

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

IN RE:

Case No. 502011CP000653XXXXNBIH

ESTATE OF SHIRLEY BERNSTEIN,

Deceased.

_____ /

**SECOND RENEWED PETITION TO RE-CLOSE ESTATE AND FOR
DISCHARGE OF SUCCESSOR PERSONAL REPRESENTATIVE**

Ted S. Bernstein, as Successor Personal Representative, petitions this Court for the entry of an order re-closing this Estate and discharging the Successor Personal Representative, and in support thereof states:

1. After trial held on December 15, 2015, this Court upheld Shirley's Will and determined that Eliot Bernstein is not a beneficiary of the Will and Trust of Shirley Bernstein, but Eliot's three sons, among others, were indirect beneficiaries through an interest in a subtrust created by The Simon Bernstein Trust and through Simon's exercise of a power of appointment.

2. On March 1, 2016, this Court appointed a guardian ad litem to represent Eliot's three son's interests in Shirley's Trust because¹, "there is a conflict of interest between [Eliot] and the children, and because Eliot Bernstein has proven to be an inadequate representative of the best interests of his children."

3. Eliot now lacks standing to challenge Shirley's inventory or challenge any aspect of Shirley's estate because he is not a beneficiary, and is not a guardian or trustee for any beneficiary's interests.

¹All assets that the beneficiaries are entitled to from Shirley's Will has poured over into Shirley's Trust or Simon's Estate.

4. The initial Personal Representative, Simon L. Bernstein, fully administered this estate and Petitioned for a discharge, with signed (but un-notarized) waivers by all interested persons. §731.301, Fla. Stat. (See Exhibit "A")

5. Under her Will, admitted to probate, Shirley left all of her personal effects, jewelry, collections, furnishings, automobiles and all non-business assets to her husband, Simon, if he survived her, which he did. Shirley's residences were to go to Simon, but she had no residences other than property already in her trust. The remainder of her estate was to pour-over into the Shirley Bernstein Trust Agreement dated May 20, 2008 (the "Shirley Trust"). Simon was the sole beneficiary of the Shirley Trust while he was alive.

6. Shirley died on December 8, 2010. Sometime thereafter, Simon directly took possession and control of all assets of her estate, and indirectly took control of the Shirley Bernstein Trust's assets as the initial Successor Trustee and sole beneficiary during his lifetime.

7. On April 9, 2012, Simon signed a Petition for Discharge and his own Waiver form. By that time, Simon had completed the administration of Shirley's Estate and he wanted the Estate to be closed. Because the five children – Ted, Pam, Eliot, Jill and Lisa – were interested parties, Simon also sought a waiver from each of them. Based upon the request of their father, each of his children signed a Waiver. The Waivers were delivered to this Court, but initially were rejected for lack of a notary.

8. Regardless, the Estate remains open at this time and the Court has confirmed he nomination of Ted S. Bernstein as Successor Personal Representative under the terms of Shirley's Will (also upheld as part of the Final Judgment dated December 16, 2015).

9. The Successor Personal Representative has completed the necessary inventory and accounting of the re-opened Estate. While Simon was alive, he disposed of all assets (believed to be tangible personal property only) and resolved all claims (if any) which were presented. No assets were discovered by the Successor Personal Representative in the re-opened Estate.

10. There were no estate taxes due (Shirley died in 2010) and Simon had paid or caused to be paid all claims and expenses of administration. More than two years has passed since Shirley's death, so there can and will be no more claims. There currently is no reason for the estate to remain open.

11. Although this Court reopened the Estate, the Successor Personal Representative has possession of no assets and never has, and is aware of no liabilities. This was confirmed when the Successor Personal Representative conducted the final accounting and inventory of the estate. The Successor Personal Representative will never have any assets to distribute because there are no assets and anything which conceivably could have existed on the date of Shirley's death would have been transferred to Simon as her surviving spouse under the terms of her Will. Any such assets Simon retained as of his death would now be in Simon's estate.

12. This is the Successor Personal Representative's third attempt to re-close this Estate. In an effort to reduce the legal expense in this Estate, which has no assets whatsoever, Ted S. Bernstein, as Successor Personal Representative, previously moved to re-close the Estate. At that time, this Court had not yet determined the validity of the Will or the Trust, which is the sole beneficiary of the Estate under the Will. Therefore, at that time, Eliot, as a surviving child of the Decedent, arguably had standing to object. Eliot did object, and this Court (at a time when Judge Colin was presiding) denied the Petition to Re-Close without prejudice.

13. Now, circumstances have changed. By Final Judgment dated December 16, 2015, this Court determined that the Will and Trust are valid. The Court later confirmed that ruling on February 1, 2016, in an Order determining that Eliot lacked standing to participate in this matter.

14. Under the Will and Trust, Simon Bernstein individually was the sole beneficiary with regard to tangible personal property, including furniture, jewelry, and other personal possessions of Shirley Bernstein. All other assets were to be distributed to The Shirley Bernstein Trust Agreement dated May 20, 2008.

15. Prior to his death, Simon Bernstein was serving as the personal representative of the Estate and as the sole trustee of the Trust. Simon Bernstein alone was entitled to possession and ownership of the tangible personal property, and he alone was entitled to control the Trust assets and was the sole beneficiary of the Trust, all during his lifetime. Before he died, Simon Bernstein signed documents sufficient to discharge him, waive an accounting, and close the Estate.

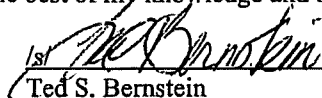
16. Based upon this Court's orders, the guardian ad litem has been discharged.

17. The Estate now seeks an order of this Court closing this Estate based upon the accounting and inventory completed by the Successor Personal Representative, coupled with Eliot's lack of standing. In addition, the Successor Personal Representative has the full knowledge, consent, and approval of the direct beneficiary of the Estate, Ted S. Bernstein, as Successor Trustee of The Shirley Bernstein Trust. The Personal Representative requests the Court immediately re-close the Estate, discharge the Personal Representative, and grant such other relief as is just.

WHEREFORE, the Successor Personal Representative respectfully requests the entry of an Order re-closing this Estate; discharging the Successor Personal Representative and releasing the

surety on any bond which the Successor Personal Representative may have posted in this proceeding; and granting such other relief as it just.

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



Ted S. Bernstein

Successor Personal Representative

Dated this 10th day of May, 2018.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to parties listed on attached

Service List by: ☐ Facsimile **and** U.S. Mail; ☐ U.S. Mail; ☒ E-mail Electronic Transmission; ☐

FedEx; ☐ Hand Delivery this 11th day of May, 2018.

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Attorneys for Ted S. Bernstein

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

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Lisa Friedstein
2142 Churchill Lane
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lisa@friedsteins.com
Individually and as trustee for her children, and
as natural guardian for M.F. and C.F., Minors

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

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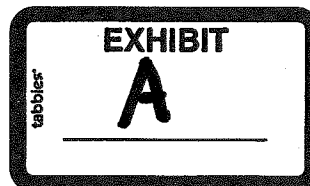
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Counsel for Joshua Bernstein

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[illegible]

4. The only persons, other than petitioner, having an interest in this proceeding, and their respective addresses are:

NAME	ADDRESS	RELATIONSHIP	BIRTH DATE (if Minor)
Simon L. Bernstein	7020 Lions Head Lane Boca Raton, FL 33496	spouse	adult
Ted S. Bernstein	880 Berkeley Street Boca Raton, FL 33487	son	adult



Pamela B. Simon	950 North Michigan Avenue Suite 2603 Chicago, IL 60606	daughter	adult
Eliot Bernstein	2753 NW 34 th Street Boca Raton, FL 33434	son	adult
Jill Iantoni	2101 Magnolia Lane Highland Park, IL 60035	daughter	adult
Lisa S. Friedstein	2142 Churchill Lane Highland Park, IL 60035	daughter	adult

5. Petitioner, pursuant to Section 731.302 of the Florida Probate Code, and as permitted by Fla. Prob. R. 5.400(f), files herewith waivers and receipts signed by all interested persons:

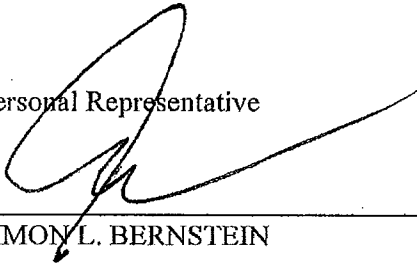
- (a) acknowledging that they are aware of the right to have a final accounting;
- (b) waiving the filing and service of a final accounting;
- (c) waiving the inclusion in this petition of the amount of compensation paid or to be paid to the personal representative, attorneys, accountants, appraisers or other agents employed by the personal representative and the manner of determining that compensation;
- (d) acknowledging that they have actual knowledge of the amount and manner of determining compensation of the personal representative, attorneys, accountants, appraisers, or other agents, and agreeing to the amount and manner of determining such compensation, and waiving any objections to the payment of such compensation;
- (e) waiving the inclusion in this petition of a plan of distribution;
- (f) waiving service of this petition and all notice thereof;
- (g) acknowledging receipt of complete distribution of the share of the estate to which they are entitled; and
- (h) consenting to the entry of an order discharging petitioner, as personal representative, without notice, hearing or waiting period and without further accounting.

Petitioner requests that an order be entered discharging petitioner as personal representative of this estate and releasing the surety on any bond which petitioner may have posted in this proceeding from any liability on it.

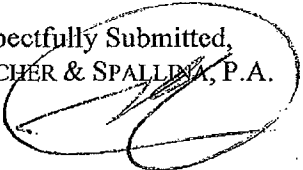
Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief.

Signed on April 9, 2012.

Personal Representative


SIMON L. BERNSTEIN

Respectfully Submitted,
TESCHER & SPALLINA, P.A.

By: 

ROBERT L. SPALLINA, ESQUIRE
Florida Bar No. 497381
4855 Technology Way, St. 720
Boca Raton, FL 33431
561-997-7008

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IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL
IN RE: ESTATE OF File No. 502011CP000653XXXXSB
SHIRLEY BERNSTEIN, Probate Division
Deceased, Division

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

2012 OCT 24 PM 1:31
SHARON E. B. CLEARY
PALM BEACH COUNTY FL
SOUTH CITY BRANCH FILED

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

- (a) Expressly acknowledges that the undersigned is aware of the right to have a final accounting;
- (b) Waives the filing and service of a final or other accounting by the personal representative;
- (c) Waives the inclusion in the Petition for Discharge of the amount of compensation paid or to be paid to the personal representative, attorneys, accountants, appraisers, or other agents employed by the personal representative, and the manner of determining that compensation;
- (d) Expressly acknowledges that the undersigned has actual knowledge of the amount and manner of determining the compensation of the personal representative, attorneys, accountants, appraisers, or other agents; has agreed to the amount and manner of determining such compensation; and waives any objections to the payment of such compensation;
- (e) Waives the inclusion in the Petition for Discharge of a plan of distribution;
- (f) Waives service of the Petition for Discharge of the personal representative and all notice thereof upon the undersigned;
- (g) Acknowledges receipt of complete distribution of the share of the estate to which the undersigned was entitled; and
- (h) Consents to the entry of an order discharging the personal representative without notice, hearing or waiting period and without further accounting.

Signed on 4/9/12, 2012.

Beneficiary

By:


SIMON L. BERNSTEIN

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL
IN RE: ESTATE OF File No. 50201 CP000653XXXXSB
SHIRLEY BERNSTEIN, Probate Division
Deceased. Division

2012 OCT 24 PM 1:31
SHARON L. BERNSTEIN
PALM BEACH COUNTY, FL
SOUTH CIVIL BRANCH-FILED

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

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

- (a) Expressly acknowledges that the undersigned is aware of the right to have a final accounting;
- (b) Waives the filing and service of a final or other accounting by the personal representative;
- (c) Waives the inclusion in the Petition for Discharge of the amount of compensation paid or to be paid to the personal representative, attorneys, accountants, appraisers, or other agents employed by the personal representative, and the manner of determining that compensation;
- (d) Expressly acknowledges that the undersigned has actual knowledge of the amount and manner of determining the compensation of the personal representative, attorneys, accountants, appraisers, or other agents; has agreed to the amount and manner of determining such compensation; and waives any objections to the payment of such compensation;
- (e) Waives the inclusion in the Petition for Discharge of a plan of distribution;
- (f) Waives service of the Petition for Discharge of the personal representative and all notice thereof upon the undersigned;
- (g) Acknowledges receipt of complete distribution of the share of the estate to which the undersigned was entitled; and
- (h) Consents to the entry of an order discharging the personal representative without notice, hearing or waiting period and without further accounting.

Signed on May 15, 2012.

Beneficiary

By

ELIOT BERNSTEIN

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL
IN RE: ESTATE OF File No. 502011CP000653XXXXSB
SHIRLEY BERNSTEIN, Probate Division
Deceased. Division

2012 OCT 24 PM 1:31
SHIRLEY BERNSTEIN
PALM BEACH COUNTY, FL
SOUTH CIRCUIT
FILED

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

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

- (a) Expressly acknowledges that the undersigned is aware of the right to have a final accounting;
- (b) Waives the filing and service of a final or other accounting by the personal representative;
- (c) Waives the inclusion in the Petition for Discharge of the amount of compensation paid or to be paid to the personal representative, attorneys, accountants, appraisers, or other agents employed by the personal representative, and the manner of determining that compensation;
- (d) Expressly acknowledges that the undersigned has actual knowledge of the amount and manner of determining the compensation of the personal representative, attorneys, accountants, appraisers, or other agents; has agreed to the amount and manner of determining such compensation; and waives any objections to the payment of such compensation;
- (e) Waives the inclusion in the Petition for Discharge of a plan of distribution;
- (f) Waives service of the Petition for Discharge of the personal representative and all notice thereof upon the undersigned;
- (g) Acknowledges receipt of complete distribution of the share of the estate to which the undersigned was entitled; and
- (h) Consents to the entry of an order discharging the personal representative without notice, hearing or waiting period and without further accounting.

Signed on 8/1/12, 2012.

Beneficiary

By: 

TED BERNSTEIN

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL
IN RE: ESTATE OF File No. 502011CP000653XXXXSB
SHIRLEY BERNSTEIN, Probate Division
Deceased. Division

2012 OCT 24 PM 1:31
SHARON L. BUCHHEIT
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH-FILED

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

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

- (a) Expressly acknowledges that the undersigned is aware of the right to have a final accounting;
- (b) Waives the filing and service of a final or other accounting by the personal representative;
- (c) Waives the inclusion in the Petition for Discharge of the amount of compensation paid or to be paid to the personal representative, attorneys, accountants, appraisers, or other agents employed by the personal representative, and the manner of determining that compensation;
- (d) Expressly acknowledges that the undersigned has actual knowledge of the amount and manner of determining the compensation of the personal representative, attorneys, accountants, appraisers, or other agents; has agreed to the amount and manner of determining such compensation; and waives any objections to the payment of such compensation;
- (e) Waives the inclusion in the Petition for Discharge of a plan of distribution;
- (f) Waives service of the Petition for Discharge of the personal representative and all notice thereof upon the undersigned;
- (g) Acknowledges receipt of complete distribution of the share of the estate to which the undersigned was entitled; and
- (h) Consents to the entry of an order discharging the personal representative without notice, hearing or waiting period and without further accounting.

Signed on 8/8, 2012.

Beneficiary

By: 
PAMELA B. SIMON

2012 OCT 24 PM 1:31
SHARON & P. A. CLEAK
PALM BEACH COUNTY FL
SOUTH CITY AR 1838 FILED

Signed on August 21, 2012.

By: Lisa S. Friedstein
LISA S. FRIEDSTEIN

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL
IN RE: ESTATE OF File No. 502011CP000653XXXXSB
SHIRLEY BERNSTEIN, Probate Division
Deceased, Division

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

2012 OCT 24 PM 1:31
SHARON A. VITALE, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY SQUARE, FILED

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

- (a) Expressly acknowledges that the undersigned is aware of the right to have a final accounting;
- (b) Waives the filing and service of a final or other accounting by the personal representative;
- (c) Waives the inclusion in the Petition for Discharge of the amount of compensation paid or to be paid to the personal representative, attorneys, accountants, appraisers, or other agents employed by the personal representative, and the manner of determining that compensation;
- (d) Expressly acknowledges that the undersigned has actual knowledge of the amount and manner of determining the compensation of the personal representative, attorneys, accountants, appraisers, or other agents; has agreed to the amount and manner of determining such compensation; and waives any objections to the payment of such compensation;
- (e) Waives the inclusion in the Petition for Discharge of a plan of distribution;
- (f) Waives service of the Petition for Discharge of the personal representative and all notice thereof upon the undersigned;
- (g) Acknowledges receipt of complete distribution of the share of the estate to which the undersigned was entitled; and
- (h) Consents to the entry of an order discharging the personal representative without notice, hearing or waiting period and without further accounting.

Signed on OCTOBER 1st, 2012.

Beneficiary

By: Jill Iantoni

JILL IANTONI