida 33401
Tel. (561) 655-1980
Fax (561) 655-5677
Attorneys for Plaintiffs

By: 

MICHAEL D. SIMON
Florida Bar No. 797110
JOHN C. MORAN
Florida Bar No. 0505072
WILLIAM T. HENNESSEY
Florida Bar No. 0104809

IN RE: THE BEATRICE L. LIPPTON
AMENDED AND RESTATED TRUST
AGREEMENT

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

LISA L. FORMAN; VICKI L. GREENSTEIN;
and JOAN L. KIMBALL,

PROBATE DIVISION

CASE NO.: 502009CP001169XXXXMB

Plaintiffs,

v.

DONALD R. TESCHER, as Trustee of the
Beatrice L. Lippton Amended and Restated
Trust Agreement; and HOWARD L. LIPPTON,

Defendants.

SUBPOENA FOR DEPOSITION DUCES TECUM

THE STATE OF FLORIDA:

TO RECORDS CUSTODIAN OF TESCHER & SPALLINA P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431

YOU ARE COMMANDED to appear before a person authorized by law to take depositions at Gunster, Yoakley & Stewart, P.A., 777 S. Flagler Dr., Ste 500E, West Palm Beach, FL 33401 on April 1, 2009 at 9:30 a.m. for the taking of your deposition in this action. You shall bring with you the documents on the attached duces tecum.

You may comply with this subpoena by providing legible copies of the items described in the attached duces tecum to John C. Moran, Esq., Gunster, Yoakley & Stewart, P.A., 777 South Flagler Dr., Suite 500 East, West Palm Beach, FL 33401 on or before the scheduled date of production. You may condition the preparation of the copies upon the payment in advance of the reasonable cost of preparation. You have the right to object to the production pursuant to this subpoena at any time before production by giving written notice to the attorney whose name appears on this subpoena.

IF YOU FAIL TO

- (1) appear as specified,
- (2) furnish the records instead of appearing as provided above, or
- (3) object to this subpoena,

WFB 1025529.4

you may be in contempt of court. You are subpoenaed to appear by the following attorneys and unless excused from this subpoena by these attorneys or the court, you shall respond to this subpoena as directed.

DATED this 26 day of March, 2009.

GUNSTER, YOAKLEY & STEWART, P.A.
777 South Flagler Drive, Suite 500 East
West Palm Beach, Florida 33401
Tel. (561) 655-1980
Fax (561) 655-5677
Attorneys for Plaintiffs

By:


MICHAEL D. SIMON
Florida Bar No. 797110

JOHN C. MORAN
Florida Bar No. 0505072

WILLIAM T. HENNESSEY
Florida Bar No. 0104809

EXHIBIT "A"

DUCES TECUM

The deponent shall be required to bring

- 1) All documents which Tescher & Spallina, P.A. or any predecessor firm sent to or received from Irving B. Lipton.
- 2) All videotapes or audiotapes of Irving B. Lipton.
- 3) All documents which were signed by Irving B. Lipton or which bear Irving B. Lipton's signature.
- 4) Your entire estate planning file for Irving B. Lipton.
- 5) All beneficiary designation documents, including life insurance policy and pension or profit sharing plan beneficiary designations, executed by Irving B. Lipton.
- 6) All documents which reflect or refer to any communication between any attorney or employee of Tescher & Spallina, P.A. or its predecessor and Irving B. Lipton, including but not limited to the following: (a) any e-mails 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.
- 7) Any documents which any attorney or employee of Tescher & Spallina, P.A. or its predecessor received from a lawyer representing or claiming to represent Irving B. Lipton.
- 8) Any medical records or reports, including any reports of any psychologists or psychiatrists, relating to Irving B. Lipton.
- 9) Any and all wills, drafts of wills and codicils to wills prepared by or for Irving B. Lipton.
- 10) Any and all trust documents, drafts of trusts and trust amendments prepared by or for Irving B. Lipton.
- 11) Any and all powers of attorney, designations of healthcare surrogates and living wills prepared by or for Irving B. Lipton.
- 12) All documents and communications between or among Irving B. Lipton and his attorneys, accountants, financial advisors, or estate planning advisors from January 1, 1998 to the present.

WPB 1025529.4

13) All documents and communications, including but not limited to emails, notes, letters, and postcards, between or among Irving B. Lipton and any person(s) which discusses or refers to his testamentary intent, estate plan, or intent concerning the designation of beneficiaries for any property, assets, or accounts he owned, including but not limited to all assets that are includable in the Estate.

14) All documents and communications, including but not limited to attorney notes, files, time sheets, and memoranda, which discuss or refer to Irving B. Lipton's testamentary intent, or intent concerning the designation of beneficiaries for any property, assets, or accounts he owned, including but not limited to all assets that are includable in the Estate.

15) All documents and communications, including but not limited to handwritten or typewritten notes, correspondence, tape recordings, email, or memoranda, relating to, discussing or mentioning Irving B. Lipton's intent with regard to the disposition of his assets either upon death or during his lifetime.

16) All documents and communications between or among Irving B. Lipton and any other person or entity from and after January 1, 2000, including but not limited to emails, notes, postcards, letters, faxes, and phone messages (whether written or recorded).

17) All diaries, desk calendars, address books, telephone books, and notebooks kept by or for Irving B. Lipton from and after January 1, 2000.

18) All documents and communications, including but not limited to records, reports, notes or correspondence from any and all doctors, nurses, certified nurse assistants, hospitals, clinics, medical facilities or other care givers, relating to Irving B. Lipton's mental or physical condition from January 1, 1998 to the present.

19) All documents and communications relating to any medication purchased by or on behalf of Irving B. Lipton from and after January 1, 2000, including but limited to all pharmacy records, prescriptions, and receipts.

Count II – Declaratory Relief

40. Plaintiffs re-allege the allegations of paragraphs 1 through 33 as if fully set forth herein.

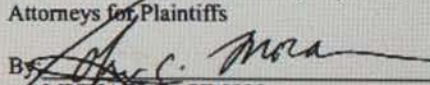
41. This is an action for declaratory relief pursuant to F.S. § 736.0201 and Chapter 86 of the Florida Statutes.

42. By way of this action, Plaintiffs request that this Court issue a declaration directing the trustee of the Trust to refrain from making distributions of the Trust's assets, or distributing the Trust's assets under Irving's purported exercise of the Power of Appointment, pending the resolution of Count I herein, or, if the Court does not grant the relief requested by Plaintiffs in Count I herein, the admission of Irving's true Last Will and Testament to probate.

WHEREFORE, Plaintiffs respectfully request that this Court enter final judgment: (a) directing the trustee of the Trust to refrain from making distributions of the Trust's assets or distributing the Trust's assets under Irving's purported exercise of the Power of Appointment, pending the resolution of Count I herein, or if the Court does not grant the relief requested by Plaintiffs in Count I herein, the admission of Irving's true Last Will and Testament to probate; (b) awarding Plaintiffs their reasonable attorneys' fees and costs associated with this action out of the assets of the Trust; and (c) granting such other and further relief as is just and proper under the circumstances.

Dated August 11, 2010.

GUNSTER, YOAKLEY & STEWART, P.A.
777 South Flagler Drive, Suite 500 East
West Palm Beach, Florida 33401
Tel. (561) 655-1980/Fax (561) 655-5677
Attorneys for Plaintiffs

By 
MICHAEL D. SIMON
Florida Bar No. 797110
JOHN C. MORAN
Florida Bar No. 0505072

- 7 -

IN RE: THE BEATRICE L. LIPPTON
AMENDED AND RESTATED TRUST
AGREEMENT

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

LISA L. FORMAN; VICKI L. GREENSTEIN;
and JOAN L. KIMBALL,

PROBATE DIVISION

CASE NO.: 502009CP001169XXXXMB

Plaintiffs,

v.

DONALD R. TESCHER, as Trustee of the
Beatrice L. Lippton Amended and Restated
Trust Agreement; and HOWARD L. LIPPTON,

Defendants.

SHARON R. DOCK, CLERK
PALM BEACH COUNTY
CIRCUIT CIVIL/FINANCIAL
2010 AUG 11 PM 4:55
FILED

**AMENDED COMPLAINT FOR REFORMATION
OF TRUST AND DECLARATORY RELIEF**

Plaintiffs, by and through their undersigned counsel, hereby file this Amended Complaint
for Reformation of Trust and Declaratory Relief, and state:

Jurisdiction, Venue & Parties

1. This is an action for reformation of a trust pursuant to F.S. § 736.0415 and Florida law, and for declaratory relief pursuant to F.S. § 736.0201 and Chapter 86 of the Florida Statutes.
2. Venue of this proceeding is proper in this Court pursuant to F.S. § 736.0204 and Chapter 47 of the Florida Statutes.
3. On May 27, 2004, Beatrice L. Lippton ("Beatrice") executed the Beatrice L. Lippton Amended and Restated Trust Agreement (the "Trust Agreement"). On April 5, 2005, Beatrice executed the First Amendment to Beatrice L. Lippton Amended and Restated Trust Agreement (the "First Amendment"). The Trust Agreement and First Amendment are collectively referred to herein as the "Trust." A true and correct copy of the Trust is attached hereto as Exhibit "A."
4. Beatrice was married to Irving B. Lippton ("Irving").

5. Plaintiffs, Lisa L. Forman, Vicki L. Greenstein, and Joan L. Kimball are Beatrice and Irving's daughters and are beneficiaries of the Trust. Lisa L. Forman is a resident of Palm Beach County, Florida.

6. Defendant, Donald R. Tescher, is the nominated successor trustee of the Trust pursuant to Subparagraph C.1 of Article IV of the Trust. Mr. Tescher is a resident of Palm Beach County, Florida. Mr. Tescher is named in this action solely as a nominal party due to his status as nominated successor trustee of the Trust.

7. Defendant, Howard L. Lipton ("Howard"), is the Plaintiffs' brother and is the son of Beatrice and Irving.

General Allegations

8. Beatrice passed away on January 7, 2007 at the age of 88. As of the date of her death, Beatrice and Irving had been married for over 60 years.

9. Irving survived Beatrice and passed away on March 12, 2009 at the age of 94.

10. Since at least the late 1970's, Beatrice and Irving had mirror image estate plans, including mirror image wills and trusts. The wills and trusts executed by Beatrice over these years named Irving as her primary beneficiary, if he survived her. Similarly, the wills and trust executed by Irving during the same time named Beatrice as his primary beneficiary, if she survived him.

11. Until the time of the family financial crisis caused by Howard, the wills and trusts executed by Beatrice and Irving provided that, after the death of both Beatrice and Irving, each of their four children (Lisa, Vicki, Joan and Howard) would ultimately receive relatively equal shares of their parents' assets.

12. This was Beatrice and Irving's plan. Unfortunately for this family, however, Howard had other plans.

13. Howard is a doctor who, at various times, has operated medical clinics in and around New Orleans and Shreveport, Louisiana. For many years, Howard has been plagued with financial troubles, many of which appear to be due to his problems with drugs.

14. In the late 1990's and early 2000's Howard was engaging in a series of criminal activities, many of which involved his medical practice and medical clinics.

15. In 2000, as the FBI was investigating Howard for Medicare fraud, the FBI discovered that Howard had submitted fraudulent bills for several years, charging the government for respiratory therapy treatments for the elderly that he had not performed. The FBI turned up approximately \$1.3 million in falsified Medicare claims.

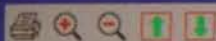
16. In late 2001 and throughout 2002, Howard also became entangled in a federal criminal investigation involving a prostitution ring on Canal Street in New Orleans. Over a three-year period, Howard spent as much as \$350,000 on prostitutes at the Canal Street Brothel.

17. At the same time Howard was bilking the United States Government for more than \$1 million and spending hundreds of thousands of dollars on prostitutes, he was bilking his elderly parents out of millions of dollars – as much as \$7.5 million by early 2005.

18. Howard ultimately made a deal with the FBI to obtain a reduced sentence on his Medicare fraud charges. To obtain leniency for himself in his felony Medicare fraud case, Howard provided the FBI with information relating to their Canal Street Brothel investigation.

19. On June 19, 2002, Howard was convicted in Federal Court of felony Health Care Fraud, and with the leniency that came from his role as an informant, he was sentenced to 18 months in federal prison.

20. In July, 2002, Howard filed for Chapter 7 bankruptcy in the United States Bankruptcy Court, Eastern District of Louisiana.



21. In the years leading up to the 2005 First Amendment of Beatrice's Trust (and Irving's Trust), Howard's financial abuse of his elderly parents became so great that Irving and Beatrice were nearly driven to financial ruin and had reached the point where they were struggling to meet their own financial needs. It was only through the 11th hour involvement of their daughters and their spouses, with the assistance of Beatrice and Irving's longtime legal and financial advisors, that Irving and Beatrice were spared from complete financial ruin.

22. On February 16, 2005, in the wake of the financial and emotional devastation Howard had brought upon his family, Howard sent a letter to the members of his family stating: "This is to inform you that upon the death of my parents, I intend to file an appropriate disclaimer regarding my inheritance."

23. Shortly thereafter, as part of the process of repairing the financial damage caused by Howard, Irving and Beatrice worked with their longtime attorneys at Tescher Gutter Chaves Josepher Rubin Ruffin & Forman, P.A. ("Tescher Gutter Firm") in Boca Raton, Florida to change their trusts and estate plans to fully remove Howard as a beneficiary.

24. To that end, on April 5, 2005, Beatrice executed the First Amendment (as always, Irving executed a mirror document), which was prepared by her attorneys at the Tescher Gutter Firm.

25. The First Amendment deleted the existing Subparagraph D.2 of Article II of the Trust Agreement and replaced it with provisions which Beatrice intended to completely disinherit Howard.

26. In particular, the new Subparagraph D.2 of Article II in the First Amendment provides in relevant part:

I have not provided for my son, HOWARD L. LIPPTON ("**HOWARD**"), not out of any unkindness to him or any lack of love or affection, but because HOWARD has indicated in writing his intent to disclaim any assets inherited under this Trust and I wish to honor Howard's intentions. It is also my belief that during his

lifetime, I have made substantial loans and gifts of assets to HOWARD that more than equate to what his ultimate inheritance would have been.

27. It was Beatrice's intent to fully and finally eliminate Howard from all facets of her Trust and estate plan.

28. However, another section of Beatrice's Trust Agreement, Subparagraph D.1 of Article II, contained a rather innocuous power of appointment clause limited to Beatrice's "lineal descendants and their spouses" (the "Power of Appointment"). Because of an oversight in drafting the First Amendment, when Howard was removed from the Trust, the standard language used in Subparagraph D.1 of Article II (i.e. "lineal descendants") was not changed to exclude Howard, as Beatrice intended.

29. This inadvertent and seemingly innocuous drafting error has become relevant because of Howard's ongoing efforts to fraudulently obtain what remains of his parents' assets.

30. Almost immediately after Beatrice died on January 7, 2007, while Irving was reeling from the loss of his wife of more than 50 years, Howard alienated Irving, a 90 year-old mentally and physically frail man, from his daughters, Lisa, Vicki and Joan, as well as from his longtime attorneys.

31. Within 4 days after Beatrice's death, Howard had Irving meeting with a new lawyer to draft a new will cutting out Irving's daughters and leaving everything to Howard. Of particular relevance to this proceeding is that this new will purports to exercise the power of appointment from Beatrice's Trust exclusively in favor of Howard - which is directly contrary to Beatrice's express intent that Howard not receive any assets from her Trust.

32. Plaintiffs have retained the undersigned law firm and have agreed to pay them the reasonable attorneys' fees and costs associated with this action.

33. Plaintiffs are entitled to recover their attorney's fees and costs from the assets of the Trust pursuant to F.S. §§ 736.1005 and 736.1006.

Count I – Reformation of Trust

34. Plaintiffs re-allege the allegations in paragraphs 1 through 33 as if fully set forth herein.

35. This is an action for reformation of trust to correct a mistake pursuant to F.S. § 736.0415 and Florida common law.

36. It was Beatrice's intent in executing the First Amendment to completely eliminate Howard as a beneficiary of her Trust and as a permissible appointee under the Power of Appointment.

37. However, the terms of the First Amendment were affected by a mistake in that the drafting attorneys inadvertently failed to include changes to the Power of Appointment in Subparagraph D.1 of Article II of the Trust Agreement to remove Howard as a permissible appointee in accordance with Beatrice's expressed intent.

38. The accomplishment of Beatrice's intent and terms of the Trust were affected by this mistake.

39. Accordingly, in order to fulfill Beatrice's intent, the Power of Appointment at Subparagraph D.1 of Article II of the Trust Agreement should be reformed to read as follows:

1. Limited Power. My spouse (if my spouse survives me) may appoint the Marital Trust and Family Trust (except any part added by disclaimer from the Marital Trust and proceeds of insurance policies on my spouse's life) to or for the benefit of one or more of my lineal descendants and their spouses, excluding my son, Howard Lipton, his spouse and his descendants.

WHEREFORE, Plaintiffs respectfully request that this Court enter final judgment: (a) reforming the language of the Trust as set forth herein; (b) awarding Plaintiffs their reasonable attorneys' fees and costs associated with this action; and (c) granting such other and further relief as is just and proper under the circumstances.

Count II – Declaratory Relief

40. Plaintiffs re-allege the allegations of paragraphs 1 through 33 as if fully set forth herein.

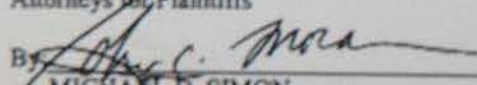
41. This is an action for declaratory relief pursuant to F.S. § 736.0201 and Chapter 86 of the Florida Statutes.

42. By way of this action, Plaintiffs request that this Court issue a declaration directing the trustee of the Trust to refrain from making distributions of the Trust's assets, or distributing the Trust's assets under Irving's purported exercise of the Power of Appointment, pending the resolution of Count I herein, or, if the Court does not grant the relief requested by Plaintiffs in Count I herein, the admission of Irving's true Last Will and Testament to probate.

WHEREFORE, Plaintiffs respectfully request that this Court enter final judgment: (a) directing the trustee of the Trust to refrain from making distributions of the Trust's assets or distributing the Trust's assets under Irving's purported exercise of the Power of Appointment, pending the resolution of Count I herein, or if the Court does not grant the relief requested by Plaintiffs in Count I herein, the admission of Irving's true Last Will and Testament to probate; (b) awarding Plaintiffs their reasonable attorneys' fees and costs associated with this action out of the assets of the Trust; and (c) granting such other and further relief as is just and proper under the circumstances.

Dated August 11, 2010.

GUNSTER, YOAKLEY & STEWART, P.A.
777 South Flagler Drive, Suite 500 East
West Palm Beach, Florida 33401
Tel. (561) 655-1980/Fax (561) 655-5677
Attorneys for Plaintiffs

By 
MICHAEL D. SIMON
Florida Bar No. 797110
JOHN C. MORAN
Florida Bar No. 0505072



CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing was served via facsimile & U.S. Mail to: G. Charles Wohlust, Esq., 341 North Maitland Avenue, Suite #346, Maitland, FL 32751; Victor L. Chapman, Esq., Barrett, Chapman & Ruta, P.O. Box 3825, Orlando, FL 32802-3828; and via U.S. Mail only to: Donald Tescher, Esquire, 4855 Technology Way, Suite 720, Boca Raton, FL 33431 on August 11, 2010.

GUNSTER, YOAKLEY & STEWART, P.A.
777 South Flagler Drive, Suite 500 East
West Palm Beach, FL 33401-6194
Telephone: 561-655-1980
Facsimile: 561-655-5677
Attorneys for Plaintiffs

By: 

MICHAEL D. SIMON
Florida Bar No. 797110
JOHN C. MORAN
Florida Bar No. 0505072

WPM 1087819.3

BEATRICE L. LIPPTON

AMENDED AND RESTATED TRUST AGREEMENT

This Amended and Restated Trust Agreement is dated this 27 day of May, 2004, and is between BEATRICE L. LIPPTON, of Orange County, Florida, referred to in the first person, as settlor, and BEATRICE L. LIPPTON, of Orange County, Florida, and BEATRICE L. LIPPTON's successors, as trustee (referred to as the "Trustee," which term more particularly refers to all individuals and entities serving as trustee of a trust created hereunder during the time of such service, whether alone or as co-trustees, and whether originally serving or as a successor trustee).

WHEREAS, on November 13, 1979, I created and funded the Trust known as the BEATRICE L. LIPPTON TRUST (the "Trust Agreement," which reference includes any subsequent amendments of said trust agreement); and

WHEREAS, I amended and restated the Trust Agreement on various dates, which most recent amendment and restatement occurred on June 3, 1999; and

WHEREAS, on June 21, 2001, I amended the Trust Agreement as previously amended and restated, which amendment was entitled the FIRST AMENDMENT TO BEATRICE L. LIPPTON TRUST AGREEMENT AS AMENDED AND RESTATED ON JUNE 3, 1999; and

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

NOW THEREFORE, by executing this instrument, I hereby amend and restate the Trust Agreement in its entirety as follows:

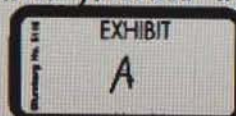
ARTICLE I. DURING MY LIFE AND UPON MY DEATH

A. Rights Reserved. I reserve the right (a) to add property to this Trust during my life or on my death, by my Will or otherwise; (b) to withdraw property held hereunder; and (c) by separate written instrument delivered to the Trustee, to revoke this Agreement in whole or in part and otherwise modify or amend this Agreement. However, after my spouse's death I may not exercise any of said rights with respect to property added by my spouse upon my spouse's death by my spouse's Will or otherwise.

B. Payments During My Life. If income producing property is held in the Trust during my life, the Trustee shall pay the net income of the Trust to me or as I may direct. However, during any periods while I am Disabled, the Trustee shall pay to me or on my behalf such amounts of the net income and principal of the Trust as it deems proper for my Welfare, and also may in its discretion pay to my

BEATRICE L. LIPPTON
AMENDED AND RESTATED TRUST AGREEMENT

TESCHER GUTTER CHAVES JOSEPH RUBIN RUFFIN & FORMAN, P.A.



BMM 00356

IN RE: THE BEATRICE L. LIPPTON
AMENDED AND RESTATED TRUST
AGREEMENT

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

LISA L. FORMAN; VICKI L. GREENSTEIN;
and JOAN L. KIMBALL,

PROBATE DIVISION

CASE NO.: 502009CP001169XXXXMB

Plaintiffs,

v.

DONALD R. TESCHER, as Trustee of the
Beatrice L. Lippton Amended and Restated
Trust Agreement; and HOWARD L. LIPPTON,

Defendants.

PLAINTIFFS' EXHIBIT LIST

Plaintiffs, Lisa L. Forman, Vicki L. Greenstein, and Joan L. Kimball, by and through

their undersigned counsel, hereby submit their Exhibit List as follows:

NO.	Date	Description	Objections	Admitted
1.		The Resume of Donald R. Tescher		
2.	04/05/05	First Amendment to Beatrice L. Lippton Amended and Restated Trust Agreement		
3.	06/03/99	Will of Beatrice L. Lippton		
4.	06/03/99	The Beatrice L. Lippton Trust Agreement		
5.	2004	Draft of 2004 Beatrice L. Lippton Amended and Restated Trust Agreement prepared by Donald Tescher		
6.	05/27/04	Beatrice L. Lippton Amended and Restated Trust Agreement		
7.	02/16/05	Disclaimer by Howard Lippton		
8.	03/02/05	Memo from Donald Tescher to File		

0. No Objection.
 1. All Objections.
 2. Materiality only.
 3. Relevancy only.
 4. Materiality and Relevancy.
 5. Probative value substantially outweighed by danger or unfair prejudice, confusion of issues, misleading the jury, or needless presentation of cumulative evidence.
 6. Authenticity.
 7. All objections except authenticity.
 8. Privilege.
 9. Hearsay.
 10. Other.
- WPB 1106218.4

FILED
2011 FEB -9 PM 2:53
SHARON R. BOGGS, CLERK
PALM BEACH COUNTY
CLERK OF COURT



NO.	Date	Description	Objections	Admitted
9.	03/22/05	Letter from Donald Tescher to Irving and Beatrice Lipton re: draft Amendments to Irving and Beatrice Revocable Trusts		
10.	03/28/05	Email to Jordan Klinsberg from Donald Tescher re: I.B. & Bea Lipton		
11.		Attorney note re: Percentage of Trust to each Lipton beneficiary		
12.	03/30/05	Letter from Donald Tescher to Irving and Beatrice Lipton re: execution copies of First Amendment to Irving B. Lipton Amended and Restated Trust Agreement and First Amendment to Beatrice L. Lipton Amended and Restated Trust Agreement		
13.	10/29/06	Fax received by Donald Tescher from Beatrice Lipton		
14.	01/12/07	Irving Lipton Acceptance as Successor Trustee of Beatrice L. Lipton Trust		
15.	05/31/05	Complaint Objecting to Discharge of Debtor, Case No. 02-14785		
16.	03/27/03	Louisiana State Board of Medical Examiners Consent Order		
17.	03/08/07	Christus Schumpert Health System 24 Hour Patient Care Record Nurses Notes		
18.	03/15/07	Christus Schumpert Health System Consultation Report by William Haynie, Jr., M.D.		
19.	03/20/07	Christus Schumpert Health System Interdisciplinary Conference Report		
20.	03/23/07	Christus Schumpert Health System Admission History and Physical by Jenness D. Courtney, III, M.D.		
21.	04/01/07	Christus Schumpert Health System Consultation Report by Stuart Lebas, M.D.		
22.	04/01/07	Christus Schumpert Health System Progress Records		
23.	04/02/07	Christus Schumpert Health System Consultation Report by William Haynie, Jr., M.D.		
24.	04/04/07	Christus Schumpert Health System Admission History and Physical by Thomas J. Worgul, M.D.		
25.	05/12/07	Christus Schumpert Health System Discharge Summary by Jenness D. Courtney, III, M.D.		

0. No Objection.
1. All Objections.
2. Materiality only.
3. Relevancy only.
4. Materiality and Relevancy.
5. Probative value substantially outweighed by danger or unfair prejudice, confusion of issues, misleading the jury, or needless presentation of cumulative evidence.
6. Authenticity.
7. All objections except authenticity.
8. Privilege.
9. Hearsay.
10. Other.

NO.	Date	Description	Objections	Admitted
26.	05/15/07	Christus Schumpert Health System Patient Insurance Information and Coding Summary		
27.	05/15/07	Christus Schumpert Health System Admission History and Physical by Thomas J. Worgul, M.D.		
28.	05/16/07	Christus Schumpert Health System Consultation Report by L. Webster Johnson, M.D.		
29.	05/22/07	Christus Schumpert Health System Consultation Report by Raymond Germany, M.D.		
30.	05/22/07	Christus Schumpert Health System Consultation Report by Herbert B. Meier, M.D.		
31.	05/23/07	Christus Schumpert Health System Assessments/Interventions Log		
32.	06/06/07	Christus Schumpert Health System Consultation Report by Arthur L. Pock, M.D.		
33.	06/12/07	Christus Schumpert Health System Assessments/Interventions Log		
34.	06/19/07	Christus Schumpert Health System Progress Records		
35.	06/23/07	Christus Schumpert Health System Progress Records		
36.	07/02/07	Christus Schumpert Health System Medical Oncology Patient Record		
37.	09/19/07	Christus Schumpert Health System Emergency Department Report by Kevin C. Huston, M.D.		
38.	09/21/07	Schumpert St. Mary Discharge Report beginning 10/16/07		
39.	09/26/07	Christus Schumpert Health System Progress Records		
40.	10/31/07	Dimensions Health Care Comprehensive Claim Assessment Form		
41.	11/08/07	Physician's Certification filed by Thomas J. Worgul, M.D.		
42.	11/28/07	Letter to Thomas J. Worgul from Ashley W. Sigafoos, M.D.		
43.	11/30/07	Christus Schumpert Health System Consultation Report by Lloyd G. Whitley, M.D.		
44.	12/01/07	Schumpert St. Mary Discharge Report beginning 12/06/07		
45.	12/05/07	Christus Schumpert Health System Consultation Report by John M. Provenza, M.D.		
46.	12/09/07	Christus Schumpert Health System 24 Hour Patient Care Record		
47.	12/10/07	Christus Schumpert Health System Consultation Report by Arthur L. Pock, M.D.		

6. No Objections.
7. All Objections.
8. Secondary only.
9. Tertiary only.
10. Secondary and Tertiary.
11. Provisions were substantially outweighed by danger to public health, safety or interest, according to the jury, in written presentation of cumulative evidence.
12. Acquiescence.
13. All objections except authenticity.
14. Privilege.
15. Waiver.
16. Other.

WFO 1106218.4

NO.	Date	Description	Objections	Admitted
48.	12/10/07	Christus Schumpert Health System Consultation Report by Arthur L. Puch, M.D.		
49.	02/08/08	Louisiana Petition for Limited Interdiction filed by Howard L. Lippson		
50.	03/07/08	Christus Schumpert Health System Admission Form		
51.	03/13/08	Louisiana Second Amended and Supplemental Petition for Interdiction		
52.	03/25/08	Objections on behalf of Irving Lippson to Gutter, Chavez, Joseph, Rubin, Forman, Fleisher, P.A. subpoena		
53.	04/13/08	Christus Schumpert Health System Consultation Report by Calvin Alexander, M.D.		
54.	06/03/08	W.K. Pierremont Health Center Consultation Report by David Green, M.D.		
55.	06/03/08	W.K. Pierremont Health Center HIMS Print All Information Report		
56.	06/10/08	Pulmonary & Critical Care Specialists - Progress Report		
57.	06/27/08	W.K. Pierremont Health Center Physician Documentation		
58.	06/28/08	Nurse Notes of 06/26/08 - 06/27/08		
59.	06/30/08	W.K. Pierremont Health Center Consultation Report by Paul C. Davis, M.D.		
60.	06/30/08	W.K. Pierremont Health Center Consultation Report by Paul C. Davis, M.D.		
61.	07/03/08	Nurse Notes of 07/03/08		
62.	07/15/08	Nurse Notes of 07/15/08		
63.	07/16/08	Nurse Notes of 07/16/08		
64.	07/17/08	Nurse Notes of 07/17/08		
65.	07/18/08	W.K. Pierremont Health Center HIMS Print All Information Report		
66.	08/13/08	W.K. Pierremont Health Center ED Physician Notes		
67.	08/28/08	Nurse Notes of 08/28/08		
68.	12/17/08	Gastrointestinal Specialists Follow-up Visit Report		
69.	01/18/09	W.K. Pierremont Health Center HP Report		
70.	01/30/09	W.K. Pierremont Health Center Consultation Report by Philip J. Garavaglia, M.D.		
71.	03/12/09	Letter from Howard L. Lippson to Banker's Life Insurance		

6. No Objection.
7. All Objections.
8. Interim only.
9. Refractory only.
10. Interim and Refractory.
11. Protective order substantially outweighed by danger to either party, or
continuation of issues, rendering the party or parties' presentation
of evidence irrelevant.
12. Authority.
13. All objections except authority.
14. Privilege.
15. Other.
16. Other.

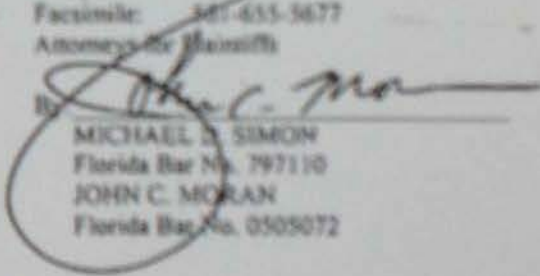
WFB 1106258.4

NO.	Date	Description	Objections	Admitted
72.	03/31/09	Letter from John Moran to Robert Chaves with Subpoena Duces Tecum directed to Gutter, Chaves, Josepher, Rubin, Forman, Fleisher, P.A. re Linda C. Hankins agreement to allow production of records		
	01/28/11	All exhibits to the Deposition of Donald R. Tescher		

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing was served via facsimile & U.S. Mail to: G. Charles Wohlust, Esq., 341 North Mainland Avenue, Suite 8346, Mainland, FL 32751; Victor L. Chapman, Esq., Barrett, Chagnon & Raitt, P.O. Box 3828, Orlando, FL 32802-3828; and via U.S. Mail only to: Donald Tescher, Esq., 4855 Technology Way, Suite 720, Boca Raton, FL 33431 on February 7th, 2011.

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By 
 MICHAEL D. SIMON
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6. No Objections.
7. All Objections.
8. Materiality only.
9. Relevance only.
10. Materiality and Relevance.
11. Production value substantially outweighed by danger to justice, prejudice, confusion of issues, misleading the jury, or needless presentation of cumulative evidence.
12. Authenticity.
13. All objections except authenticity.
14. Privilege.
15. Discovery.
16. Other.

WPS 1106238.4

IN RE: THE BEATRICE L. LIPPTON
AMENDED AND RESTATED TRUST
AGREEMENT

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

LISA L. FORMAN; VICKI L. GREENSTEIN;
and JOAN L. KIMBALL,

PROBATE DIVISION

CASE NO.: 502009CP001169XXXXMB

Plaintiffs,

v.

DONALD R. TESCHER, as Trustee of the
Beatrice L. Lippton Amended and Restated
Trust Agreement; and HOWARD L. LIPPTON,

Defendants.

FINAL JUDGMENT

THIS CAUSE came before the Court for a non-jury trial on March 8, 2011 on Plaintiffs' Amended Complaint for Reformation of Trust and Declaratory Relief (the "Amended Complaint"). After considering the submissions of the parties, the evidence presented, argument of counsel, and being otherwise fully advised, the Court hereby makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The Amended Complaint seeks the reformation of a trust to correct an alleged scrivener's error. Beatrice L. Lippton ("Bea") was the settlor of the trust at issue. Bea was married to Irving B. Lippton ("Irving") for over 60 years. Bea and Irving had four (4) children: Plaintiffs, Lisa L. Forman, Vicki L. Greenstein, and Joan L. Kimball, and Defendant, Howard L. Lippton ("Howard"). Bea passed away on January 7, 2007, at the age of 88. Irving survived Bea and passed away on March 12, 2009, at the age of 94.

2. On May 27, 2004, Bea executed the Beatrice L. Lippton Amended and Restated Trust Agreement (the "2004 Trust"). Subsequently, on April 5, 2005, Bea executed the First Amendment

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to her 2004 Trust (the "2005 Amendment"). The 2004 Trust and the 2005 Amendment are collectively referred to herein as the "Trust." Both of these trust documents were drafted by Donald Tescher, Bea and Irving's long-time trust and estate lawyer.

3. This case deals with an alleged drafting error in the 2005 Amendment. As it is currently drafted, Bea's Trust includes a power of appointment clause that permits Irving to direct Trust assets to Howard after Bea's death. Plaintiffs have alleged that the inclusion of this clause, which allows the power of appointment to be exercised in favor of Howard, is the product of a drafting error by Mr. Tescher.

4. At trial, the Court considered the following questions: (a) In executing the 2005 Amendment, did Bea intend for Howard to be able to take any assets from her Trust, including by way of Irving having the ability to direct assets from Bea's Trust to Howard if Bea died before Irving?; and (b) Did Donald Tescher, the drafting attorney, make a drafting error when he prepared the 2005 Amendment such that Bea's intentions were not properly expressed in that document?

5. The only witness called to testify in this action was the drafting lawyer, Donald Tescher. Mr. Tescher testified that over the years Bea and Irving had loaned Howard approximately 7 million dollars that he was unable to repay. Originally they thought they were loaning him funds as a bridge loan while his medical practice in Louisiana awaited payment of its Medicare billings. Later they found that Howard had used the money to fund a hedonistic life style in New Orleans while he also perpetrated Medicare fraud on the United States Government. Eventually Howard was caught and spent 18 months in a Federal Prison. In 2004 Bea and Irving amended their estate planning documents to provide that Howard was to only receive 5% of their estate but they stopped short of disinheriting him although they considered doing so. At the time of this amendment Bea and Irving told Mr. Tescher that they had agreed not to give Howard anymore money.



6. In February of 2005 two things happened. First, Bea found that despite their agreement Irving had continued to send Howard money. This made her upset with Irving. Second, Howard sent a letter to his parents and his sisters stating that he had received enough money from his parents and that he planned on disclaiming any interest in any money that he might receive upon their death. On February 24, 2005, Bea and Irving met with Mr. Tescher over lunch in Orlando. At that time Mr. Tescher explained that Howard's letter was of no legal effect and that if they left him money he was not bound to disclaim his interest. Bea and Irving told Mr. Tescher that they wanted to honor Howard's decision to not receive any inheritance upon their deaths. Mr. Tescher testified that Bea and Irving also wanted to modify their trusts so that the survivor of them could not exercise the limited power of appointment to leave anything to Howard.

7. Mr. Tescher then supervised the preparation of an amendment to the trusts that deleted the 5% previously left to Howard and explained why that was being done. Unfortunately Mr. Tescher made no change in the power of appointment and upon Bea's death Irving exercised the power to leave all of the remaining trust assets to Howard.

8. Mr. Tescher testified that the 2005 Amendment should have been drafted such that Howard would receive *no* assets from Bea's Trust -- not by an express provision in the Trust, nor by way of a power of appointment allowing Irving to direct Trust money to Howard.

9. Finally, Mr. Tescher testified that he made a drafting error when he prepared the 2005 Amendment such that Bea's expressed intentions to him are not properly set forth in the trust amendment.

10. Based on the testimony of Mr. Tescher and the other evidence presented, this Court finds that there is clear and convincing evidence that: (a) Bea *did not* intend for Howard to be able to

take any assets from her Trust, including by way of Irving having the ability to direct assets from Bea's Trust to Howard if Bea died before Irving; (b) Donald Tescher, the drafting attorney, made a drafting error when he prepared the 2005 Amendment such that Bea's intentions were not properly expressed in that document; and (c) the power of appointment clause in Bea's Trust, which allows Irving to direct Trust assets to Howard after Bea's death, is the product of a drafting error by Mr. Tescher.

11. Defendant has raised laches as an affirmative defense, arguing that he is prejudiced by the fact that the Amended Complaint was not filed until after the death of Irving. Laches is an affirmative defense and the burden of proof falls on the party asserting the defense, who must establish the defense by "very clear and positive evidence." Van Meter v. Kelsey, 91 So. 2d 327, 332 (Fla. 1956); Smith v. Town of Bithlo, 344 So. 2d 1288, 1289 (Fla. 4th DCA 1977)(the burden of proving laches is on the party that asserts it and it must be proved by very clear and positive evidence). The Court finds that the Defendant has not satisfied this evidentiary burden. See also Briggs v. Estate of Geelhoed, 543 So. 2d 332, 333 (Fla. 4th DCA 1989)(in an action to enforce a note, the suggestion that partial payment may have been made or that two deceased witnesses might have had something to offer in defense did not support a finding of prejudice).

CONCLUSIONS OF LAW

12. Florida law is well-settled that a testamentary trust may be reformed after the death of the settlor to correct a drafting mistake or scrivener's error. See Popp v. Rex, 916 So. 2d 954 (Fla. 4th DCA 2005)(reforming a trust to add language omitted from a trust due to a scrivener's error by the drafting attorney); In re Estate of Robinson, 720 So. 2d 540 (Fla. 4th DCA 1998); Schroeder v. Gebhart, 825 So. 2d 442 (Fla. 4th DCA 2002); Davis v. Rex, 876 So. 2d 609 (Fla. 4th DCA 2004); Reid v. Temple Judea, 994 So. 2d 1146 (Fla. 3d DCA 2008); § 736.0415, Fla. Stat.

13. Defendant argues that the statute of limitations bars Plaintiffs' claim for reformation of trust. However, Bea's Trust was a revocable trust wherein she expressly reserved to herself the

right "to revoke this Agreement in whole or in part and otherwise modify or amend this Agreement." See Article I.A. of the Trust. Thus, Plaintiffs had no standing to seek a reformation of Bea's Trust, nor could they challenge her Trust, until after her death on January 7, 2007. See § 736.0207, Fla. Stat. ("An action to contest the validity of all or part of a trust may not be commenced until the trust becomes irrevocable. . . ."); Brundage v. Bank of America, 996 So. 2d 877, 882 (Fla. 4th DCA 2008)(acknowledging that the interests of the remainder beneficiaries did not vest until after the settlor's death); § 736.0603(1), Fla. Stat. ("While a trust is revocable, the duties of the trustee are owed exclusively to the settlor."). Accordingly, the Court finds that Plaintiffs' claim for reformation of trust is not barred by any applicable statute of limitations.

14. Based on the evidence presented at trial and Florida law relating to reformation of trusts to correct a scrivener's error, this Court concludes that the Trust should be reformed to clearly articulate Bea's intent that Howard not be permitted to receive *any assets* from her Trust, including by way of a power of appointment exercised by Irving.

Based on the foregoing, it is hereby **ORDERED** and **ADJUDGED** as follows:

15. The relief requested in Count 1 (Reformation of Trust) of Plaintiffs' Amended Complaint is hereby **GRANTED**.

16. Bea's Trust is hereby reformed by deleting the second full paragraph on page 2 of the 2005 Amendment (i.e. the paragraph beginning, "Notwithstanding the foregoing . . .") in its entirety and replacing it with the following language:

Notwithstanding the foregoing, outright distributions under this paragraph D.2. to individuals who have not attained their 25th birthday shall be retained in separate trusts for such individuals in lieu of outright distributions, which separate trusts shall be administered as provided in paragraph E. below. For all purposes of this Trust and the distributions made hereunder, my son, HOWARD L. LIPPTON, shall be deemed to have predeceased me leaving no lineal descendants surviving. Each of my lineal descendants for whom a separate Trust is held hereunder shall hereinafter be referred to as a "*beneficiary*."

NS

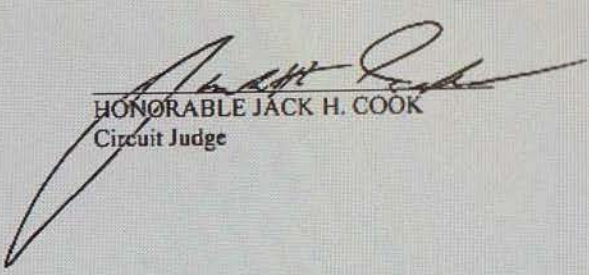
17. Further, Bea's Trust is hereby reformed by adding the following language to the 2005

Amendment:

I hereby delete Subparagraph D.I. of Article II of the Trust Agreement in its entirety and replace it with the following Subparagraph D.I.:

1. Limited Power. My spouse (if my spouse survives me) may appoint the Marital Trust and Family Trust (except any part added by disclaimer from the Marital Trust and proceeds of insurance policies on my spouse's life) to or for the benefit of one or more of my lineal descendants and their spouses, excluding my son, HOWARD L. LIPPTON, his spouse and his descendants.

DONE and ORDERED this 8th day of March, 2011 in West Palm Beach, Palm Beach County, Florida.


HONORABLE JACK H. COOK
Circuit Judge

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WPB 1111751.2



1 correct rendition of what your experience is in the
2 law?

3 A Yes, it is.

4 Q And I noticed up until 2007 you were a
5 partner with a firm then known as Tescher, Gutter,
6 Chaves and so on, including P.A.; is that correct?

7 A Actually until December 31, 2007, I
8 withdrew from the firm at that point.

9 Q So in December of 2007?

10 A Correct.

11 Q And that firm has been known as
12 Tescher --

13 A Tescher, Chaves, Josepher, Rubin, Ruffin
14 & Forman, P.A.

15 Q And the Forman in that firm, that was
16 Peter Forman?

17 A Yes, Peter Forman.

18 Q And how long was he a partner of yours in
19 that firm?

20 A Peter joined with us in 1990... I think
21 it was 1994 or 1995.

22 Q So he was your law partner for 12, 13, 14
23 years; something like that?

24 A Yes, 15 years.

25 Q And is he the husband of Lisa Forman, one

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1 of the Plaintiff's in this case?

2 A Yes, he is.

3 Q And how would you describe your
4 relationship with Peter? Was it purely business or
5 were you also friends? Are you friends now?

6 A Well, we're friends. He is a former
7 partner of mine. He was a former student of mine
8 when I was teaching as an adjunct at the University
9 of Miami. Peter joined us as a partner when we
10 opened a, what was then a satellite office for us
11 here in Boca Raton.

12 We were all originally from Miami. And one
13 of my then partners decided he wanted to get out of
14 Miami. It was after Hurricane Andrew. And we opened
15 a, he decided he wanted to move to Boca. He came up
16 and looked around and said, let's open a satellite
17 office up here.

18 At that same time Peter, his firm was inactive
19 or merging discussions with, I think, Holland & Knight if
20 I am not mistaken. And Peter did not want to go into a
21 big firm because of the nature of his practice. And I
22 happened to be speaking actually at a Broward County
23 Estate Planning Council meeting one night and he was
24 there. And we were chatting afterwards. And I said,
25 you know, we're opening an office in Boca. Peter happens

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1 to live in Boca. His office at that time was in Fort
2 Lauderdale. He said, that would be great. I'd love to
3 do that.

4 He joined us at that point in time. And he and
5 Robert Chaves were the, they were running our office up
6 here in Boca until about two years later when we closed
7 down Miami and then we all came up here.

8 Q What is the nature of his practice?

9 A He is a Probate and Trust Litigator.

10 Q Do you have any business relations with
11 him now at all?

12 A I do not believe so, no.

13 Q Do you do any type of legal work for any
14 family member of his, including his wife?

15 A No. Nor did I ever do any legal work for
16 his, any of his family other than his in-laws.

17 Q And that would be Beatrice and Irving
18 Lippton?

19 A Correct.

20 MR. CHAPMAN: Mr. Tescher, we have served
21 you with a Notice of Taking Deposition Duces
22 Tecum. I'll go ahead and mark this as Exhibit
23 No. 2.

24 (Thereupon, a Notice of Taking Deposition was
25 marked Exhibit No. 2 for identification and is

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1 attached hereto.)

2 BY MR. CHAPMAN:

3 Q I had previously provided you with a copy
4 of what had already been produced by the Plaintiffs'
5 in this case. And we're going to go through some of
6 that.

7 Was there anything else responsive to Exhibit
8 No. 2 that you've located?

9 A I believe I have one item. Did Mike
10 forward it to you?

11 MR. SIMON: I sent you something.

12 MR. CHAPMAN: When did you forward it?

13 MR. SIMON: Last night.

14 THE WITNESS: All of the Lipton files are
15 back at my former firm. At the time I withdrew
16 from the firm in December of '07, I was already
17 no longer or we were already no longer
18 representing the Lipton's. I think Beatrice
19 had already passed on at that point in time and
20 Irving had already directed that his
21 dispositive documents be sent down or up to
22 Orlando, if you will, to another law firm.

23 So I have no physical materials here. The
24 only thing I did have is I happen, my departure
25 from my former partners was on a very friendly

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1 basis. And, in fact, the first year, calendar
2 year 2008, we basically shared office space.
3 You could share office space in the same
4 offices where they are still located.

5 And because of the computer, basically our
6 computer system is identical to the system that
7 we had there, our new system here. We just
8 simply carried over all of the data. So I
9 happened to have still an old Lipton
10 directory, if you will, in my WordPerfect
11 directory.

12 The only item that was in there that I
13 think is relevant, this was a draft, a May 14,
14 2004, draft of the Rev. Trust that was
15 ultimately executed by Beatrice Lipton in May
16 of 2004.

17 BY MR. CHAPMAN:

18 Q Okay.

19 A It was the immediately preceding document
20 to the amendment that was done in '05, which was the
21 last document done. So this was an amendment and
22 restatement done in '04.

23 Q Okay.

24 A It's the Trust that you all are, the Trust
25 that goes with the amendment --

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1 Q Okay.

2 A -- that is the subject matter of your
3 lawsuit.

4 Q Okay. So this is the draft --

5 A This was a draft which is important
6 because it has some provisions in it that differ
7 from what ultimately got put into the final version,
8 which is the one that was ultimately executed. And
9 that final version was done, at least the computer
10 date on it is May 27, 2004.

11 MR. CHAPMAN: Okay. So we'll mark this as
12 Exhibit No. 3.

13 (Thereupon, a document was marked Exhibit No. 3
14 for identification and is attached hereto.)

15 BY MR. CHAPMAN:

16 Q This Exhibit No. 3 was the pre-dated, what
17 was ultimately executed in May of 2004, and that's
18 the subject --

19 A That is correct. I think it's relevant
20 to, you know, the inquiry today and the lawsuit.

21 Q And understanding that the document, of
22 course, will speak for itself sort of speak, but
23 what is it, could you point me to what is different
24 in Exhibit No. 3 than what ultimately ended up in
25 the May 2004?

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1 A Yes. On Page 4 of the document it
2 disposes of the balance of the estate at the death
3 of the survivor of Beatrice and I.B. Lipton. And
4 it provides there for the 45 percent division to
5 Vicki Greenstein, a 45 percent division to Lisa
6 Forman, a 10 percent division to Joan Kimball.

7 And it has a paragraph that provides as
8 follows: "Notwithstanding the foregoing, outright
9 distributions under this paragraph D.2. to individuals
10 who have not attained their 25th birthday shall be
11 retained in separate trusts for such individuals in lieu
12 of outright distributions, which separate trusts shall be
13 administered as provided in paragraph E. below.

14 For all purposes of this Trust and the
15 distributions made hereunder, my son, Howard L. Lipton,
16 shall be deemed to have predeceased me leaving no lineal
17 descendants surviving. Each of my lineal descendants for
18 whom a separate Trust is held hereunder shall hereinafter
19 be referred to as a "beneficiary."

20 Q Was that provision that you just read...
21 First of all, that was not ultimately put in to the
22 May '04 document?

23 A Into the document that was executed it
24 differs.

25 Q Why?

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1 A It differs to the following respect.

2 Instead of Joan Kimball getting 10 percent, she
3 received a 5 percent share. And there was a 5
4 percent share allocated to Howard Lipton.

5 Q First of all, did a similar provision
6 exist for Irving's?

7 A Yes. Irving's, the draft that had been
8 done for Irving, the May 14th draft and the May 27th
9 final draft are essentially identical in terms of
10 dispositive provisions.

11 Q Did you have discussions with either
12 Irving or Beatrice as to why the changes made from
13 Exhibit 3, the earlier May draft, and what was
14 ultimately executed by both of them?

15 A Oh, yes.

16 Q What did you discuss?

17 A You have to go back before May 14th
18 because this was at a time where Irving and
19 Beatrice, and I think their daughters, were having
20 family conferences and consultations regarding the
21 upset over a lot of things that had occurred with
22 Howard. This was kind of a, almost a combination of
23 a lot of events that had gone on over the last
24 several years before that.

25 And frankly what had occurred over this

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1 significant period of time is that Howard had been
2 provided with a very, very significant amount of funds
3 for what I think mom and dad thought or at least dad
4 thought were to help him developing his practice and for
5 other purposes. And, obviously, this was after Howard
6 had gone through some difficult times for him, relative
7 to the Medicare fraud issues that he ultimately spent
8 some time in prison for. The issue with the brothels and
9 the like, that were significant funds were demonstrative
10 and expended by Howard for a lot of different activities
11 that clearly were not business-related.

12 And a lot of other issues he went through. A
13 bankruptcy that clearly was, you know, that became a
14 problem for the family because family assets got dragged
15 into the bankruptcy issues. It ended up costing the
16 family some dollars in order to settle off that
17 bankruptcy for Howard. And I think there was general
18 upset, certainly on I.B. and Bea's part, as well as on
19 the girls part, that Howard had taken advantage, if you
20 will, of mom and dad's, principally dad's position in
21 terms of taking, providing for his son.

22 You know, this was the son. He had four
23 children; three daughters and he had a son. And, you
24 know, this was his son. And he had a difficult time
25 saying no.

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1 Q Mr. Tescher, when you say, "Family
2 assets," are you talking about individual children's
3 assets or assets of the parents?

4 A No, I'm talking about I.B. and Bea's
5 assets. But some of those were tide into the family
6 because there were assets that the family all, were
7 all participating in. Hojosaki, for example, was
8 one of those assets.

9 Q Those were run by the elder, the parents
10 and also the Trust?

11 A And also... Correct.

12 Q Now, you indicated that the family, you
13 gave us a fairly long recitation of how the family
14 was upset. Did you have discussions directly with
15 Irving and Beatrice before the preparation of
16 Exhibit 3?

17 A Yes. I would not have done it on my own,
18 clearly.

19 Q How much of what you just relayed to me
20 was told to you directly by Beatrice?

21 A Most of what I told you was directly, but
22 I generally never met separately with Bea or I.B. I
23 would be almost always with both of them.

24 Q And, again, just as far as the time frame.
25 Before you prepared Exhibit No. 3 you had

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1 discussions with Irving and Bea whereby they related
2 some or all of what you just described?

3 A Right.

4 Q How much of what you just described is
5 related by people other than Irving and Bea?

6 A Very, very little.

7 Q Do you have any documents that would
8 memorialize any of what you described that took
9 place prior to the preparation of Exhibit 3?

10 A I don't... I'm at a little bit of a
11 disadvantage because all of the files are back at
12 the old firm. I believe that you all have had
13 access to those files, but I have not had access to
14 them. There's nothing in my WordPerfect directory
15 that I do have access to that has, that had anything
16 that would be -- I take it back. I guess it was
17 the memoranda.

18 There was a memorandum, I think. There was an
19 internal memorandum, I think. I don't remember if there
20 was a file memorandum prior to the May '04 time frame.
21 There was clearly before the March '05 time frame.

22 Q And that's the document we'll get to in a
23 second.

24 A That is correct.

25 Q Now, you are looking at your files. Are

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1 they essentially... I mean, what's been produced
2 and what has bate stamp numbers, you have the
3 originals of those?

4 A No, I have no originals. I have here
5 whatever both you gentlemen have been sending over
6 to me, okay.

7 Q Okay.

8 A That's all I have. There's nothing else
9 other than this one document, Exhibit 3, that was
10 not here. The only thing here that I have is what
11 you gentlemen have been sending me.

12 Q What have you been sent, and I'm assuming
13 you are talking about the lawyers that represent the
14 Plaintiffs' in this case; Mr. Simon and Mr. Moran.
15 What have they sent you?

16 A Copies of pleadings, copies of...
17 Essentially, copies of pleadings. And they also
18 forwarded to me, I think, what they forwarded to you
19 which were items from the file, I guess. I also got
20 copies of those.

21 Q So what was ultimately produced? I mean,
22 we're going to get into a few minutes with the
23 specifics. You did not have those in your files?

24 A No.

25 Q And you'll note, and I noted, and we'll

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1 get into this in a few minutes. There's a bate
2 stamp application GCJ with a dash and a number after
3 that. Those were not applied by your office?

4 A No, not at all.

5 Q And I note there's a number of documents
6 there and they don't seem to be in a particular
7 order. You had nothing to do with the compilation
8 of these documents?

9 A No, sir.

10 Q So when I requested the documents in this
11 litigation, were you consulted in what was being
12 produced or did you find out after?

13 A No, I was not consulted because I didn't
14 have the files.

15 Q So when I sent the request for production,
16 they didn't pick up the phone and say, Donald, what
17 do you have or that nothing was produced?

18 A It's possible that Mr. Simon might have
19 called me and said, do you have any files, but I
20 don't recall. Remember, the litigation, this is
21 only a tangential piece of litigation that stretches
22 back several years now. And so this has been going
23 on for some time. I mean, Mike Simon knew I didn't
24 have anything because he's been involved in this
25 case up in Orlando for some time.

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1 MR. SIMON: Well, Victor, pre-dating you
2 we sent a subpoena, actually to Belinda,
3 Howard's previous counsel, to Tescher &
4 Spallina formally.

5 MR. CHAPMAN: No, I understand.

6 BY MR. CHAPMAN:

7 Q And just so we'll focus on... Since
8 August of last year, were you contacted and asked to
9 review any documents and question about any
10 conversations you had with Beatrice or any
11 communications?

12 A Yes.

13 Q When were you first contacted in relations
14 to say August 11, 2010?

15 A It would only be from my own recollections
16 because frankly nobody is paying me for this, so I'm
17 not keeping any time records anywhere on any of this
18 stuff. And I don't recall if Mike Simon or somebody
19 from the Gunster office has called me prior to
20 filing this lawsuit or shortly after it was filed.
21 I would clearly not have been anybody else. I've
22 had no communications with Peter Forman about this
23 matter. I've no communications with any of the
24 daughters about this matter.

25 Q Okay. And I used August because, again,

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1 I'm not trying to be creative because I don't think
2 I could be that creative. But there was an amended
3 pleading filed. The original was filed in 2009, but
4 there was an amendment made in August of 2010 that
5 essentially raised the reformation issue that we're
6 here about.

7 Prior to the filing of that, do you recall when
8 you were first contacted by the Plaintiffs' in this case?

9 A As I said, I don't recall if it was before
10 or after that date.

11 Q Have you had any communications with them
12 in writing about any of these issues?

13 A None.

14 Q And, again, since on or slightly before
15 August of last year, have you sent anything to
16 representatives for the Plaintiffs'?

17 A The only thing that I sent to Mr. Simon
18 was Exhibit 3 which was yesterday.

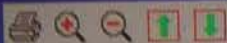
19 Q And that was yesterday. I guess I got it
20 in my email last night.

21 MR. SIMON: I forwarded it to you.

22 BY MR. CHAPMAN:

23 Q Now, Exhibit 3, the draft of the '04
24 document you talked about this specific language.
25 What ultimately went into the executed May '04

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1 document did not contain the language that you
2 described?

3 A That is correct.

4 Q Did you have discussions with Beatrice
5 about leaving out that language?

6 A Clearly.

7 Q And what do you recall having discussions
8 with Beatrice about?

9 A They... When I had discussions it would
10 have been with both of them. And almost invariably
11 if it was telephone conversations they were
12 typically both on the phone. If it was, if they
13 happen to be in town visiting their family, I would
14 meet with both of them. And so, I don't recall
15 whether around this time in May of '04 whether I
16 had, had a physical meeting with them or it was a
17 telephone conference with them.

18 But they had, the gist of what our
19 conversations were, were that they wanted to, they wanted
20 to make sure that they were treating, that they had an
21 ability to try to treat their children in a more equal
22 fashion. It was fairly clear, frankly, based upon the
23 amount of dollars that had gone to Howard that it was
24 going to be difficult for them to ever achieve a level of
25 equality among their four children of how much everybody

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1 got.

2 It was a little further complicated by the fact
3 that part of the planning that we did prior to this time,
4 the time frame being '04, prior to this time involved the
5 business that Beatrice and I.B. Lipton had in Orlando.
6 In fact, the business is still there, Southeast Steel,
7 which has been a major appliance supplier in Orlando for
8 years and years and years and sits on an incredibly
9 valuable piece of property downtown from Orlando.

10 Q Actually, blocks from my office.

11 A Okay. And I've been up there and in
12 there.

13 Q I bought a refrigerator from them.

14 A I may have bought some stuff from them,
15 too. What happened was the person who was in, the
16 family member who was in the business with I.B. was
17 Stuart Kimball, Joan's husband. And, obviously
18 there was nobody else who was involved in the
19 business or who was going to be able to be involved
20 in the business on a going forward basis.

21 And so part of our overall estate planning
22 involved getting the business over to Joan and Stuart's
23 side of the ledger because that's where it needed to be
24 ultimately once I.B. and Bea were no longer around and
25 once I.B. was no longer able to run the business. And

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1 frankly, Stuart had been in the business for quite
2 sometime and had been very instrumental in growing that
3 business.

4 So, you know, there were continuing
5 negotiations and it was with separate counsel. And we
6 went round and round for awhile until we came up with a
7 formula that everybody was comfortable with to be able to
8 ultimately get the business side over to that side of the
9 ledger, the Kimball side of the ledger.

10 So that left Lisa and Vicki who really had not
11 gotten, you know, anything yet from the family or what
12 was going to be left from the family. And so the
13 planning was gradually toward providing for the two of
14 them on the theory that Joan had been taken care of
15 because the basis upon which the business was transferred
16 to the Kimball family was a very favorable methodology to
17 the Kimball's. Yet still brought dollars back over into
18 the estate side that would ultimately be available for
19 distribution of the other children.

20 So that kind of had been taken care of. And,
21 of course, this culmination of this several years of
22 Howard. And what happened was apparently after the
23 bankruptcy, after jail, there were still more dollars
24 being funnelled to Howard by I.B. which kept exacerbating
25 the matter within the family unit.

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1 Q And if you can explain what you mean by
2 that? How do you know the dollars were coming from
3 the family and who in the family was paying money to
4 Howard?

5 A I.B. was.

6 Q And it was from I.B.'s funds?

7 A Well, it was the families funds,
8 Southeast, principally would come from the business
9 side. That's where most of the dollars were coming
10 from.

11 So there was, that's what triggered this
12 draft that was prepared because at that time, you know,
13 it was, okay, whatever is left we want to go to
14 essentially Vicki and Lisa with a small piece for Joan
15 because we've already taken care of Joan. And Howard's
16 gotten what he's gotten, you know. There's not enough
17 left to equalize everybody and we're going to cut him
18 out. That's what generated that document.

19 Q And that document being Exhibit 3?

20 A Exhibit 3.

21 Q And so between the time the preparation of
22 Exhibit 3 and the execution of the actual Trust
23 Agreement on the 27th of May, what changed?

24 A What changed was that I then had, I
25 believe it was telephone consultation. I don't

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1 think it was in person. It was with I.B. and Bea.
2 And we talked about it. And they said, you know
3 what, as upset as we are, as unfair as it's been or
4 at least as the girls perceive it to be unfair, if
5 you will, we still want to leave a little piece in
6 here for Howard. And so the end result was that
7 Joan was reduced from 10 percent to 5 percent.
8 Howard was put back in for 5 percent.

9 Q And?

10 A And the provision that I quoted was
11 obviously taken out because Howard was back in for 5
12 percent, so that would not have been appropriate to
13 have been in there.

14 Q So the discussions between you and
15 Beatrice Lipton specifically addressed the
16 language, for purposes... And I quote, "For all
17 purposes of this Trust and the distributions made
18 hereunder, my son, Howard L. Lipton, shall be
19 deemed to have predeceased me leaving no lineal
20 descendants surviving." That was actually,
21 purposely removed by Mrs. Beatrice L. Lipton and
22 removed from the document that was ultimately
23 executed by her the 27th of May of 2004, correct?

24 A What transpired was that I read that to
25 them, that provision, and they said -- And I don't

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1 think it was at the time that I read it to them at
2 first. I think they then called back and we talked
3 further. And they said, you know what, let's leave
4 him in for 5 percent. So I redid the document as
5 you see, the May 27, '04 document, with Howard
6 Lipton back in for 5 percent and that provision
7 obviously came out.

8 Q So when you prepared Exhibit No. 3, I'm
9 assuming that you prepared Exhibit No. 3 and then
10 sent it to Irving and Beatrice for their review; is
11 that correct?

12 A I don't recall if this was transmitted to
13 them through the mail or we sat and saw each other
14 in person and went through it. I don't recall.

15 Q Okay. But the bottom line is the draft
16 contained the language that was contained in Exhibit
17 3, you had a discussion with Beatrice and with
18 Irving Lipton, and the language that initially
19 appeared in Exhibit 3 was taken out at their
20 direction before they executed Exhibit No. 4?

21 A Correct.

22 Q Including the lineal descendant language?

23 A Obviously, correct.

24 MR. CHAPMAN: Let's mark this as Exhibit
25 No. 4.

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1 (Thereupon, a document was marked Exhibit
2 No. 4 for identification and is attached
3 hereto.)

4 BY MR. CHAPMAN:

5 Q Let me go through, and I'll have a number
6 of other questions sequentially, but I want to go
7 through the documents that were produced.

8 A Sure.

9 Q So I can understand what was produced.
10 And what I'm going to do now -- And, Mike, I have
11 an extra copy of all of this. I'll refer to the
12 bate stamp numbers.

13 MR. SIMON: Okay.

14 MR. CHAPMAN: Let's mark this a Exhibit 5.
15 (Thereupon, a document was marked Exhibit No. 5
16 for identification and is attached hereto.)

17 BY MR. CHAPMAN:

18 Q I'm going to show you what's been marked
19 as Exhibit No. 5. And that's the bate stamp ending
20 with 02250, the March 2, 2005. It looks like a memo
21 that was filed.

22 A Correct.

23 Q Could you identify that for me?

24 A Yes, this was a memorandum apparently
25 dictated by me on March 2, 2005, directed to the

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1 file being Irving and Beatrice Lipton, the Estate
2 Planning File.

3 Q And do you recall, did you have a
4 discussion, the discussion that's related on this
5 memo, you met with them on February 24, 2005, in
6 Orlando?

7 A Yes, I did.

8 Q Why was this document created?

9 A For a variety of reasons. One: At that
10 meeting when I met with them and we, in fact I had
11 lunch with them at the hotel in Orlando where I was
12 staying for the meeting. There had been some
13 further family discussions. I'm telling you what
14 was relayed to me by them. And in fact they, I
15 believe they had received a letter that had been
16 prepared or signed by Howard advising them that
17 should they leave him anything, it was his intention
18 to disclaim it.

19 And again, there had been additional fund
20 transfers being made to Howard between the May '04 time
21 period and this February 25th, February 2005 time period.
22 And, again, I guess there was continuing discord to the
23 family over all of this. And I.B. and Rex, I guess, felt
24 that now that they had this letter from Howard, that they
25 felt more comfortable in being able to finally say, okay,

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1 we can eliminate Howard from receiving anything from our
2 estate.

3 Q Did you actually see the letter that you
4 reference?

5 A I did see it. I don't recall if I saw it
6 when I met with them, if they gave it to me at that
7 time, or had provided me with a copy of it, or if I
8 got it before. But, yes, I did see the letter. And
9 in fact, it's in the discovery here somewhere.

10 Q Was that sent directly to you?

11 A No, I did not receive it. I believe it
12 was sent directly to Mr. and Mrs. Lipton. And I
13 think copies were sent to each of his sisters, if I
14 am not mistaken.

15 Q Because what was produced in response to
16 our request was actually addressed to Lisa Forman.

17 MR. CHAPMAN: And I'll mark that as
18 Exhibit 6.

19 (Thereupon, a document was marked Exhibit No. 6
20 for identification and is attached hereto.)

21 BY MR. CHAPMAN:

22 Q Were you provided the copy that went to
23 Lisa Forman?

24 MR. SIMON: What is 5?

25 MR. CHAPMAN: The memo. The March 2, 2005



1 memo.

2 THE WITNESS: Exhibit 4 was the actual
3 Trust Agreement.

4 MR. SIMON: Okay, the one that was
5 actually signed.

6 THE WITNESS: Yes.

7 MR. SIMON: The draft was 3, the Trust is
8 4.

9 MR. CHAPMAN: And now Exhibit 5 is that
10 memo. And Exhibit 6 is the letter that's
11 addressed to Lisa Forman by Bruce Spizer
12 attaching the February 16, 2005, letter that
13 purports to be signed by Dr. Howard Lipton.

14 BY MR. CHAPMAN:

15 Q And, again, do you recall if Lisa Forman
16 provided that to you or Peter Forman?

17 A I can assure you that Lisa Forman did not
18 provide this to me. It's possible that Peter did.
19 It's possible that I saw the letter when I was with
20 the Lipton's on February 24th in Orlando. The
21 actual letter from Howard, not the cover letter from
22 the attorney. I don't even recall the cover letter,
23 frankly.

24 Q Do you recall any discussions with either
25 Irving or Beatrice concerning their desires with

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1 respect to their amended Trust that's not reflected
2 on Exhibit 5? Any discussions whatsoever?

3 A Let me read through this for a moment.

4 Oh, yes, we had an extended discussion about
5 the issue.

6 Q What did Beatrice tell you she wanted
7 changed from the earlier exhibit, I believe the one
8 that was executed, Exhibit 4? What did she tell you
9 she wanted changed?

10 A They had come to the conclusion that they
11 wanted to essentially disinherit Howard.

12 Q Okay. What else did she say?

13 A They had come to the end of their rope.
14 They, you know, this had been going on for a long
15 time. They wanted to make peace in the family.
16 They wanted their daughters to be taken care of.
17 Howard had, you know, terribly disappointed them,
18 which I think is fairly obvious as a parent giving
19 the circumstances of his last ten or fifteen years
20 leading up to this time. And it was over. Cut him
21 out.

22 Q Mr. Tescher, did either Irving or Beatrice
23 Lipton ever tell you that they wanted to reinsert,
24 if you will, the language that had been contained in
25 Exhibit 3, the unsigned Trust document, and I quote,

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1 "For all purposes of this Trust and the
2 distributions made hereunder, my son, Howard L.
3 Lipton, shall be deemed to have predeceased me
4 leaving no lineal descendants surviving."

5 Did either Irving or Beatrice tell you in any
6 words, we want for purposes of this Trust that Howard is
7 not a lineal descendant?

8 A No. Obviously, they're lay people, okay.
9 They wouldn't know what it meant to have him call
10 the lineal descendant or not called the lineal
11 descendant. They relied upon me as their lawyer to
12 eliminate Howard from their document.

13 Q And, again, let's be very, very precise,
14 Mr. Tescher. And I know you know where I'm coming
15 from.

16 A Yes.

17 Q Exhibit 3, the provisions under D on Page
18 3 under Article 2. Did you ever have a discussion
19 with Beatrice Lipton whereby she asked you,
20 instructed you, or you advised her that for purposes
21 of Paragraph D.1., and I quote, "Limited Power. My
22 spouse (if my spouse survives me) may appoint the
23 Marital Trust and Family Trust (except any part
24 added by disclaimer from the Marital Trust and
25 proceeds of insurance policies on my spouse's life)

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1 to or for the benefit of one or more of my lineal
2 descendants and their spouses."

3 Did you ever discuss that provision with Mrs.
4 Beatrice Lipton at all?

5 A I don't recall precisely. I didn't
6 recall. And I believe my prior testimony was that I
7 had read that provision to them, not only the power
8 provision, but the other provision to them. But I
9 cannot tell you whether I said to them, this means
10 that it can't be changed. This means that this
11 other power here that you've given to your surviving
12 spouse, whomever was the surviving spouse, can't be
13 exercised in his favor. I cannot tell you that I
14 had that precise conversation.

15 Q Did you discuss with either Irving or
16 Beatrice Lipton that the way this is drafted, the
17 last of them to go could direct to any of their
18 lineal descendants, including or not including
19 Howard, that while the survivor of them two was
20 alive they can direct part of the principal of these
21 trusts to anyone?

22 A Yes.

23 Q When did you have that discussion?

24 A Not at the time that this Trust was done,
25 the '04 Trust. But remember, we had done prior

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1 documents even well before this.

2 Q Let's be clear. So before May of 2004,
3 you had explained to Beatrice that the way these
4 trusts are drafted that you could in fact change by
5 power of appointment, that in fact a lineal
6 descendant could be provided some of the principal
7 of the Trust even though they weren't specifically
8 designated in Paragraph D.2. of article 2, correct?

9 A Yes. And it would have been either...
10 Now, I did not do the 1979 Trust. That was the
11 original Revokable Trust Agreement that pre-dated
12 me. It was amended and restated in 1999, on June 3,
13 1999. I would have done that amendment and
14 restatement. And it was, again, amended and
15 restated on June 21, 2001. I would have done that
16 amendment and restatement.

17 At the time that I went through that Amended
18 and Restated Trust Agreement, which is now my form that
19 was replacing the 1979 form, I would have had a
20 conversation about them, about that. Why; because it
21 would be my normal and customary practice when I would
22 go through that document prior to execution and
23 explaining it, that this is what this limited power does.

24 Q And, of course, it allows the survivor of
25 them two, the two of them, whoever is the last to go

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1 some latitude of disposing the principal of the
2 trust?

3 A Yes, it gives them flexibility. And I
4 would have had that conversation. Did I review that
5 conversation in '04 or '05, no.

6 Q So you had the discussion before Exhibit 3
7 and 4 was executed. Exhibit 3 was provided to them
8 with the lineal descendant language in it that was
9 removed by Exhibit 4?

10 A Correct.

11 Q So you had that discussion before those
12 two documents, you had no such discussion after?

13 A I do not recall having it.

14 Q And you had no discussion prior to the
15 execution of the '05 Trust first amended to the new
16 Amended and Restated Trust document?

17 A I believe that's what I had testified to.

18 Q And I'm going to go through a couple more.
19 And I'm going to show you, this was provided to me.
20 It looks like a folder.

21 A Yes, I guess so.

22 Q Now on Exhibit 5, again, we're talking
23 about your May 2, 2005 memo?

24 A Yes, sir.

25 Q It says here, "Jordan - Please draft

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1 amendments to their rev. trusts," and has a "D."

2 I'm assuming that's your notes?

3 A Yes.

4 Q And who is Jordan?

5 A Jordan Klingsberg.

6 Q First of all, what was he doing at that
7 time?

8 A Jordan was an associate of the firm at
9 that time. He is still with the firm. I think he's
10 a partner of the firm now.

11 Q The firm being?

12 A The surviving firm after I withdrew;
13 Gutter, Chaves, Josepher, et al.

14 Q And former P.A.?

15 A Correct.

16 Q And do you know whether Jordan had any
17 direct communications between Beatrice or Irving?

18 A I would seriously doubt it.

19 Q So whatever involvement he had, at least
20 to your knowledge - I mean I know you don't know -
21 but you are not aware of any communications?

22 A Correct.

23 Q Has anyone ever told you Jordan
24 communicated directly with either Irving or Beatrice
25 Lipton?

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1 A No.

2 MR. CHAPMAN: The next exhibit I'll mark
3 as 7.

4 (Thereupon, a document was marked Exhibit No. 7
5 for identification and is attached hereto.)

6 MR. CHAPMAN: And, Mike, it's a May 22,
7 2005, letter from Mr. Tescher to Bea and I.B.
8 Under your bate stamp it's 03602. And it's a
9 multi-page document enclosing a number of
10 drafts.

11 BY MR. CHAPMAN:

12 Q And I'll show you Exhibit 7. Can you
13 identify that?

14 A Yes. This is a letter that was a
15 transmittal letter, March 22, 2005, to Mr. and Mrs.
16 I.B. Lippton signed by me transmitting to them
17 drafts of amendments to their Revocable Trusts and
18 providing, advising them that Howard would no longer
19 receive a 5 percent distribution under his Trusts
20 and his share, that 5 percent share had been
21 allocated equally to the shares of Lisa and Vicki.

22 Q And this document, Exhibit 7, it encloses
23 a number of documents. Two, including the two
24 drafts of the first amendment to Beatrice L Lippton,
25 Amended and Restated Trust Agreement. Same thing

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1 with respect to Irving. That's who I.B. is,
2 correct?

3 A That is correct. I refer to him as I.B.

4 Q Now, when you were drafting the
5 attachments to Exhibit 7, the first amendment, I'm
6 assuming - and correct me if I am wrong - I'm
7 assuming, like all lawyers, you were probably
8 working off the old form and you were changing it or
9 did you start it from scratch?

10 A Well, if you go back to the March 2, 2005,
11 memo it said, "Jordan, please draft amendments."

12 Q Do you know what he used? Did he use the
13 old form or which of the previous?

14 A Well, remember, he's only doing an
15 amendment. He's not amending and restating the
16 entire trust agreement.

17 Q Okay. So he's amending the amended, if
18 you will? I know the nomenclature can be confusing.

19 A He was doing a first amendment to the
20 Amended and Restated Trust Agreement of '04.

21 Q Did you relay anything to Jordan about his
22 task other than what's reflected in the earlier
23 memo, Exhibit 6?

24 A It's very possible that there was verbal
25 communication. We did talk. I don't have any

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1 recollection of that discussion.

2 Q Do you recall any discussion with Jordan
3 at all regarding any changes to the lineal
4 descendant language that we're talking about that's
5 contained in Article 2, D.1. of the 2004, May 27th,
6 executed trust? Do you have any recollection of any
7 discussion regarding that lineal descendant language
8 that we're talking about?

9 A I have no recollection of any discussion.
10 Although I'm sure there was, but I have no
11 recollection.

12 Q And, again, for purposes of our
13 discussion, after the execution of the May 27, 2004,
14 trust document that's before us. I believe it's
15 Exhibit 5.

16 A Exhibit 4 is the executed one.

17 Q After that Exhibit 4 was executed by both
18 Bea and Irving, you don't recall having any
19 discussion with them regarding the lineal descendant
20 language that's contained in Paragraph D.1. in
21 Article 2, correct?

22 MR. SIMON: Objection, leading.

23 THE WITNESS: The May 27th Trust was
24 executed in our offices here in Boca, so that
25 means that they were here in person.

1 BY MR. CHAPMAN:

2 Q I guess the question is after the
3 execution of that document. Do you recall ever
4 having any specific discussions with either Irving
5 or Beatrice about the use of lineal descendant
6 language in D.1. of Article 2 of that document?

7 A Perhaps, you know, I met with them at the
8 February 24th lunch that I had with them in Orlando
9 before we did the amendment. And I'm trying hard to
10 recollect what transpired, precisely transpired in
11 that conversation. I remember certain gists of
12 things.

13 Q But you don't recall any specific
14 discussions about any descendants contained in that
15 paragraph; do you?

16 A I don't recall... I mean, it's possible I
17 could have said to them, so we're going to go back
18 to that prior draft that we had done.

19 Q Exhibit 3?

20 A Correct, Exhibit 3. I don't recall.

21 Q Okay, I understand. So you sent to Mrs.
22 Beatrice Lipton and Irving Lipton the
23 correspondence that's before us, Exhibit 7. And did
24 you get any response back from them?

25 A Yes, I believe we talked telephonically

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1 when they advised me that it looked okay.

2 Q And do you have any reason to believe that
3 in this time frame, we're talking March of 2005,
4 that you were dealing with two elderly people, all
5 be it elderly, that they were competent and they
6 understood what you were talking about?

7 A I believe in '05, at this point in time in
8 '05 they understood what we were talking about.

9 Q And so at least in March of 2005, you
10 didn't have any doubt that Beatrice Lippton and
11 Irving Lippton were competent and understood what
12 you were talking to them about?

13 A Not at all.

14 MR. CHAPMAN: Let's mark this as Exhibit
15 8.

16 (Thereupon, a document was marked Exhibit No. 8
17 for identification and is attached hereto.)

18 BY MR. CHAPMAN:

19 Q I'm going to show you what's been marked
20 as Exhibit 8, which is a memo to Jordan Klingsberg
21 from you.

22 A Yes.

23 Q If you can identify Exhibit 8 for us?

24 A Exhibit 8 is an internal email in my then
25 offices, a telephone message actually. A message

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1 from me to Jordan regarding I.B. and Bea Lippton
2 advising Jordan that I had spoken to the Lippton's
3 and that the amendments, and this letter is dated
4 March 28th, this would have been referring to the
5 March 22nd letter and enclosures are fine. Please
6 have Kim, one of our legal assistants, run them in
7 final form for execution in Orange County (Orlando)
8 and send them out with execution instructions.

9 In other words, the drafts were fine. They
10 were approved. Prepare them for execution. They are
11 going to execute them up in Orlando. They won't be
12 coming down to execute them.

13 Q And now you indicated, this looks like in
14 March 28, 2005. Do you recall specific discussions
15 with the Lippton's about the proposed amendments
16 that are contained in Exhibit 7? Do you recall what
17 you all talked about?

18 A No. I mean, obviously we talked about the
19 fact that these amendments were intended to
20 eliminate Howard.

21 Q Did you talk about the stuff that was
22 contained in Exhibit 3, the May unexecuted drafts
23 and how the changes were made to, what was
24 ultimately executed on the 27th of May, Exhibit 4,
25 any discussion at all?

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1 A I really have no recollection.

2 MR. CHAPMAN: Now, the next exhibit, Mr.
3 Tescher, I'm going to mark as Exhibit 9 which
4 is a May 30, 2005, correspondence with some
5 attachments.

6 (Thereupon, a document was marked Exhibit No. 9
7 for identification and is attached hereto.)

8 BY MR. CHAPMAN:

9 Q I want you to identify those for me; if
10 you can?

11 A This is a letter dated March 30, 2005,
12 from the address to Mr. and Mrs. I.B. Lipton from
13 me. "Enclosed are three execution copies of each of
14 your Amendments, together with instructions. Please
15 sign each document in the presence of two witnesses
16 and a notary, and return one original of each to me
17 for my files. If you have any questions regarding
18 the foregoing, please do not hesitate to contact
19 me."

20 That would be a fairly standard transmittal
21 letter transmitting a one-page instruction sheet about
22 the proper method of executing the Trust Amendments,
23 together with three copies each, all blue back I'm sure,
24 of the first amendments to the respective Revokable
25 Trusts.

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1 Q And do you recall ever having discussions
2 with either Beatrice or Irving Lippton about the
3 documents after they were transmitted by you?

4 A I have no independent recollection unless
5 there's something in the file.

6 Q Did they send you an executed copy back
7 for your files?

8 A I'm pretty certain we got an executed copy
9 back because I think when Mr. Lippton instructed me
10 to forward dispositive documents of his and Bea's to
11 the attorney in Orlando, after we were I guess
12 dismissed or discharged, I think one of the items
13 that was included in that, in the letter to that
14 attorney listed the first amendment. I don't
15 recall.

16 Q Do you recall --

17 A You may have the letter here, I think.

18 Q I probably do.

19 Do you recall ever having a discussion with
20 either Beatrice or Irving Lippton about the 2005
21 conversion of the first amendment to the Amended and
22 Restated Trust document after it's execution?

23 A No.

24 Q So --

25 A No independent recollection.

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1 Q So from March of 2005 until Beatrice died
2 in January of 2007, you don't recall ever discussing
3 with her another about that trust?

4 A I don't recall.

5 Q Do you recall ever having a discussion
6 with Irving Lippton about his Trust?

7 A No.

8 Q Did he ever have a discussion with you as
9 to why he was dismissing your firm and having Sandy
10 Valbh -- Any discussion with Irving about why you
11 were being dismissed?

12 A For some reason I don't have a lot of
13 recollection of what transpired. I knew Bea had
14 taken ill. I knew I.B. was deteriorating, yet he
15 always had a little difficulty with his walk. And
16 he was deteriorating somewhat. But I don't, I
17 didn't get involved in most of the other matters
18 relating to the family, I.B. and Bea's matters such
19 as Southeast Steel or Hojosaki or the involvements
20 with Howard's bankruptcy or the settlement with
21 Howard with regard to paying back, if you will, his
22 obligations from mom and dad.

23 We were obviously concerned about the size of
24 those transfers. And the fact that if the government
25 ever took a look at this and decided that these were

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1 gifts and not loans, that there could have been an
2 incredibly large gift tax liability associated with that.

3 Q Did you ever have that discussion with
4 either Beatrice or Irving Lipton after the
5 execution of the trust document in '05, those
6 concerns that you just relayed about --

7 A Those discussions were before.

8 Q After '05, after she executed this
9 document and you sent it to her and said, does it
10 look okay, and she said, yes, it's fine, did you
11 ever have a discussion with her after the execution
12 of that document, before she died of course, about
13 any of the concerns that you've just expressed?

14 A I have no independent recollection.

15 Q And so this competent, elderly woman who
16 executed the Trust Amendment that you drafted never
17 had a discussion with you after she executed it
18 about any concerns she had about either the document
19 or anything concerning her son, Howard?

20 A I don't have an independent recollection.

21 MR. CHAPMAN: Let's mark this.

22 (Thereupon, a document was marked Exhibit No. 10
23 for identification and is attached hereto.)

24 BY MR. CHAPMAN:

25 Q Just some of this stuff, I'll admit, I

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1 don't think is pertinent, but I want to go ahead and
2 I.D. it.

3 Exhibit 10 is a three-page document. It
4 appears to be a handwritten, very legible handwritten
5 document dated 10/29/06 to you which purports to be from
6 Beatrice Lippton, enclosing a couple of documents. If
7 you can identify that for me?

8 A These are handwritten notes addressed to
9 me, apparently faxed to me on October 26th of 2006
10 from Beatrice Lippton. She forwarded to me a copy
11 of her certificate of live birth issued by the State
12 of Florida, Orange County. Gosh, she was living in
13 Orlando since 1918. And a second page notarization
14 from the, I guess it's the clerk in one of the
15 government offices advising that she's sending me a
16 true copy of the birth certificate of Beatrice, who
17 was at that time Lieberman.

18 Q Do you know of any particular reason for
19 this communication? Did something happen?

20 A You know, I saw this in the discovery when
21 it was shipped around. I vaguely recall seeing it.
22 There's some handwritten note from me saying, file
23 I.B. and Bea Lippton, EP file, meaning putting this
24 in their Estate Planning File and the file number is
25 written on the top. I didn't think it was of any

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1 major consequence. There was apparently a two-day
2 difference in birth dates that was certainly not
3 going to cause or lose any of her Social Security or
4 anything. And, you know, I put it in the file.

5 Q So you don't recall any circumstances
6 whether she was concerned about something in
7 particular?

8 A No, I really don't.

9 Q When I see this exhibit, Exhibit 10 which
10 is the letter from Beatrice, she impresses me of
11 someone who was rather attention-detailed. Was she
12 that kind of person?

13 A She was pretty bright.

14 Q She was a bright lady? She read the
15 documents? She understood them?

16 A To the best of my knowledge, as best as a
17 layperson can understand. Again, I've been doing
18 estate planning for 40 years. We wish our clients,
19 in fact, really read everything that we prepared.
20 God willing, they at least read the important stuff.
21 And then bypass the royal plate fine, but I always
22 make an effort to walk through a document with a
23 client before I have them execute it.

24 Q And you did that with these documents?

25 A I did it with these documents.

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1 Q And she never expressed any concern or
2 question about the effect of anything she was
3 agreeing to?

4 A Not that I know of.

5 Q And she never told you that there's any
6 desire on her part to leave the ability of Irving to
7 exercise the power of appointment in Paragraph D.1.
8 of Article 2 of the 2005 Trust was not what she
9 wished to do?

10 A Clearly not. She would not have known how
11 to articulate that. Very few lay people would.

12 Q Okay.

13 MR. CHAPMAN: I'm going to go ahead and
14 mark as a composite all of the billing records
15 as Exhibit 11.

16 (Thereupon, billing records were marked Exhibit
17 No. 11 for identification and is attached
18 hereto.)

19 BY MR. CHAPMAN:

20 Q What was your billing arrangement with the
21 Lipton's with respect to the matters you were doing
22 for them?

23 A What was my billing arrangement with them?

24 Q Was it by the hour? Was it by the
25 project?

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1 A For the most part it was hourly.

2 Q And the reason I ask, Exhibit 11, it's a
3 composite exhibit of whatever was provided to me.
4 And it looks like it starts January of '06 and ends
5 September 30, 2010.

6 A Clearly not me.

7 Q It may have just been the way it generated
8 your report. In all fairness, I think it printed
9 off of something because I don't think there was
10 actually service that was provided. That doesn't
11 indicate any kind of hourly rate. I mean, it looks
12 like --

13 A Well, let's go through it quickly, if we
14 can. The first item is simply rebilling, showing
15 the previous balance of 980 and showing the payment
16 that came in on 12/01/05. Immediately behind that
17 is the bill that was generated in November of '05.
18 And you'll notice that this bill says, "For legal
19 services rendered through October 31, 2005, in
20 connection with bankruptcy litigation issues, review
21 of file and office conference regarding same." That
22 would not have been me.

23 Q Well, was it your practice during the time
24 you were providing services to the Lipton's to keep
25 contemporaneous billing records indicating telephone

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1 conferences, work done, or just tell me what you
2 recall your billing practices were at that time?

3 A I would generally, most of my billing is a
4 narrative bill. Since 1984, actually 1986, I guess,
5 I found that clients rebelled when they would get
6 six pages of detailed billings showing every time I
7 thought of them, every telephone call I made, et
8 cetera, et cetera. And I was constantly having to
9 discuss with clients the bill.

10 And what I started doing in 1986 was dictating
11 basically a narrative, this is what we did and in a
12 matter that the client could understand what the services
13 were. And sometimes we put down "X" hours at "Y" rate.
14 Sometimes we wouldn't. You know, basically it was a
15 time, pretty much of a time generated kind of thing.

16 Q And, again, believe me, I understand what
17 you are saying. I represent State Farm on fraud
18 work and they require .1, .2.

19 A Exactly. So I'm looking at the next
20 invoice which was February 11, 2004. That's not me
21 either. I have a feeling that was probably Chuck
22 Rubin who did work with Peter when they were working
23 on the bankruptcy issues.

24 Q But as far as you know, Exhibit 11, the
25 very last page of Exhibit 11 indicates an entry in

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1 '05 for legal services rendered. And it has hours
2 and rate 0.00 and has the amount. I didn't see any
3 kind of hourly billing rates or any specific
4 telephone conferences or anything like that.

5 A Well, actually, if you'll look at the
6 1/31/05 entry and the 5/31/05 entry.

7 Q Which date stamp?

8 A That's date stamped 6978.

9 Q Okay.

10 A What this report is, is it's a historical
11 invoice report. And it's showing that on the
12 January 31, '05 invoice we billed them 4.7 hours at
13 \$400.

14 Q I see.

15 A That was the bill. And then on the May
16 31, '05 invoice we billed them 4.5 hours at \$400.
17 And that was a description of what was done. The
18 other two don't happen to show an hourly breakdown.

19 Q I see. So there was a separate invoice in
20 addition to this one. I don't see that being
21 incorporated.

22 A This is a summary of those invoices
23 apparently.

24 Q So there would have been another invoice,
25 but for whatever reason it wasn't provided. Maybe

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1 they didn't have it.

2 A It's very possible.

3 MR. CHAPMAN: Let's mark this as Exhibit
4 12.

5 (Thereupon, a document was marked Exhibit No. 12
6 for identification and is attached hereto.)

7 BY MR. CHAPMAN:

8 Q I think I probably understand what Exhibit
9 12 is, but it's a handwritten... It looks like new,
10 now, and has some handwritten comments. It's a
11 little column thing. If you'll identify this for me
12 Mr. Tescher?

13 A This is my handwriting.

14 Q Okay.

15 A I says... It has three columns. The
16 first column is a list of names: Lisa, Vicki, Joan,
17 and Howard. The second column is headed up with the
18 words "New." And underneath that it's got 45, 45,
19 10, and 0. The third column says, "Now." And it
20 says, "35, 35, 20, and 10." And obviously this was
21 done before the '04 document.

22 And this was, it looks like I had taken a
23 little one of those post-it note things and put it on a
24 sheet of paper, a plain white sheet of paper. And it
25 says at the bottom, "Lippton." And, obviously, this was

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1 my notes to myself of either a meeting or conversation
2 with the Lipton's when we were beginning to prepare
3 the '04 Amended and Restated Trust Agreement.

4 Q So that would have pre-dated Exhibit 3?

5 A That would have pre-dated Exhibit 3; that
6 is correct.

7 Q That's the unexecuted May --

8 A May 14th version, correct.

9 Q And, of course, so this was sometime
10 before May of '04?

11 A Yes. And what this shows is that their
12 original intent was at that time. And that's why I
13 drafted that May 14th draft showing Howard getting
14 nothing.

15 Q Okay. Do you know, as we're sitting here,
16 the 2005 first Amended and Restated Trust Agreement
17 that we've talked about, do you know who was
18 provided copies of that once it was executed?

19 A The only people would have gotten copies
20 would have been the Lipton's themselves.

21 Q Do you know whether any of the Plaintiffs;
22 Lisa Forman, whether Peter Forman whether he was a
23 partner of that firm, do you know if he was provided
24 a copy of it?

25 A You know, we're in a good office, nice big

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1 office with a big file system. Peter was pretty
2 good about, you know, staying away from his in-law's
3 files dealing with the estate planning. He was
4 involved when we were trying, when we all were
5 trying to get the bankruptcy issues settled for the
6 family. And Peter was involved with that and I
7 think Chuck Rubin was principally working with him
8 on that. I was not directly involved with that.
9 But those were separate files. And I personally
10 didn't hand anybody a dispositive document.

11 Q Do you know whether after Irving and
12 Beatrice Lippton executed the 2005 version, the
13 first Amended Trust document, do you know whether
14 Peter Forman had a copy of it?

15 A I have no knowledge. I certainly didn't
16 give him one.

17 Q After they executed that document, do you
18 recall ever discussing anything about that 2005
19 amendment with either Peter Forman or anyone related
20 to the Plaintiffs?

21 A I don't have any recollection.

22 Q Now --

23 A The only way I would have discussed it is
24 if the Lippton's authorized me to discuss it.

25 Q Do you have a recollection one way or the

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1 other?

2 A I don't have any present recollection as
3 to whether we had that conversation or not. You
4 know, our representation extended over a fairly long
5 period of time. I'm not certain.

6 Q And you were with Mr. Forman's firm until
7 December of 2007?

8 A 2007, yes.

9 Q After this document was executed sometime
10 in 2005, the document we're talking about, that
11 version of the trust amendment, you don't have any
12 recollection of discussing that with Mr. Forman at
13 all?

14 A No.

15 Q Okay. Do you recall having a discussion
16 with Mr. Forman about any of the various trust
17 documents after Beatrice died in January of '07?

18 A I probably did, but I don't have any
19 recollection.

20 Q Now, when Beatrice died in January of '07,
21 you testified that he instructed you to send all of
22 the files to someone in Orlando or in the Orlando
23 area?

24 A Mr. Lippton.

25 Q Right. Mr. Lippton, obviously the

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1 survivor. Mr. Lippton instructed you to send all of
2 the files?

3 A Right.

4 Q Did that include Beatrice Lippton's files
5 as well?

6 A I don't recall exactly.

7 Q After you received that instruction from
8 Irving Lippton after his wife in January of 2007, do
9 you recall having a discussion with Mr. Forman or
10 anyone else in that firm regarding any of these
11 documents or the contents of the documents or
12 examination of the documents before they were sent?

13 A I don't have an independent recollection.

14 Q And, again, by discussions, any
15 discussions with either Mr. Forman, Lisa Forman, any
16 of the other children of Irving or Beatrice Lippton,
17 anything at all regarding the transmittal of those
18 documents at Mr. Irving Lippton's request after his
19 wife died?

20 A I'm pretty certain that I had no
21 conversations with the daughters. As to whether I
22 had conversations with Peter, I don't have an
23 independent recollection. I'm sure I probably said
24 to Peter, you know, I've gotten a request, you know,
25 through a lawyer of I.B. Lippton's to send these

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1 documents out. I probably at least had that
2 conversation. As to whether we had any further
3 conversation, I don't have any --

4 Q Well, he was your law partner?

5 A Yes.

6 Q And I'm just going to speculate out loud
7 and he can object. But the father-in-law of your
8 law partner says, send all of my files to someone in
9 Orlando, it would just seem normal to go down and
10 talk to your partner, correct?

11 A Sure.

12 Q Do you recall having any discussion even
13 in general terms?

14 A Well, I knew there was a lot going on in
15 the family or at least I was aware that there was a
16 lot going on in the family. Apparently, Howard had
17 come into town and Howard was kind of shepherding
18 I.B. and had kind of taken over I.B. And I guess
19 there was, obviously the family was somewhat
20 concerned. But, you know, that's all my
21 recollection is.

22 Q And that was related to you, that was
23 shortly after Beatrice died or was that before
24 Beatrice died?

25 A You know, I don't remember if it was

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1 before or after.

2 Q When these documents were transmitted at
3 Irving Lipton's request to somebody in Orlando, did
4 you participate in accumulation of those documents
5 that were being sent to Orlando?

6 A I thought I saw a transmittal letter that
7 I did. Is there a transmittal letter somewhere that
8 I did sending documents to that lawyer?

9 Q If you've got something in your file. I
10 think there probably is.

11 A I mean, I thought so, but... I thought I
12 saw it.

13 Q It's not --

14 A No.

15 Q So when you received that request, do you
16 know whether Mr. Forman was informed of that
17 transmittal?

18 A No.

19 Q After the execution of the 2005 first
20 Amended and Restated Trust document --

21 A Let's just call it the '05 document.

22 Q The '05 document. After that was executed
23 by Beatrice Lipton, do you recall having any
24 discussion with anyone that, that document contained
25 errors; a scrivener's error or some kind of mistake

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1 by anyone?

2 A No, no.

3 Q Has anyone told you that you made a
4 mistake in drafting that document?

5 A I was... Well, I made a mistake in
6 drafting the document. I admit I made a mistake in
7 drafting the document.

8 Q Has anyone, prior to today, said that you
9 made a mistake in drafting the document because
10 that's your self-evaluation?

11 A I think the Gunster firm has.

12 Q Have they accused you of malpractice?

13 A They asked me about it. I explained the
14 circumstances to them. I have not had conversation
15 with the Lippton, any of the Lippton family about
16 it.

17 Q Has anyone made a claim that you've
18 committed malpractice or that you --

19 A Well, you know, I'm obviously concerned
20 about that. But I believe that, you know, it was a
21 scrivener's error on my part. I think clearly when
22 I went back to do, when we went back to do the '05
23 amendment I missed picking up the paragraph that had
24 been in the first draft of the '04 document where we
25 had eliminated Howard. And that should have been

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1 put back in on the first amendment and it wasn't.

2 Q Right. And I think we've established that
3 you don't have any specific recollection of having
4 any discussions with Mrs. Beatrice Lipton, that was
5 told to do so, after the May 27, 2004 document was
6 executed?

7 A Other than the prior conversations before
8 the '04 document was done, which I've testified to.

9 Q But you never had a discussion after May
10 27, 2004, to the effect, Beatrice, do you want to
11 eliminate the ability of Irving if he lives longer
12 than you to direct some of the trust corpus to any
13 of the kids, including Howard? You never had such a
14 discussion with Beatrice; did you?

15 A Not after '04.

16 Q I got you.

17 A Correct.

18 Q Have you ever had discussions with Peter
19 Forman about the issues in this case?

20 A No, we've purposely not talked about it.

21 Q Now, you've indicated your opinion that
22 you made a scrivener's error. When did you first
23 reach the conclusion that you had made an error in
24 connection with these documents?

25 A I think when I first... I don't know if

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1 it was the original complaint. It had to be after
2 the amended complaint, I think.

3 Q Or shortly before?

4 A Yes, it's somewhere around there.

5 Q The amended complaint is actually dated
6 11th of August, 2010. That's the reformation,
7 correct?

8 A Yes, yes.

9 Q So you were made aware of this by someone
10 shortly before that amendment was made?

11 A I don't remember if it was before or
12 immediately after. I think I had a conversation
13 with Mr. Simon.

14 Q Did Mr. Simon tell you -- Well, describe
15 the conversation? He picked up the phone and called
16 you and said, hey, Don... What did he say?

17 A My recollection that I had with Mr. Simon
18 was, you know, we've been looking at these documents
19 and it looks like you've missed a provision.

20 Q He said that to you?

21 A He said, we're going to go in and attempt
22 to reform the document.

23 Q So he said, I have been looking at the
24 documents and I think you missed something. And
25 what did you say in response to that?

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1 MR. SIMON: Objection. Mischaracterizing
2 his testimony.

3 BY MR. CHAPMAN:

4 Q Relay to me the best of your recollection
5 what Mr. Simon told you?

6 A That he felt that I had, that I had
7 intended, what they had intended - meaning the
8 Lipton's - was to not permit and exercise of the
9 power of appointment so that Howard could end up
10 inheriting. And that obviously I had missed it when
11 I had done the amendment.

12 Q And this was sometime slightly before
13 August 11, 2010?

14 A Either before or after. I don't have a
15 recollection of the precise date.

16 Q Did he say to you when he discovered this
17 omission on your part?

18 A I don't recall.

19 Q What was your response to Mr. Simon's
20 comment?

21 A Well, you know, obviously the first thing
22 I did is I went and... Since I do have my
23 WordPerfect directory, which I've already told you,
24 I went back. Well, I don't have the executed
25 document. But I did have the document that was

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1 executed and I looked at it and I saw that. I
2 looked at the '05 amendment and I looked at the '04
3 document. And then I looked at the '04 first draft
4 and realized that -- There's a couple of ways that
5 when I'm drafting that I can deal with the issue
6 that was involved here if I am eliminating somebody
7 or a line of people.

8 In the definition provision of children of
9 lineal descendants I will sometimes put a provision in
10 there that says, notwithstanding the foregoing for all
11 purposes of this document. I'm paraphrasing the
12 language. Sometimes I'll put that in the definition of
13 children of lineal descendants, okay. So I immediately
14 looked to see if maybe I stuck it in there. So I looked
15 and it wasn't in there, obviously, because we had done an
16 amendment. Not an Amended and Restated Trust Agreement.
17 And I realized that, that was my error.

18 If I was going back to, you know, we're
19 eliminating Howard completely so that meant we were going
20 back to what was the original draft of the '04, I should
21 have put that provision back in and I didn't. Had that
22 provision been in the amendment, I believe that I.B.
23 would not be allowed to exercise his power in favor of
24 Howard where Howard is the descendant.

25 Q Why didn't you put it in the executed

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1 version of... Correct me if I am wrong, but in the
2 May 27, 2004 version of it, he could have using that
3 document, he could have directed all of the corpus
4 of the, all of it and not just 5 percent? He could
5 have directed all of it to Howard, correct?

6 A That is correct.

7 Q So there's no limitation on the ability of
8 the survivor of the two, the trustee, if you will,
9 rather than just the income which goes to him, there
10 really are two very different provisions. There's
11 D.1. and D.2.

12 A No, there's really not.

13 Q Correct me. There's no limitation on just
14 5 percent to go to the people in two?

15 A The 5 percent is the default provision.

16 Q Right, what's left.

17 A If the power is not exercised this is what
18 happens, okay.

19 Q Right.

20 A If you are not even allowed to exercise
21 the power in favor of Howard, then it doesn't make
22 any difference. If you go back to the first draft
23 of the '04 document, clearly if that was the
24 document in place here, I.B. could not have
25 exercised a power of appointment in favor of Howard.

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1 Q And you discussed all that with Beatrice
2 before May 27, 2004?

3 A We had talked about that when we did the,
4 when we were doing the '04 document.

5 Q And you explained all of this to her in
6 your discussions with them?

7 A I explained to them that we were, this
8 would eliminate Howard for all purposes.

9 Q Right.

10 A Okay. I didn't say, you can't exercise
11 your power of appointment in favor of Howard.
12 Again, those are legal terms. In laymens language,
13 I said to them, this means that Howard and any of
14 his lineal descendants are eliminated for all
15 purposes.

16 Q And you explained to her before she
17 executed the May 27th document that even though
18 Howard can only get what's left at Irving's death, 5
19 percent, that during Irving's life he can
20 theoretically give everything to Howard during his
21 life. Did you explain that to her?

22 A I don't recall. I don't recall that
23 precise discussion.

24 Q But that is in fact --

25 A That is in fact what could occur,

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1 absolutely.

2 Q And after May 27, 2004, when she executed
3 that document you had no discussion with her or
4 Irving whatsoever concerning the effect of the power
5 of appointment, correct?

6 A I don't recall having the conversation,
7 that is correct. Of course, back in '04 and '05, I
8 mean you know, I.B. and Bea were both still in
9 pretty good condition, you know. Their mental
10 faculties were pretty good. They had the usual
11 aches and pains of elderly people and the like, but
12 they were pretty good. Obviously, there was more
13 significant deterioration after that time, point in
14 time. And so, you know, I felt that, yes, I made a
15 mistake.

16 Q Okay. Have you ever had any -- I think
17 you already said this. Have you ever had any
18 discussions with Lisa Forman, Vicki Greenstein, or
19 Joan Kimball about any of the issues in this case?

20 A No.

21 Q Did you ever talk to them about any of
22 their parents at all?

23 A When?

24 Q Between May 27, 2004 and the present?

25 A Virtually certain I had no conversation

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1 with Joan or Vicki. As to whether I had any passing
2 conversation with Lisa, it's possible I may have
3 inquired as to how are your folks doing or something
4 like that. You know, I would see her periodically.

5 Q Any discussions with Lisa about any of
6 the, I'll call it disputes with either Howard or her
7 father?

8 A I don't recall any.

9 Q Did you play any part in any discussions
10 or any legal role or personal role having the
11 decision to file the 2007 litigation?

12 A No, sir.

13 Q Did you review any complaints or talk to
14 anybody about what was being done?

15 A I have a carton in the corner in the
16 office somewhere here that anything that came in I
17 simply dumped in that carton. I was a named
18 successor, but I had absolutely, I've never assumed
19 the trusteeship anywhere. I've never assumed the
20 personal representative role anywhere. I have no
21 interest and desire in ever assuming any of those
22 roles. I have not done so. I'm named nominally
23 because I'm named as such in the document. Now, I
24 have a standing invitation to Mr. Simon and the
25 Lipton family. Any time they want a resignation

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1 from me, they can have it.

2 Q You mean, you don't want to be a defendant
3 in a lawsuit?

4 MR. CHAPMAN: Let's mark this as Exhibit
5 13.

6 (Thereupon, a document was marked Exhibit No. 13
7 for identification and is attached hereto.)

8 BY MR. CHAPMAN:

9 Q In Exhibit 13, this is a complaint that
10 was filed in 2007. Are you familiar with that
11 lawsuit at all?

12 A Not really.

13 Q Did you have any discussion with anybody
14 before this lawsuit was filed?

15 A I don't think so. I mean, I knew that
16 they were litigating up in Orlando.

17 Q Actually, this is Palm Beach.

18 A This one is in Palm Beach, right.

19 Q And this one concerned the May 27, 2004,
20 trust that you drafted, the trust agreement that you
21 drafted.

22 A Okay.

23 Q Do you recall ever speaking with either
24 Mr. Simon who filed this lawsuit or anyone else?

25 A I may have had some minor conversation

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1 with Michael Simon about this lawsuit.

2 Q Did they ask you anything about any of the
3 documents, including the May 27, 2004 document
4 that's addressed in this Exhibit 13?

5 A No.

6 Q Now, after Beatrice died in January of
7 '07, my understanding is someone contacted you and
8 said to ship your file up to these guys in Orlando.
9 Did you ever have any discussion with any lawyer for
10 either Irving Lipton or for that matter, Howard
11 Lipton after Beatrice died?

12 A I have no independent recollection of
13 having, other than having... I think Chuck Wallace
14 called me when he got involved. We may have
15 chatted. We're old classmates from law school. I
16 don't have any independent recollection of talking
17 to anybody about this.

18 Q Did you have any discussion with Bob
19 Wilcons (phonetic) who actually shares a suite there
20 with Chuck?

21 A No. I said hello to Bob last week at a
22 counsel dinner and he came to hear me speak, but,
23 no, I don't recall having any discussions.

24 Q Anything about --

25 A I may have had a call here or there about

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1 looking for files or information. I told anybody
2 who has ever called me that I don't have anything,
3 you know.

4 Q Now, you may, and you are probably aware
5 that after those files were shipped up to Orlando I
6 made amendments to his Trust Agreement. Do you have
7 any personal knowledge of that?

8 A None.

9 Q You never seen the Trust Agreements?

10 A I'd gather he left everything to Howard if
11 I had to guess.

12 Q Why would you guess that?

13 A Obviously, the family is still fighting.
14 And it's basically the three daughters against
15 Howard. I'm assuming that's what I.B. did.

16 Q So after Beatrice, Beatrice died in
17 January of 2007. Before Beatrice died, were you
18 aware through discussions with Irving or anyone else
19 that there had been a dispute, if you will, brewing
20 between Howard Lipton and his sisters? Were you
21 made aware of anything like that before Beatrice
22 died?

23 A I don't recall precisely. I know there
24 was a lot of family discordant.

25 Q And that was before Beatrice died?

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1 A I don't recall precisely my knowledge
2 whether it was before or after, but relatively
3 around that time, yes.

4 Q And the reason I say that, Exhibit 13 is
5 dated the 15th of February, 2007. Beatrice had only
6 been dead for a month or so. I think she died in
7 early January.

8 A Yes.

9 Q Do you have a recollection of when the
10 dispute was brewing, if you will?

11 A No.

12 Q Do you recall the last discussion you had
13 with either Irving or Beatrice before Beatrice died
14 in terms of months, weeks?

15 A No independent recollection.

16 Q So we know from the correspondence when
17 she sent you the I'm changing my birth certificate,
18 so sometime in 2006 you were communicating with her.
19 Do you recall having any discussions with Beatrice
20 after you received that handwritten change, make
21 sure my dates are right?

22 A 10/29/06 it's dated. And the answer is,
23 no, I don't have any independent recollection.

24 Q Do you know 10/29/06 whether there was
25 problems in the family between Howard and his

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1 sisters?

2 A I don't recall when I knew.

3 Q Okay. So using that as a time frame, you
4 just don't know?

5 A I don't know.

6 MR. CHAPMAN: Let's take a quick break.
7 (Brief recess was had.)

8 MR. CHAPMAN: Back on the record.

9 BY MR. CHAPMAN:

10 Q Mr. Tescher, after Beatrice died, do you
11 recall having a telephone call from Irving where he
12 discussed the will and trust documents with you?

13 A Very, very vague. But I mean, I don't
14 have any specific recollection.

15 Q Do you recall the day she died discussing
16 with Irving and actually faxing him some documents?

17 A No, I don't recall.

18 Q Could it have happened?

19 A It could have happened, yes. I just don't
20 recall it.

21 Q And not restraining to the day Beatrice
22 died, but do you recall after she died having a
23 discussion with Irving, anything at all about the
24 will or trust documents?

25 A No real recollection. It's possible that

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1 I did have a conversation, but I don't recall it.
2 And I don't recall what the contents were, but it
3 certainly could have occurred.

4 MR. CHAPMAN: I think that's all I have.

5 CROSS EXAMINATION

6 BY MR. SIMON:

7 Q I had just gotten, had my secretary get
8 from Mr. Tescher a copy of his resume and Curriculum
9 Vitae. So Mr. Tescher, look at that and see if this
10 is an accurate and current copy of your Curriculum
11 Vitae.

12 A Right up to date. It even has my
13 presentation that I made Tuesday to the Public
14 Health Committee from the South Palm Beach County
15 Probate Law in front of Judge Colin.

16 MR. SIMON: We'll mark this as Exhibit 14.

17 (Thereupon, a Curriculum Vitae was marked
18 Exhibit No. 14 for identification and is attached
19 hereto.)

20 BY MR. SIMON:

21 Q And would this one be the most complete
22 version of your--

23 A This is the most complete version, yes.

24 Q Let me show you a January 18, 1996 letter.

25 MR. SIMON: Let's mark that as Exhibit 15.

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1 (Thereupon, a correspondence was marked Exhibit
2 No. 15 for identification and is attached hereto.)

3 BY MR. SIMON:

4 Q Does that letter, well, that letter
5 appears to reflect your initial involvement with Mr.
6 and Mrs. Lippton's estate planning; is that correct?

7 A That probably... Yes, this was 1996. It
8 would have been early on, yes. We may not have
9 been, I don't remember precisely when the file was
10 opened. If you've seen the file or have a copy of
11 the file, there will be a client matter memo that
12 shows the date on it. But this has to be pretty
13 close to the beginning of representation.

14 Q Now, in this letter from 1996, you are
15 writing to Bruce Spizer. Is that Howard's lawyer?

16 A That is Howard's lawyer or one of Howard's
17 lawyers.

18 Q And in there you reference loans from Mr.
19 and Mrs. Lippton to Howard?

20 A Correct.

21 Q And that you are going to be dealing with
22 those loans?

23 A Correct.

24 Q So from reading that letter were Howard's,
25 were the transfers from Mr. and Mrs. Lippton to

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1 Howard a consideration for the Lipton's as they did
2 their estate planning even as early as 1996?

3 MR. CHAPMAN: Objection to form.

4 THE WITNESS: Yes, they were. I think I
5 previously testified on direct that there were
6 gift tax issues that were of concern.

7 BY MR. SIMON:

8 Q From 1996 through 2007, you testified that
9 Mr. Lipton asked you to move the file to a lawyer
10 in Orlando. Did you continuously represent Mr. and
11 Mrs. Lipton with regard to their estate planning
12 matters?

13 A I would say, yes.

14 Q Are you aware --

15 A Well, let me correct that. Certainly
16 through the preparation of the '05 document, but
17 there was no, I don't know that there was any
18 further involvement on estate planning issues from
19 then to '07.

20 Q Was the first time you've learned that you
21 were no longer going to be representing them in
22 2007 --

23 MR. CHAPMAN: Objection to form.

24 MR. SIMON: -- with regard to estate
25 planning matters?

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1 MR. CHAPMAN: Objection to form.

2 THE WITNESS: I believe so.

3 MR. SIMON: Do you want me to rephrase
4 that into a non-leading format?

5 MR. CHAPMAN: Well, I have more than just
6 leading. If you are talking about after...
7 Well, you can rephrase it. You are talking
8 about estate planning matters after somebody
9 died. I have a problem with the form of the
10 question.

11 I believe the witness' testimony is pretty
12 clear. He didn't do anything after the '05
13 amendments, but if you want to characterize his
14 testimony however you wish.

15 MR. SIMON: I want to make sure the
16 question is clear and appropriate.

17 BY MR. SIMON:

18 Q When did you first learn that you weren't
19 going to be doing anymore estate planning work for
20 either Beatrice or I.B. Lipton?

21 A To the best of my recollection, I don't
22 think it was before Beatrice died. I think it was
23 sometime after Beatrice died which would have been
24 early 2007.

25 Q When you were answering some questions of

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1 Mr. Chapman at the beginning of your deposition you
2 talked about the fact that I.B. and Bea were having
3 some discussions about some things going on with
4 Howard. When you were meeting with them to talk
5 about their estate planning, from let's say 1999
6 through the last time you had a meeting with them
7 about estate planning, during any of those times did
8 either Bea or I.B. share with you any of the legal
9 problems that Howard was having?

10 A Yes.

11 MR. SIMON: I'm going to show you what
12 I'll mark as Exhibit 16.

13 (Thereupon, a document was marked Exhibit No. 16
14 for identification and is attached hereto.)

15 BY MR. SIMON:

16 Q This is a document that says, "Louisiana
17 State Board of Medical Examiners" on top of it.
18 It's a consent order.

19 Now, the first page of the consent order starts
20 off by saying, "On May 17, 2001, Howard L. Lipton, M.D.,
21 a physician licensed to practice medicine in the State of
22 Louisiana, and at all times pertinent engaged in the
23 practice of medicine in and around Ruston, Louisiana, was
24 indicted by a federal Grand Jury sitting in United States
25 District Court for the Eastern District of Louisiana on

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1 assets passing under the Trust. He's not getting
2 anything from the pension plan and profit sharing
3 plan and Hojosaki, which has already been gifted
4 out.

5 Q Right. And those pension plans and profit
6 sharing plans, had they permanently removed him from
7 those?

8 A It can be changed at any time.

9 Q Can it be changed after death?

10 A No.

11 Q So after Bea died, Irving couldn't change
12 Bea's pension and profit sharing plan?

13 MR. CHAPMAN: Objection as to form.

14 A Except that he was the primary
15 beneficiary. And I guess he might have had an
16 ability to roll it into a rollover IRA, spouse
17 rollover IRA, and change the beneficiary
18 designation.

19 Q Okay. I'll have to think about that, but
20 that's a good point.

21 So they come to see you in 2004. And the note
22 that you have, Exhibit 12, and the document, Exhibit 3,
23 indicate that when they came to see you they tell you
24 that, as it says in there, Howard gets zero?

25 A Correct.

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1 Q So at that point when they were telling
2 you they are going to take Howard to zero, what do
3 these two arrows mean on Exhibit 12 pointing to Lisa
4 and Vicki?

5 A Shift that 10 percent up to Lisa and
6 Vicki. Shift the 10 percent that was reflected as
7 Howard's 10 percent and equally add it to the
8 percentage of Lisa and Vicki.

9 Q Under the document that you drafted, which
10 is Exhibit 3, would Howard have been able to take
11 anything from Bea's trust after Bea's death?

12 MR. CHAPMAN: Objection to form.

13 THE WITNESS: Well, first, under that
14 trust I.B. would have to die, too because these
15 provisions don't apply until the death of the
16 survivor of Bea and I.B. So initially the
17 assets, Bea's assets of the trust would be held
18 for the benefit of I.B. during his remaining
19 lifetime. And then, thereafter, this is the
20 default provision in the event that there's no
21 exercise of a power of appointment.

22 BY MR. SIMON:

23 Q So under that draft would I.B. have been
24 able to, after Bea's death would be I.B. be able to
25 direct money to Howard?

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1 A Not under this document if this was the
2 operative document.

3 Q So that document, Exhibit 3, Bea and I.B.
4 were, if they had signed that, the survivor of them
5 would not have been able to direct money to Howard?

6 A That is correct.

7 Q Now, when they came in and told you to
8 make that change initially, which caused you to
9 draft that document, did they express to you why
10 they were wanting to cut Howard out?

11 A This is one of the hardest things to deal
12 with in our practice. And it unfortunately happens
13 from time to time. And that's when parents get to a
14 point where they've decided that they need to, I
15 guess, inherit a child, it's not an easy thing to
16 do. I've had a number of situations over the years.

17 I can recall one client where we went through
18 six back and forth documents over a long period of time
19 where the son was in, the son was out, the son was back
20 in, the son was back out because he, you know, he kept...
21 It's just a hard thing to do. And, obviously, we had
22 extended conversation about it because it's a realization
23 that, you know, a parent comes to.

24 And so we did talk extensively about
25 eliminating Howard. And it's not something that, you

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1 know, I ever push on somebody because it just is a very
2 personal and difficult decision. And as evidence by the
3 fact that, yes, we did it, we prepared it, and then they
4 said no.

5 Q Well, let's back up for a minute. I want
6 to stick with preparing it. So at least as of the
7 time they came to see you before you drafted that
8 first draft.

9 MR. CHAPMAN: Exhibit 3.

10 BY MR. SIMON:

11 Q Exhibit 3. They came to you and at that
12 point, you are saying, they expressed to you that
13 Howard was out at that point, right?

14 A Yes.

15 Q Let me ask you a question because I want
16 to follow up and I want to make sure. The language
17 that you employed to remove Howard is language that
18 says he'll be treated as predeceased the --

19 A -- the survivor of them.

20 Q The survivor of them.

21 Now, you use that language, that language
22 is, I think as Mr. Chapman said, is more than just
23 taking him out right now, right?

24 A That is correct.

25 Q That's taking him out forever?

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1 A Correct.

2 Q And was that your decision to take him out
3 forever or was that their decision to take him out
4 for good?

5 A The conversation was that -- Now that I
6 think about it. I mean, Bea -- Over the years I.B.
7 was the softy, if you will, between the two of them.
8 And that's who Howard would always hit up because he
9 knew his father had a very terrible, difficult time
10 saying no to him. And Bea was kept in the dark
11 about a lot of it for extended periods of time. But
12 I think, well, she was the one who was most irate in
13 our conversation about eliminating Howard because
14 she said it's enough. It's enough. He shouldn't
15 get anymore from either of us. He's gotten more
16 than his share. I want my other children to be
17 taken care of.

18 Q Was there a time after Howard, the
19 indictment comes down, Howard goes to jail, and you
20 said there's family discussions going on, this whole
21 point in time during this 2001, 2002 time frame when
22 all this was happening, was it your understanding
23 that there was any type of discussion among Bea and
24 Irving that you were made aware of about whether or
25 not Howard was going to get more money post this

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1 2001, 2002 time frame from his parents?

2 MR. CHAPMAN: Objection to form.

3 THE WITNESS: Well, there was a point in
4 time where it was my understanding from the
5 Lipton's that Howard was not getting anymore
6 currently. I also recall that apparently,
7 again, I.B. couldn't say no and that he
8 continued to funnel money to Howard,
9 unbeknownst to Bea.

10 BY MR. SIMON:

11 Q So Irving and Bea decided they are going
12 to take Howard out and then they changed their mind
13 and said, well, we're not going to take him out?

14 A They said we want to leave him a token of
15 5 percent.

16 Q So they kind of back out?

17 A Correct.

18 Q So when they come to see you or you go to
19 see them in February of 2004 -- That's your memo
20 that we marked as an exhibit, correct?

21 A Right.

22 Q Had they gone back to the Howard is out?

23 MR. CHAPMAN: Objection to form.

24 THE WITNESS: February of '05, you mean?

25 BY MR. SIMON:

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1 now that you did have that discussion?

2 MR. CHAPMAN: Objection to form.

3 How much of his prior testimony are we
4 going to go back over now?

5 MR. SIMON: All of it.

6 MR. CHAPMAN: So essentially you are
7 asking this witness whether he's refuting his
8 prior testimony?

9 MR. SIMON: Yes.

10 MR. CHAPMAN: Tell us, are you refuting
11 your prior testimony?

12 MR. SIMON: Hold on. You are not going to
13 tell this witness --

14 MR. CHAPMAN: I want to hear his honest
15 answer.

16 MR. SIMON: You have a right to make
17 objections on the record, but --

18 MR. CHAPMAN: Mr. Simon, I know exactly
19 what you are doing. I want the witness to be
20 truthful and understand the consequences of his
21 testimony.

22 MR. SIMON: I think he does.

23 MR. CHAPMAN: Go ahead.

24 MR. SIMON: You were very clever in how
25 you asked your questions.

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1 MR. CHAPMAN: Clever; are you serious?

2 MR. SIMON: Yes, I am.

3 MR. CHAPMAN: Refute your prior testimony,
4 if you will.

5 MR. SIMON: And you are not refuting
6 anything. I want you to testify to the
7 questions.

8 THE WITNESS: I'm a big boy. I've been
9 through depositions. I understand.

10 BY MR. SIMON:

11 Q Okay.

12 A I explained this letter to I.B. and Bea as
13 best as I could interpret what Howard was saying
14 here, what he intended. I explained to them that
15 this letter was not a forever. This letter, he can
16 change his intent any time he wanted to.

17 MR. CHAPMAN: He being Howard?

18 THE WITNESS: Correct. I explained to
19 them, remember what we did eight months ago.
20 The Trust that I prepared originally eight
21 months ago I had prepared it with Howard being
22 eliminated. I said, do you want to go back to
23 that arrangement, which I had discussed with
24 them back before we did that Trust in '04, and
25 they said, yes.

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1 And I presumed that they understood that,
2 that meant that Howard was out period, forever.
3 That's my testimony. Now, I don't think that
4 that's perjuring myself to how I responded to
5 you earlier.

6 BY MR. SIMON:

7 Q Mr. Tescher, was Bea concerned about Vicki
8 and Lisa and what they would get ultimately as an
9 inheritance?

10 MR. CHAPMAN: Objection to form.

11 THE WITNESS: Absolutely. She was
12 concerned about that.

13 BY MR. SIMON:

14 Q Did she feel that Joan was being taken
15 care of?

16 MR. CHAPMAN: Objection to form.

17 THE WITNESS: Yes, we always felt, they
18 always felt that the arrangements that they had
19 made with the business with Joan and her
20 husband were adequate, very adequate.

21 BY MR. SIMON:

22 Q And you wrote in here that they don't, it
23 is not for --

24 A -- lack of love and affection --

25 Q -- that they have minimized the provisions

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1 for her. It is the fact that they believe that the
2 arrangements that have been made for the ultimate
3 transmission of the family business to Joan and her
4 family and the arrangements made during their
5 lifetimes adequately compensate her.

6 A Nobody likes to rub things into people's
7 face. And that's a nice way of saying you are
8 disinherited.

9 Q And did Bea, was Bea concerned that Irving
10 was a soft touch for Howard?

11 MR. CHAPMAN: Objection to form.

12 THE WITNESS: I would say that that's a
13 fair characterization.

14 BY MR. SIMON:

15 Q And, in fact, at that time that she was
16 sitting there talking to you, didn't she tell you
17 that she just recently discovered that - without her
18 knowing it - that I.B. had transferred a significant
19 amount of money to Howard?

20 MR. CHAPMAN: Objection to form.

21 THE WITNESS: I think that was my prior
22 testimony.

23 BY MR. SIMON:

24 Q So part of what she was doing was making
25 sure that, that didn't happen again, --

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1 MR. CHAPMAN: Objection to form.

2 BY MR. SIMON:

3 Q -- is that correct?

4 A I would say that, that was her intention.

5 Q So when you went back to your office after
6 that February 2005 meeting to draft the Trust
7 Amendment in accordance with the intentions of Bea,
8 as she's expressed them to you in the February 24th
9 meeting, did you intend to draft provisions similar
10 to the ones that are in Exhibit 3?

11 A Yes.

12 Q And had you done that drafted document
13 similar to Exhibit 3, would that have accurately
14 reflected Bea's intentions as she expressed them to
15 you on February 24, 2005?

16 MR. CHAPMAN: Objection to form.

17 THE WITNESS: Yes, they would have.

18 BY MR. SIMON:

19 Q So the documents as ultimately drafted,
20 the amendment, the 2005 amendment, did it accurately
21 reflect the intentions of Bea as she had expressed
22 them to you?

23 MR. CHAPMAN: Objection to form.

24 THE WITNESS: No.

25 BY MR. SIMON:

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1 Q I think you've already testified that the
2 reason that, that happened was not intentional on
3 your part, correct?

4 MR. CHAPMAN: Objection to form.

5 THE WITNESS: It was not intentional on my
6 part, correct.

7 BY MR. SIMON:

8 Q It was a result of a scrivener's error,
9 correct?

10 MR. CHAPMAN: Objection to form.

11 THE WITNESS: That is correct.

12 BY MR. SIMON:

13 Q And when you testified about the first
14 time that, that scrivener's error was brought to
15 your attention, that was questions asked to you by
16 Mr. Chapman, and you testified that it was a phone
17 call with me?

18 A I believe that is what I recollected.

19 Q And at or about the time that the amended
20 complaint in this action was filed, was it August of
21 2010?

22 A I believe that's correct.

23 Q Now, during that telephone call that you
24 and I had, did you feel that I was suggesting that
25 you lie?

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1 A Absolutely not.

2 Q Had I suggested that you lie, would you
3 have lied?

4 A No.

5 Q Has anyone suggested that you lie or
6 committed perjury here today?

7 A No.

8 Q Or ever with regard to this mistake?

9 A No.

10 Q We've seen your credentials. We've marked
11 your resume. Would you agree that you are a
12 well-credentials, well-respected lawyer in the
13 estate planning community even nationally?

14 A I like to think that I am.

15 Q And you've been recognized as such,
16 correct?

17 A Correct.

18 Q So is making a mistake like this and
19 having to come forward and admit it embarrassing?

20 A Of course. But I'm also, I've never gone
21 through life with covered glasses on. I've always
22 recognized that nobody is perfect. And I, you know,
23 this isn't my first mistake. And there's probably
24 others in other files, but god willing this is the
25 first one that I can recall that has come to light

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1 and created an issue.

2 Q And is this a comfortable situation for
3 you sitting here today testifying about this?

4 A Absolutely not.

5 Q Will you financially benefit from your
6 testimony like this?

7 A No, I'm already at a detriment.

8 Q Have you been paid for being here today?

9 A No.

10 Q So, in fact, this whole situation is
11 costing you money; isn't it?

12 A Yes.

13 Q Do you have any personal animosity against
14 Howard Lippton?

15 A Not at all. In fact, I'm trying to recall
16 if I've ever met him. I may have met him on one
17 occasion or two, at most. He did something very
18 nice for me very early on. I wanted to go to New
19 Orleans for the National Championship game in
20 January of 1997. And Peter Forman put me in touch
21 with Howard who got me a room at the last minute in
22 the quarters. And I, you know, which was very nice
23 of him. So, I mean, I don't have any, you know...
24 I've never dealt with Howard in any particular way
25 or interacted other than that interaction way back

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1 in December, January of 1997.

2 Q So you are not motivated in any way to do
3 anything to hurt Howard?

4 A I have no reason to see anybody hurt here.

5 Q And you were Peter Forman's partner for a
6 number of years. You testified that you are still
7 friendly with him. Does your prior partnership with
8 him or any relationship you might have with Peter
9 Forman motivate you in any way to be untruthful
10 today?

11 A No.

12 Q And the bottom line, your testimony here
13 today is do you feel that you made a scrivener's
14 error in Bea's '05 Trust Amendment?

15 MR. CHAPMAN: Objection to form.

16 THE WITNESS: Yes, I did.

17 BY MR. SIMON:

18 Q And what was that scrivener's error?

19 A I neglected to see that the language
20 that's in the first draft of the '04 Trust was
21 carried over into the amendment that was done in
22 '05.

23 There were two choices. We can simply do
24 another amended and restated trust statement. I could
25 have gone back and pulled up the May 14th document, made

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1 it an '05 document instead of an '04 document, and had it
2 executed or we can do a couple page amendment changes to
3 that one provision. And we did the later. And I
4 neglected to make sure that, that provision had gotten
5 carried over into the amendment.

6 MR. SIMON: Did we mark the March 2005
7 Trust Amendment?

8 MR. CHAPMAN: April.

9 MR. SIMON: I mean, April 2005.

10 MR. CHAPMAN: I'll mark it as an exhibit
11 because I had one question. Do you want to
12 admit it as 24?

13 MR. SIMON: Yes.

14 Off the record.

15 (Brief recess was had.)

16 MR. SIMON: Back on the record.

17 Let's mark this as Exhibit 24.

18 (Thereupon, a document was marked Exhibit
19 No. 24 for identification and is attached
20 hereto.)

21 BY MR. SIMON:

22 Q So the 24 we marked to your deposition,
23 the First Amendment to the Trust, and that's the
24 April 2005 document. Is that the document that you
25 prepared?

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1 A Yes, it is.

2 Q That's something you prepared for me?

3 A Yes, it is.

4 Q And that's the document we've been talking
5 about when we've been referring to the 2005 Trust or
6 2005 Trust Amendment?

7 A That is correct.

8 MR. SIMON: Let's mark this as Exhibit 25.

9 (Thereupon, a document was marked Exhibit
10 No. 25 for identification and is attached
11 hereto.)

12 BY MR. SIMON:

13 Q Now, I'm going to show you what I've
14 marked as Exhibit 25. This is a Notice of Serving
15 Unverified Answers to Plaintiffs' First Set of
16 Interrogatories. They are interrogatory answers.
17 If I can direct you to Answer No. 4. They are from
18 Howard.

19 It says, "In early 2005, I told my parents (by
20 telephone) about the letter dated February 16, 2005, I
21 was planning to send them. My mother from that point in
22 time and over the next several weeks asked me to withdraw
23 my letter above." Now, assuming that Howard is talking
24 about the February 16, 2005 letter that's marked as
25 Exhibit 6. I'm going to ask you some questions about

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1 that. All right?

2 A Yes.

3 Q If we're talking, the date here is early
4 2005 and it's about the letter he was planning to
5 send. I'm going to also assume that the time frame
6 that Howard is talking about in Interrogatory 4
7 would be some point prior to February 16, 2005, and
8 for several weeks forward in time from there, okay?
9 So that time frame set, that time frame would
10 encompass the February 2005 meeting that you had
11 with I.B. and Bea?

12 A That meeting was on the twenty something
13 of February. February 24th; was it not? It was
14 February 24th. It's in the memorandum. February
15 24, 2005.

16 Q So the time frame Howard references right
17 there is at the same time you were meeting with Bea?

18 A Well it had to be before February 16th.
19 The letter is dated February 16th. He's making a
20 letter referenced to the time frame.

21 Q He's saying over the next several weeks,
22 correct?

23 A I'm presuming he meant early 2005.

24 Q Right, that's right. So we're talking
25 about generally in the time frame. If we can assume

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

SETTLOR and TRUSTEE:

Beatrice L. Lipton
BEATRICE L. LIPTON

This instrument was signed by BEATRICE L. LIPTON in our presence, and at the request of and in the presence of BEATRICE L. LIPTON and each other, we subscribe our names as witnesses on this 27 day of May, 2004:

Print Name: Robert Spallina
Address: 6930 NW 95th Lane
Parkland, FL 33076

Print Name: Bertha Maupin
Address: 402 Victory Circle
Boynton Beach, FL 33436

STATE OF FLORIDA

SS.

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 27th day of May, 2004, by BEATRICE L. LIPTON.



Signature - Notary Public - State of Florida

Susana Drucker
Print, type or stamp name of Notary Public

Personally Known ☒ or Produced Identification _____
Type of Identification Produced _____

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BEATRICE L. LIPTON
AMENDED AND RESTATED TRUST AGREEMENT

-22-

TESCHER GUTTER CHAVES JOSEPH RUBIN RUFFIN & FORMAN, P.A.

→ JLK 8101.001



To : File

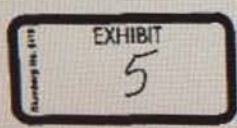
DATE : March 2, 2005

RE : Irving and Beatrice Lipton - Estate Planning (File No. 8101.001)

When I was in Orlando for the ACTEC convention, I met on Thursday, February 24, 2005, with I.B. and Bea to discuss their estate planning and related matters. They now wish to delete the 5% provision for their son, Howard, and allocate that equally to the shares for Lisa and Vicki. In addition, they would like for me to add a statement of their intent regarding why they have eliminated Howard and why their other daughter, Joan, has been limited to only a 5% interest. In this regard, Howard has given them a letter indicating that should they leave him any inheritance, it is his intention to disclaim it. Therefore, they wish to honor his intentions, as well as the fact that they have provide him with substantial assets during their lifetimes that more than equate to what his ultimate inheritance would have been. In the case of Joan, it is not for lack of love and affection that they have minimized the provisions for her. It is the fact that they believe that the arrangements that have been made for the ultimate transmission of the family business to Joan and her family and the arrangements made during their lifetimes adequately compensate her.

We also discussed the highway frontage in Orlando that I.B. and Bea own in their own names. This probably ought to be moved somewhere. The back piece behind the frontage is owned by Hojosaki. I need to discuss this with Peter.

*Jordan -
Clean up
amendments to Mar
Rev. Trusts
D.*



GCJ-02250



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

SETTLOR and TRUSTEE:

Beatrice L. Lippton
BEATRICE L. LIPPTON

This instrument was signed by BEATRICE L. LIPPTON in our presence, and at the request of and in the presence of BEATRICE L. LIPPTON and each other, we subscribe our names as witnesses on this 22 day of May, 2004:

Robert Spallina
Print Name: Robert Spallina
Address: 6990 NW 95th Lane
Parkland, FL 33070

Benita Maupin
Print Name: Benita Maupin
Address: 402 Victory Circle
Boynton Beach, FL 33436

STATE OF FLORIDA

SS.

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 22 day of May, 2004, by BEATRICE L. LIPPTON.



(Seal with Commission Expires)

Susana Drucker
Signature: Susana Drucker, Notary Public, State of Florida

SUSANA DRUCKER
Print, Type or Stamp Name of Notary Public

Personally Known ☒ or Produced Identification _____
Type of Identification Produced _____

Florida Revised Uniform Trust Agreement Act and Related Trust Acts (2003) (2004)

BEATRICE L. LIPPTON
Settlor and Trustee

•22•

TESCHER GUTTER CHAVES JOSEPH, RUBIN RUFFIN & FORMAN, P.A.



TESCHER GUTTER CHAVES JOSEPH RUBIN RUFFIN & FORMAN, P.A.

Attorneys-at-Law

Robert A. Chaves
Norman A. Fleisher
Peter J. Forman
Malvin C. Gutter
Richard A. Josepher
Charles D. Rubin
Thomas Ruffin
Robert L. Spallina
Donald R. Tescher

Boca Corporate Center
Suite 107
2101 Corporate Blvd.
Boca Raton, Florida 33431

Reply To: Boca Raton

Telephone:
(561) 998-7847

Facsimile:
(561) 998-2642

WATS:
(800) 238-2925

Website:
www.floridatrx.com

March 22, 2005

Mr. & Mrs. I.B. Lipton
1000 E. Harwood St.
Orlando, FL 32830

Re: I.B. and Beatrice Lipton - Estate Planning

Dear Bea and I.B.:

As a follow-up to our recent meeting, I am enclosing draft Amendments to your Revocable Trusts. Howard will no longer receive a 5% distribution under your Trusts and his share has been allocated equally to the shares for Lisa and Vicki. We have also added provisions that explain why you are not providing for Howard under your Trusts and why Joan is receiving a smaller amount than Vicki and Lisa under your Trust.

If you should have any questions with respect to the enclosed documents, please do not hesitate to contact either me or my associate, Jordan Klingsberg, and we will be glad to help you and revise the documents accordingly. However, should these documents reflect your wishes, please contact us so we can arrange for you to execute them.

Sincerely,

DONALD R. TESCHER

Enclosures

cc: Jordan Lee Klingsberg, Esq.

MIAMI: Grand Bay Plaza - Suite 420 - 2665 S.W. 1st Ave.

Boca 33331 • Tel. (561) 475-0644



GCJ-03602

FIRST AMENDMENT TO
IRVING B. LIPPTON
AMENDED AND RESTATED TRUST AGREEMENT

THIS FIRST AMENDMENT TO IRVING B. LIPPTON AMENDED AND RESTATED TRUST AGREEMENT is dated this ____ day of _____, 2005, and is between IRVING B. LIPPTON, of Orange County, Florida, as settlor, hereinafter referred to in the first person, and IRVING B. LIPPTON of Orange County, Florida, as Trustee (referred to as the *Trustee*, which term more particularly refers to all individuals and entities serving as trustee(s) of a trust created hereunder during the time of such service, whether alone or as co-trustees, and whether originally named as a successor trustee).

WHEREAS, on November 13, 1979, I created and funded the Trust known as the IRVING B. LIPPTON TRUST (the "*Trust Agreement*," which reference includes any subsequent amendments of said trust agreement); and

WHEREAS, I amended and restated the Trust Agreement on various dates, which most recent amendment and restatement occurred on May 27, 2004;

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

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

1. I hereby delete Subparagraph D.2. of Article II in its entirety and replace it with the following Subparagraph D.2.

"2. Distribution of Balance. Any parts of the Marital Trust and the Family Trust my spouse does not or cannot receive by appointment (including any additions upon my spouse's death), or all of the Family Trust if my spouse does not survive me, shall be divided and distributed by the Trustee as follows:

a. 47.5% to VICKI L. GREENSTEIN. Forty-seven and one-half (47.5%) percent outright to my daughter, VICKI L. GREENSTEIN ("*VICKI*"), if she is then living, or if she is not then living, outright among her then living lineal descendants, *per stirpes*. If neither VICKI nor any of her lineal descendants are then living, this 47.5% portion shall be allocated and distributed to the individuals receiving distributions under this Subparagraph D.2. pro rata to such individuals in proportion to the amounts of such distributions and in the same manner that they are receiving such distributions.

b. 47.5% to LISA L. FORMAN. Forty-seven and one-half (47.5%) percent outright to my daughter, LISA L. FORMAN ("*LISA*"), if she is then living, or if she is not then living.

FIRST AMENDMENT TO
IRVING B. LIPPTON
AMENDED AND RESTATED TRUST AGREEMENT

GCJ-03603

outright among her then living lineal descendants, *per stirpes*. If neither LISA nor any of her lineal descendants are then living, this 47.5% portion shall be allocated and distributed to the individuals receiving distributions under this Subparagraph D.2. pro rata to such individuals in proportion to the amounts of such distributions and in the same manner that they are receiving such distributions;

c. 5% to JOAN L. KIMBALL. Five (5%) percent outright to my daughter, JOAN L. KIMBALL ("JOAN"), if she is then living, or if she is not then living, outright among her then living lineal descendants, *per stirpes*. If neither JOAN nor any of her lineal descendants are then living, this 5% portion shall be allocated and distributed to the individuals receiving distributions under this Subparagraph D.2. pro rata to such individuals in proportion to the amounts of such distributions and in the same manner that they are receiving such distributions.

Notwithstanding the foregoing, outright distributions under this paragraph D.2. to individuals who have not attained their 25th birthday shall be retained in separate trusts for such individuals for outright distributions, which separate trusts shall be administered as provided in paragraph E. below. Each of my lineal descendants for whom a separate Trust is held hereunder shall hereinafter be referred to as a "beneficiary."

I have not provided for my son, HOWARD L. LIPPTON, out of any unkindness to him or any lack of love or affection, but because HOWARD has indicated in writing his intent to disclaim any assets inherited under this Trust and I wish to honor HOWARD's intentions. It is also my belief that during my lifetime, I have made substantial loans and gifts of assets to HOWARD that more than equate to what his ultimate inheritance would have been.

I have provided JOAN with a reduced distribution as herein stated in paragraph c. above, not out of any unkindness to her or any lack of love and affection, but because of my belief that the arrangements made for ultimate transmission of our family business to JOAN and her family and the arrangements made during my lifetime, adequately compensate JOAN and place her beyond the need of any further distributions from the Trust.

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

FIRST AMENDMENT TO
IRVING S. LIPPTON
AMENDED AND RESTATED TRUST AGREEMENT

- 2 -

GCJ-03604



IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to IRVING B. LIPPTON Restated and Amended Revocable Trust Agreement on the date first above written.

SETTLOR and TRUSTEE:

IRVING B. LIPPTON

This instrument was signed by IRVING B. LIPPTON in our presence and at the request of and in the presence of IRVING B. LIPPTON and each other, we subscribe our names and offices on this ____ day of _____, 2005:

Print Name: _____
Address: _____

Print Name: _____
Address: _____

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this ____ day of _____, 2005, by IRVING B. LIPPTON.

[Seal with Commission Expiration Date]

Signature - Notary Public - State of Florida

Print, type or stamp name of Notary Public

Personally Known ☒ or Produced Identification _____
Type of Identification Produced _____

IRVING B. LIPPTON Restated and Amended Revocable Trust Agreement as Amended & Restated Trust Agreement Irving Lippton, rev'd (08-12-25-02-05)

FIRST AMENDMENT TO
IRVING B. LIPPTON
AMENDED AND RESTATED TRUST AGREEMENT

GCJ-03605

Jordan Klingsberg

From: Donald R. Tescher
Sent: Monday, March 28, 2005 5:42 PM
To: Jordan Klingsberg
Subject: I.B. & Bea Lipton

I spoke to the Liptons and the amendments are fine. Please have Kim run them in final form for execution in Orange County (Orlando) and send them out with execution instructions.

Donald R. Tescher, Esq.
Tescher Gutter Chaves Joseph Rubin
Ruffin & Forman, P.A.
2101 Corporate Blvd., Suite 107
Boca Raton, FL 33431
T: (561) 998-7847
F: (561) 998-2642
dtescher@floridatx.com

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8101.001

TESCHER GUTTER CHAVES JOSEPHER RUBIN RUFFIN & FORMAN, P.A.
Attorneys-at-Law

Robert A. Chaves
Peter J. Forman
Marvin C. Gutter
Richard A. Joseph
Adm S. Miller
Charles D. Rubin
Thomas Ruffin
Robert L. Spallina
Donald R. Tescher

Boca Corporate Center
Suite 107
2101 Corporate Blvd.
Boca Raton, Florida 33431

Reply To: Boca Raton

Telephone:
(561) 998-7847
Facsimile:
(561) 998-2642
WATS:
(800) 288-2925
Website:
www.floridatex.com

March 30, 2005

Mr. & Mrs. I.B. Lipton
1000 E. Harwood St.
Orlando, FL 32830

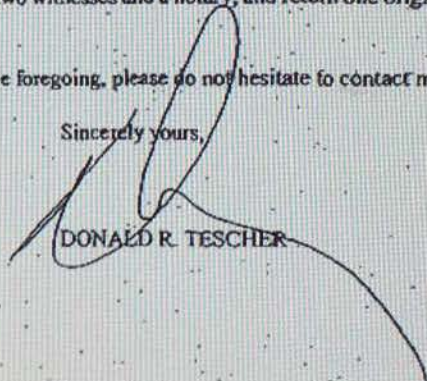
Re: I.B. & Beatrice Lipton - Estate Planning

Dear Bea and I.B.:

Enclosed are three execution copies of each of your Amendments, together with instructions. Please sign each document in the presence of two witnesses and a notary, and return one original of each to me for my files.

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

Sincerely yours,


DONALD R. TESCHER

DRT/km

Enclosures

cc: Jordan L. Klingsberg, Esq.

MIAMI: Grand Bay Plaza - Suite 620 - 2665 South Bayshore Drive

(305) 670-0444

EXHIBIT

9

GCJ-03593

INSTRUCTIONS FOR SIGNING AMENDMENTS

While it is our preference that Trusts be signed in our presence at our office to assure compliance with all statutory formalities, we recognize that at times circumstances do not permit this to be done. Therefore, this instruction sheet provides instructions for signing a trust without the direct oversight of an attorney. Please follow all instructions precisely, since failure to do so may invalidate the trust.

1. The person signing the trust (the "Grantor") should read through it and make sure that he or she understands it and that it disposes of his or her assets in the intended manner.
2. This instrument requires execution in a manner similar to a Will. All three copies of the Trust should be executed completely in the presence of two witnesses and a notary public. The Grantor must sign in front of the two witnesses and the notary and the witnesses must sign in front of each other, the Grantor and the notary.
3. The Grantor should place the date of the signing on the first paragraph of the first page.
4. The Grantor and Trustee should initial each page on the bottom right corner, all the way through to and including the last page.
5. In the presence of two witnesses and a notary public (all present at the same time), the Grantor and Trustee should sign his or her name on the signature page as indicated. Note that the two witnesses, the notary public, and the Grantor and/or Trustee *must remain in each other's presence until the trust is completely signed by the Grantor and/or Trustee and the witnesses.*
6. The witnesses should insert the date in the paragraph immediately below the Grantor/Trustee signature, print their name below their signature and insert their address as indicated below their name.
7. The notary should complete the notarization.
8. Retain two original executed trusts, and forward to me a fully executed trust for our files.

GCJ-03594

FIRST AMENDMENT TO

IRVING B. LIPPTON

AMENDED AND RESTATED TRUST AGREEMENT

THIS FIRST AMENDMENT TO IRVING B. LIPPTON AMENDED AND RESTATED TRUST AGREEMENT is dated this ____ day of ____, 2005, and is between IRVING B. LIPPTON, of Orange County, Florida, as settlor, hereinafter referred to in the first person, and IRVING B. LIPPTON of Orange County, Florida, as Trustee (referred to as the "Trustee," which term more particularly refers to all individuals and entities serving as trustee(s) of a trust created hereunder during the time of such service, whether alone or as co-trustees, and whether originally serving or as a successor trustee).

WHEREAS, on November 13, 1979, I created and funded the Trust known as the IRVING B. LIPPTON TRUST (the "Trust Agreement," which reference includes any subsequent amendments of said trust agreement); and

WHEREAS, I amended and restated the Trust Agreement on various dates, which most recent amendment and restatement occurred on May 27, 2004; and

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

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

1. I hereby delete Subparagraph D.2. of Article II in its entirety and replace it with the following Subparagraph D.2:

"2. Disposition of Balance. Any parts of the Marital Trust and the Family Trust my spouse does not or cannot effectively appoint (including any additions upon my spouse's death), or all of the Family Trust if my spouse did not survive me, shall be divided and distributed by the Trustee as follows:

a. 47.5% to VICKI L. GREENSTEIN. Forty-seven and one-half (47.5%) percent outright to my daughter, VICKI L. GREENSTEIN ("VICKI"), if she is then living, or if she is not then living, outright among her then living lineal descendants, *per stirpes*. If neither VICKI nor any of her lineal descendants are then living, this 47.5% portion shall be allocated and distributed to the individuals receiving distributions under this Subparagraph D.2. pro rata to such individuals in proportion to the amounts of such distributions and in the same manner that they are receiving such distributions;

b. 47.5% to LISA L. FORMAN. Forty-seven and one-half (47.5%) percent outright to my daughter, LISA L. FORMAN ("LISA"), if she is then living, or if she is not then living.

FIRST AMENDMENT TO
IRVING B. LIPPTON
AMENDED AND RESTATED TRUST AGREEMENT

TESCHER GUTTER CHAVES JOSEPHER RUBIN RUFFIN & FORMAN, P.A.

GCJ-03595

outright among her then living lineal descendants, *per stirpes*. If neither LISA nor any of her lineal descendants are then living, this 47.5% portion shall be allocated and distributed to the individuals receiving distributions under this Subparagraph D.2. pro rata to such individuals in proportion to the amounts of such distributions and in the same manner that they are receiving such distributions;

c. 5% to JOAN L. KIMBALL: Five (5%) percent outright to my daughter, JOAN L. KIMBALL ("JOAN"), if she is then living, or if she is not then living, outright among her then living lineal descendants, *per stirpes*. If neither JOAN nor any of her lineal descendants are then living, this 5% portion shall be allocated and distributed to the individuals receiving distributions under this Subparagraph D.2. pro rata to such individuals in proportion to the amounts of such distributions and in the same manner that they are receiving such distributions; and

Notwithstanding the foregoing, outright distributions under this paragraph D.2. to individuals who have not attained their 25th birthday shall be retained in separate trusts for such individuals in lieu of outright distributions, which separate trusts shall be administered as provided in paragraph E. below. Each of my lineal descendants for whom a separate Trust is held hereunder shall hereinafter be referred to as a "beneficiary."

I have not provided for my son, HOWARD L. LIPPTON ("HOWARD"); not out of any unkindness to him or any lack of love or affection, but because HOWARD has indicated in writing his intent to disclaim any assets inherited under this Trust and I wish to honor HOWARD's intentions. It is also my belief that during my lifetime, I have made substantial loans and gifts of assets to HOWARD that more than equate to what his ultimate inheritance would have been.

I have provided JOAN with a reduced distribution as herein stated in paragraph c. above, not out of any unkindness to her or any lack of love and affection, but because of my belief that the arrangements made for ultimate transmission of our family business to JOAN and her family and the arrangements made during my lifetime, adequately compensate JOAN and place her beyond the need of any further distribution from the Trust."

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

FIRST AMENDMENT TO
IRVING B. LIPPTON
AMENDED AND RESTATED TRUST AGREEMENT

- 2 -

TESCHER GUTTER CHAVES JOSEPH RUBIN RUFFIN & FORMAN, P.A.

GCJ-03596

08/01/06

10/24/06

file
Lippton
Elph

To: Don Tescher

Fax 561-998-2642

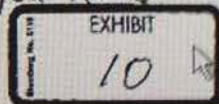
Total pages 3

From: Beatrie Lippton

Tel 407-841-7176

Please note that my birthdate may be wrong in your files. Years ago a reissue of my birth certificate stated my birthdate as 3/28/18 although I was actually born on 3/31/18. Attached is a copy of my original birth certificate that also has my birthdate as 3/28/18. Please update your files and call me if you have any questions. Thank you.

Beatrie L. Lippton



08/01/06



01/12/2011 11:16 FAX 5816551980

BUNSTER YOAKLEY

002/028

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

LISA L. FORMAN, VICKI L. GREENSTEIN
and JOAN L. KIMBALL

PROBATE DIVISION

CASE NO. 50 20 0 7 000 07 7 6 XXXX MB

Plaintiffs,

v.

IRVING B. LIPPTON, as Trustee of the
Beatrice L. Lippton Amended and Restated
Trust Agreement dated May 27, 2004,

Defendant.

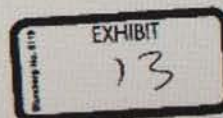
COMPLAINT FOR REMOVAL OF TRUSTEE AND OTHER RELIEF

Plaintiffs, Lisa L. Foreman, Vickie L. Greenstein, and Joan L. Kimball by and through their undersigned counsel, hereby sue Defendant, Irving B. Lippton, as Trustee of the Beatrice L. Lippton Amended and Restated Trust Agreement dated May 27, 2004, and state as follows:

JURISDICTION, VENUE AND PARTIES

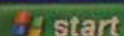
1. This is an action for removal of a trustee pursuant to § 737.201, Fla. Stat. and for injunctive relief.
2. Venue of this proceeding is proper in this Court pursuant to § 737.202, Fla. Stat. and Chapter 47, Fla. Stat.
3. On May 27, 2004, Beatrice L. Lippton ("Beatrice") executed the Beatrice L. Lippton Amended and Restated Trust Agreement (the "Trust"). A true and correct copy of the Trust is attached hereto as Exhibit "A." Beatrice was the initial Trustee of the Trust.

wfb 922887.1



Received Time Jan. 13. 2011, 11:12AM No. 2123

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4. Pursuant to Article IV(C) of the Trust, Beatrice nominated her husband, Irving Lipton ("Irving") to serve as the successor Trustee. Article IV(C) of the Trust goes on to nominate Donald R. Tescher to serve as successor Trustee after Irving.

5. Plaintiffs, Lisa L. Foreman, Vickie L. Greenstein, and Joan L. Kimball are the daughters of Beatrice and Irving. Plaintiffs are beneficiaries of the Trust.

6. Defendant, Irving B. Lipton ("Irving") is the current Trustee of the Trust and is a resident of Orlando, Florida.

7. Howard Lipton ("Howard") is the Plaintiffs' brother and is the son of Beatrice and Irving.

GENERAL ALLEGATIONS

8. Beatrice died in Orlando, Florida in early January, 2007. Upon her death, Irving became the successor Trustee of the Trust.

9. Irving is a frail elderly man who is nearly 93 years old. In recent years, he has deteriorated both physically and mentally. He suffers from memory loss, mental confusion and paranoia. Irving's physical and mental deterioration has appeared to accelerate after the death of Beatrice.

10. Irving is acting erratically and irrationally. He is unable to make reasoned choices and decisions with respect to the administration of the Trust.

11. Irving's diminished mental and physical abilities combined with the recent death of his longtime spouse, Beatrice, have left Irving unable to manage his personal or financial affairs and extremely vulnerable to improper influence and abuse.

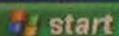
12. Of particular concern is the involvement of Howard in Irving's affairs. For many years, Howard has exercised a great deal of influence over Irving, much of it to Irving's detriment. Following Beatrice's death, Howard has further injected himself into Irving's affairs

WPD 92287.1

- 2 -

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and has alienated Irving from his family, friends, and his longtime personal, financial and business advisors.

13. In particular, following Beatrice's death, Howard was instrumental in terminating the services of Irving's longtime attorneys, who were well respected experts in estate planning, tax and business law.

14. Howard has now procured new lawyers for Irving and, upon information and belief, substantial changes have been made to Irving's testamentary documents.

15. Howard is now in the process of moving Irving from his longtime home in Orlando, Florida to Shreveport, Louisiana, where Howard resides. Once Irving is in Louisiana, he will be completely isolated from his family (other than Howard) and all of his longtime friends, his longtime accountant, his longtime attorneys and his trusted business advisors.

16. Based on his diminished mental and physical capacity alone, Irving is unfit to serve as the Trustee of the Trust. Now that Howard has taken complete control of Irving and all of Irving's affairs, it is imperative that Irving be removed as Trustee of the Trust. Howard now makes Irving's decisions and Howard would never qualify to act in any fiduciary capacity.

17. Howard is a doctor who, for several years, operated a practice in New Orleans, Louisiana. For many years, Howard has been plagued with financial troubles, many of which have been due to his problems with drugs. Irving has transferred millions of dollars to Howard for unknown purposes, but often under the pretense of assisting Howard with his medical practice. As it turns out, Howard was engaging in a series of criminal activities, many of which involved this same medical practice.

18. In 2000, the FBI was investigating Howard for Medicare fraud. During the investigation, the FBI discovered that Howard had submitted fraudulent bills for several years,

charging the government for respiratory therapy treatments for the elderly that he had not performed. The FBI turned up approximately \$1.3 million in falsified Medicare claims.

19. In late 2001 and throughout 2002, Howard was also implicated in a scandal involving a prostitution ring on Canal Street in New Orleans. Over a three-year period, Howard spent approximately \$350,000 on prostitutes at the Canal Street Brothel.

20. Howard made a deal with the FBI to obtain a reduced sentence on his Medicare fraud charges. In exchange for leniency in his felony Medicare fraud case, Howard provided the FBI with information relating to the Canal Street Brothel. Howard told the FBI that drugs, including heroin and cocaine, were sold and distributed from the brothel.

21. On June 19, 2002, Howard was convicted of Medicare fraud and sentenced to 18 months in prison.

22. In July, 2002, Howard filed for Chapter 7 bankruptcy relief in the United States Bankruptcy Court, Eastern District of Louisiana.

23. While under Howard's influence, Irving has transferred millions of dollars to Howard, to the detriment of himself, his wife, and the family businesses.

24. Howard's influence and control over his frail and elderly father, Irving, has been so powerful that Irving was nearly driven to financial ruin and had reached the point where he was unable to financially care for himself or his wife. It was only through the involvement of other family members and Irving's longtime legal and financial advisors that Irving was temporarily spared from complete financial collapse. Howard has now successfully alienated Irving from all of these people.

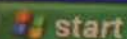
25. Plaintiffs have retained the undersigned law firm and have agreed to pay the reasonable attorney's fees and costs associated with this action.

WPR 922887.1

- 4 -

Received Time Jan. 13. 2011 11:12AM No. 2123

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26. Plaintiffs are entitled to recover their attorney's fees and costs from the assets of the Trust pursuant to § 737.2035, Fla. Stat.

COUNT I: REMOVAL OF TRUSTEE

27. Plaintiffs re-allege the allegations of Paragraphs 1 through 26 as if fully set forth herein.

28. As a result of the effects of Irving's weakened physical and mental condition, including his advanced age, paranoia, memory loss, mental confusion, as well as the undue influence of Howard, Irving does not have the ability to properly administer the Trust or to act as Trustee.

29. This Court has jurisdiction to remove Irving as Trustee of the Trust pursuant to § 737.201, Fla. Stat.

WHEREFORE, Plaintiffs respectfully request that this Court enter a final judgment: (a) finding that Irving is unfit to serve as Trustee of the Trust; (b) removing Irving as Trustee of the Trust; (c) appointing a qualified individual or entity to replace Irving as Trustee of the Trust; (d) awarding Plaintiffs their attorneys' fees and costs associated with this action; and (e) granting such other and further relief as is just and proper under the circumstances.

COUNT II: INJUNCTIVE RELIEF TO FREEZE TRUST ASSETS

30. Plaintiffs re-allege the allegations of paragraphs of 1 through 26 as fully set forth herein.

31. As a result of the effects of Irving's weakened physical and mental condition, including his advanced age, paranoia, memory loss, mental confusion, as well as the undue influence of Howard, Irving does not have the ability to properly administer the Trust or to act as Trustee.

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DELL

32. In addition, Howard is in the process of moving Irving to Shreveport, Louisiana, where he can continue to exert control over Irving and substitute his intentions for Irving with respect to the administration of the Trust.

33. The assets of the Trust are in danger of irreparable harm, including dissipation and depletion.

34. Plaintiffs have no adequate remedy at law.

35. Plaintiffs have a substantial likelihood of removing Irving as Trustee of the Trust and prevailing on the merits.

WHEREFORE, Plaintiffs respectfully request that this Court enter a temporary injunction: (a) freezing the assets of the Trust; (b) maintaining the status quo of the Trust pending the outcome of this action for removal; (c) awarding Plaintiffs their attorneys' fees and costs associated with this action; and (d) granting such other and further relief as is just and proper under the circumstances.

DATED this 15th day of February, 2007.

GUNSTER, YOAKLEY & STEWART, P.A.
777 South Flagler Drive
Suite 500 East
West Palm Beach, Florida 33401
Tel. (561) 655-1980
Fax (561) 655-5677
Attorneys for Plaintiffs

By: 

MICHAEL D. SIMON
Florida Bar No. 797110
JOHN C. MORAN
Florida Bar No. 0505072

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-6-

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DELL

BEATRICE L. LIPPTON

AMENDED AND RESTATED TRUST AGREEMENT

This Amended and Restated Trust Agreement is dated this 22 day of May, 2004, and is between BEATRICE L. LIPPTON, of Orange County, Florida, referred to in the first person, as settlor, and BEATRICE L. LIPPTON, of Orange County, Florida, and BEATRICE L. LIPPTON's successors, as trustee (referred to as the "Trustee," which term more particularly refers to all individuals and entities serving as trustee of a trust created hereunder during the time of such service, whether alone or as co-trustees, and whether originally serving or as a successor trustee).

WHEREAS, on November 13, 1979, I created and funded the Trust known as the BEATRICE L. LIPPTON TRUST (the "Trust Agreement," which reference includes any subsequent amendments of said trust agreement); and

WHEREAS, I amended and restated the Trust Agreement on various dates, which most recent amendment and restatement occurred on June 3, 1999; and

WHEREAS, on June 21, 2001, I amended the Trust Agreement as previously amended and restated, which amendment was entitled the FIRST AMENDMENT TO BEATRICE L. LIPPTON TRUST AGREEMENT AS AMENDED AND RESTATED ON JUNE 3, 1999; and

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

NOW THEREFORE, by executing this instrument, I hereby amend and restate the Trust Agreement in its entirety as follows:

ARTICLE I. DURING MY LIFE AND UPON MY DEATH.

A. Rights Reserved. I reserve the right (a) to add property to this Trust during my life or on my death, by my Will or otherwise; (b) to withdraw property held hereunder; and (c) by separate written instrument delivered to the Trustee, to revoke this Agreement in whole or in part and otherwise modify or amend this Agreement. However, after my spouse's death I may not exercise any of said rights with respect to property added by my spouse upon my spouse's death by my spouse's Will or otherwise.

B. Payments During My Life. If income producing property is held in the Trust during my life, the Trustee shall pay the net income of the Trust to me or as I may direct. However, during any periods while I am Disabled, the Trustee shall pay to me or on my behalf such amounts of the net income and principal of the Trust as it deems proper for my Welfare, and also may in its discretion pay to my

BEATRICE L. LIPPTON
AMENDED AND RESTATED TRUST AGREEMENT

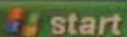


TESCHER GUTTER CHAVES JOSEPH RUBIN RUFFIN & FORMAN, P.A.

5/17

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DELL

DONALD R. TESCHER
Attorney at Law

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www.tescherspallina.com

Boca Village Corporate Center I
4855 Technology Way
Suite 720
Boca Raton, Florida 33431
(561) 997-7008
dtescher@tescherspallina.com

EDUCATION

New York University
Master of Laws in Taxation, January 1973

University of Florida
BSBA (Accounting), May 1966
Juris Doctor, June 1969

SPECIAL RECOGNITIONS

Martindale-Hubbell Law Directory - AV Rating

"The Best Lawyers in America" - Listed in Taxation and Trusts and Estates

Listed as one of 100 Leading Attorneys in America in Wealth Planning by the Robb Report Worth Magazine, December 2005, December 2006

Ranked as one of 50 leading lawyers nationally in Wealth Management and as one of the 4 leading individuals in Florida in Estate Planning in "America's Leading Lawyers for Business Guide" published by Chambers and Partners, 2006 through 2011

Listed among "Florida's Legal Elite" by Florida Trend Magazine in Trusts and Estates Law

Listed as a "Top Attorney" by the South Florida Legal Guide

Listed as one of the 100 Top Lawyers in Florida by Florida Super Lawyers

The Florida Bar Tax Section - Outstanding Continuing Legal Education Speaker Award 1991-92

The Gerald T. Hart Outstanding Tax Attorney Award 1996-97, presented annually by the Tax Section of The Florida Bar



LEGAL AFFILIATIONS

Tescher & Spallina, P.A., January 2008 to date

Tescher Gutter Chaves Josepher Rubin Ruffin & Forman, P.A., December 2007

Tescher Chaves Rubin & Forman, P.A., June 1990 to September 2002

Tescher & Milstein, P.A., June 1986 to June 1990

Fine Jacobson Schwartz Nash Block & England, 1973 to June 1986 (successor by merger to Schwartz, Nash, Heckerling & Tescher, P.A., Founding Partner, 1973)

TEACHING EXPERIENCE

Adjunct Professor

University of Miami School of Law, Graduate Tax Programs

- September 1992 – 1997 Estate Planning and Drafting; Advanced Wealth Transfer Taxation
- September 1974 - June 1980
 - Tax Accounting Methods
 - Fiduciary Administration
 - Federal Estate & Gift Tax
 - Estate Planning Seminar

The Florida Bar Tax Section Tax Certification Review Course - Instructor in Estate, Gift and Generation Skipping Taxes - 2005, 2006, 2007

PROFESSIONAL ORGANIZATIONS

American Bar Association, Section of Taxation (1973-)

- Member, Committee on Foreign Tax Problems (1973-74)
- Member, Committee on Partnerships (1974-75)
- Member, Committee on Income Taxation of Estates and Trusts (1975-77)
- Member, Estate & Gift Tax Committee (1977-)
- Chairman, Subcommittee on International Estate & Gift Taxation (1987-89)
- Member, Charitable Transfers Subcommittee (1990-2001)
- Member, Business Planning/Chapter 14 Subcommittee (1993-2000)

American Bar Association, Section of Real Property, Probate and Trust Law (1988-)

- Member, Special Problems of Business Owners Committee (1993-2001)
- Member, Estate Tax Problems & Post-mortem Planning Committee (1993-1998)

The Florida Bar, Tax Section (1973 -)

- Chairman (1984-85)

- Prior to Chairmanship, active since 1973
- Subsequent to Chairmanship, have represented the Section as a delegate to the Southeast Region Liaison Conference with Internal Revenue Service and on the Board of Directors of the Section Executive Council

The Florida Bar, Real Property, Probate & Trust Law Section (1978-)

- Member, Estate and Trust Tax Planning Committee (1986-)
- Member, Probate Law Committee (1986-)
- Chairman, Probate and Trust Problems Study Committee (1995-1998)
- Member, Trust Law Committee (Co-Chairman 1998-2001)
- Member, Special Ad Hoc Committee to Draft Elective Share Statute
- Member, Special Committee to Draft Florida Uniform Principal and Income Act
- Member Ad Hoc Committee to Draft Florida Trust Code
- Member Ad Hoc Committee to Draft Family Trust Company Act
- Section Liaison to Florida Bar Tax Section

Fellow, American College of Trust and Estate Counsel

- Member, Business Planning Committee (1994-)
- Member, Estate and Gift Tax Committee (2006 -)
- Member, Asset Protection Committee (2007 -)

Fellow, American College of Tax Counsel

Greater Miami Tax Institute
Estate Planning Council of Greater Miami
Dade County Planned Giving Council
Palm Beach County Planned Giving Council
Greater Boca Raton Estate Planning Council
Boca Raton Tax Institute (Co-Founder)

OTHER PROFESSIONAL AND COMMUNITY ACTIVITIES

Foundation of Jewish Philanthropies of The Greater Miami Jewish Federation -

Member of the Board of Trustees (1985-) and
Chairman, Professional Advisory Committee (1989-91)

The Jewish Community Foundation of the Jewish Federation of South Palm Beach County - Member, Board of Trustees (2006 -)

Member, Professional Advisory Committee (1998-)

Dade Community Foundation - Professional Advisory Committee (1989-)

Dade County Bar Association, Board of Directors (1986-87, 1988-91)

Switchboard of Miami, Board of Directors (1986-90) and Treasurer (1987-90),
Board of Trustees (1990-1998)

Beth David Congregation, President (1981-83)

Florida Friends of Bar Ilan University - Board Member (2003 -08)

Bar Ilan University International Board of Governors - Board Member (2005 - 09)

Friends of the March of the Living -Co-Founder and Board Member (2001 -); President
(2009 -)

Community Foundation for Palm Beach and Martin Counties - Professional Advisory

Board Member(2003-); Co-Chair, South Palm Beach County Professional
Advisory Network (2009 -)

PUBLICATIONS

"Testamentary Charitable Lead Trusts: When Should They Be Used For Estate Planning, and Don't Overlook The Income Tax Planning Opportunities," BNA, Inc. Tax Management Memorandum, Volume 49, Number 22, October 27, 2008 (Co-Author with Jerome M. Hesch)

"Tax Consequences of Settlements of Estate and Trust Disputes, Part I, Estate Planning (November 2006); Part II (December 2006) (Co-Author with Jordan L. Kilingsberg)

"The Frozen T-CLAT", Trusts & Estates (July 2004) (Co-Author with Barry Nelson)

"The Life Insurance Partnership as an Alternative to the Irrevocable Life Insurance Trust: Panacea or Placebo?", Estate & Personal Financial Planning (Part One - June, 1994; Part Two - July, 1994)

"Chapter 14: Now You See It ... and Now You Don't: The Transmission of BusinessWealth Outside Chapter 14", Estate & Personal Financial Planning (Part One - March, 1993; Part Two - April, 1993)

"Leveraged ESOP's - Providing a Tax-Favored Market for Stock of a Closely-held Corporation", 60 Florida Bar Journal 47 (July/August 1986) co-authored with Jonathan H. Green

"Tax Consequences of an Investment in an Unsuccessful Tax Shelter," 3 Taxation for Lawyers 62 (July/August 1974)

SELECTED SPEECHES/PRESENTATIONS

South Palm Beach County Bar Association Probate Law Committee Lunch With the Judge, "Estate and Gift Tax Audits: The Good, The Bad and The Ugly," (January 2011)

Central Florida Estate Planning Council, "Estate and Gift Tax Audits: The Good, The Bad and The Ugly," (January 2011) co-presented with Pamela Breault, IRS Estate and Gift Tax Appellate Conferee

Community Foundation Roundtable, "The Frozen T-CLAT and Other Charitable Lead Trust Planning Techniques," (December 2010) co-presented with Jeffrey Baskies

The Florida Bar Real Property, Probate and Trust Law Section, The Changing World of Estate Planning Seminar (December 2009), "Hot Topics - The Future of the Estate Tax," a panel discussion together with Louis Nostro and Brian Sparks

Ninth Annual Oregon Tax Institute (June 2009), "SOPHISTICATED CHARITABLE GIFTING AND PLANNING: THE FROZEN T-CLAT AND OTHERS" AND "TRANSFER TAX PLANNING IN TURBULENT TIMES" - Co-Presentation with Louis Nostro

The Florida Bar Tax Section Annual Meeting, American (Transfer Tax) Idols Symposium II (April 24, 2009), "Thorny Administration Issues" a panel discussion together with Jo Ann Enghardt, Michael Simon and Bruce Stone

Boca Raton Tax Institute (February 25, 2009), "Decanting Without Wine: Not as Much Fun But I Wouldn't Whine About It"

The Florida Bar Tax Section Fall Meeting (October 2008), "Communicating Complex Estate Planning Ideas Simply" - Co-Presentation with Jerome Hesch

BNA Advisory Board Meeting (March 2008), "Maximizing Income Tax Benefits When Using Lifetime and Testamentary CLATs for Estate Planning"

ACTEC Annual Meeting (March, 2008), "An ACTEC Fellow as an Expert Witness"

Mellon Private Wealth Management Roundtable for ACTEC Fellows and Florida Board Certified Tax and Trust & Estate Attorneys (December 2007), "Wealth and Family Planning for the Really Wealthy"

Florida Institute of Certified Public Accountants, (November 2007) "Wealth and Family Planning for the Really Wealthy"

Boca Raton Tax Institute (February 2007), "Something Old, Something New, Something Borrowed...The New Florida Trust Code"

Joseph L. Morse Geriatric Center Professional Advisory Committee (November 2006), "Something Old, Something New, Something Borrowed...The New Florida Trust Code"

Mellon Private Wealth Management Roundtable for ACTEC Fellows and Florida Board Certified Tax and Trust & Estate Attorneys (November 2006), "Uncle Sam: The Silent Partner at the Trust and Estate Litigation Settlement Table"

Community Foundation for Palm Beach and Martin Counties (October 2006), "Uncle Sam: The Silent Partner at the Trust and Estate Litigation Settlement Table"

Greater Miami Estate Planning Council (February 2006), "The New, Proposed Florida Trust Code"



2006 Heckerling Institute on Estate Planning (January 2006), "Uncle Sam: The Silent But Ever-Present Party at the Estate and Trust Dispute Settlement Table"

The Florida Bar Tax Section CLE Seminar (November 2005), "The New, Proposed Florida Trust Code"

ACTEC Annual Meeting (February 2005), "Uncle Sam: The Silent Party at Estate and Trust Dispute Settlements"

Boca Raton Community Hospital Foundation (April 2004), "Transfer Tax Planning in a Low Interest Rate Environment"

ABA Tax Section Meeting, Fiduciary Income Tax Committee (January 2004), "Testamentary Charitable Lead Trusts: A Case Study"

ACTEC Annual Meeting, Business Planning Committee (March 2004), "Testamentary Charitable Lead Trusts: A Case Study"

Greater Delray Beach Estate Planning Roundtable (November 2003), "Florida's New Uniform Principal and Income Act: A Work in Progress"



The Florida Bar Tax Section (July 2003) Seminar on Family Limited Partnerships After Strangi, Panel Leader.

The Florida Bar Real Property Probate and Trust Law Section, Attorney/Trust Officer Liaison Conference (June 2003), Panel Leader on the Florida Uniform Principal and Income Act

Miami-Dade Planned Giving Council (September 2003), Jewish Adoptions and Foster Care Options ("JAFCO") (April 2003), United Way of Miami-Dade County (November 2002) and Boca Raton Tax Institute (February 2003), "Transfer Tax Planning in a Low Interest Rate Environment"

The Florida Bar Tax Section (April 27, 2001), Program on The Birth and Life After Death of the Family Limited Partnership, "Repeal or Reform, The Game Goes On"

The American Committee for the Weizmann Institute of Science Program on "My Favorite Estate Planning Technique" (February 2001) - Charitable Lead Trusts

Fiduciary Trust International of the South Fiduciary Forum (February 2001)

-Estate Planning in a No Tax Environment

The Florida Bar Tax Section Winter Tax Seminar (February 2001) - Testamentary Charitable Lead Trusts: A Case Study

Law Education Institute Estate Planning Program (January 2001) - Testamentary Charitable Lead Trusts: A Case Study

Palm Beach County Bar Association 15th Annual Estate and Probate Seminar (April 1998) - Transfer Tax Update

Broward County Estate Planning Council (April 1998) - "Life After Repeal of Crummey: The Life Insurance Partnership as an Alternative to the Irrevocable Life Insurance Trust: Panacea or Placebo?"

Palm Beach-Martin County Estate Planning Council (April 1998) - "Life After Repeal of Crummey: The Life Insurance Partnership as an Alternative to the Irrevocable Life Insurance Trust: Panacea or Placebo?"

First Security Trust Company Probate Luncheon Seminar (September 1997)- "Estate, Gift and Related Tax Aspects of the Taxpayer Relief Act of 1997"

1st Annual Progressions Southeastern Regional Lawyers' Conference (August 1997)- "Ethical Considerations in Estate Planning and Administration"

The Florida Bar Tax Section Annual Meeting Workshop (April 1997)- "Ethical Considerations in Representing Multiple Clients in Business Succession and Estate Planning and Tax Controversies"



Broward County, Florida Museum of Discovery and Science Planned Giving Advisory Council 1997 Professional Workshop Series (March 1997) - "Tax and Estate Planning for IRA's: Pitfalls and Opportunities"

The Bethesda Hospital Association Planned Giving Professional Advisory Council, Planned Giving Task Force (October 1996) - "Selected Charitable Giving and Transfer Tax Techniques...Even If You Are Not So Charitable"

Planned Giving Council of Dade County (April 1996) - "Florida Regulation of Charitable Remainder Trusts as Annuities Under the Insurance Code"

The Equitable Life Assurance Society of the United States Agent Estate Planning Seminar (March 1996) - "Peaceful Co-existence Between Insurance Professional and Lawyer"

The Jewish Federations of Broward County, Professional Advisory Council (December 1996) - "A Chanukah Tax Tale: How to Double Your Gelt"

Florida Bar Real Property, Probate and Trust Law Section Continuing Legal Education Seminar (March 1995) - The 706- Hot Topics on Preparation, Audit and Appeal - "Discounting- Substantiation of Discounted Values and Use of Experts"

American College of Trust and Estate Counsel (Florida Fellows) (September 1994) - "Proposed Augmented Estate Legislation"

Florida Bar Real Property, Probate and Trust Law Section Nuts and Bolts of Fiduciary Administration Seminar (May 1994) - "Claims Against Revocable Trusts"

Florida Bar Tax Section and the Graduate Programs in Taxation and Estate Planning of the University of Miami School of Law Advanced Estate Planning: Seminars and Workshops (April 1994) - "The Life Insurance Partnership as an Alternative to the Irrevocable Life Insurance Trust: Panacea or Placebo?"

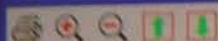
Foundation of Jewish Philanthropies Professional Advisory Committee (February 1994) - "Selected Aspects of Charitable Lead Trusts"

Greater Miami Tax Institute (July 1993) - "Chapter 14: Now You See It...and Now You Don't: The Transmission of Business Wealth Outside Chapter 14"

The Peruvian-American Endowment, Inc. (April 1993) - "Philanthropic Giving and Estate Planning"

Florida Bar Tax Section (May 1992) "Life and Death Issues in the Planning and Handling of Estates - Transmission of Business Wealth"

National Association of Life Underwriters, South Dade Chapter (April 1991) - "Utilizing Insurance in Planned Giving"



Greater Miami Tax Institute (March 1991) - "The Homestead Conundrum: How Three Little Words Caused So Much Trouble (and Other Related Musings)"

Florida Bar Tax Section (February 1991) - "Current Developments in Homestead: Tax and Otherwise"

South Dade Estate Planning Council (May 1990) - "Homestead and Related Problems"

Florida Bar Tax Section (July 1989) - "Current Developments in Homestead"

Florida Bar Real Property, Probate and Trust Law Section (March 1989) - Post Mortem Tax Planning - "Fiduciary Income Tax Returns - Special Situations"

Key Biscayne Board of Realtors (November 1988) - "Personal Residences: Your Shelter is Still a Tax Shelter"

Dade County Bar Association Annual Lawyer-Trust Officer Conference (January 1987) - "Selected Aspects of the Tax Reform Act of 1986 on Estates, Trusts and Guardianships"

Florida Bar Tax Section (January 1987) - "Revised Planning and Techniques for Professional Association Agreements After The Tax Reform Act of 1986"

Florida Bar Tax Section (April 1986) - "Estate Planning for Tax Shelter Interests"

Greater Miami Tax Institute (January 1985) - "The Tax Reform Act of 1984 - Partnerships, Trusts and Tax Accounting: Notes from Outer Space"

Florida Bar Tax Section and Real Property, Probate and Trust Law Section (April 1983) - "Income Tax Considerations In Drafting for Post Mortem Estate Planning"

Florida Bar Tax Section (December 1982) - "Estate and Gift Tax Provisions After ERTA, TEFRA, and TCA 1982"

Florida Bar Tax Section (September 1981) - "Estate and Gift Tax Provisions After ERTA"

Greater Miami Tax Institute (January 1981) - "Florida Disclaimers... or, It's Getting Harder to Say, "No" (With No Thanks to Kyllikki Kusma)"

Florida Bar Tax Section (June 1979) - "The Professional Service Corporation: Stockholder Agreements, Employment Agreements and Medical Reimbursement Plans"

TESCHER CHAVES RUBIN FORMAN & MULLER, P.A. FILE

Attorneys-at-Law

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Robert A. Chaves
Peter J. Forman
Michael W. Kirshon
Charles E. Muller II
Charles D. Rubin
Donald R. Tescher

of counsel
Dale A. Heckerling
Deborah Flaks Hochman
William C. Lewis, Jr., P.A.

Boca Corporate Center
Suite 216
2101 Corporate Boulevard
Boca Raton, Florida 33431-7343

Telephone (407) 998-7847
Fax (407) 998-2642

January 18, 1996

REPLY TO: Miami

Bruce Spizer, Esq.
925 Common Street
Suite 1250
New Orleans, Louisiana 70112

Re: Irving and Beatrice Lipton loans to Howard Lipton, M.D.

Dear Bruce:

Allow me to introduce myself. I am one of Peter's new partners. Peter has asked me to take over the legal representation for Irving and Beatrice Lipton. In this regard, I recently met with the Liptons in Orlando and am proceeding to review the status of their various business and estate planning matters and formulating some additional planning. In this connection, the various loans and advances to Howard Lipton have been discussed and we have placed them on our agenda as a matter to be formalized and dealt with in their overall estate plan.

I hope to be back to you within the near future regarding this matter as well as other matters in connection with the overall family estate planning.

Sincerely yours,

DONALD R. TESCHER

DRT/an
cc. Mr. & Mrs. Irving Lipton



TESCHER CHAVES RUBIN & FORMAN, P.A.

Attorneys-at-Law

ROBERT A. CHAVES
PETER J. FORMAN
JOANNA D. KANE
CHARLES D. RUBIN
DONALD R. TESCHER
SHAWN P. WOLF

OF COUNSEL:
KATH & WAGGONER, P.A.

BOCA CORPORATE CENTER
SUITE 107
2101 CORPORATE BOULEVARD
BOCA RATON, FLORIDA 33431-7343

TELEPHONE (561) 998-7847
WATTS (800) 288-2925
FAX (561) 998-2642

REPLY TO: BOCA RATON

GRAND BAY PLAZA
SUITE 420
2665 SOUTH BAYSHORE DRIVE
MIAMI, FLORIDA 33133

TELEPHONE (305) 670-6444
WATTS (800) 288-2925
FAX (305) 670-0734

June 22, 2001

Mr. & Mrs. I.B. Lipton
1000 E. Harwood St.
Orlando, FL 32830

Re: LB. and Beatrice Lipton - Estate Planning

Dear Bea and I.B.:

Enclosed herewith are two copies each of the First Amendments to your respective Revocable Trust Agreements which were executed in Orlando on June 21, 2001.

Also enclosed are four new Beneficiary Designation forms for each of you for the Southeast Steel Sales Company Profit Sharing Plan and Money Purchase Pension Plan. All of these forms should be signed by each of you on the indicated signature lines and also notarized where indicated. Please return them to me after they have been fully executed.

Finally, I am enclosing herewith a statement for legal services addressed to Southeast Steel Sales Company.

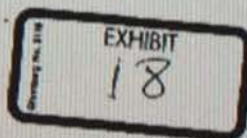
Naturally, should you have any questions with regard to any of the foregoing, please call me. Best wishes.

Sincerely,

DONALD R. TESCHER

DRT/dd

Enclosures



GCJ-02842

BENEFICIARY DESIGNATION

SOUTHEAST STEEL SALES COMPANY PROFIT SHARING PLAN

This form is for use by you to designate the beneficiary or beneficiaries to receive your benefits in the SOUTHEAST STEEL SALES COMPANY PROFIT SHARING PLAN in the event of your death prior to the complete distribution of your benefits. The primary beneficiary is your first choice, and the contingent beneficiary will be the recipient if the primary beneficiary dies before you. In accordance with the terms of the Plan, if you are married at the time of your death your spouse will automatically receive your benefits in the Plan unless you designate another beneficiary and your spouse consents. Accordingly, if you are married you may designate someone other than your spouse as the primary beneficiary only if your spouse consents to the designation by executing the Spouse's Consent to Beneficiary Designation provided below. If you wish to change your beneficiary designation or if your marital status changes, you must complete a new designation form and your spouse (if not named as primary beneficiary) must again give written consent. The Beneficiary designated hereunder will be entitled to select the form in which benefits will be distributed from the Plan upon your death from the distribution options available under the Plan.

I, BEATRICE LIPPTON, hereby designate the following individuals as Primary and Contingent Beneficiaries of my benefits under the Plan (please print).

Primary Beneficiary

Name: Irving B. Lippton
Address: 1000 E. Harwood Street
Orlando, FL 32803
Date of Birth: 03/27/14
Social Security Number: [REDACTED]

Contingent Beneficiary

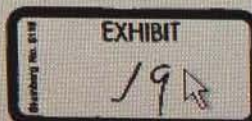
Contingent Beneficiary

Name: In equal shares, per stirpes, to LISA L. FORMAN and VICKI L. GREENSTEIN
Address: Lisa L. Forman Vicki L. Greenstein
18298 Daybreak Drive 74 Broken Tree Road
Boca Raton, FL 33496 Newton, Mass. 02159
Date of Birth: 11/15/53 12/05/46
Social Security Number: [REDACTED] [REDACTED]

PARTICIPANT:

7/2/11
Date

Beatrice Lippton
BEATRICE LIPPTON



GCJ-02838

SPOUSE'S CONSENT TO BENEFICIARY DESIGNATION

I, IRVING B. LIPPTON, hereby consent to the above designation made by my spouse to have his or her death benefit under the Plan paid to the beneficiaries specified in the designation above in any form selected by that beneficiary. I understand that (1) the effect of the designation is to cause my spouse's benefits under the Plan to be paid to a beneficiary other than me in the event of my spouse's death; (2) if I do not consent to the above beneficiary designation the death benefits available under the Plan will be paid to me if my spouse dies before me; (3) no beneficiary designation by my spouse concerning his or her benefits under the Plan is valid without my consent; and (4) the consent I provide by signing this Spouse's Consent to Beneficiary Designation is irrevocable unless my spouse revokes the above designation.

PARTICIPANT'S SPOUSE:

7/4/01
Date

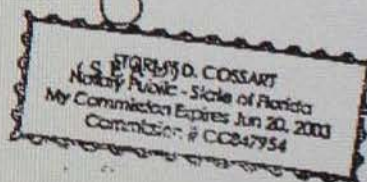
Irving B. Lippton
IRVING B. LIPPTON

STATE OF FLORIDA

COUNTY OF Orange

The foregoing instrument was signed and sworn to before me this 2 day of July, 2001 by IRVING B. LIPPTON, who is personally known to me or was identified by me as follows:

James D. Cozzart
Notary Public



NOTE: If you have named someone other than your spouse as the primary beneficiary of your benefits in the Plan and the above Spouse's Consent to Beneficiary Designation has not been signed, the designation will be ineffective unless you are not married and you certify below that you are not married.

GCJ-02839

BENEFICIARY DESIGNATION

SOUTHEAST STEEL SALES COMPANY MONEY PURCHASE PENSION PLAN

This form is for use by you to designate the beneficiary or beneficiaries to receive your benefits in the SOUTHEAST STEEL SALES COMPANY MONEY PURCHASE PENSION PLAN in the event of your death prior to the complete distribution of your benefits. The primary beneficiary is your first choice, and the contingent beneficiary will be the recipient if the primary beneficiary dies before you. In accordance with the terms of the Plan, if you are married at the time of your death your spouse will automatically receive your benefits in the Plan unless you designate another beneficiary and your spouse consents. Accordingly, if you are married you may designate someone other than your spouse as the primary beneficiary only if your spouse consents to the designation by executing the Spouse's Consent to Beneficiary Designation provided below. If you wish to change your beneficiary designation or if your marital status changes, you must complete a new designation form and your spouse (if not named as primary beneficiary) must again give written consent. The Beneficiary designated hereunder will be entitled to select the form in which benefits will be distributed from the Plan upon your death from the distribution options available under the Plan.

I, BEATRICE LIPPTON, hereby designate the following individuals as Primary and Contingent Beneficiaries of my benefits under the Plan (please print).

Primary Beneficiary

Name: Irving B. Lippton
Address: 1000 E. Harwood Street
Orlando, FL 32803
Date of Birth: 03/27/14
Social Security Number: [REDACTED]

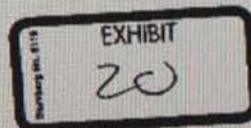
Contingent Beneficiary

Name: In equal shares, per stirpes, to LISA L. FORMAN and VICKI L. GREENSTEIN
Address: Lisa L. Forman Vicki L. Greenstein
18298 Daybreak Drive 74 Broken Tree Road
Boca Raton, FL 33496 Newton, Mass. 02159
Date of Birth: 11/15/53 12/05/46
Social Security Number: [REDACTED] [REDACTED]

PARTICIPANT:

7/2/11
Date

Beatrice Lippton
BEATRICE LIPPTON



GCJ-02840

BENEFICIARY DESIGNATION

SOUTHEAST STEEL SALES COMPANY PROFIT SHARING PLAN

This form is for use by you to designate the beneficiary or beneficiaries to receive your benefits in the SOUTHEAST STEEL SALES COMPANY PROFIT SHARING PLAN in the event of your death prior to the complete distribution of your benefits. The primary beneficiary is your first choice, and the contingent beneficiary will be the recipient if the primary beneficiary dies before you. In accordance with the terms of the Plan, if you are married at the time of your death your spouse will automatically receive your benefits in the Plan unless you designate another beneficiary and your spouse consents. Accordingly, if you are married you may designate someone other than your spouse as the primary beneficiary only if your spouse consents to the designation by executing the Spouse's Consent to Beneficiary Designation provided below. If you wish to change your beneficiary designation or if your marital status changes, you must complete a new designation form and your spouse (if not named as primary beneficiary) must again give written consent. The Beneficiary designated hereunder will be entitled to select the form in which benefits will be distributed from the Plan upon your death from the distribution options available under the Plan.

I, BEATRICE LIPPTON, hereby designate the following individuals as Primary and Contingent Beneficiaries of my benefits under the Plan (please print).

Primary Beneficiary

Name: Irving B. Lippton
Address: 1000 E. Harwood Street
Orlando, FL 32803
Date of Birth: 03/27/14
Social Security Number: [REDACTED]

Contingent Beneficiary

Name: In equal shares, per capita, to my children, LISA L. FORMAN, VICKI L. GREENSTEIN, and HOWARD L. LIPPTON

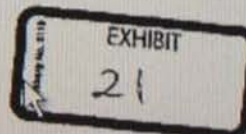
Address: _____

Date of Birth: _____
Social Security Number: _____

PARTICIPANT:

6/21/14
Date

Beatrice Lippton
BEATRICE LIPPTON



GCJ-02855

SPOUSE'S CONSENT TO BENEFICIARY DESIGNATION

I, IRVING B. LIPPTON, hereby consent to the above designation made by my spouse to have his or her death benefit under the Plan paid to the beneficiaries specified in the designation above in any form selected by that beneficiary. I understand that (1) the effect of the designation is to cause my spouse's benefits under the Plan to be paid to a beneficiary other than me in the event of my spouse's death; (2) if I do not consent to the above beneficiary designation the death benefits available under the Plan will be paid to me if my spouse dies before me; (3) no beneficiary designation by my spouse concerning his or her benefits under the Plan is valid without my consent; and (4) the consent I provide by signing this Spouse's Consent to Beneficiary Designation is irrevocable unless my spouse revokes the above designation.

PARTICIPANT'S SPOUSE:

6-21-99
Date

Irving B. Lippton
IRVING B. LIPPTON

STATE OF FLORIDA

COUNTY OF Orange

The foregoing instrument was signed and sworn to before me this 21st day of June, 1999, by IRVING B. LIPPTON, who is personally known to me or was identified by me as follows: _____

Carolyn H. Skog
Notary Public

(SEAL)

NOTARY PUBLIC - STATE OF FLORIDA
CAROLYN H. SKOG
COMMISSION # 00887840
EXPIRES 10/1/2001
BONDED THRU ASA 1,000,000.00

NOTE: If you have named someone other than your spouse as the primary beneficiary of your benefits in the Plan and the above Spouse's Consent to Beneficiary Designation has not been signed, the designation will be ineffective unless you are not married and you certify below that you are not married.

GCJ-02856

BENEFICIARY DESIGNATION

SOUTHEAST STEEL SALES COMPANY MONEY PURCHASE PENSION PLAN

This form is for use by you to designate the beneficiary or beneficiaries to receive your benefits in the SOUTHEAST STEEL SALES COMPANY MONEY PURCHASE PENSION PLAN in the event of your death prior to the complete distribution of your benefits. The primary beneficiary is your first choice, and the contingent beneficiary will be the recipient if the primary beneficiary dies before you. In accordance with the terms of the Plan, if you are married at the time of your death your spouse will automatically receive your benefits in the Plan unless you designate another beneficiary and your spouse consents. Accordingly, if you are married you may designate someone other than your spouse as the primary beneficiary only if your spouse consents to the designation by executing the Spouse's Consent to Beneficiary Designation provided below. If you wish to change your beneficiary designation or if your marital status changes, you must complete a new designation form and your spouse (if not named as primary beneficiary) must again give written consent. The Beneficiary designated hereunder will be entitled to select the form in which benefits will be distributed from the Plan upon your death from the distribution options available under the Plan.

I, BEATRICE LIPPTON, hereby designate the following individuals as Primary and Contingent Beneficiaries of my benefits under the Plan (please print).

Primary Beneficiary

Name: Irving B. Lippton
Address: 1000 E. Harwood Street
Orlando, FL 32803
Date of Birth: 03/27/14
Social Security Number: [REDACTED]

Contingent Beneficiary

Name: In equal shares, per capita, to my children, LISA L. FORMAN, VICKI L. GREENSTEIN, and HOWARD L. LIPPTON

Address: _____

Date of Birth: _____
Social Security Number: _____

PARTICIPANT:

6/11/19
Date

Beatrice Lippton
BEATRICE LIPPTON



GCJ-02857

SPOUSE'S CONSENT TO BENEFICIARY DESIGNATION

I, IRVING B. LIPPTON, hereby consent to the above designation made by my spouse to have his or her death benefit under the Plan paid to the beneficiaries specified in the designation above in any form selected by that beneficiary. I understand that (1) the effect of the designation is to cause my spouse's benefits under the Plan to be paid to a beneficiary other than me in the event of my spouse's death; (2) if I do not consent to the above beneficiary designation the death benefits available under the Plan will be paid to me if my spouse dies before me; (3) no beneficiary designation by my spouse concerning his or her benefits under the Plan is valid without my consent; and (4) the consent I provide by signing this Spouse's Consent to Beneficiary Designation is irrevocable unless my spouse revokes the above designation.

PARTICIPANT'S SPOUSE:

6-21-99
Date

Irving B. Lippton
IRVING B. LIPPTON

STATE OF FLORIDA

COUNTY OF Orange

The foregoing instrument was signed and sworn to before me this 21st day of June, 1999, by IRVING B. LIPPTON, who is personally known to me or was identified by me as follows: _____

Carolyn H. Skog
Notary Public

(SEAL)

NOTARY PUBLIC - STATE OF FLORIDA
CAROLYN H. SKOG
COMMISSION # CC000740
EXPIRES 10/1/2001
POWERED THROUGH ASA 1-800-NOTARY1

NOTE: If you have named someone other than your spouse as the primary beneficiary of your benefits in the Plan and the above Spouse's Consent to Beneficiary Designation has not been signed, the designation will be ineffective unless you are not married and you certify below that you are not married.

GCJ-02858

TESCHER CHAVES RUBIN & NORMAN, P.A.

Attorneys-at-Law

ROBERT A. CHAVES
PETER J. NORMAN
JOANNA D. KANE
CHARLES D. RUBIN
DONALD R. TESCHER

OF COUNSEL:
KARL & WAXMAN, P.A.

BOCA CORPORATE CENTER
SUITE 107
2101 CORPORATE BOULEVARD
BOCA RATON, FLORIDA 33431-7343

TELEPHONE (561) 998-7847
WATTS (800) 288-2925
FAX (561) 998-2642

REPLY TO: BOCA RATON

GRAND BAY PLAZA
SUITE 420
2688 SOUTH BAYSHORE DRIVE
MIAMI, FLORIDA 33133

TELEPHONE (305) 870-0444
WATTS (800) 288-2925
FAX (305) 870-0734

April 15, 2002

Mr. & Mrs. I.B. Lipton
1000 E. Harwood St.
Orlando, FL 32830

Re: I.B. and Beatrice Lipton -- Estate Planning

Dear Bea and I.B.:

As a follow-up to my most recent telephone conversation with Bea, I am enclosing documents to be executed by both of you to reflect a transfer of the 25% interest in Hojosaki L.L.C., which you acquired from Howard, equally to Vicki and Lisa. Please sign the enclosed forms and return them to me in the enclosed self-addressed envelope.

It will be necessary to file a gift tax return in calendar year 2002 with respect to this gift. I will arrange shortly for an appraisal of the limited liability interest for this purpose. In this connection, I will need some information with regard to the current ad valorem tax valuation for the Hojosaki property. This is probably reflected on your most recent tax bill and I would appreciate your forwarding a copy of it to me.

Naturally, should you have any questions with regard to the foregoing, please call me.

Sincerely,

DONALD R. TESCHER

DRT/dd

Enclosures



GCJ-02804

ASSIGNMENT OF MEMBER INTEREST

IB. LIPPTON & BEATRICE LIPPTON, co-owners of a 25% member interest in HOJOSAKI L.L.C., a Florida limited liability company, hereby transfer and assign to VICKI L. GREENSTEIN one half of their 25% member interest as finally determined for federal gift tax purposes.

Dated: _____, 2002.

IB. LIPPTON

BEATRICE LIPPTON

GCJ-02806

Bruce Spizer

Subject Matter: Circumstances surrounding the execution of Exhibits A to these interrogatories.

3. See answer to No. 2 above.
4. In early 2005, I told my parents (by telephone) about the letter dated February 16, 2005 I was planning to send them. My mother from that point in time and over the next several weeks asked me to withdraw my letter above.
5. The trust documents that I am aware of will be produced.
6. In the Fall or Winter of 2005, Mr. Claude C. Lightfoot, my bankruptcy attorney, informed me that based on the outcome of an arbitration proceeding with an ex-federal judge, Peter Forman, and the Trustee attorneys in Lafayette, LA, my parents/Hojosaki were to pay \$295,000 to the bankruptcy attorneys. I became upset that any monies had to be paid, particularly by my parents since the basis of this arbitration proceeding stemmed directly from the inactions of and delinquency by Peter Forman regarding the legal transfer of one of my assets years earlier. Upon hearing this news, I then called my parents regarding the outcome above of their legal case with the attorneys representing the Trustee in my bankruptcy proceedings. In that conversation, my mother stated to me not to worry about withdrawing my letter of February 16, 2010 above. She stated the following to me on the telephone: "It is your decision to accept or not accept anything in my Will or your father's Will including any gifts from your father and me upon either one of our deaths. However, it is my decision to give to you in my Will what I want to give you and the same is for your father." My mother went on to say the following: "Your father and I have made sure in both of ours Wills that upon the death of either one of us, the remaining parent can change the Will and give you the same, less, or more as our other children." For that reason, my mother said not to worry about withdrawing your letter from earlier in the year. My mother also stated as she had stated many times before, that she wanted me to inherit their home at 1000 E. Harwood Street in Orlando, Florida and use it for my own medical practice.

When I went to St. Petersburg, Florida with my parents in the Summer of 2006 and during the week before my mother was admitted to Florida Hospital (i.e. December, 2006), my mother reiterated in detail that she and my father had ensured that the identical provisions were in both of their Wills so that the surviving parent could make changes to the inheritance to each and every child as they saw fit upon either one of their deaths. On these last two occasions, my mother was very deliberate about her statements and made it very clear to me these were her specific wishes as she spoke to me face-to-face. Moreover, my mother was the one who brought up this subject in St. Petersburg while we sat



Oct. 8. 2010 3:27PM BARNETT CHAPMAN & RITA

Ex. 1434 P. 11

poolside at a local motel and again in Orlando at 1000 E. Harwood St. in December, 2006. My father was with us at the pool in St Petersburg and he agreed with my mother as she re-stated their wishes in their Wills regarding the specific provision noted above.

7. I have known Bruce Spicer since we were fraternity brothers at Tulane University in the 1970's. Bruce has given me legal advice from time to time over the past 30 years.
8. See answer to No. 6 above.
9. No witness statements have been taken to date. No affidavits have been obtained other than those previously filed in this matter.
10. Not applicable.